Ephraim Pörtner

# RE-CORDING LIVES

## Governing Asylum in Switzerland and the Need to Resolve

[transcript] Social and Cultural Geography

Ephraim Pörtner
Re-Cording Lives

**Social and Cultural Geography** | Volume 41

*To Anne-Käthi, Karl & Zora*

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[transcript]

This work was accepted as a dissertation in human geography at the Faculty of Science of the University of Zurich in 2018. The dissertation was awarded with the distinction and the prize for outstanding scientific work of the Faculty of Science.

Published with the support of the Swiss National Science Foundation

FNSNF
Fonds national suisse
Schweizerischer Nationalfonds
Fondo nazionale svizzero
Swiss National Science Foundation

**Bibliographic information published by the Deutsche Nationalbibliothek**
The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available in the Internet at http://dnb.d-nb.de

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**© 2021 transcript Verlag, Bielefeld**

Cover Layout: Maria Arndt
Proofread by Jennifer Bartmess
Typeset by Francisco Bragança, Bielefeld
Printed by Majuskel Medienproduktion GmbH, Wetzlar
Print-ISBN 978-3-8376-5349-6
PDF-ISBN 978-3-8394-5349-0
https://doi.org/10.14361/9783839453490

Printed on permanent acid-free text paper.

*"Listen to the spirit of things. To your own spirit. Follow it. Master it."*
*– Ben Okri, The Famished Road, 1991*

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## Selected Abbreviations and Acronyms

| | |
|---|---|
| ANT | Actor-Network Theory |
| APPA | *Asylpraxis/Pratique en matière d'asile*: Internal document outlining the asylum practice for a country of origin |
| AsylA | Swiss Asylum Act |
| CBCA | Criteria-Based Content Analysis |
| COI | Country of Origin Information |
| DAWES | Dismissal of Admission Without Entering into the Substance of the case (*Nichteintretensentscheid NEE*) |
| EMARK | *Entscheidungen und Mitteilungen der ARK* (Rulings and notifications of the AAC) |
| EURODAC | EU asylum fingerprint database |
| FAC | Federal Administrative Court (*Bundesverwaltungsgericht BVGer*) |
| FNA | Swiss Foreign Nationals Act |
| FOM | Federal Office for Migration (*Bundesamt für Migration BFM*). (FOM became the State Secretariat for Migration SEM in 2015.) |
| IOM | International Organisation for Migration |
| LINGUA | Specialized unit for analyses of origin in Switzerland |
| NPM | New Public Management |
| SAM | Specialized unit for hearing management in the headquarters of the SEM |
| SEM | State Secretariat for Migration (*Staatssekretariat für Migration*) |
| STS | Science, Technology and Society *or* Science and Technology Studies |
| UNHCR | United Nations High Commissioner for Refugees |
| ZEMIS | *Zentrales Migrationsinformationssystem* (Central migration information system) |

# Preface

**[Act I] Entering the administration.** I, a human geographer, sallied forth to investigate the administrative decision-making processes in the Swiss asylum system. I approached the administration with my project and was invited to meet two seniors of the office to present it. In their eyes, the focus of the project was not clear enough, but they were sympathetic and suggested I gain some more insights into the procedure before writing the final proposal. They enrolled me in an internal training session for new caseworkers, where I was introduced to the key sensibilities and equipment for producing asylum cases. I was supposed to sharpen my research proposal after these first insights. I tried, but my proposal was still dismissed for being too much of a burden on the office with relatively little benefit. After rewriting the proposal to become relevant in non-academic terms, I was granted access – for the time being.

**[Act II] Casework's flavours.** In a reception centre of the asylum office, I was introduced to the craft of casework and to matters of taste, fact, and concern. I traced the different events in which cases become assembled and encountered asylum seekers and their stories in hearings. I struggled between the role of the strange outsider with a different agenda and that of the insider I slowly became. I was sympathetic with the members of the branch I was researching. Most of them opened their doors to me and shared their coffee and cigarette breaks, breakfast and lunch table with me. I was grateful and got a first impression of what mattered to the caseworkers and their superiors. While I increasingly began to embrace the worldview of the asylum officials, I also remained critical of some of the resolutions they took. I developed my own sense of casework through the growing number of cases I encountered. I started charting what the cases were about and what they exemplified to me. I met a few caseworkers I had encountered in the

basic training for new caseworkers for coffee or dinner outside the office to interview them about their experiences of their first year in the office. We pondered the convergences and divergences of our partial perspectives on asylum casework.

**[Act III] Immersion and tightrope walking.** Before shifting to the headquarters, I was again asked to present my work and preliminary insights to the senior officials who had rendered access possible. As they asked me to become an assistant in a section of the headquarters in which I was about to do research, I gave in. In a way I was glad for the opportunity to do something tangible in – and for – the office. I started to work in a section in the double role of intern and researcher. The new role made me feel both the burdens and thrills of doing casework. And it made me struggle with ethical quandaries of this close involvement and robbed me of my sleep. I first assessed applications for family reunification. Later, I conducted a few asylum hearings, drafted decisions, and enjoyed meticulous discussions on the legal twists and turns implicated in these practices. At some point, my own research slowly began to lose its significance to me. At times, I would have even preferred to become a full member of the administration over continuing my academic project: to embark on the rhythms of fabrication and feel the excitement related to it. I had got attracted to the power running through the capillaries of a body whose motions produce state effects and something more.

**[Epilogue] Exit, connections and transmutations.** Ultimately, I left the office. I had gained new friendships, filled notebooks, and took along a heap of copies of cases, institutional files and vivid memories. Distancing myself from office life and of the tentacles capturing my thinking proved difficult, much more difficult than I had expected. For a while, I mainly reflected on what I had experienced. What I had seen and experienced intensified the juxtaposition with what I read in the literature. My reflections were echoed by conversations I had conducted and still occasionally conducted with officials. I started to sketch and translate how things could be connected in non-administrative terms. Ultimately, I started to believe that administrative decision-making resembles alchemy rather than magic and works towards transmutation of everyone and everything involved. Writing about casework proved much more difficult than doing casework. Yet, I finally

managed to assemble a version of the asylum 'system' in text form. While this appears to me sometimes like a ridicule of the complex and challenging worlds I encountered and experienced, I still submitted (to) it.

**A story about whom?** Although this is often omitted, I openly acknowledge that this book tells as much a story about the practices of governing asylum as it tells a story about me: a researcher who collected the bits and pieces of the arrangements of governing asylum and ultimately assembled a version of it in the pages to follow.

# Acknowledgments

This study was only possible because of the many people working in the Swiss State Secretariat for Migration (SEM) who generously allowed me to gain insights into their work and thoughts. I was impressed by the good spirit and welcoming atmosphere I encountered in the office and in the three sections in which I conducted field research. I would like to express my sincere gratitude for the openness of everyone involved and for their – far from self-evident – readiness to invest substantial time and efforts to introduce me to the 'arts of asylum decision-making', for sharing their experiences and thoughts with me, and for embarking on critical and instructive exchanges with me. Six people stand out for having enabled my research in the asylum directorate of the SEM: Stephan Parak, quality manager, Matthias Keusch († 20.11.2014), senior legal advisor, and Pius Betschart, vice-head of the SEM and responsible for the asylum directorate and the three heads of the sections in which I conducted research, who remain anonymous. I thank all them for their invaluable support and sustained interaction with me and my research.

This book derives from my doctoral dissertation, carried out under the auspices of the Department of Geography at the University of Zurich. I am especially indebted to my supervisors Susan Thieme and Ulrike Müller-Böker but also to the further members of my promotion committee, Christin Achermann and Christian Berndt for their support and feedback during the research and writing process. On my journey inside the asylum administration, I met two considerate and inspiring researchers who shared both my enthusiasm and worries about doing research in the Swiss asylum office, Jonathan Miaz and Laura Affolter, whom with I had the pleasure to collaborate extensively. Exchanges with a few people from both inside and outside academia have been particularly helpful and inspiring for this research: Samuel Häberli, Sämi Graf, Jennifer Steiner, Benedikt Korf, Alison Mountz,

Joao Costa, Samuel Peter, and Pauline Maillet. A substantial set of people at the Department of Geography in Zurich and beyond have either directly contributed to this study or sustained an intellectual and social environment in which it could come to flourish. Thanks to all of those who read and commented on smaller or larger bits and pieces of the book manuscript along the way: Katharina Pelzelmayer, Timothy Raeymaekers, Simon Noori, Elisabeth Militz, Roger Keller, Daniel Wolfe, Olivia Killias, and Esther Leemann. For the careful and attentive language editing of the book manuscript I would like to thank Jennifer Bartmess.

During my fieldwork, I had the luck to meet Fabrizio: I am grateful for all the thought-provoking and enlightening debates with you – and that you have become a good friend. I am greatly indebted to Rony for being an extraordinary friend and long-time intellectual sparring partner: without your encouragement and sustained critique this book would maybe not have been written and surely not be what it is today. My extended family – Manuel and Leandra, Barbara, Simon, Cornelia, Fränzi, Susi and Daniel – has been a vital support: thank you for always being there when I need you. It is difficult to adequately acknowledge the most important source of happiness and sanity during the eventful times of researching and writing this book: Anne-Käthi, I am forever grateful for your intellectual inspiration, incessant support, and love, thank you so much. Lastly, I am unspeakably joyful and inspired by your vibrant presence and curiosity in the world, Karl and Zora – this book is for you and for your mother.

*Ephraim Pörtner*
*Zurich, April 2020*

# 1. Introduction

> The great thing about this job is: you can say, ok the world is shitty and we can't solve the problems completely anyways, we work somewhere on a tiny symptom of this whole injustice, but nevertheless, you can provide certain people – where you realise they really, manifestly need protection – you can grant them protection. (Jonas, caseworker, headquarters, interview, autumn 2013)

Even though asylum seeking, in the words of Jonas,[1] a caseworker, is "a tiny symptom of the world's injustice", questions of how to resolve this symptom remain highly politicised. Since the ratification of the 1951 Geneva Refugee Convention of the United Nations, refugees have become a key concern of our epoch, as Arendt (in Fassin 2011b, 220) predicted: "a test for the nation-states as well as for human rights". The recurrent discourse of "refugee crises" in Europe (Holmes and Castañeda 2016; Kallius, Monterescu, and Rajaram 2016) and elsewhere (e.g. Mountz 2003; 2010) bear testimony to Arendt's prediction. Large administrative[2] apparatuses have emerged to resolve applications of people claiming asylum in countries of the global North (UNHCR 2018). Switzerland is no exception: its asylum office has evolved since the 1980s and is now part of a large administration for migration governance with several hundred employees.[3]

---

1 I use pseudonyms for both officials and asylum applicants throughout the book.

2 While the terms "bureaucracy" and "bureaucrats" are regularly used for government agencies and their members (e.g. Heyman, 2004) in the scientific literature, they are considered offensive within the public administration due to their strong connotation with red tape and officialism. I will therefore use the more neutral terms "asylum office", "(public) administration" and "officials" instead (except for in citations from the literature).

3 What I call "the asylum office" for reasons of simplicity is part of the Swiss State Secretariat for Migration (SEM). Until 2014, it was named Federal Office for Migration (FOM). I use the two synonymously, as the renaming of the FOM as SEM did not affect the structure of the

Decision-making practices within asylum administrations have long remained obscure. Scholars have identified large disparities in the outcomes of national asylum procedures which they have captured in the notions of the "refugee roulette" (Ramji-Nogales, Schoenholtz, and Schrag 2009) and "troubling patterns" of asylum adjudication (Rehaag 2008). Yet, as Rousseau et al. (2002, 43) rightly noted, processing asylum applications is "a very complex and difficult task", maybe even "the single most complex adjudication function in contemporary Western societies". They have suggested that the complexity of the asylum procedure arises from a range of peculiarities of the asylum procedure: the legal subtleties of the refugee definition, the precarious evidentiary situation, the problem of knowing sufficiently well the context in countries of origin to judge about persecution, and the psychological weight of both the persecution narratives and of the decision to be taken (ibid., 43–44).

This book attempts to open up the black box of such a procedure to understand how it operates. It does so by focusing on the complex and difficult task of assembling asylum cases towards their resolution, which usually means granting or rejecting protection to applicants. Echoing Jonas, this book traces what it means to "realise that people really, manifestly need protection" as well as what it takes to actually grant them protection. It approaches these questions by analysing the ways of *knowing* and *doing* asylum in the Swiss asylum office. It thus joins a burgeoning field of in-depth and often ethnographic studies of everyday work in asylum administrations and courts in particular, and states, bureaucracies, organisations and policies more generally. It analyses the knowledge developed and employed in practices that work towards the resolution of asylum claims, as well as what the rationalities behind resolutions are. It reveals the crucial work of technological devices that mediate these practices and contribute to their stabilisation. Furthermore, it provides a rationale for how asylum becomes governed by connecting this governmental view with the prosaic practices of case-making. I suggest a reading of such case-making practices as fragile and tentative attempts of *re-cording* applicants' lives in terms of asylum. The notion of re-cording both grasps how lives become inscribed in cases' *records* and their lives' threads or *cords* become tied up in the intricate politics and geographies of asylum (see Gill 2010b). This book thus contributes to a better

office. Yet, in the interest of reader-friendliness and to avoid confusion, I mostly use SEM throughout the text.

understanding of asylum governance through attending to the governmental arrangements, everyday practices, and considerations involved in the production of subjects and geographies of asylum.

## 1.1 Asylum Governance

This subchapter outlines some features and entanglements of asylum governance in which the assessment of asylum claims in administrations needs to be situated. I begin with the foundations of regimes of refugee and asylum governance.

### 1.1.1 Underpinnings of Refugee and Asylum Regimes

According to Malkki (1995), "the refugee" is an epistemic object in construction that emerged in the particular historical conjuncture of post-World War II Europe (see also Akoka and Spire 2013) and has been closely linked to the idea of human rights. The Geneva Refugee Convention defines a refugee as a person who fled her or his home country for specific reasons, i.e.:

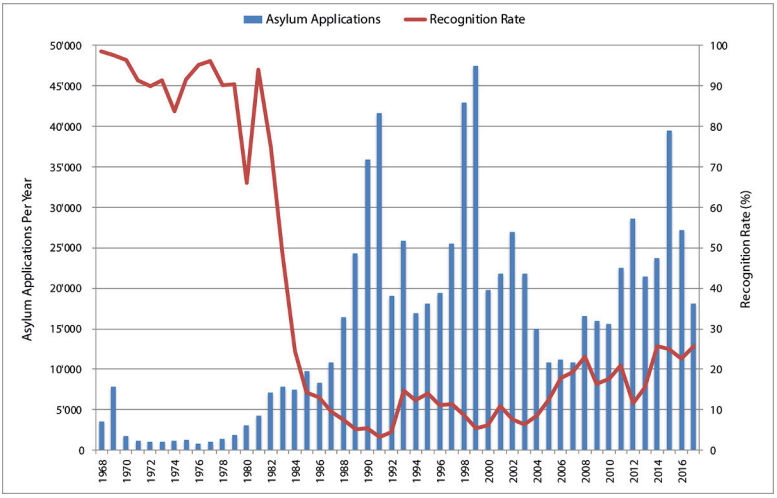
> owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself [or herself] of the protection of that country. (UNHCR 2010, 14)

The original convention from 1951 restricted refugee status to persons who had a well-founded fear of persecution "as a result of events occurring before 1 January 1951" (ibid.), thus focusing on granting refugee status to Europeans displaced in World War II. The additional protocol from 1967 lifted these spatiotemporal limitations (ibid., 46). The convention's central principle of "non-refoulement" – stating that refugees cannot be repatriated to places where their life or freedom would be threatened – has entered many treaties of international law and can today be considered customary law (UNHCR Vertretung in Deutschland n.d.).

It is noteworthy that two contrasting regimes for the government of refugees exist today: *collective protection regimes* for people who escape wars and

persecution across national borders and are commonly hosted in camps in neighbouring countries, typical for the global South; and *individual protection regimes* concerned with people seeking admission into wealthy states of the global North. In the former, people are collectively regarded as refugees because they fled their countries of origin or residence. In the latter, they are considered individual asylum seekers whose "well-founded fear of persecution" has to be examined in a laborious administrative procedure before they may become legal refugees and be granted asylum (or a form of subsidiary protection) (Fassin 2016, 66–67). In the early 1980s, the numbers of applications of people seeking protection in the global North sharply rose, while the share of people receiving asylum drastically declined. This has proven true for Switzerland as well (see Figure 1). As Zetter (2007) has highlighted, in the asylum regimes of the global North, labels of protection have multiplied, while people's eligibility for protection has become increasingly restricted. While the first applies to Switzerland as well, the recognition rate has increased again from about three per cent in 1991 to about twenty-five per cent in recent years. However, it should be noted that still by far, the largest share of displaced persons and persons fleeing across national borders find protection in countries of the global South (see UNHCR 2018).

*Figure 1: Asylum applications and recognition rate in Switzerland (1968–2017)*




(Data: SEM statistics, 2018; own graph)

Asylum seekers have a particular relation to the states of which they claim protection. In contrast to other categories of migrants, those seeking refuge are endowed with 'exceptional' rights vis-à-vis states for which they have no citizenship. As Coutin (2011, 294) highlighted, "for humanitarian reasons, refugees are deemed to face exceptional circumstances and, thus, to have rights that not all noncitizens enjoy". They have the right to an administrative procedure with all the legal guarantees in which their "well-founded fear of persecution" is evaluated and, if such a fear is ascertained, have the right to (at least provisional) residence. Furthermore, they have the right to appeal against the administrative decision (Scheffer 2001, 14).

In Switzerland, the State Secretariat for Migration (SEM) processes asylum applications.[4] Appeals against the decisions of the SEM can be filed at the Federal Administrative Court (FAC). National asylum systems of different countries have historically evolved with their peculiarities. Such systems vary, for instance, in the degree of insulation of the administration from the judiciary (Hamlin 2009; 2012) or the professional careers of decision-makers (Probst 2012, 226–92). However, despite such differences between asylum systems, the two core tasks of officials in asylum procedures are everywhere the same: first, the evaluation whether applicants have a "well-founded fear of persecution" in their home countries according to the grounds outlined in the Geneva Refugee Convention; and second, the assessment of the credibility of applicants' accounts of flight and persecution rendered in asylum hearings. Asylum procedures only require applicants to make credible such a fear, since it is often difficult – if not impossible – to prove it with material evidence. In order to make sense of such difficult procedures, I consider it crucial to take into account the sophistication of border and migration regimes observed more generally (Cuttitta 2012; Geiger and Pécoud 2010; Hess and Karakayali 2007) and the governmentality of immigration in which administrative practices of granting or rejecting protection are implicated.

4 For Switzerland, the UNHCR counted at the end of 2017 about 117,000 "people of concern", of which about 93,000 already have some sort of protection (asylum or temporary admission) while about 24,000 are in the asylum application process (UNHCR 2018).

### 1.1.2 Governmentality of Immigration

In recent decades, socioeconomic disparities and global polarisation have grown severely, and the global entanglement of lives via webs of production and consumption has shaped "new ways of perceiving distance – temporal, spatial, social, and cultural" (Trouillot 2001, 129). In this historical conjuncture that Trouillot called "a fragmented globality" (ibid.), "refugees and asylum seekers are merely the vanguard of a world where life chances and economic opportunities are distributed with great inequality" (Gibney 2004, 5). As such vanguards, their mobilities as well as attempts to govern them have become highly politicised. Governing asylum is thus not only related to humanitarian discourses but also to the "securitisation of migration" (Huysmans 2000): Persons seeking asylum have been framed (mainly since the 1980s) as a problem for the security for the populations in receiving states, namely by drawing connections of asylum seeking to discourses and instances of crime and terrorism (e.g. Pratt and Valverde 2002). Zimmermann (2011) has analysed such a discursive framing of "bogus asylum seekers" in the UK.[5] She has emphasized that "host states continue to allege that meaningful distinctions can be drawn between refugees and economic migrants; and hence between 'true' and 'false' refugees" (Zimmermann 2011, 340). This is related to the fact that their status and motives remain indeterminate – and are mistrusted – until they are officially recognised as refugees in national asylum procedures. "Restrictive policies" of migration and asylum governance have to be read in light of such discursive "boundaries", as Fassin (2011b) in his review essay "Policing Borders, Producing Boundaries" emphasised:

> The deployment of restrictive and repressive policies of immigration has been accompanied by the development of an administrative apparatus at the borders and within the territory to control immigration and hunt down the undocumented, to adjudicate the refugee status and guard the detained aliens. (Fassin 2011b, 218)

5 See Riaño and Wastl-Walter (2006) for a good account of the historical evolution of refugee discourse in Switzerland and Steiner (2015) for an insightful study of discursive framings of those opposing new refugee accommodations.

In order to grasp this relationship between borders and boundaries, Walters (2004) has suggested the notion of "domopolitics", or governing states as homes. As a governmental rationality, domopolitics refers to "both systems of ordering mobility and differentiating claims, and the discursive construction of those who are filtered through such mechanisms" (Darling 2011, 266). Systems of ordering mobilities not only involve the policing of borders but also efforts of potential countries of destination to deter people from claim-making on their territories.[6] This is not only reflected in deteriorated conditions of reception, accommodation and labour market access but also in more restrictive asylum legislations and evaluations of claims in procedures (Holzer and Schneider 2002). Together, such measures enact what I have called a "politics of deterrence" in which potential destination countries pursue reverse location marketing in their efforts to be (amongst) the least attractive destination for people seeking protection (see Pörtner 2017). Asylum governance needs thus to be situated in a wider "governmentality of immigration" (Fassin 2011b) with various rationalities and technologies of government. Such a governmentality is not only characterised by securitisation discourse, restrictive legislation and categories of "unwanted migration" (IOM 2012, 7), but also by new technologies and practices of migration management, policing and confinement that lead to a proliferation of borders both inside and across nation-states (Bigo 2002; Fassin 2011b; Hyndman and Mountz 2007; Mountz 2011b).

### 1.1.3 Expanding Borderscapes of Asylum Seeking

In order to claim asylum, people fleeing their home countries usually first need to access spaces of claim-making, i.e., the sovereign territory of a potential host state.[7] The governing of asylum has, for this reason, not only

6 While in public and political discourse, the framing is usually that deterrence practices only target those without "legitimate" reasons for asylum, in practice their effect is much broader, as already Gibney and Hansen (2003) pointed out in their analysis of European asylum policies: "Finally, while the bulk of restrictive policy measures developed have been legitimated publicly by the desire to disentangle mixed flows (by the aim to preserve asylum for 'real' refugees), most policy measures are completely indiscriminate in their effects. They are, that is, as likely to prevent, deter or punish the entry of legitimate refugees as economic migrants" (Gibney and Hansen 2003, 15).

7 Except those deemed eligible for programmes of resettlement (see UNHCR 2017).

entailed the examination of rights in asylum procedures, but a range of regulations and practices to prevent people from claim-making in the first place.

In the example of Europe, the Schengen visa regulations for third-state nationals have become increasingly restrictive, most possibilities for applying for asylum abroad have closed down, and third-states as well as private agents enrolled in border control and enforcement (e.g. through migration partnerships or carrier sanctions, respectively). Those seeking refuge in the global North have increasingly faced closed and highly securitised borders, immobilisation (Kallius, Monterescu, and Rajaram 2016), detention and even practices of "neo-refoulement" (Hyndman and Mountz 2008), i.e., being pushed back or deported to spaces of potential persecution. As a consequence, seeking asylum in Europe has become increasingly difficult and often involves dangerous travel routes such as boat passages in the Mediterranean. People have felt compelled to resort to human smugglers and use false documents or identities in order to access European territories to claim protection (Brouwer and Kumin 2003).[8] But these spaces of claim-making are not static. States increasingly 'work' geography to prevent people from arriving on their territories. Mountz (2011c) has suggested that a new territorial image of state enforcement is in place – a mobile one that is "pushing itself offshore, working geography to deny entry and access to rights, representation, and asylum" (ibid., 322–23).

Various studies have disclosed strategies of states to prevent access of 'irregular' mobile populations to their territories where they could claim asylum (Ashutosh and Mountz 2012; Bialasiewicz 2011; Collyer and King 2015; Mountz 2010; 2011c; 2011b). They have shown that states redraw borders, move ports of entry, shift liabilities, and rework territories and jurisdictions (Guiraudon 2001; Mountz 2010; 2011c). States have created "long tunnels" (Mountz 2010), i.e., spaces with different jurisdiction within their territories at (air)ports and in waiting zones to avert or at least complicate asylum claimants' access (Maillet, 2016; Makaremi, 2009b). They have moved abroad and installed "stateless spaces in extra-territorial locales where states hold migrants in legal ambiguity as a mechanism of control" (Hyndman and

8 According to the EU border agency Frontex, the majority of people staying in Europe illegally entered via airports and with valid travel documents and visas whose validity they overstayed. However, an increasing number of people have relied on human smuggling to enter the territorial confines of Europe over land or sea (Frontex 2015).

Mountz 2007). Such stateless spaces can be either in countries of transit (as for European countries in North Africa) or on islands offshore (as for Australia on the Pacific island Nauru). Overall, spaces of claim-making have been crucially reshaped to reduce and shift "ports of entry" (Mountz 2011c) for claim-making or to prevent arrivals altogether through the creation of extraterritorial spaces or internal spaces of lawlessness (Dikeç 2009). Relatedly, studies have pointed to the emergent regimes of detention (Achermann 2008; Bigo 2007; Mountz 2011b), deportation (Ellermann 2009; Fekete 2005; de Genova 2010a) and confinement (Coutin 2010; Makaremi 2009a) that different people falling into the category of "unwanted migration" (IOM 2012, 7) face.

Even if people manage to arrive at a "port of entry" (Mountz 2011c) for claim-making, this does not necessarily mean that they are admitted to asylum procedures or that their claims are actually examined. States have tended to shift the competence for asylum claims, if possible, to other states ("safe third-states", states of transit or former residence). Moreover, in Europe, the question of a state's competence for a claim has been closely linked to the so-called Dublin system,[9] which defines the country of first arrival as the one in charge of the asylum procedure. The attribution of competence is ascertained mainly through the fingerprinting of those arriving, which is an apt example of borders becoming increasingly biometric (Amoore 2006; Sontowski 2018). If a person files an application in another country, a "hit" in the European fingerprint database EURODAC (EUR-Lex 2010) reveals that the competence for the asylum procedure lies elsewhere.[10] Consequently, a transfer request is submitted to the respective member state and, if accepted, deportation to that state is (potentially) enforced. The Dublin system thus crucially mediates the entry point to national asylum proce-

9 The original Dublin Convention was introduced by the European states in 1990 in the course of establishing a single European market, which made more coordination in the domain of asylum crucial. It intended to avoid so-called "refugees in orbit" for whom no state would take responsibility, but also to avoid "asylum-shopping", i.e., that people would file applications for asylum in several countries (Filzwieser and Sprung 2009, 24). In 2003, the Dublin-II regulation focused on removing obstacles to the effective application of the principles established in the convention (ibid., 25–27). Switzerland was admitted to the Dublin system in 2008 (SEM 2014).

10 Fingerprint information can be retrieved by a number of authorities, amongst them migration offices, in all member states of the Schengen-Dublin agreement (EUR-Lex 2010).

dures, which depends on travel trajectories and territorial control. It often results in a contingent yet persistent trapping of asylum seekers on the territory of the country where they had first given fingerprints (Griffiths 2012b, 724). Furthermore, it significantly impacts people's chances for protection. The harmonisation of asylum procedures across Europe has been far from achieved: the procedural standards as well as the protection quotas still vary significantly across member states, as does the admission of claimants to social welfare, housing and labour (see Dikeç 2009).

Generally, the administrative regime of assessing asylum claims needs thus to be situated within the larger "exclusionary politics of asylum" (Squire 2009). The mobilities and moorings of those seeking protection are crucially (re)shaped by expansive governmental "migration infrastructures" (Adey 2006; Lin et al. 2017), including those of asylum administrations. Overall, such exclusionary politics and migration infrastructures of preventing access and admission have led to "shrinking spaces of asylum" (Mountz 2010, xvii) and expanded the "borderscapes" (see also Brambilla 2015; Rajaram and Grundy-Warr 2007, xxix) – spaces of indeterminacy and forced (im)mobilities at the threshold of expulsion or protection (see also Bagelman 2013) – for those seeking refuge. Consequently, a crucial question guiding this study has been: how are administrative practices of assessing asylum claims implicated both in the governmentality of immigration and in the production of such borderscapes or spaces of asylum?

## 1.2 Studying the Making of Asylum

Governing asylum produces its subjects and spaces in the resolution of the administrative-legal procedure: in the sovereign act of granting or denying protection. To understand how this sovereign act materialises in practice requires researching the work of asylum administrations and courts. Previous research on the everyday practices of those implementing law and policy has often focused on the interpretative "thought-work" of border guards (Heyman 1995) and "decision-making" practices of "street-level bureaucrats"[11]

11 The term "street-level bureaucrats" (Lipsky 2010) refers to front-line staff in bureaucracies who meet 'clients', enact policies and are involved in "bottom up" policy-making (see Miaz 2014).

(Lipsky 2010) or judges (Good 2007). Such studies have emphasised that there is a "policy implementation gap", a "gap between that which had been written on paper and that which came into being through practice" (Mountz 2003, 36). Accordingly, administrative agents do not simply implement immigration or asylum policies and law but crucially interpret and even (co-)produce them. As such, agents have, at times, their own agendas of governance, for instance to protect the nation from lenient immigration policies (Fuglerud 2004) or the bureaucracy from negative media coverage (Mountz 2003).

Research about the making of asylum needs to consider the administrative politics involved. Studies on bureaucratic organisations have highlighted the often-difficult circumstances of work inside administrations and that this can (partly) explain why their agents regularly appear "rigid, unresponsive and dehumanising" (Heyman 2004, 493; Lipsky 2010, 27–70) or "indifferent" (Herzfeld 1992) to the concerns of their 'clients'. Both the state and law have lost some of their monolithic appearance through studies that emphasised that both are produced in prosaic practices of state agents (e.g. Bierschenk and de Sardan 2014; Wedel et al. 2005) and imaginations of ordinary people (Gupta 1995; Hansen and Stepputat 2001). Such studies have shown that the law needs interpretation in order to grasp individual cases. In turn, law is not merely or primarily a legal text, but rather the composite meaning its notions acquire from the cases in which they become invoked (see Miaz 2017). Only its invocation turns law into something meaningful that has a "social life", as law and society research has highlighted (e.g. Sarat 2007). Such insights are vital for studying the making of asylum.

### 1.2.1 Deciding on the Right to Protection

A burgeoning field of studies has turned to asylum decision-making in administrations and courts. It can be broadly distinguished into studies that take a rather holistic perspective on the procedure of granting (or rejecting) protection (Affolter 2017; Dahlvik 2014; Hamlin 2009; Jubany 2017; Kobelinsky 2008; 2015b; Miaz 2017; Probst 2012; Scheffer 2001), and those that look at a particular element of the procedure, namely hearings and questions of communication (Blommaert 2001a; 2001b; 2009; Jacquemet 2011; 2009; Kälin 1986; Maryns 2005), the role of interpreters in hearings (Kolb 2010; Pöllabauer 2005; Scheffer 1997), questions of expert knowledge (Good 2004; 2007), evidence (Doornbos 2005; Gibb and Good 2013; Spijkerboer 2005), encoun-

ters (Gill 2016), and credibility (Cameron 2010; Noll 2005; Sandvik 2007; Sweeney 2009). A further type of studies has analysed the practices related to a *particular type* of asylum applications, namely gender-related persecution cases (Jansen and Spijkerboer 2013; Kobelinsky 2015c; Miaz 2014). And again, other studies have focused on the responses of asylum bureaucracies to particular events (Mountz 2010; 2003). Amongst the studies with a more holistic approach to decision-making in asylum procedures, most have taken a single case approach: they focus on one exemplary national administration or court, namely in Switzerland (Affolter 2017; Miaz 2017), Austria (Dahlvik 2014), Germany (Scheffer 2001), Spain (Jubany 2017) or Canada (Bayrak 2015; Mountz 2003). However, a few studies with a more comparative approach exist. For example, Probst (2012) compared practices of decision-making in different countries (in Germany and France), Hamlin (2009) examined "administrative justice" in refugee determination procedures in the US, Canada and Australia, and Kobelinsky (2008; 2015b) juxtaposed practices of the French asylum administration (OFPRA) and the appeal court (CNDA).

Research using an ethnographic, in-depth approach to asylum administrations and courts has offered rich insights into the intricacies of assessing claims. It has highlighted the complexity of the tasks, the moral dilemmas, and institutional restrictions that decision-makers who conduct hearings and decide on applications face. At least five key issues appear to recur in such studies of asylum procedures.

First, critical studies have highlighted the often-ambiguous outcomes of decisions, namely their seemingly "arbitrary" or "subjective" character (e.g. Griffiths 2012a, 10; Monnier 1995, 322; Thomas 2009, 163). As Barsky (1994, 6–7) has highlighted in the case of Canada, "individuals involved in the decision making process can be either inconsistent, or consistently unfair". Differences in decision-making need to be understood in light of the considerable discretion of individual decision-makers have, particularly when it comes to questions of credibility (Dahlvik 2014, 385–86; Good 2007, 268; Miaz 2017, 381–400; Ramji-Nogales, Schoenholtz, and Schrag 2009).

Second, while studies have emphasised the considerable discretion of asylum adjudicators, they have at the same time pointed to the limits of discretion set by "intra-institutional or judicial authorities" (Dahlvik 2014; Miaz 2017; Probst 2011). They have shown that, for instance, administrative guidelines or "secondary application norms" (Miaz 2017, 291–97) limit the room for decision-makers to manoeuvre.

Third, studies have suggested that approaches to decision-making and views crucially relate to agents' bureaucratic socialisation (Affolter 2017, 107–40; Dahlvik 2014, 164–78; Fassin and Kobelinsky 2012; Jubany 2017; Miaz 2017; Probst 2012; Spire 2005) and ways of knowing internalised in a habitus, as for instance "decisional knowledge" (Affolter 2017, 45–80; Schittenhelm and Schneider 2017). Yet, scholars have also pointed out the crucial role attributed to expert knowledge and (if available) material evidence for decision-making (Fassin and d'Halluin 2005; Gibb and Good 2013; Good 2007; Miaz 2017; Probst 2012).

Fourth, studies have indicated that even though the outcome of decision-making may appear arbitrary at times, the "process is not arbitrary, but based on a certain rationality", as Dequen (2013) has emphasised. Affolter (2017, 105) has found that decision-makers exhibit a strong ethics regarding their work and "pursue an overarching aim that their decisions … be fair". Similarly, Fresia and von Känel (2016, 112) have suggested that "subjectivity and inconsistency in the process were acknowledged and occasionally harshly denounced" by those doing casework. Others have provided insights in what characterises a "good decision-maker" in the view of those doing the work (Affolter 2017, 81–106; Jubany 2017, 139). To grasp the often considerable differences between officials' attitudes, dispositions and their professional ethos, various authors have introduced (ideal) types of decision-makers (Fassin and Kobelinsky 2012; Miaz 2017; Spire 2008; 2005).

Fifth, studies have considered the potentially detrimental effects of bureaucratic organisation. Landmark studies of bureaucracy highlighted causes of "bureaucratic indifference" (Herzfeld 1992) or the failure of agents to remain sympathetic with claimants (Lipsky 2010). In the field of asylum adjudication, authors have identified organisational "cultures of disbelief" (J. Anderson et al. 2014; Jubany 2011; 2017), "mistrust" (Griffiths 2012a; Probst 2012) or "denial" (Souter 2011) to partly explain the widespread tendency in asylum procedures to reject the majority of claims. Fresia, Bozzini, and Sala (2013, 56–59) have highlighted the difficult juggling of officials between distance and empathy vis-à-vis applicants. Gill (2016; 2009) has suggested that institutional mechanisms including the "timing and spacing" of practices result in state agents' "moral distancing" from applicants, tending to inhibit empathic encounters between them.

In sum, existing studies of asylum administrations have identified a broad range of features relevant to understanding decision-making practices

and provided rich empirical accounts of local variations of decision-making as well as perspectives and practices of decision-makers. They have, moreover, revealed not only how changes in policies and law are "translated" in everyday decision-making in administrations, but also how policies and law are often produced in these very practices (Affolter, 2017; Dahlvik, 2014; Miaz, 2017; Probst, 2012; see also Lipsky, 2010).

### 1.2.2 Reification of State Categories?

Studies of asylum administrations and courts, however, tend to adopt notions of their administrative or jurisdictional research subjects in their conceptual approaches instead of decentring them: they have largely embraced state, legal and bureaucratic categories. Relatedly, Gill (2010b, 627) has diagnosed a "tendency to reify the state in asylum and refugee research". This is particularly reflected in most studies' focus on decision-making, the interpretation of law, and the leeway actors have in this – their discretion. Two recent ethnographic studies on decision-making practices in the Swiss asylum office[12] that are of particular relevance for my study reveal the same inclination: Miaz (2017) analysed in his study "the effects of the sophistication of law on the practices of the street-level actors … and, on the other hand, the effects of these practices on law" (ibid., iii). Affolter (2017) focused on "decision-makers' discretionary practices" and how these "are structured by the institutional habitus". She considers discretionary practices as "the ways in which … [decision-makers] interpret the law" (ibid., 2).

The difficulty with adopting such notions of law, decision-making or discretion is this: they are central to policy discourse and the vernacular of state theory, which every official in the administration constructs as well. Of course, these vernacular theories matter, but they require themselves analysis. As Bourdieu (1994) put it forcefully:

12 Political scientist Jonathan Miaz and social anthropologist Laura Affolter focused in their dissertations on practices of decision-making in (and beyond) the Swiss asylum office. Miaz was in the office earlier (2010–2012) and Affolter a bit later (2014–2015) than me, but our fieldwork periods overlapped and we collaborated on various occasions (see for instance Affolter, Miaz, and Pörtner 2018). While Miaz focused on the various facets involved in the making of law inside but also beyond the asylum office, Affolter focused on decision-making practices in the asylum office with a particular focus on the crucial questions of credibility.

> To have a chance to really think a state which still thinks itself through those who attempt to think it, then, it is imperative to submit to radical questioning all the presuppositions inscribed in the reality to be thought and in the very thought of the analyst. (Bourdieu 1994, 2)

As it is "in the realm of symbolic production that the grip of the state is felt most powerfully" (ibid.), such presumptions tend to become conceptual confines for the analyst.[13] Adopting what Hansen and Stepputat (2001, 5) called the "language of stateness" – official notions or state vernacular – makes it difficult to think the state outside state categories. To just adopt these notions bears the risk of reifying the powerful processes and entities (such as 'law' or 'the state') instead of supporting their analytical decentering. Notably, key authors of the anthropology of the state (see, for instance, Gupta 2012, 52) and the emerging field anthropology of policy (Wedel et al. 2005) share some of these reservations. Gupta (2012, 52) draws attention to "the problems caused by presupposing the ontological status of the state". Wedel et al. (2005, 39) explain their turn to policies with the aim to "uncover the constellations of actors, activities, and influences that shape policy decisions, their implementation, and their results". This kind of analysis is supposed to "counteract … the use of flawed dichotomous frameworks (such as 'state' versus 'private,' 'macro' versus 'micro,' 'top down' versus 'bottom up,' 'local' versus 'global,' 'centralized' versus 'decentralized') … [which] tend to obfuscate, rather than shed light on, the workings of policy processes" (Wedel et al. 2005, 43). For my analysis, I thus avoid building on prefabricated, charged and ambiguous notions of law, bureaucracy, or the state. Instead, I consider practices of governing asylum to enact a "relational politics of (im)mobilities" (Adey 2006). This shift in perspective involves attending to the material-discursive[14] arrangements and governmental practices through which (im)mobilities are produced (Lin et al. 2017, 169).

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13 I owe this insight to a warning by Christian Lund. When I presented my research project to him during my fieldwork, he said about my ethnographic immersion in the asylum office: "you walk on the knife's edge". My ideal of "joining to make a difference" reminded him of the tale of the mouse and the snake: the mouse crosses the snake's way and asks to pass. It gets eaten and then tries to eat the snake from the inside – but is never seen again.

14 I connect *material-discursive* with a hyphen to emphasise the entanglement of the material and the discursive in governmental arrangements (see also Aradau 2010).

### 1.2.3 Critical Asylum Geography

This study thus takes up a call by Gill (2010b) for a "critical asylum geography", which entails a "refusal to see the state as a monolithic, ontologically separate phenomenon from the social order" (ibid., 638). It involves focusing on the "everyday, situated practice [implicated] in the reproduction of state effects" (ibid.; see also Mitchell 1991; 2006). However, instead of looking at the state in whose name these practices of asylum government are undertaken (Gupta 1995, 376), I adopt a perspective that takes me "beyond the state" (Li 2005). I agree with state theorists' shifts away from monolithic accounts that take "the state" for granted and presuppose it as an entity that is separate from "society" or "economy" (Mitchell 1991; 2006) in order to acknowledge its various appearances (e.g. as state idea and state system as Abrams, 1988, famously suggested).

Analysing the state along the set of practices that bring it to life, as Desbiens, Mountz, and Walton-Roberts (2004) suggested, has proven a fruitful avenue: social scientists' focus on the "prosaics of stateness" (Painter 2006) provided vigorous accounts of the centrality of embodiment (Culic 2010; Mountz 2004; 2003), improvisation (Jeffrey 2013), and material devices (Cabot 2012; Darling 2014; Hull 2012b). My study has moreover been inspired by exemplary contributions to a critical asylum geography: namely, the studies by Mountz (2003; 2010), who considered "embodied geographies of the state" by revealing asylum bureaucrats' efforts to "rework of geographies" in the response to events of human smuggling in Canada. Gill (2009; 2016) has also combined governmentality with state theoretic approaches to highlight how particular institutional "timings and spacings" affect asylum sector workers' encounters with asylum seekers in the UK.

While the state still figures prominently in their accounts, I take another direction by abandoning it as an object of enquiry altogether (see also Ince and Barrera de la Torre 2016). To address "the complex geographies of connection and disconnection … through which asylum … governance is achieved" (Gill 2010b, 638), I adopt a poststructural geographical lens.[15] I engage Foucauldian and material-semiotic approaches (actor-network theory and science and technology studies) to rethink asylum governance. This implicates a core analytical move: away from focusing on asylum governance in terms

15 For an introduction to poststructuralist geography see, for instance, Murdoch (2006).

of the 'state', 'law', or 'bureaucracy' to considering it in terms of material-discursive practices of government (see Chapter 2).[16]

## 1.3 Research Questions and Aims

The central research question guiding this study is: How is asylum governed in administrative practice? This question implies several sub-questions: How are asylum cases 'made' in practice? What knowledge and technologies are involved in case-making? And, how are such practices stabilised? By addressing these questions, this book aims at understanding how administrative practices are involved in the production of geographies of asylum. In taking up recent debates on power, knowledge, spatiality, and mediation, it considers how asylum – with its objects, subjects and spaces – is produced in situated practices of case-making (Scheffer 2001; 2010) in an asylum administration.

Case-making refers to the material-discursive practices of assembling asylum cases towards their resolution. I suggest that a particular governmentality infuses practices of case-making: the "need to resolve".[17] This need to resolve refers to rationalities, techniques and practices of resolution that have developed in response to various lines of problematising asylum: not only as applications or cases to be legally resolved, but also as backlogs of applications, as unwanted competences for applications to be resolved and future claims to be anticipated and averted. The central 'task' of granting or rejecting asylum in practices of case-making is thus affected by such divergent and at times contradictory "finalities" of government (Foucault 2006, 137). For case-making to be possible, I suggest, it takes particular arrangements of knowing asylum, and particular technologies of power to act upon people-as-cases. I have thus developed an enquiry suggested by Rose (1999, 149) that illuminates how those involved in governing asylum become themselves governed in their work (see also Gill, 2016). Power and agency, in this

16 This does not implicate that states, law, or bureaucracy do not matter for asylum governance. Quite the contrary. Acknowledging states' situated (powerful) appearances as structural effects (Mitchell 2006) and legal and bureaucratic rationalities and technologies of government remains crucial.

17 This notion is inspired by Li's (2007) *The Will to Improve*.

view, do not reside in individual bureaucratic actors but in a networked arrangement of government – a *dispositif* (Foucault 1980, 194–95).[18]

I argue that lives of claimants become re-corded in terms of asylum through their encounter with the *dispositif*. To re-cord applicants' lives in terms of governing asylum means to translate and inscribe them in legal, but also technical, managerial, political ways in material-discursive records of asylum cases. Once applicants' lives have become re-corded in terms of asylum, their life and bodily trajectories as essentially spatiotemporal flows may become territorially captured (Painter 2010; Soguk 2007). "Territorial capture" refers to the enrolment of lives in the territories invoked in records: it "involves the material[-discursive] binding of that-which-is-flowing in specific assemblages" (Painter 2010, 1114). However, applicants are unevenly affected by re-cording and capture. And they have their stakes in them: they can resist or subvert attempts of re-cording and they can themselves introduce records and seek a beneficial re-cording that grants them protection or makes deportation more difficult or impossible (see also Ellermann 2010).

To govern is thus never unidirectional: it involves negotiation, improvisation and tactics by all those involved. And its outcomes remain therefore open-ended. Crucially, the re-cording of lives in terms of asylum is generative of new realities in the sense of performativity (Butler 2011; 2010; Callon 2010) or enactment (Law 2004b; Mol 2002): it produces relational spaces and subjects of asylum (see also Mol and Law 2002, 19).

## 1.4 The Case: The Swiss Asylum Procedure

Methodologically, this book is based on in-depth qualitative research in the Swiss asylum office that is part of the State Secretariat for Migration (SEM). Between 2012 and 2014, I conducted about ten months of field research in the asylum office in total. This time included participant observation in a basic training for new caseworkers, four months of fieldwork in a reception centre and six months of work and research in an internship in two sections that process asylum cases in the office's headquarters.

18 I follow here Bigo (2008, 34) who suggested not to use "apparatus" as English translation of Foucault's notion of the *dispositif* "to avoid an Althusserization of Foucault".

I pursued a research approach that consisted of extended "time on the inside" (Billo and Mountz 2016, 10–11) yet also allowed me to trace practices of case-making along case-files' trajectories through the administration and thus could be termed "following the records" (ibid.). I traced the production of material-discursive records in events that produce asylum and its spaces: I looked at how case-making consists of filling in forms about applicants' identity, taking fingerprints and entering them into databases, writing protocols that feature accounts of applicants' pasts, collecting and evaluating evidentiary pieces, commissioning linguistic and country of origin (COI) reports or inquiries, and ultimately making all these records 'speak' in the asylum order. I participated in organisational life in the office, conducted informal conversations with caseworkers and senior officials, participated in first and main hearings, collected a wide range of organisational documents, protocols from asylum hearings and other case records, and conducted a small number of semi-structured in-depth interviews. In the second part of my field research, I did 'simple casework' as a sort of intern in exchange for sustained research activity in the headquarters. My data analysis focused on the *dispositif* and consisted of tracing the material-discursive associations that enable – and are produced in – practices of case-making (see Chapter 3).

The book at hand is the result of a qualitative case study focusing on practices of case-making in the Swiss asylum administration from 2012 to 2014. It is thus based on insights I gained into a national asylum procedure at a certain time and place. But this does not mean that it is "merely another case study" of asylum adjudication somewhere sometime (see Flyvbjerg 2006). Rather, I suggest it is a case study of government in a *dispositif* – asylum being the case but not the object of study.

Why do I take asylum as a case in point? The *dispositif* of asylum can be thought of an exemplary case for governing people through practices of re-cording certain respects (Patton 1990, 169–71): concerning the stake of differentiation (inclusion/deportation), the scope of differentiation (the truth there and then), and the wealth of (dis)associations mobilised to differentiate (between ways of knowing such as those enabled by biometric fingerprinting, scientific expertise, on-the-ground investigations and ways of doing enabled by organisational, administrative, or legal techniques). Moreover, the book provides an example for a *dispositif* that is not "non-local" (Feldman 2012), but touches down and re-cords the lives of those encountering the *dispositif* in significant yet at times unexpected ways (see also Jacobsen 2013). The

reader of this case study can thus gain insights about governing in *dispositifs* beyond the case of Switzerland and of asylum (see Flyvbjerg 2006).

There are, of course, significant limitations to my analysis of the *dispositif* of governing asylum. *Dispositifs* of government usually develop in an interplay between forces and counterforces that are both incorporated in the regime of government and operate as hinges between the government of others and the government of the self (Tsianos and Kasparek 2015, 15). As this analysis focuses on the administrative part of the migration and border regime, it cannot grasp the perspectives and practices of crucial counterforces, namely the migrants themselves but also of those working in legal aid, lawyers or the judiciary. I can therefore only trace some of the ways in which the *dispositif* of asylum is performed and materialises. What this analysis is able to contribute to debates around migration and border regimes, however, is a glimpse into the practices in which programmes of government evolve and unfold and the difficulties of their enactment. It disassembles coherent images of government and discloses that those who are supposedly governing asylum are themselves subjects of a specific governmentality. It thereby joins the relatively few studies that have attempted to situate practices in asylum procedures in a wider context of governing populations, borders, and states (Gill 2009; 2010b; 2016; Jubany 2017; Mountz 2003; 2004; 2010).

## 1.5 Roadmap

The contribution of this book is threefold: first, it develops an unusual conceptual approach to asylum governance through linking Foucauldian and material-semiotic approaches. Second, it considers what equipment and knowledge it takes to act concertedly upon asylum cases and provides an original and situated account of everyday administrative practices of case-making. And third, it offers a reading of the tentative, fragmented and at times contradictory ways of re-cording lives in terms of asylum that produce asylum subjects and spaces.

Empirically, this book follows three different threads through the *dispositif* in order to grasp (some of) its workings. The first thread follows the ways of knowing and the material-discursive devices required for case-making; the second thread follows cases along the events of their making; and the third thread follows agents' convictions and rationalities regarding

case-making. These threads compose the three main empirical parts of this book: *agentic formations* (Part I), *enactment* (Part II) and *(de)stabilisations* (Part III) of the asylum *dispositif*. Before beginning with the empirical Parts, I introduce my conceptual approach (Chapter 2) and methodology (Chapter 3) in some more detail. Part I then introduces the sensibilities and knowledge one needs to acquire (Chapter 4) and sketches a sort of minimal equipment to become agentic (Chapter 5). It points to the *dispositif's* "embodiment" (Mountz 2003; 2004) deriving from practical ways of knowing and doing and the "equipment" (Thévenot 2002) required to enact the *dispositif*. Part II points to the enactment of the *dispositif* in case-making. My account of case-making indicates a few key "processual events" (Scheffer 2007a) and technologies to render cases resolvable (Chapter 6). Part III highlights the reflexivity of agents involved in casework. It outlines their convictions about knowing and doing asylum (Chapter 7) and points to the rationalities and the broader governmentality at work (Chapter 8). It considers how these contribute to the *dispositif's* (de)stabilisation. The conclusion provides a synthesis of these different empirical parts and considers the theoretical implications of my study (Chapter 9).

# 2. An Analytic of Governing Asylum

Migration as well as asylum governance is crucially about affecting people's (im)mobility directly or indirectly. But what does this mean? Mobility studies provide vital answers to this question. The emergence of the burgeoning field of mobility studies has involved a turn from "sedentarist metaphysics" (Malkki 1995, 227; 1992) to a mobile ontology (see Adey 2006; Amilhat-Szary 2015, 22). The latter implies that everything is mobile, yet some things and people are relatively immobile – because of the different speed of movement, transformation and re-composition of things (ibid.). Consequently, a mobile ontology urges us to analyse the "relational politics of (im)mobilities" (ibid., 90–91; see also Cresswell 2010), i.e., "exploring how different people are placed in different ways to mobility, and thus different ways to power" (Adey 2006, 276). Cresswell (2006), for instance, highlighted that law and legal practice are crucially implicated in producing mobilities:

> Legal documents, legislation, and courts of law themselves are all entangled in the production of mobilities. Mobilities are produced both in the sense that meanings are ascribed to mobility through the construction of categories, such as citizen and fugitive, and in the sense that the actual ability to move is legislated and backed up by the threat of force. (Cresswell 2006, 150–51)

The production of mobilities needs thus to be considered as crucially mediated by law and other elements of material-discursive arrangements of government (Thieme 2017, 245). Such arrangements have been the focus of the emerging field of "migration infrastructures" (Kern and Müller-Böker 2015; Lin et al. 2017; Thieme 2017; see also Star, 1999) which "has explored how mobilities are shaped, regulated, and controlled through a host of various policies, technologies, and practices" (Adey 2006, 276). Such infrastruc-

tures constitute "socio-technical platforms" (Lin et al. 2017, 167) – "physical and organisational architectures, responsible for structuring, mobilising and giving meaning to movement through their particular arrangements" (ibid.) – that are themselves in constant transformation and thus only relative "moorings" (Adey 2006).

A crucial point is that such infrastructures do not merely facilitate and enable mobilities and moorings, but also produce them (Lin et al. 2017, 168). Considering the administrative arrangements of governing asylum as a form of migration infrastructure means to acknowledge that they are in movement too – and in constant need of stabilisation and adaptation. Furthermore, it means to attend to the material-semiotic practices that enact such governmental arrangements and thus produce specific (im)mobilities. I develop a conceptual framework that captures socio-technical practices of governing, governmental relations of power/knowledge and the networked arrangements (or infrastructures) of enacting mobilities. I do so by attending to the material-semiotics of government (2.1) and the governmentality of governing asylum (2.2), and I develop a notion of the Foucauldian *dispositif* to grasp the networked arrangements of government (2.3). To consider its involvement in governing mobile lives, I link these conceptualisations of government to a notion of territory and re-cording lives, which helps me to consider the socio-spatial effects of governing asylum (2.4).

## 2.1 Material-Semiotics of Governing

In this study, I approach asylum through the prosaic, heterogeneous and routine practices through which it is governed (see also Painter 2006). This explains why I use the term "governing" asylum: it highlights the multiple, open-ended, contested administrative practices devoted to resolve asylum claims. It also presupposes neither actors involved in these practices of governing (such as 'bureaucrats') nor a specific locus for them (such as 'the bureaucracy').

My research is informed by a practice perspective (Bourdieu 1977; Reckwitz 2003; Schatzki, Knorr Cetina, and von Savigny 2001). Such a perspective suggests that the individual and society, agency and structure are fundamentally interrelated: individuals cannot be meaningfully conceived of without the societal relations in which they are entangled and produced; in turn,

structure is an effect of concerted acts of production and enactment. Agency is never independent of the structural relations in which it unfolds and to which it contributes. I draw upon a material-semiotic perspective which sees agency not exclusively as a matter of humans and their embodied knowledge (in what Bourdieu 1977, called a "habitus"), but as crucially enabled through "equipment" (Thévenot 2002), "devices" (Callon 2002) or "plugins" (Latour 2005). Such devices compose a material-discursive arrangement whose enactment produces asylum, its spaces and subjects. Combining insights of embodied and "tacit knowledge" (Polanyi 2009) with insights from material-semiotics thus allows to grasp "knowledge practices" for "managing complexities" (see Mol and Law 2002) such as those at stake in the governing of asylum.

### 2.1.1 Case-Making

I suggest a focus on "case-making" (Scheffer 2001; 2010) as the core administrative practice directed at asylum applications. The focus on case-making helps to grasp the complex conditions and considerations in the assembling of records along their trajectories (see Scheffer 2010). It offers valuable insights into the meticulous production of asylum, which necessitates an interplay of policies, officials, divisions, templates, discourses, buildings, and other material-discursive elements. Moreover, it allows a grasp of much of the micro-politics involved, since "case-making is *situated* and *interested*… it contributes to the loosing [sic] or winning, to punishment or release, to urgencies and right moments" (Scheffer 2010, xv–xvi, own emphasis). The work of case-making is thus strategic, as it aims to resolve asylum claims. Case-making shifts the attention of the analyst from empirically elusive 'decisions' taken by officials to the concerted and laborious material-discursive practices of assembling case files [*Dossiers* in German]. Case files consist of all the documents submitted by asylum claimants and the records produced along the administrative procedure, which render claims resolvable in an administrative order [*Verfügung*]: the asylum decision*.[1]

1 Notions that have a very specific meaning in the asylum office and are marked with an asterisk (*) should not to be confused with the everyday use of the terms. The decision* refers to the material-discursive letter and record that is (an attempt for) the closure of a case (see also Darling, 2014, for an account from the receiving end of such a letter).

Case files are composed of procedure-related files each with their characteristic records. Asylum becomes assembled in records that mediate between partly internalised schemes of classification (Chapter 4) and other elements of the *dispositif*, namely human's entanglement with governmental arrangements and devices (Chapter 5). Records or files not only represent persons claiming asylum in bureaucratic practice, but are generative: they do not only represent but also construct their objects (Hull 2012a, 259). As Vismann (2011a, 8) pointed out, records "take effect in the formation of the three large entities on which law relies: the truth, the state, and the subject". Moreover, files "produce particular types of subjects" (Kelly 2006, 92) through the separation of what is documented – recorded – and what is left out of the person's life they represent (Hull 2012a, 260). Recording is a key practice of case-making because it establishes the material and symbolic *traces* of the case that an asylum decision* (and an appeal ruling) can potentially refer to. In this way, it provides the substance for a specific case: only what is "on the record" [*aktenkundig*] exists for citational practices (Butler 2011) in the proceeding (see subchapter 6.2). This is reflected in the common expression among officials "the examination of records has shown" in asylum rulings and in the sometimes regrettably voiced "absence of evidence in the records" which could substantiate another decision*. And practices of recording lives in case files involves a subtle disciplinary regime as Muckel (2000) rightly pointed out:[2] records produce a crucial asymmetry of knowing that shapes encounters between people involved in recording and those being recorded (see also Callon 2002, 214); and records submit applicants to the peculiar rendering of their lives by caseworkers (see also Hull 2012a, 259).

I consider cases to become assembled in "processual events" (Scheffer 2007a, 183). The notion of processual events has been suggested by Scheffer (2007) to grasp the interrelatedness of the (macro-sociological) *process* and the (micro-sociological) *event* in legal procedures. He ponders:

> The process may empower the event. The process may multiply its effects and consequences. In return, it can never fully determine the event's course. It remains contingent to some degree. The process allocates a certain competence to decide, to direct its course, to re-assess its past, or to declare its

2 Relatedly, Muckel (2000) attributed to records panoptic qualities – a reading I do not further pursue here.

> termination. This contingency is precisely the "junction" that is inherent in legal procedures. (Scheffer 2007a, 184)

In my case, I suggest that the pragmatics of governing asylum revolve around a number of key processual events: case openings, encounters, assignments, authentications, and closures (Part II). While such processual events are crucially scripted by legal, administrative, and organisational arrangements of agentic formations (introduced in Part I), the trajectories of various material-discursive components of the *dispositif* intersect in them, such as the biographies and bodies of claimants and officials, narratives of persecution and memories of current and previous cases, experiences and imaginations of places and lives in proximate and distant places, material case files, policy documents, computers and databases populating the offices and buildings of the asylum administration. Hence, a heterogeneous set of components with their histories and sets of dispositions meet in processual events of assembling case files, thus forging uncertain associations (see Latour 2005; Massey 2005) and rendering such events' outcomes contingent.

### 2.1.2 Agency

In a material-semiotic view, social entities such as states or societies are conceived as an effect of historically contingent processes of association and dissociation (Mattissek and Wiertz 2014, 160) or forms of ordering (Law 1994). Such a view refrains from attributing a stable identity or essence neither to human actors nor to macro-actors (Latour 2005) such as the "state", "bureaucracy", or "organisation", or what Foucault (1980) termed "universals" (adding to the former, for example, "law" or "sovereignty"). In this view, only heterogeneous elements interact and produce reality effects, the social entities just mentioned being amongst such effects (see Mitchell 1991; 2002; 2006). To start with, analytically, there is only socio-material practice. All the micro- and macro-actors remain to be assembled by the analyst (Callon and Latour 1981). Accordingly, rather than taking agency and power to be self-evidently located somewhere, I follow Mitchell (2002) in considering them in need of exploration and explanation:

> It means making this issue of power and agency a question, instead of an answer known in advance. It means acknowledging something of the unre-

> solvable tension, the inseparable mixture, the impossible multiplicity, out of which intention and expertise must emerge. It requires acknowledging that human agency, like capital, is a technical body, is something made. (Mitchell 2002, 53)

Scholars of science, technology and society (STS) and actor-network theory (ANT) convincingly demonstrated that (scientific) knowledge is not the product of human agency and intentions alone (Pottage 2012, 167). They have asked to acknowledge the hybridity of agency and to treat agency as something to be achieved rather than a given. Their relational approach starts from a proposition of symmetry[3]:

> In actor network webs the distinction between human and nonhuman is of little initial analytical importance: people are relational effects that include both the human and the nonhuman … while object webs conversely include people (…). Particular networks may end up being labelled "human" or "nonhuman" but this is a secondary matter. (Law 2009, 147, emphasis in original)

For my analysis, this means to begin only with heterogeneous participants in practices of governing asylum – more or less associated and active – and events of their formation or transformation (Latour 2005, 107, 113). Such participants in the governmental arrangement have to be distinguished regarding their capacity for "translation" (Callon 1986): between passive intermediaries which "transport (…) meaning or force without transformation" (Latour 2005, 39) and mediators which actively "transform, translate, distort, and modify the meaning or the elements they are supposed to carry" (ibid.). Entities may behave in both ways in particular events "no matter what their figuration is" (Latour 2005, 57) in terms of size, form or concreteness. This is a crucial reason why agency cannot be determined outside practices: only what is able to mediate the outcome of practices can be considered agentic. My approach to the governing of asylum thus focuses on the whole range of

3 See also McMaster and Wastell (2005) for a discussion of this widespread misunderstanding of actor network theory (ANT). What ANT suggests is to dissolve the simple ontological dichotomy between subject and object, between the human and technology; to acknowledge and take into account the involvement of variously composed actors in the course of events; and to map the *controversies* over their agency (see Latour 2005, 52–55).

material-discursive devices involved in the production of agency (Chapter 5). To emphasise the provisional and tentative character of agency, I speak of "agentic formations" – composite actors, part human, part equipment (see Rabinow 2003) – that constitute caseworkers, the asylum office and its subdivisions and assemble asylum cases towards their resolution.

## 2.2 Governmentality

My conceptual approach situates the everyday practices of asylum case-making in a governmental *regime of practices*, which I understand through a Foucauldian notion of governmentality. I thus share with Foucault the concern with the *how* of government (see Dean 1999) – the regime of practices it encompasses. Foucault focused on schemas and technologies that epitomise governmental rationalities, such as the Benthamian Panopticon for the disciplinary technologies of imprisonment famously analysed in his *Discipline and Punish* (Foucault 2008). He showed that forms of programming were extremely effective in inducing changes in how government was imaginable and allowed for distinctions between true and false. However, Foucault was explicitly not interested in what he called the "witches' brew" (Foucault 1991, 81) of everyday prison life and how programmes of government shape and are (re-)shaped in it.[4] Despite the fact that, as Foucault (1991) pointed out, programmes of government crucially affect everyday practices of governing, his approach did not illuminate them.

I take a different approach to the governing of asylum by, on the one hand, considering the "witches' brew" of everyday, mundane and routine practices of assembling asylum cases towards their resolution. On the other hand, I consider the regime of practices as the rationalities and technologies of government in which the former become stabilised and transformed. I suggest reading Foucault through a material-semiotic lens and asking how rationalities of government are concretely translated and transported or

4 He stated that "it is absolutely true that criminals stubbornly resisted the new disciplinary mechanism in the prison; it is absolutely correct that the actual functioning of the prisons, in the inherited buildings where they were established and with the governors and guards who administered them, was a witches' brew compared to the beautiful Benthamite machine" (Foucault 1991, 81).

transformed (Dölemeyer and Rodatz 2010, 198). Instead of focusing – in a genealogical manner – on the analysis of text, language, and discourse and how they exercise power, such a perspective rather traces the material-discursive relations and the regime of practices in which such relations come to manifest and thus perform programs of government (ibid.). I am convinced that in order to make sense of the *prosaic* practices of government, one has to attend to the finalities, rationalities, and technologies of power that enable and sustain them.

Accordingly, this book incorporates elements of an "analytics of government" (Dean 1999, 22–23) that considers the ways in which practices of governing asylum draw upon and perform particular rationalities and technologies of power (see also Gottweis 2003). To include these rationalities in the analysis of everyday practices of governing allows me to account for the "intellectual machinery" (N. Rose and Miller 1992, 280) of government. This refers to the theories and conceptualisations or "rationalities", or in Foucault's terms the "grids for the perception and evaluation of things" (Foucault 1991, 81), that make the world apprehensible and tangible for programmes of government with their aims or "finalities" (Foucault 2006, 137). Apart from these finalities and rationalities of government, technologies are key: instead of focusing on abstract principles of rule, the notion of technologies draws attention the specific procedures, mechanisms, and tactics involved and materialising in governmental practices.

### 2.2.1 Finalities, Rationalities and Technologies of Government

Government, in Foucault's terms (1997, 68), is "an activity that undertakes to conduct individuals throughout their lives by placing them under the authority of a guide responsible for what they do and for what happens to them" (in N. Rose, O'Malley, and Valverde 2006, 83).[5] According to Foucault, government historically evolved as an "art" in the sense of a method, a technology to structure the field of potential action of people (Foucault 1984, 338; 2004b, 182), often briefly referred to as the "conduct of conduct" (Dean 1999, 10). This art aims at organising thought and action based on principles of rationality and governmental technologies, or "governmentality" (ibid.).

5 A Foucauldian notion of government is thus not only able to capture the management of political structures but also that of institutions, families, or the self (Flynn 1985, 533).

Government in this sense stands opposed to sovereignty, as it does not have a single finality (such as obedience to the laws) but "a whole series of specific finalities" (Foucault 2006, 137). Such aims or finalities are, for instance, the furthering of wealth of a population, its provision with the necessary means of subsistence, or the securing of its ability to reproduce (ibid.). Government then is a matter of "disposing things: that is to say, of employing tactics rather than laws, and even of using laws themselves as tactics – to arrange things in such a way that, through a certain number of means, such and such ends may be achieved" (ibid.). However, as Li (2007, 9) highlighted, such "'finalities' may be incompatible, yielding interventions that are in tension with one another, or downright contradictory". Considering the governing of asylum, finalities of the rule of law and humanitarianism, the externalisation and deterrence of asylum claim-making, and efficient administration meet each other awkwardly in the asylum administration (see Chapter 8).

Foucault's notion of rationalities implies that particular sets of practices involve and are organised by rationalities as specific ways of thinking and styles of reasoning: "Rationalities are … practical rather than theoretical or discursive entities. They are forged in the business of problem solving and attempting to make things work" (Garland 1997, 184). In question is, accordingly, never the rationality of a single action,[6] but the rationality informing practices of governing asylum "to make things work" (ibid.): for instance, legal, bureaucratic, economic forms of reasoning that all come with a certain form of analytical language, particular objectives, and technologies of management, organisation, and control (see Garland 1997, 185). In contrast to a genealogically-oriented analysis, I am less concerned with the shift in the central rationalities of governing asylum. Rather, I suggest that rationalities are multiple, sometimes contradictory and resisted in practice. I thus try to map rationalities that intersect in the governing of asylum and draw atten-

6 For avoiding misunderstandings, I want to clarify here that the Foucauldian notion of "governmental rationalities" relates to "regimes of practices", not behaviour or action. The notion of rationality adopted in this study does not refer to the idea of rational behaviour, as actor-centric, rational choice perspectives imply (even with potentially unintended consequences); neither does it refer to rational, intentional action by 'knowledgeable and capable' human actors as structuration theory suggests (Painter 2006, 762).

tion to the technological "arsenal" (Gnosa, 2015) that has evolved to resolve asylum claims.

Foucault's notion of governmental technologies refers to the "complex of practical mechanisms, procedures, instruments, and calculations through which authorities seek to guide and shape the conduct and decisions of others in order to achieve specific objectives" (Lemke 2007, 50). Technologies of government are often associated with a particular rationality (Dreyfus and Rabinow 1983, 142). They include, but are not limited to,

> methods of examination and evaluation; techniques of notation, numeration, and calculation; accounting procedures; routines for the timing and spacing of activities in specific locations; presentational forms such as tables and graphs; formulas for the organization of work; standardized tactics for the training and implantation of habits; pedagogic, therapeutic, and punitive techniques of reformulation and cure; architectural forms in which interventions take place (i.e., class- rooms and prisons); and professional vocabularies. (Lemke 2007, 50)

This notion of technologies thus not only refers to material devices, but also encompasses symbolic devices (ibid.). They can be distinguished into technologies to govern others – namely those "seeking to discipline the individual body or to regulate population processes" (Lemke 2007, 49) – and "technologies of the self" as well as "political technologies of individuals" (ibid.). Technologies of the self enable the self-guidance of subjects and their formation as ethical beings (ibid.). Political technologies of individuals have enabled our formation as political beings, as they have "led to recognize ourselves as a society, as a part of a social entity, as a part of a nation or of a state" (Foucault 1988b, 146). All of these technologies are to some extent involved in the governing of asylum.

Technologies of governing others pervade the processual events of case-making. They allow for the specification of the subject matter and legal competence, the setup of the hearings that allow caseworkers to speak in the name of the state and include things in – and exclude others from – the record, the regulated assignment and distribution of authorship, the access to and definition of authoritative knowledge and authentication techniques, and the writing devices that allow for a cases' closure in an asylum order (see Chapter 6). Technologies of the self and political technologies of individu-

als are less obvious but nevertheless crucial in the government of those governing. They appear in reflexive and ethical principles of caseworkers and their superiors (Part III) and their compliance with calculative techniques to render case-making more efficient (subchapter 8.2) or in the adoption of a protective stance concerning the 'system' or the nation (see also Affolter 2017; Fuglerud 2004).

### 2.2.2 Law as a Rationality and Technology of Government

Asylum procedures thrust upon their analysts a need to account for the exclusionary politics of inclusion they implicate. Who or what can account for the sovereign act of drawing the boundary between those who are admitted and those who are not? Most commonly, it appears, the answer to this question is sought in the law and its implementation. A common difficulty of researching the legal, however, is that it offers such a forceful language of reason – as well as a mode of thinking and doing – that the social scientist can hardly escape (see Bourdieu 1994). It is hard to get hold of the legal sociologically, that is, outside the realm of legal rituals of self-referentiality (Latour 2010, 271). Associations considered legal mediate particular sets of relationships. Such relationships are, to various extents, stabilised by the citational practices of a legal authority associated with them (ibid.). This means that "legal judgments are both statements and deeds. They both interpret the law and act on the world" (Douzinas and Warrington 2012, 3). In other words, the legal adds a property to relationships that may – if enacted – become forceful. For this reason, engaging the legal meta-register has both empowering and subjugating effects (see section 2.4.2). Such effects are, arguably, particularly strong in the example of asylum applications. But how is it possible not to reify law while acknowledging its significance in the governing of lives? I suggest it takes a perspective that does not simply presume its existence, but traces the material-discursive associations through which it is produced empirically.

Law appears in various forms in the governing of asylum: the legal operates as a crucial rationality of governing asylum that is involved in shaping its object (see Chapter 8). Moreover, it has the appearance of a somewhat paradoxical technology: it is endlessly superficial in its grasp of existence and life (in all its qualities), yet still profound in its impact on existential relations

of all sorts through its associative force (Latour 2010, 267). As Latour (2005) suggested:

> It's not only that law, for instance, is unexplainable by the influence social forces exert over it; and it's not even true to say that law has to explain in turn what society is, since there is no society to be explained. Law has much better things to do: one of them is to circulate throughout the landscape to associate entities in a legal way. (Latour 2005, 239)

But "associating entities in a legal way" is by no means an innocent undertaking as Douzinas and Warrington (2012, 4) pointed out: "Legal interpretations and judgments cannot be understood independently of this inescapable imbrication with – often violent – action. In this sense legal interpretation is a practical activity, other-orientated and designed to lead to effective threats and – often violent – deeds. This violence is evident at each level of the judicial act." They question the widespread assumption in critical legal theory that "the rightness, fairness or justice of the interpretative enterprise will bestow its blessing on the active component of the judgment and justify its violence" (ibid.). They convincingly argue that justice does not arrive from appropriate interpretation, but can only arise from the judgement: justice cannot be found in law itself, but may arise in its momentary suspension in the sovereign act of inscription, of associating life with law. Relatedly, Aretxaga (2003) maintained:

> The hold of the law, the impossibility of extricating oneself from it, rests on the force of its performance which, lacking symbolic content, can create an obsessive attempt at interpretation, at translation of mere force into the language of reason. What is ultimately untranslatable about the performance of the law, the dimension of pure performativity that constitutes the law's authority, is the arbitrariness of its power to decide life and death. (Aretxaga 2003, 407)

Arguably, a lot of law's potency as a meta-register for (re)shaping relationships arises in this reading from what could be considered a sovereign conjuncture – i.e., the moment of fundamental and precarious indeterminacy of existence. This sovereign conjuncture of being reduced to "bare life", in Agamben's (1998) terms, serves "to affirm a juridical order in which lawful-

ness, right, is suspended in the name of law" (Aretxaga 2003, 405). The potentiality of such sovereign conjunctures always resides in law and renders law such an effective political technology (Barry 2001). But beyond this, I suggest the character of law as a prosaic meta-register makes it conducive for practices of reassembling the social, thus not only to "act on the world" (Douzinas and Warrington 2012, 3) but also to *re-enact* the world. Where the meta-register of law becomes enacted, it turns dreadfully real, indissolubly tied to webs of existence (see section 2.4.2).

Traces of this notion of law can also be found in representations of governing asylum where asylum orders are considered a sovereign act *directed at* an individual. However, sovereign acts of law are never just about an individual but always about collectives: those who never had to ask for admission (citizens, 'cosmopolitans'), those already admitted, those awaiting admission, and those potentially come to be admitted. Accordingly, boundaries of asylum are never simple lines, but rather complex composites. How can we account for their relationality?

## 2.3 The *Dispositif*

To grasp the networked arrangements in which asylum becomes governed, I draw on Foucault's notion of the *dispositif* (Foucault 1980, 194).[7] The *dispositif* refers to networked relations between heterogeneous elements of government – "the said as much as the unsaid" (ibid.). A *dispositif* connects "forms of practical knowledge, with modes of perception, practices of calculation, vocabularies, types of authority, forms of judgement, architectural forms, human capacities, non-human objects and devices, inscription technologies and so forth" (N. Rose 1999, 52) involved in practices of government. It

7 Two different yet related concepts could be used to grasp the arrangement or disposition of things in which practice takes place: the Foucauldian (1980) *dispositif* or apparatus, and the Deleuzian (1988) *agencement*, or assemblage (see also Callon 2007b; Deleuze and Guattari 1988). *Agencements* refer to "hybrid collectives" that are "comprised of human beings (bodies) as well as material, technical and textual devices" (Çalışkan and Callon 2010, 9). The two concepts are closely related and can be fruitfully thought together, yet without erasing the differences between the two (Legg 2011, 131). Rabinow (2003) suggested conceiving of "assemblages … [as] secondary matrices from within which apparatuses [*dispositifs*] emerge and become stabilized or transformed" (ibid., 56).

thus not only encompasses discursive formations but also technologies of government and non-discursive practices (Bührmann and Schneider 2008). As Walters (2012, 146) proposed, such a notion helps to move the analysis of governance beyond the programmatic, "to grapple with the ways in which things hold together in a rough and ready way that no one quite planned, in which all bits and pieces find a provisional coherence even though they don't quite fit together". The notion of the *dispositif* thus allows me to tease out the relationality, tentativeness and heterogeneity of what is involved in action, knowledge production, or government.

Introduced by Foucault as "a notion of emergent ordering" (Pottage 2011, 164), a *dispositif* has to be moreover thought of as strategic (Foucault 1980, 195), as a response an "urgent need" (ibid.) or as a sustained problematisation (Rabinow 2003, 55). In the case of asylum, it can be seen to have emerged as a response to the (growing) problematisation of people claiming rights of a state of which they are not citizens (on the basis of the Geneva Refugee Convention). Agamben (2009, 20) emphasised in his take of *dispositifs* that they are crucially about to the production of subjectifications: "Apparatus [*dispositif*] is first of all a machine that produces subjectifications, and only as such it is also a machine of governance." While I do not consider the asylum *dispositif* to be first of all about subjectifications, it still brings about a whole range of asylum subjects – asylum seekers, claimants, recognised refugees, temporarily admitted persons, rejected asylum seekers – through its particular configuration of power and knowledge.[8]

### 2.3.1 Enactment and Multiplicity

A crucial question concerns the relationship between practices of government and the realities they are involved in constructing. Science and technology studies (STS) and actor-network theory (ANT) have highlighted that "knowing, the words of knowing, and texts do not describe a pre-existing world. They are rather part of a practice of handling, intervening in, the

8 According to Foucault, power and knowledge need to be considered in a mutual condition of existence (Gnosa 2017, 17–18). The *dispositif* of asylum accordingly involves particular "technologies of power" (Dreyfus and Rabinow 1983, 188) through which officials can act upon applicants in the asylum procedure and a particular "will to knowledge" (Foucault 1978, 65) about the subject deserving protection and its origin. Practices of government generate insights that are updating this will to knowledge in certain ways.

world and thereby of enacting one of its versions – up to bringing it into being" (Mol and Law 2002, 19).[9]

The technologies and knowledge practices of governing asylum do not act upon a pre-existing world either, but are *performative*: this means that "they have effects; they make differences; they enact realities; and they can help to bring into being what they also discover" (Law and Urry 2004, 393). This is compatible with Butler's (2011, xii) notion of performativity "as the reiterative and citational practice by which discourse produces the effects that it names". Hence, knowledge practices such as those involved in the governing of asylum – for instance, practices of knowing origin and persecution stories of applicants through hearings, of knowing the 'situation' in countries of origin through field missions and country of origin information, but also of 'knowing' future numbers of asylum applications through risk analysis – not merely have a descriptive relationship with the world(s) they denote but a generative one. What I suggest here is that performative practices are crucial for the *dispositif's* emergence and transformation as "a kind of arrangement that is, paradoxically, constituted by its own effects" (Pottage 2011, 164).

Furthermore, as the governing of asylum involves multiple knowledge practices, this means that multiple realities are *enacted*. What science and technology studies (STS) and actor-network theory (ANT) have suggested for research methods (Law and Urry 2004) and practices of 'technoscience' (Law 2004b), thus also applies to practices of government: "The argument is that there isn't one set of practices. Instead there are lots of them. And those practices, this is the really crucial shift, are all enacting and re-enacting putative realities" (Law 2004b, 5). By consequence, the *dispositif* of governing asylum cannot be expected to generate a single coordinated network of practices and a single coherent reality, but multiple networks and multiple realities. Mol (2002) has demonstrated this for the body: while in theory it may be single, each practice of medical diagnosis and treatment concerned with the body generates its own material-discursive reality of it. Taking the example of atherosclerosis, she has highlighted that each diagnostic approach to this illness creates its own version of the body – it thus becomes multiple

9 This has been suggested for scientific laboratories (Latour and Woolgar 1979; Law 1994); for immunology (Latour 1988); markets (Callon 1998); the economy (Mitchell 2002); but also for the state (Mitchell 2006; borders and sovereignty (Salter in Johnson et al. 2011, 66–67); and refugeehood (Mountz 2011a).

(Law 2009, 151–52; Mol 2002). The same can be argued for asylum: each approach to asylum in terms of specific knowledge and inscription practices in the administration creates its own version of it – a legal status, a statistical record, a welfare burden, a victim subject – which means it becomes equally multiple. Coherence between these versions of asylum, if achieved at all, is only a rare and fleeting accomplishment. This implies that "most of the time and for most purposes practices produce chronic multiplicity. They *may* dove-tail together, but equally they may be held apart, contradict, or include one another in complex ways" (Law 2009, 152 emphasis in original). An account of how realities relate cannot escape complexity, since they are essentially irreducible to one another (Latour 1988).

As Butler (2010, 152) has highlighted, performative enactment of realities is prone to failure, or as she says, it may "misfire", as "it is only under certain kinds of conditions, and with no degree of predictability that theoretical models successfully bring into being the phenomenon they describe". According to Callon (2010), misfires or "overflows" are the rule rather than the exception, and they are constitutive of any politics in the enactment of realities.

> Saying and doing the economy – because all economies are said and done (Çalışkan and Callon 2009) – means entering into the agonistic field where the delimitation-bifurcation between the economy and politics is constantly being debated and played out. Structurally, the performativity of economics implies a demarcation between that which is economic and that which is not. Every economic performation programme calls for a counter-programme which takes as its starting point that which was left out, to propose another definition of the economy. (Callon 2010, 165)

Replace the economy" with "law" (or equally "the state"), and this excerpt quite well fits my case in which the association between law and its outsides is a matter of deliberation and contestation (see Chapter 7). There is thus a politics that arises from the multiplicity of realities or ontologies and their constitutive outsides. The notion of an "ontological politics" works "to underline this active mode, this process of shaping, and the fact that its character is both open and contested" (Mol 1999, 74–75). We thus end up with "fractional realities" in Law's (2004a, 6) terms, whose relations are uncertain: fractional asylums and enacted subjects. There are thus multiple networks

and multiple realities of asylum – at times fitting together well, at times contradicting each other – that are enacted through the asylum *dispositif*. The fragmented networks of practices and rationalities of government of the *dispositif* (tend to) produce fractional realities of asylum and thereby also spaces and subjects.

### 2.3.2 Associations

As suggested above, I do not consider power and agency as givens, but instead trace the material-discursive relations or "associations" (see Latour 1984) in which they circulate. The *dispositif* of governing asylum has emerged and has been continuously (re-)assembled through the multiplicity of humans, materials, discourses, and strategies that have become associated to act upon the "urgent need" (Foucault 1980, 195) of asylum claim-making. The *dispositif* thus consists of the associations of heterogeneous elements enrolled in the cause of resolving problematisations or governmental 'crises' related to asylum. Associations tie dispersed practices together and stabilise them in a *dispositif* and are thus essential for power and agency. Such a relational understanding of agency resonates well with Foucault's "microphysics of power" in which power is not something to be possessed but rather exercised through, for instance the disciplinary techniques of the penitentiary prison (Gordon 1991, 3). Paraphrasing Latour (1984), I suggest that a relational, material-semiotic notion of power implies that "power lies in associations".[10] In this view, it is the heterogeneous associations with which caseworkers are entwined that allow them to exercise power over asylum applicants. It is only through these associations that caseworkers are capable of affecting applicants and their lives qua case-making and enacting a particular governmentality.[11]

Drawing on Law (2009, 148–49), three modes of association that stabilise governmental arrangements such as the asylum *dispositif* can be distin-

10 Latour (1984, 277) highlighted that "the only way to understand how power is locally exerted is … to take into account everything that has been put to one side – that is, essentially, techniques". He suggested that this notion was "in effect the same result as that obtained by Michel Foucault" (ibid., 279n18) in *Discipline and Punish* (Foucault 2008), merely extended to a wider range of (material) techniques. Accordingly, Latour's (1984) notion of power can be well combined with Foucault's (1980) later developed notion of the *dispositif*, which incorporates such material techniques, discursive and non-discursive practices.

11 One could thus aptly speak of the *dispositif's* govern*materiality*.

guished: material, discursive, and strategic associations. The *dispositif* is stabilised in *material* associations to, for instance, buildings, documents, and analogue and digital devices enrolled in it. Such material associations are by tendency more stable than non-material or bodily elements of arrangements (ibid., 148). Yet, it is not primarily their form that makes material associations last, but the network they are entangled in. The second form, *discursive* associations, define the "conditions of possibility, making some ways of ordering webs of relations easier and others difficult or impossible" (Law 2009, 149). Central to the governing of asylum are discourses of, for instance, human rights or refugee protection, the security of the population, or the rule of law (Bigo 2002; Gorman 2017; Zetter 2007). The *dispositif* furthermore features *strategic* associations: "teleologically ordered patterns of relations indifferent to human intentions" (Law 2009, 148) that tie claimants to those governing. Strategic associations refer to the dispositions, manoeuvres, and techniques that allow some to govern others – Foucault's understanding of strategies (Gnosa 2015, 135). Crucial in the case of governing asylum are, for example, manoeuvres of defining what is 'relevant for the case' in asylum hearings or dispositions of considering some things submitted by applicants as decisive evidence (see Chapter 6).

I thus consider the different ways in which the *dispositif* of governing asylum becomes stabilised in material, discursive and strategic associations. The stabilising effect of such associations on governmental arrangements offers another analytical window to the obsession of administrative practices with documents and records, the pervasiveness of bureaucratic and legal discourse, but also forms of spatiotemporal ordering and bodily inscriptions (see Gnosa 2015, 128).

## 2.4 Complex Composites of Space and Power

Thinking asylum governance along the lines outlined above has also consequences for the conception of space: it takes a relational notion of space to grasp how people's lives-as-flows become entangled in relational politics of (im)mobilities. Thinking of space and power relationally in geography has involved a turn to topology and topological notions of space (see Allen 2009; 2011a; 2016; Allen and Cochrane 2010). These novel conceptualisations of space in topological terms have proven to be a promising endeavour. They

have led to the introduction of a range of metaphors to rethink spaces as twisted, folded, bent or stretched. They have thus introduced a novel view of the networked forms of sociality and power. Allen (2009; 2011b; 2011a; 2016) has provided the most sophisticated elaboration of topologies of power so far. He suggests a topological view of power to grasp what he calls the "quieter registers of power" (Allen 2016, 2). These refer to "the ability to get others to do things that they would otherwise not have done [which] is reproduced, yet often changes as the relationship is folded or stretched through time to enable powerful actors to interact directly or indirectly with others elsewhere" (ibid.).[12]

My conceptions of space and are informed by such a topological perspective – I share, for instance, Allen's view that power's intensity is not a matter of Euclidean distance. Yet I suggest to draw upon a notion of governmentality and material-discursive associations to grasp "how it is that actors are able to make their presence felt in more or less powerful ways that cut across proximity and distance" (Allen 2016, 35). Allen's (2016) view of power, despite being avowedly informed by actor-network theory, appears to miss consideration of a crucial point: that there is no "hidden presence of some social forces" (Latour 2005, 5). This means power (or rather: government) does not have any reach in the vacuum: it needs a *means of transportation*, i.e., emissaries (Law 1986) or connectors (even if it is just computer bytes) that associate also physically dispersed locations and are thus traceable by the analyst (Latour 2005, 25, 176). I thus pursue a somewhat different approach to space and power. I follow Massey (2005, 9) in thinking of space relationally as a "simultaneity of stories-so-far" – of things and people that are related to it. This is also remarkably close to Foucault's (1986) notion of space outlined in his essay "Of Other Spaces":

12 This conception of these "quieter registers of power" has a startling resemblance with Foucault's notion of *governmentality* as acting on others actions, or "the conduct of conduct" (Dean, 1999, 10-11) which also occurs as "governing at a distance" (Rose et al, 2006, 89). However, it appears to me this connection is not developed. This is also reflected in his notion of the "power of reach" (Allen 2016; Allen and Cochrane 2010) that "can reveal how different actors work power by drawing things within reach or placing it beyond reach" (John Allen, Oral Communication, Workshop at the Department of Geography, University of Zurich, 15 May 2015).

> The space in which we live, which draws us out of ourselves, in which the erosion of our lives, our time and our history occurs, the space that claws and knaws at us, is also, in itself, a heterogeneous space. In other words, we do not live in a kind of void, inside of which we could place individuals and things. (…) we live inside a set of relations that delineates sites which are irreducible to one another and absolutely not superimposable on one another. (Foucault 1986, 23)

Space in this sense is not abstract and empty, but produced in, and at the same time limited by, practices that associate things and people with it – and exteriorise others. It is the material-discursive webs of relations that (dis) associate things and the living.

### 2.4.1 Mobile Territories

Foucault's notion that the government of people occurs via the government of things hints at the host of technologies mediating the social (Latour 2005; Lemke 2004; Raffestin 1980). Such technologies are crucial for disassociating 'refugees' from 'non-refugees'. In practices of knowing a 'refugee', both are produced as material-discursive realities: humans-as-refugees and humans-as-rejected-asylum-seekers. Such knowledge practices evoke and inscribe particular geographical and historical conjunctures, such as spaces of asylum, spaces of persecution and flight, and spaces of expulsion. These spaces are themselves mobile in the sense that the material-discursive arrangements that enact them are evolving and transforming. And they are crucially co-produced by those seeking asylum and claiming protection, and those involved in the 'management' of asylum (Mezzadra and Neilson 2012). Expanding on the insights from the literature on the mobility of borders (Mountz 2003; 2011b) and border struggles (Squire 2014; Tsianos and Karakayali 2010), I introduce a notion of "mobile territory", a spatiotemporally evolving meaningful correlate (see Delaney 2005) that is limited by and produced in practices that associate things and people with it (see also Painter 2010).

Such a notion of territory builds on the relational and material-semiotic notion of space introduced above. It adds to insights from mobility studies by considering not only the mobilities fabricated in enactments of governmental arrangements, but also the reassembled socialities (or literally "social

geographies") this produces.[13] It thus rejects nation-state territory as both a container space and a singular, given entity. Territories are, in this view, multiple, overlapping, and fragile effects of socio-technical practices of government (Painter 2010, 1115; see also Braverman et al. 2014; Brenner and Elden 2009). According to Painter (2010, 1115), "the territory-effect is generated by and depends on networked relations". In contrast to the common view in geography, territory and network are therefore not only commensurable forms of spatial organisation but are intimately related in practice (ibid.). I argue that as the lives of those seeking refuge are recorded in terms of asylum, not only their "identities are scripted" (Mountz 2010, 90), but also new exclusionary spaces as well as spaces of the possible – what I call mobile territories – are produced as an effect (see also Braverman et al. 2014; Painter 2010).

### 2.4.2 Re-Cording Lives

To analyse the mobile territories of governing asylum, I introduce the notion of "re-cording": it refers to the (dis)associations invoked in the governing of asylum that entangle applicants' past and future lives with networked arrangements of government and produce prosaic, fragile and contested territories as an effect.[14] Re-cording is only a pretext for becoming captured in the time-space of a particular mobile territory. If to govern lives of people seeking asylum thus means to re-cord them territorially, they are importantly involved in this process: starting by the act of claim-making. While re-cording may capture their lives-as-flows to various extents in territories and with potentially profound consequences (including detention and

13 This resonates with Mitchell's (1991, 78) claim that it is crucial to "examine the detailed political processes through which the uncertain yet powerful distinction between state and society is produced. The distinction must be taken not as the boundary between two discrete entities, but as a line drawn internally within the network of institutional mechanisms through which a social and political order is maintained."

14 Painter's (2010) notion of territorial "coding" denotes a similar process – the categorical association of people's lives with certain material-semiotic spaces. The notion of "re-cording" more strongly emphasises the importance of stabilising such a coding in material-discursive records. It carries a double meaning of "recording" in the sense of grasping and protocolling applicants' lives; and the renewed "cording" indicating the material-bodily cords by which applicants become tied up in specific relations to territorial conjunctures.

deportation), they also seek certain territorial relations (see also Murphy 2013) with territories of protection (and consequently residence). Governing asylum thus produces the subjectivities and a range of spaces of asylum – some of them suffered for (see Moore 2005), others concomitantly unwanted and resisted.

Entering the asylum procedure through claim-making implies a particular subjectification as disposable subjects[15] – quite in the sense of Agamben's (2002) *homines sacri*. The procedure through which asylum seekers' eligibility to protection is evaluated is at the same time the procedure through which their deportability is sought (see also Achermann 2008, 64). Yet, in the quasi-universal legal right to claim protection outside the country of origin also lies a considerable empowerment of people who were not lucky in the global "birthright lottery" (Shachar 2009). With their act of claim-making, they become legal subjects and therefore have for once the law on 'their side' as they have an opportunity to influence the "state of conviction" (Chapter 7) in their sense. It is in this sense that "games of truth" (Foucault 2014a) in asylum case-making are open, even if the "arsenal" (Gnosa 2015, 153–55) to impact the outcome is unevenly distributed.

While claimants are encountered by host states as noncitizens who strive for legal residency (see also Spiro 2008), their claims for refuge and their resistance to become governed (solely) in terms of asylum have to be considered as "acts of citizenship" (Isin 2008). Following Rancière's (2004) considerations on the *Rights of Man*, asylum is to be understood not only (or not even primarily) as a (legal) right of the non-citizen (of 'man') but as a "political predicate": "Political predicates are open predicates: they open up a dispute about what they exactly entail and whom they concern in which cases" (Rancière 2004, 303). This allows us to attend to the politics of relations that are shaped in the name of asylum: "The point is, precisely, where do you draw the line separating one life from the other? Politics is about that border. It is the activity that brings it back into question" (ibid.). Enacting the border (or, rather, the border correlate or territory) to separate one life from the other, the citizen from the asylum seeker, or the one protected from the one rejected, means to open "an interval for political subjectivization" (ibid.,

15 The deeper sense of the notion is well captured in German through two meanings of "disposable" subjects: *verfügbare* (available) but also *entbehrbare* (able to be thrown away) *Subjekte*.

304). With their acts of border-crossing, claim-making, performing as refugees, and insisting on their right to asylum and residence, asylum seekers thus defy the "border's capture" (Soguk 2007) – or what I would call with Painter (2010) "territorial capture" – and become agents of an "insurrectional politics" (Soguk 2007).

## 2.5 Summary

In this chapter, I have outlined an analytic of governing asylum. This analytic allows us to understand how asylum is produced – as an object, subject, and a set of spatiotemporal relations – in situated practices of government that rely on a host of technological devices, forms of knowledge, and rationalities. It avoids common starting points such as law, the state, or bureaucracy and suggests an avenue for rethinking practices of granting or rejecting asylum claims in light of Foucauldian insights on government and power/knowledge and material-semiotic sensibilities of an actor-network theory perspective.[16]

This analytical focus on governing asylum has some important conceptual consequences. First and foremost, I turn away from an understanding of asylum as a legal status produced in a discrete *decision*. A narrow focus on individual cases and decision-making has been shown to often foreclose the practical purposes or problems at stake (Emerson 1983; Gilboy 1991, 573). Instead I see asylum as a *set of relations* established in situated material-discursive practices.[17] I draw upon the notion of "case-making" (Scheffer 2001; 2010) that allows me to consider how asylum cases are made in a series of "processual events" (Scheffer 2007a). In such processual events, the relationship between the state and noncitizen subjects claiming asylum is enacted: re-corded in material-discursive associations. The re-cording of applicants'

16 I am not the only one pursuing such an approach: recent contributions to migration and mobility studies have suggested similar approaches that link Foucauldian notions of governmentality or the *dispositif* and insights from assemblage theory or actor-network theory, namely under the heading of "migration regimes" (e.g. Haince 2010; Hess, Kasparek, and Schwertl 2018; Tazzioli 2014). However, this study is, to the best of my knowledge, the first to exemplify the merits of such an approach in the case of asylum governance.

17 This bears resemblance to Darling's (2014, 495) conceptualization of asylum not as a procedure or legal status, but "a material-discursive collective that takes shape differently across different spaces".

lives in terms of asylum requires particular geographical knowledge and technologies of inscription that tie them to – and thereby produce – certain mobile *territories of asylum*. For my analytical perspective, this means to grasp the sovereign act of granting or rejecting protection *not* as an outcome of decision-making. Rather, I argue this act consists of the re-cording of lives in terms of asylum in practices of case-making. I consider such re-cording to be achieved not by individual actors but in a strategic networked arrangement of government – a *dispositif* (Foucault 1980, 194–95). Such a *dispositif* has emerged in response to a historical problematisation of asylum (Rabinow 2003) and is stabilised by its material-discursive and strategic association with political rationalities and technologies of power of a governmentality (Foucault 2006). The *dispositif's* (performative) enactment in practices of case-making produces particular subjectifications and territorialisations, but also opens spaces for "insurrectional politics" (Soguk 2007).

# 3. Studying Government by (Dis)Association

Methodologically, my approach to the governing of asylum is informed by a shift from social constructivism to enactment (Law 2004b). This is related to a twist suggested by actor-network theory (ANT) scholars, particularly Latour (2005) in his programmatic *Reassembling the Social* regarding the social and sociology. In this view, there is no society that precedes practice: no society outside the material-discursive practices in which it becomes enacted. Accordingly, the "social" as a denominator of processes of acts or entities loses its explanatory force. What this implies is a reversal of perspective: not to explain the construction of things *with the social*, but to trace *how the social is assembled* in practices in which heterogeneous "actants" (Latour 2005, 54–55) are involved. This also means: If things are constructed, a simple deconstruction of their existence does not account for the meticulous work their construction and stabilisation takes (Law 2009). This means to shift the focus from deconstruction to the *how* of construction (see Law 2004b).[1]

Relatedly, I do not approach asylum governance through 'big' explanatory categories such as the state, bureaucracy, or law not because I think they are not 'real', or 'only' social constructions. Rather I think they do not lend themselves to explain the practices of governing asylum very well: explanations that revert to features commonly attributed (for instance) to law to explain law (or vice versa) remain inevitably caught in a tautological dead-end (see Latour 2010, 255–56). Instead, I develop on STS and ANT perspectives and critical approaches to the state in human geography (Jeffrey 2013; McConnell

1 Some authors thus call the perspective associated with ANT research "post-constructivist" (e.g. Kneer 2009, 27). But I am not convinced of strategies that simply replace the old by adding a "post-" in front of it. I would rather cautiously retain some of the linkages with perspectives subsumed under "constructivism", while in some respects explicitly departing from them.

2016; Mountz 2003; 2010; Painter 2006) and social anthropology (Gupta 1995; 2012; Li 2007; 2005; Mathews 2008). I suggest a form of analysis which takes social entities such as the state, bureaucracy, and law as effects (Mitchell 2002; 2006), not causes, of practices that *need* rather than *offer* explanation.

## 3.1 Engaging the *Dispositif*

> An organization is (…) made only of movements, which are woven by the constant circulation of documents, stories, accounts, goods, and passions. (Latour 2005, 179)[2]

For operationalising the notion of the *dispositif*, I suggest a methodological approach I call "studying government by (dis)association" which may be applicable beyond the case of governing asylum. In the way Foucault used the notion, the *dispositif* does not simply lend itself to an empirical enquiry. The multiplicity of elements – things, people, discourses – composing a *dispositif* make it indispensable for me as an analyst to selectively cut across it and direct my and the readers' attention to some of its bearings. This approach sheds light on the "witches brew" (Foucault 1991, 81) of everyday practices at the heart of a *dispositif*'s emergence and stabilisation: the practices of composition and cutting apart of relations, in short "practices of (dis)association".[3] Such an approach to the *dispositif* not only highlights the fragility of government, but also allows us to grasp this fragility by revealing the "myriad associations required to keep it together" (Levi and Valverde 2008, 822) as well as the governmental need to omit, name, classify, distinguish, and resolve. The latter points to the "reality-constituting power" (Keller 2011, 14:8) of enacting the material-discursive arrangements of the *dispositif*.

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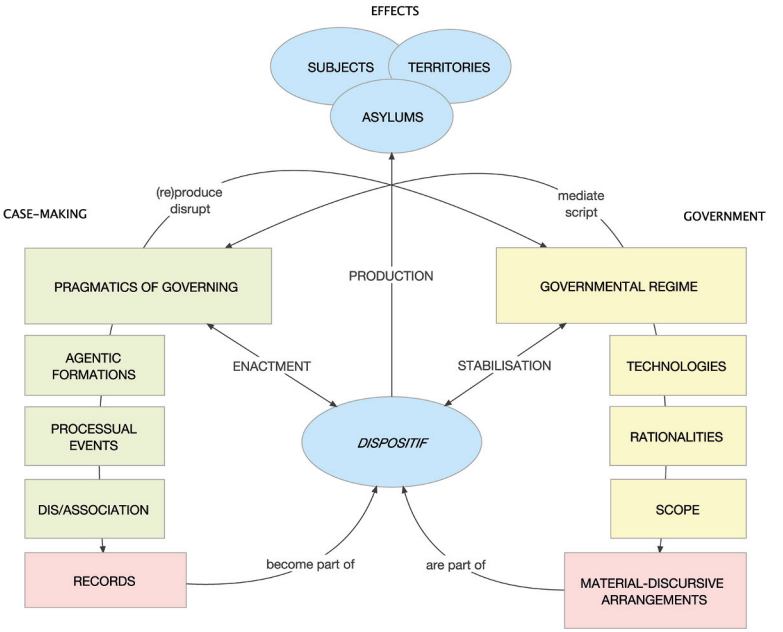
2 The German version is somewhat more poetic: "Sogar noch weniger als der politische Körper ist eine Organisation eine 'Gesellschaft', denn sie besteht nur aus Bewegungen, die durch das ständige Zirkulieren von Dokumenten, Geschichten, Berichten, Gütern und Leidenschaften gewoben wird" (Latour 2007, 309).

3 To capture this central mode of operation, the *dispositif* thus could be called a "*dispositif* of winnowing" [*Trennungs-Dispositiv*], winnowing meaning "examination", "inspecting" and "sorting" but also "rejecting" in the sense of "sorting out" [*ausscheiden*] (see Bowker and Star 1999; Sauer 2015).

*Figure 2: Enactment, stabilisation, and effects of the dispositif*




(Own illustration)

Figure 2 indicates how the different parts of my conceptualisation interrelate: the *dispositif* is enacted in pragmatics of governing – agentic formations which produce in processual events crucial (dis)associations that enter case files as records. This pragmatics of governing asylum is mediated and scripted by a governmental regime – technologies of governing (such as recording, calculation and standardisation) and rationalities (in the case of asylum: humanitarian discourses of protection, securitisation discourses of deterrence, but also bureaucratic discourses of efficiency). Such technologies and rationalities have a particular spatiotemporal scope – which is at the same time the scope of the *dispositif* (see also Valverde 2011). And they have a material-discursive form that influences the effect they have on the everyday practices of case-making. They coalesce in the form of material-discursive arrangements that mediate and script the pragmatics of governing. In turn, the pragmatics of governing are both reflexive and produce at times "overflows" (Callon, 1998) which means they are constantly involved in the

arrangements' (re)production and disruption. As an effect, they produce asylum and its subjects and territories as material-semiotic webs.

Methodologically, my approach resembles what Mol (2002, 53–55) called "praxiography" (rather than "ethnography" as "cultural description", Van Maanen 1982, 103), as it is interested in describing the "'practicalities' of enacting reality". As she put it: "To be is to be related. The new talk about what is, does not bracket the practicalities involved in enacting reality. It keeps them present" (Mol 2002, 53–54). This both includes a strong emphasis on the relationality of being (Massey 2005), the mundane, prosaic practicalities (Painter 2006) and the productive power of practices of government (Foucault 2008). My 'field' in fieldwork is thus the *dispositif* of governing asylum and fieldwork meant engaging the *dispositif*: in short, assembling connections and attending to the "scaling, spacing and contextualising" (Latour, 2005, 184) involved, i.e., entering its peculiar ways of seeing, and tracing limits of ways of thinking and doing.

## 3.2 Methodological Maxims

The first methodological maxim of this study is: I do not claim to provide a comprehensive or true account of how things work in the asylum office or of the 'asylum system'. First, from an ontological perspective, there is no one asylum system, but a multiplicity of systems and asylums depending on the instruments of "seeing" practices through the *dispositif*.[4] This book is thus instead the result of my attempt of assembling a written version of the asylum *dispositif* at a particular conjuncture *of my production of it*. As Pottage (2011, 165) emphasised, "assembling a *dispositif* is a contingent and strategic theoretical operation". Research in this understanding is not passive, but generative of the realities it describes (see Law 2009). This means that by attending to and writing about the prosaic practices of case-making, I am involved in (re)assembling the asylum *dispositif*. It moreover takes you as a reader to reassemble it through your effort of imagination and *bricolage*. What Flyvbjerg (2001) said about his account of the Aalborg traffic planning process he studied is very much true for my account as well: "The case story …

4 This follows Mol's (2002) insight on the body multiplying with each paediatric practice directed at it in a hospital.

can neither be briefly recounted nor summarized in a few main results. The story is itself the result. It is a 'virtual reality,' so to speak, of politics, [and] administration" (Flyvbjerg 2001, 145). This "virtual reality" ideally complements – and at times unsettles – other stories of the 'asylum system' and its workings.

The second maxim is that an impartial or objective account of the asylum *dispositif* is *epistemologically* impossible. This is a central insight of feminist scholars about knowledge production: that all knowledge is partial in perspective and situated, related to the context in which it is produced (Haraway 1988; G. Rose 1997). Knowledge is moreover embodied, as feminists have long argued (Haraway 1988). They have overturned the myth of objectivity, of disembodied and dislocated knowledge, of the "god-trick" of "seeing everything from nowhere" (ibid., 581) and insisted "on the embodied nature of all vision" (ibid.). The notion of embodiment introduced a way to analytically grasp the important relationship between discourse and materiality in everyday practices of government (Mountz 2003; 2004). Feminist political geographer Mountz pointed out that "power moves through dis/embodiments, and it is therefore important to analyze who is embodied, how, and why in the relationship between the state and smuggled migrants" (Mountz 2004, 328). Through my own research practice of embodiment, I try to account for the ways in which knowing and enacting the asylum *dispositif* is embodied in mutable, sometimes contradictory ways.[5]

Importantly, both scientific and administrative practices of knowledge production are partial, situated and embodied. The partiality of my account has (at least) four roots: first, my (spatiotemporally) partial *encounters* with configurations of the *dispositif*; second, the partial *presentations* of configurations, rationalities, cases, and convictions to me as a researcher; third, my partial *interpretations* of encounters and representations; and fourth, my partial *representation* of these interpretations in this written account that also represents my multiple positionalities (of researching and doing casework, see next subchapter). Furthermore, the perspectives of my research subjects also remain partial, situated and embodied. They have their own evolving and situated positionalities and see the workings of the *dispositif*

5 Good (2007, 237) however rightly pointed out that while "academic scholars can always evade responsibility by stressing the provisionality of their conclusions … judges [and officials] have no such luxury".

from these partial perspectives. Thus, my account of the *dispositif* assembles partial perspectives and ways of knowing from two distinct conjunctures: my own situated encounters with some of the people and things of the *dispositif* and the entanglement of those I met in the office with the *dispositif*. To add to this epistemological complexity, I cannot predict how you will read my account: it depends on your situated (and necessarily partial) ways of knowing and seeing. I can only attempt to persuade you "to understand differently, to articulate the linguistic constructions in such a way that they make a different kind of sense" (Massey 2003, 78).

## 3.3 Assembling Research Achievements

My analysis draws on a qualitative case study of asylum case-making in Switzerland. A brief personal account of fieldwork can be found in the Preface. In this subchapter, I introduce additional facets and considerations of my research approach. I conducted in-depth fieldwork in the Swiss asylum office, which is part of the State Secretariat for Migration (SEM) from autumn 2012 to summer 2014. I first participated in the basic training for newly hired asylum caseworkers. Then I spent "time on the inside" (Billo and Mountz 2016, 10–11) in one of five reception centres and two of eight sections in the headquarters of the SEM where asylum cases are processed. I followed asylum cases on their potential trajectories of assembling from their opening to their closure (Marcus 1995).

Recurrent negotiation of access in the administration meant transforming my role from a more-or-less-involved participant observer that consisted of "dwelling in the offices of the institution" (Billo and Mountz 2016, 11), to a more involved actor in casework as an unpaid intern in the second half of my fieldwork. Emphasising participation in everyday administrative life provided a wealth of insights in recurrent encounters with caseworkers and their superiors in dialogical or group settings (O'Reilly 2005, 103–4). Moreover, it exposed me to the thrills and anxieties of case-making. Additionally, I conducted a small number of in-depth qualitative interviews with caseworkers and superiors outside the office (six interviews lasting between

one and three and a half hours that I tape-recorded and transcribed).[6] Due to the emphasis on participation and interaction in my research, I tend to think of my fieldwork not in terms of passive data produced but in terms of "research events" (see Whatmore 2003, 97–99). This is not to conceal the fact that I had a concrete interest in producing research "achievements" (Massey 2003, 77).[7] Yet it meant that my achievements mostly emerged in two-sided and unscripted encounters: in informal discussions with caseworkers, superiors, interpreters, and minute-takers, and at administrative events in which I participated.

My role in the field was a constant matter of negotiation and navigation. While I was often treated as a co-worker (even if a slightly unusual one, I assume), occasionally the other half of my double role surfaced and I was singled out as an observer, as "the one who is going to write about us". The ambiguous attributions I experienced in the office were reflected in my attempt to position myself as both a sympathetic, engaged participant of casework and a critical, distanced observer. This challenge of navigating closeness and distance and relations of power in the field has been discussed extensively amongst social anthropologists and geographers (Katz 1994; Mountz 2007). The role required continuous navigation and also involved thinking about reciprocity in research relations, which varied during the course of my fieldwork. In the basic training for new caseworkers, I was a 'normal' participant in a heterogeneous group of people from different units and locations in the office. My nametag, however, said "PhD Student, University of Zurich", which still singled me out as attending the training on a special 'mission'. During my fieldwork in the reception centre, I was mainly a silent observer in hearings and a sympathetic listener in encounters, questioning people about how they did things and how they arrived at their conclusions in concrete cases. My frequent presence at the reception centre was met with invaluable support but also a certain curiosity (if not suspicion) at

6 While I thus included multiple forms of data and perspectives of different parts of the asylum office, my research does not amount to genuine "multi-perspective" research as conducted by Achermann (2009) in her work on immigrant prisoners in Switzerland. In order to constitute multi-perspective research, my work would have needed to incorporate the perspective of asylum seekers subjected to the governmental regime.

7 I follow here Massey (2003), who took up Latour's decentring of "data" by acknowledging its active production, and thus calling it the "achievement" of research practices (involving researchers and the researched) instead of data.

times. While in this first research phase, I still tried to achieve maximum breadth in my sampling regarding whose hearings I attended, with whom I talked, and into what kind of cases I could get insights. There remains a crucial bias that emerged from the research ethics regarding the question of participation. Certain caseworkers started inviting me to their hearings or asked me to accompany them for lunch. They also mentioned that it was insightful to discuss their work with someone from the outside, and that talking intensely about their cases was revealing for them. As a caseworker told me in this respect: "you learn with every case that forces you to think through the procedure" (Fieldnotes, reception centre, spring 2013). Others remained more reluctant concerning my research, and I accepted this. The first are therefore clearly overrepresented in my fieldnotes.

In the second part of my fieldwork that brought me to the headquarters, I became more involved in casework with a stronger emphasis on participation than observation (O'Reilly 2005, 105–9). The deal negotiated with my key officials was: in exchange for some work as a peculiar intern, I could participate in the office life of two different sections of the headquarters – one section in each of the two divisions – for an extended period of three months in each. This shift in my involvement in practices came with an ambiguous effect for my research. On the one hand, my access to 'data' in the office was extended tremendously: in accordance with my data protection agreement and my superiors, I could order case files relevant to 'my' cases from the archive to study, trace the status of cases I had encountered in the reception centre through the internal migration database, or I could access guidelines and internal sources of knowledge for decision-making. Moreover, I received an institutional email account and received all the information sent around to some of the distribution lists. On the other hand, my research slowly but steadily lost significance compared to the tasks I was attributed and that marked me a 'productive' collaborator in the sections. Of course, everyone still knew I was doing research, but people rather started treating me as a novice employee (like others in the sections where I was working at the time). I struggled to navigate between the two roles. As much as I lost confidence in my research endeavour, I gained recognition for the new administrative tasks I had adopted. To the extent that I was enrolled in the *dispositif's* enactment, I came to embody it in my own terms: I spoke the "language of stateness" (Hansen and Stepputat 2001, 37) in legal and institutional terms, and I was drawn into collectives enacted in the practice of *doing* casework, namely by conduct-

ing hearings or drafting decisions. Methodologically, this process of embodiment and immersion was nevertheless crucial for my scientific account of the *dispositif*, as it provided an "intimate familiarity" with its workings and reshaped my perspective: "The researcher's intimate familiarity with and insight into these [organizational] actions are what is required for theorizing, because organizational learning is as much about act and artifact and their meanings as it is about cognition" (Yanow 2003b, 47). By opening up my field of research to work experiences of myself, I gained access to more intimate "worlds of sensibilities, passions, intuitions, fears and betrayals" (Law 2004a, 3), but in turn I exposed myself to the ethical quandaries that come with more active involvement in doing casework. Considering the power relations and ethics of this engagement, the whole account I give here should bear testimony to my notion of field research as a "two-way engagement":

> If you take a position that the world out there, or more specifically your object of study, can speak back, that it too is an active agent in this process of research, then what is at issue is a real two-way engagement. Many imaginations of the field have pictured it as static, as synchronic. A revision of that imaginary would make the field itself dynamic; and it would make fieldwork into a relation between two active agents. It would recognize it as a two-way encounter. (Massey 2003, 86)

In short, the field worked on me as much as I worked on the field. Concerning the ethics of doing casework, I ended up in a balancing act to reconcile my own ethical standards with the institutional requirements (in which I was not alone; see subchapter 8.1). Overall, achievements of my fieldwork in the asylum office include fieldnotes from participant observation and observant participation in different sections processing asylum cases and from informal conversations (both verbatim and paraphrased), transcripts from a few interviews with caseworkers and heads of sections, and a collection of organisational documents, including protocols from asylum hearings and other case-documents.[8] In my analysis, I have thus triangulated such different forms of data (Flick 2008).

8 These notes include about 450 pages of fieldnotes, 320 pages of interview transcripts, 60 case files (of which 6 are female applicants and 7 are families), and uncounted administrative documents such as guidelines, COI documents, handouts and meeting protocols.

## 3.4 Reassembling the *Dispositif*

The achievements of fieldwork introduced above materialised in the form of fieldnotes. In the hearings and organisational events in which I participated, I had notebooks with me and instantly wrote notes. In the workplace environment (in the corridor, the printer room, other people's offices, or coffee and lunch breaks), I mostly jotted down conversations after having returned to my desk. I usually turned the textual fragments – the notes, scattered jottings, and key words – of the day into full-fledged fieldnote texts "as accurate[ly] as memory and ear allow[ed]" (Van Maanen 1982, 105) in spare hours in between or during my evening commute (see O'Reilly 2005, 98). It was also in these moments that I wrote "memos" with preliminary interpretations, links to theory or open questions and issues to be addressed in the further fieldwork (Strauss and Corbin 1996, 169–72). The content of fieldnotes from the more participative second part of my fieldwork are different from those of the first part: they are less concerned with hearings and cases, mostly capturing conversations I had with people in the corridor, in coffee or lunch breaks, and notes from the training I received to do my new tasks. And they increasingly describe my own work and my reflections of it. I am aware of the fact that my research practice in some respect mimics bureaucratic work: it consists of documenting an empirical phenomenon by protocolling conversations, collecting documents as well as various ordering, naming, and representation practices. As Riles (2006, 7) pointed out, "documents are artifacts of modern knowledge practices, and, in particular, knowledge practices that define ethnography itself". Documentation is thus pervasive both in bureaucratic and ethnographic practice – and as an "epistemological model" (Ginzburg 1989, 101 cited in Riles 2006, 6) it entails a particular interpretative gaze, which requires some reflection.

Although the materials produced in fieldwork are rather "achievements" than data, they are far from mere "findings". It is a laborious process to assemble insights or theory (as a form of grounded theory) from field material: what is usually referred to as "analysis" involves ordering, disciplining, transforming and translating it into a story. As Crang (2003, 127) puts it: "making sense is a creative process". Moreover, I agree with Crang that the usual distinction between activities of analysis and writing up is misleading: "Analysis is not simply an issue of developing an idea and writing it up. Rather, it is thinking by writing that tends to reveal the flaws, the con-

tradictions in our ideas, forcing us to look, to analyse in different ways and rethink" (Crang 2003, 130). I started making sense of what I saw and heard in the office during my fieldwork periods and used memos to keep track of those thoughts or raise open questions and things to track. And during all phases of my research project, I invested extended periods in reading a broad range of scientific papers and books to deepen my "theoretical sensibilities" (Strauss and Corbin 1996, 25–30). I adopted approaches from content analysis (Mayring 2010) to code and categorise the interview transcripts and the spoken parts of fieldnotes. I used the qualitative data analysis software MaxQDA for this purpose. But as I was also interested in the reality-producing discourses and rationalities that orient case-making, I moreover drew on discourse analytic approaches (Hajer 2004; Keller 2008). The translation of research "achievements" into "insights" was thus a long and arduous process, one that is not finished yet.

Overall, my analysis centred on the *dispositif*, which I tried to reassemble through the tracing of material-discursive associations, enabling – and produced in – practices of case-making. I thus approached my material through my (evolving) theoretical lens, but in turn developed conceptualisations in light of empirical material. My reassembling of the *dispositif* takes the form of "situational herbaria": the displaced yet still contextualised readings of my encounters with cases, practices and people in the office.[9] I followed Walters' (2015, 6, own emphasis) suggestion to "give more weight to what we could call *mid-range concepts*" to make sense of governmental practicalities or rationalities in a domain such as governing asylum. In each of my situational herbaria, I thus postulate a mid-range concept for making sense of facets of governing asylum. I have, for instance, introduced the notion of "exemplars" to grasp ways of knowing (Chapter 4), various forms of "devices" that contribute to agentic formations (Chapter 5), or "processual events" to make sense of the pragmatics of case-making (Chapter 6). Such concepts may offer insights beyond the confines of the empirical example in which they are raised. But they are not so wide-ranging as to, for instance, explain what governing asylum is all about. Moreover, adopting sensibilities from careful qualitative geographic and ethnographic approaches has allowed me to analyse asylum governance "beyond a concern with singular logics and look for unexpected, paradoxical, heterogeneous and perhaps unstable combinations of rational-

9 The credit for this notion goes to Anna-Katharina Thürer.

ities and techniques" (Walters 2015, 6). In the long, iterative analysis process, I found myself, as Crang (2003) indicated above, shifting between bits of text I was writing, things I remembered from my fieldnotes, interviews or cases, and ideas and conceptualisations from the literature: a lot of the process usually called analysis was thus "thinking through writing and rewriting".

I feel compelled to make a few remarks about the role of (theoretical) arguments in such a "scientific analysis" and the unescapable politics of representations. First, I began to realise in the years of my travelling on bureaucratic and legal tracks that arguments – be they legal or scientific – are not passive. They *do* important work: they are "performative accounts" (Introna 2013, 340).[10] For instance, there are arguments in asylum proceedings that serve to dismiss life experiences of applicants as irrelevant. They act as a filter for what exists and what does not. In other words, they are truth claims that reframe truth, (seemingly) in contrast to other accounts, serving as a form of "veridiction", of truth-telling (Foucault 2014a). But the two forms are intimately related – if an argument is embedded in the authorising (material-discursive) nets of 'science' or 'law', reframing is quickly tantamount to production.

Second, the ways in which arguments operate crucially depends on the cosmological frame in which they are enunciated. In other words, it matters what both the enunciator and the audience believe the world is made up of – both ontology and ethics meet in arguments. This claim builds on Fleck's (1979, 35) famous rethinking of scientific knowledge in his insight that knowing is always dependent on the "thought collective" in which it is situated. To make an argument is thus usually a matter of heartfelt or intimate conviction that does not need to be made explicit as long as the argument does not leave the "thought collective" in which it makes sense. This is related to a third point: an argument's potential to act arguably derives from the associations it is able to establish, for instance from references to other authoritative texts (scientific literature) or as means of quantification. Yet, ultimately, no argument escapes the politics it is involved in.

Haraway has raised this crucial concern about scientific knowledge production in an interview (Penley, Ross, and Haraway 1990), in which she distinguished between "two simultaneous, apparently incompatible truths" (ibid., 8) that "practices of the sciences" (ibid.) entail. The first truth refers

10 I am aware of the paradoxical undertaking of arguing about the nature of arguments.

to the historically and culturally specific production of scientific knowledge, rendering it "radically contingent". The second truth points to the fact that scientific knowledge production is political: "there are political consequences to scientific accounts of the world" (ibid.). But in itself, Haraway insists, scientific knowledge can be both subjugating and liberating. Thus, I feel a responsibility that the liberating facets of the stories I tell will prevail in the reception of my work.

If this book is a place (in the sense of Massey 2005) where histories meet, they met because I made them do so. For this reason, I feel a need to acknowledge a violent displacement of situated statements (that arose in particular and often personal encounters) into a scientific text where they are supposed to do something: to speak for me, the researcher, to support my argument, to indicate or show something. Telling stories is a matter of power, as Nigerian writer Chimamanda Ngozi Adichie lucidly pointed out in her talk "The Danger of a Single Story": "How they [stories] are told, who tells them, when they're told, how many stories are told, are really dependent on power" (Adichie 2009). Adichie added, "power is the ability not just to tell the story of another person, but to make it the definitive story of that person" (Adichie 2009). These statements resonated very much for me with how asylum decisions tell a single story, from one perspective, which becomes in a powerful and potentially violent way "the definite story of that person". In what could be considered an ironic twist, my account of officials' stories and the accounts that caseworkers write of asylum seekers' stories can be found guilty of generating some of the same disempowering effects for those written about. Both accounts involve a displacement of the statements from the situation in which they were uttered and a narrative displacement: they are stripped of the narrative context in which they were uttered. Of course, I do not want to imply that the consequences of both accounts are in any way comparable. Rather, I would like to acknowledge some of the remarkable yet at times frightening parallels of legal and scientific renderings of the world.[11]

11 Becker and Clarke (2001, 18) suggested these parallels between legal-bureaucratic and scientific styles to be pronounced: "It has become clearer that the self-proclaimed rhetoric-free writing of our modern science and academia is simply its own rhetoric: the plain or mechanical or bureaucratic or other modern style, and their related tropes, figures, énoncés and microtechniques of visualization, such as images, lists, charts, schemata, tables, and graphs. The use of such devices unites science and academia seamlessly with bureaucracy".

While the story this book tells about the asylum *dispositif* of course does not claim to be the definitive one (see Flyvbjerg 2001), it is nevertheless a rare and therefore potentially significant story for those whom I write about. I therefore tried to multiply stories and perspectives through various modes of engagement with the people, practices, and technologies of case-making, but also through my attempts of decentring what I experienced from its obvious interpretation. This is my way to cope with the difficulties associated with a single story.

## 3.5 Ethics of Engaging in Casework

Data protection and anonymisation were crucial issues in this research project. On the one hand, they were crucial for legal reasons and negotiating access to the administration; on the other hand, they were crucial for ethical reasons, even though the differences in hierarchical positionings of researcher and participants were not as problematic as in other geographical areas of work (see Kaspar and Müller-Böker 2006, 127–28). In order to gain access to the administration and conduct fieldwork, I had to sign a data protection declaration written by the legal division of the migration office.[12] It stated that the directives on data protection, the principle of public access of the administration, and information and IT security to which officials were bound applied to me and my work inside and beyond the administration. It moreover explicitly raised the issue that personal data obtained during my research are only to be used for the purpose of the study and only to be made public with the consent of the office. Moreover, outcomes shall be published in a way that the persons concerned are not identifiable. The last points well overlap with data anonymisation concerns from a scientific point of view – that participants should face no personal disadvantage as a result of what they shared with me. I realised anonymisation by either simply indicating the role of the participants or by using a pseudonym (Kaspar and Müller-Böker 2006, 139). While this limits the reader's understanding of the participants' positionality (for instance, in terms of gender or professional background), it also limits misleading inferences readers may have made if such

12 The legal division examined all texts, including this monograph, and verified compliance with the declaration before publication.

highly selective information about participants were provided. Data protection also prohibited disclosing internal or confidential administrative documents or practices.

My research further dealt with the question of consent in two regards (Kaspar and Müller-Böker 2006, 129): consent of the research participants – officials (including caseworkers) – and also consent of the other, more vulnerable participants of research encounters – asylum applicants in the hearings. For the first type of participants, the degree of consent varied between formal interviews (high), informal group settings (medium), and 'duties' (low). While for interviews, consent was simple to achieve, in informal group settings, it was often implicit by officials' choice to either talk to me in coffee or lunch breaks or simply avoid me. In instances of 'duties', where the superiors, for example, instructed caseworkers to show me some sort of specific information, consent was marginal. However, caseworkers could treat me in these cases with professional distance. The asylum applicants in the hearings I attended were usually asked at the beginning of the hearing about their consent of my presence. In other cases, I was introduced to them as "a member of the office in training". In the former case, the consent is arguably rather of theoretical nature in the setting of an official hearing: no applicant ever said "no". Fortunately, my presence rather had the reverse effect than what Van Maanen (1982) experienced in the police squad he accompanied in his ethnographic research. While his policemen turned more vicious and brutal to prove to the researcher their sovereignty in the streets, the caseworkers I observed seemed inclined to treat applicants decently and in accordance with the quality criteria for asylum hearings in my presence.

My own involvement in casework makes it crucial to explicitly discuss some of my reflections here. What exactly was I involved in? During the last phase of fieldwork, I drafted about two-dozen decisions on applications for family reunification. I drafted five decisions on asylum applications in close collaboration with experienced caseworkers and the head of the respective section. I conducted three hearings, two of them in a 'training situation', i.e., with another caseworker attending and intervening at times. I tried to conduct the three hearings as conscientiously and fairly as I would wish them to be if I had to apply for asylum myself. In the decision drafts I wrote, I had to balance my personal ethical notion of justice with the office's principles and the legal scope: I used my discretion to provide protection where my coaches approved of it. In one instance of an application for family reunification, I

returned the case to the head of section because I could not live with writing a rejection. (It was legally clear in the eyes of the senior official, but morally too wrenching to do.)

I did not take the decision to engage this way in casework lightly. I wasn't the only 'ghost-like' worker in the administration – there were the so-called "poolies": people hired on an hourly wage just to conduct hearings (some of them university students); and there were also other 'hidden decision-writers', people temporarily hired to write "simple" decision drafts on the basis of hearing protocols under the guidance of heads of sections. Furthermore, most people who were trained with me in my first fieldwork phase started doing casework soon after, while I had dwelled on approaches to case-making for quite a while before becoming active. Lastly, as a Swiss citizen, I am always complicit in the granting and rejecting of applications in the asylum office, since I am part of the democratic collective who has delegated such difficult "life and death decisions" to institutions (Douglas 1986, 111). As Douglas (1986, 111) pointed out, citizens of Western nation-states tend "to leave the important decisions to … [their] institutions". While these considerations comforted me during difficult moral choices that I made, they do not remove my responsibility for them.

## 3.6 Notes on the Possibility and Conditions of Critique

> Our argument has been that methods are never innocent and that in some measure they enact whatever it is they describe into reality. Social science methods are no exception. (Law and Urry 2004, 403)

If scientific engagements produce realities, we cannot avoid the question: what sort of realities do we *want*? In response to this question, authors with a material-semiotic perspective have suggested possibilities to account for the specific "ontological politics" (Mol 1999) of practices. Haraway's (1991) trope of the cyborg recasts feminist politics at the intersection of science fiction imaginary and material reality and encourages us to envision "transgressed boundaries, potent fusions and dangerous possibilities" (Haraway 1991, 295). Law (2004a; 2009) suggested methodological tools "for partial connection" (Law 2009, 154) to avoid reductionist representations of different version of the real. If we acknowledge that innocent research is impossible, a careful

engagement with its ontological politics becomes paramount (Law 2009, 155). It moreover accounts for the controversies over what is desirable and condemnable from the point of view of those governing asylum:[13] who and what is admitted the status of the real, and how do actants reconcile overlapping realities (see Law 2009, 153–54). To understand how the multiplicity of interpretations of legal notions can be reconciled, I introduce the notion of the boundary object (Bowker and Star 1999, see section 7.2.2).

Negotiating field access meant that I was not only authoring the account at hand, but also accounting for my research 'in the field'. The research programme I had designed was in turn mediated by my encounters with key persons. At various occasions, I introduced my research project, most commonly in everyday encounters with caseworkers and other people in the office with a sort of elevator pitch about what my research was about. But I also recurrently explained it in front of seniors by using short texts outlining my research, or by incorporating first insights or at least 'hypotheses' about how I thought things really worked after having done fieldwork. I always felt uneasy about the latter type of texts, because that was not exactly what I thought I was able to provide. And they sometimes saw "explosive matters" in the theses I offered. For example, I had once suggested that "interpreters have a central role – both as producers of text but also as mediators and 'business card' of the office vis-à-vis the applicants". Yet this met with a strong response:

> Your first hypothesis touches an explosive political issue: that you write "interpreters have a central role"… Their influence on the decision is only marginal, even though there are isolated situations of exceeding their competence. In the view of the office, they are mere tools. (Fieldnotes, reception centre, spring 2013)

It did not seem all too daring in light of the scientific literature to mention the significance of interpreters in asylum adjudication (Dahlvik 2010; Pöllabauer 2005; Scheffer 1997; 2001). But as the senior official who commented on it rightly pointed out, it clashed with the "view of the office" in which interpreters were neutral "tools". Furthermore, as he explained, occasional

13 It is indeed equally important to consider the moralities of those subjected the governing of asylum. However, this is beyond the scope of my study.

faux pas occurred, but these only confirmed the usually unproblematic work of interpreters as intermediaries (see Latour 2005).

To develop both somewhat novel scientific insights and provide the asylum office with a critical yet sympathetic reading of their work seemed an increasingly impossible task: the two audiences' standards and expectations appeared to be too different. I remember that in my negotiations of field access with two senior asylum office officials, I suggested my research could provide an "outside view" of their work. They agreed but one of them emphasised that it needed to be "a professional, not a naïve outside view" (Fieldnotes, meeting, December 2012). What I think they alluded to is that a view "from the outside" could only be taken seriously in the office if it came from a position of knowing what casework means in practice. In retrospect, the idea of an outside view appears to me disputable in itself: At the end of my first meeting with them, I mentioned the difficulty of bridging theory and practice debates. In response to that, they pointed out the general theory aversion of the office – "people usually only want to know what is relevant for practice" (Fieldnotes, meeting, July 2012). In my view, however, theory and practice could not be as easily dissociated as their comment suggested: practice relies on the knowledge and associated technologies that build upon a set of interrelated premises, i.e., theory (see also Schatzki 2001). People working in the office are, of course, reflexive about such premises upon which their practices rely. They at times shared with me their own doubts and critical considerations about these premises. Some of these premises – convictions and rationalities – are discussed in the third part of this book.

In what sense, then, can I still engage the *dispositif* through my writing? I suggest that I can engage it through my notion of the *dispositif* as being about applicants' cases and how their lives are re-corded through them, as well as about caseworkers' interpretations of (and their occasional resistance to) 'the system'. As the irritation of the section head regarding my "theses" about the role of interpreter revealed, reassembling the workings of the *dispositif* has the potential to unsettle official perspectives or well-established convictions about how things are. My peculiar reassembling of the *dispositif* in this book's account does just that: It involves pondering the question of agency usually taken for granted (Part I); it shows how the pragmatics of case-making coalesces around a number of key "processual events" (Scheffer 2007a) and involves some key devices (Part II); and it highlights the caseworkers and senior officials' convictions and rationalities of their work jux-

taposed against my own convictions about them (Part III). This means that my account in itself is political, as it provides an unfamiliar representation of governing asylum. My account thus practices critique in the sense Foucault (1988a) thought of it: through decentring all-too-common modes of thinking about asylum governance. As Foucault put it nicely:

> A critique is not a matter of saying that things are not right as they are. It is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest.... Practicing criticism is a matter of making such facile gestures difficult. (Foucault 1988a, 154–55)

If explicit critique is found in my account, it is in the third part. It is not primarily my critique, but critique I encountered and sometimes provoked in conversations and assembled on my way through the *dispositif*. The way I present it, however, turns it into my critique as well.

# PART I – Agentic Formations

Practices of case-making occur in a complex assembly of discourses, practices, things and people which compose a networked arrangement of government – a *dipositif* (Foucault 1980). This *dispositif* is enacted in practices of case-making (Part II) while both enabling and limiting these practices. Before turning to the *dispositif's* enactment, I thus explore the embodiment and equipment of the *dispositif's* arrangements of power and knowledge – what I consider to enable and limit case-making. In other words, I start Part I by introducing the material-discursive agentic formations of knowing and doing asylum as stabilisations of the *dispositif*. Chapter 4 introduces some of the key associations of knowing the framings and meanings of asylum that enable caseworkers to navigate asylum cases. Chapter 5 suggests that to become a caseworker able to "act in the name of the state" (Gupta 1995) requires equipment, meaning that humans become equipped to become part of the office's collectives and with a range of 'tools' for case-making.

# 4. Knowing Asylum

In this chapter, I introduce some of the key associations new caseworkers are endowed with to navigate cases. In subchapter 4.1, I provide an account of framings of the asylum *dispositif*, mainly from a basic training for new caseworkers I attended at the beginning of my fieldwork. This is blended with my comments. An account of such key framings helps new caseworkers – as well as the reader – to situate asylum case-making very roughly within migration policy, asylum law, and the asylum office. Subchapter 4.2 provides insights into a sort of 'common sense' of case-making. This consists of knowledge assembled – again in the basic training – about the aim of case-making and key legal notions that allow new caseworkers to make sense in their work. I suggest that knowledge practices – of training sessions, but mainly in case-making itself – can be fruitfully grasped by thinking of classifications of asylum as, on the one hand, exchanged, gradually incorporated and refined in "heuristics" (Gigerenzer 2013); and that such heuristics, on the other hand, are closely related to what Kuhn (1967) termed "exemplars": cases that translate abstract notions of policy and law.

## 4.1 Framings of the Asylum *Dispositif*

Here I will trace how the asylum *dispositif* is roughly situated in terms of Swiss migration policy, asylum law and the asylum office. For those enacting the *dispositif*, these elements provide the sort of metaphorical and material associations that make practices coagulate as an entity appearing and referred to as 'the asylum system'. Consequently, I will focus for the purpose of this chapter primarily on representations of policy, law, organisation, and procedure *from within* the asylum office. Empirically, these representations are how new caseworkers become informed in their initial office training

about their job. Necessarily, these representations only offer a sort of minimal picture that consists of exemplary rather than exhaustive framings of the asylum *dispositif*. The first, policy framing, broadly locates practices of case-making within the broader arena of governing migration; the second, legal framing, situates these practices within the wider, and historically evolved, networks of global and national refugee law; the third, organisational framing, establishes key locales – a public administration with its offices and units – of the asylum *dispositif's* enactment. Moreover, all of these framings allow for a reading of continuity and change of the *dispositif* which is important for both those working inside it and for those encountering it from outside, as I did as a researcher.

### 4.1.1 Migration Policy

Asylum as an issue to be governed is closely associated with questions and approaches of migration management. Migration management refers to a range of practices aimed at directing the migratory movements of people (Geiger and Pécoud 2010). In my reading, migration policy can be considered a formalised account of, but at the same time a formula for, such practices. Migration policy materialises in laws and reports, in statistics and negotiations, in the figure of the border guard and office buildings. Policy cannot be equated with the practice itself, but is strongly influenced by, and influences, practice (ibid.). To be sure, there is not a single migration policy, but a range of interconnected and partially overlapping migration policies at various institutional levels (Feldman 2012). I will limit myself to how migration policy was (re)presented to new caseworkers in a basic training. To work in a domain of excruciating complexity – and to write about it – thus means to simplify in other domains, to accept a certain myopia that is characteristic for both specialised state and scientific practice (see also Whyte 2011). Yet, I will provide my own reading of a few features of what was portrayed as Swiss migration policy and its associations with governing asylum.

In the basic training I attended, a senior official introduced "Swiss migration policy" to the new caseworkers in what was a new training module. He showed them the definition of migration policy he had copied from the official representation on the website of the State Secretariat for Migration:

> Swiss migration policy is expected to come to terms with a wide range of diverse issues: it deals with a Portuguese construction worker as well as with a family of Kurdish refugees, with a top manageress from Germany as well as with second-generation foreign nationals born in this country – and, unfortunately, also with foreign drug dealers and illegal residents.[1] (SEM 2017b)

He told us, "it shows that it is a huge field with which we are concerned here [in the migration office]: roughly said, how migration is directed, controlled and statistically evaluated" (Fieldnotes, basic training for new caseworkers, autumn 2012). This definition presents some of the basic distinctions of Swiss migration policy and can be considered a sort of least common denominator of migration management knowledge for asylum work. Initially, I think it already becomes clear from this framing that 'migration' policy is concerned with steering *im*migration and not *e*migration.[2] According to this representation, a first problem that migration management has to address is diversity regarding the origin, activities, and legal status of different groups of people who still have something in common: no Swiss citizenship. This representation only subtly hints at the issues for which the exemplary figures of noncitizens evoked stand for – it tells me as a reader that there must be a difference between the Portuguese construction worker and the manageress from Germany, for instance. It makes a normative differentiation between those considered fortunate and unfortunate. It suggests, importantly, that more or less implicit categories of migrants precede the attempt to manage migration: that diversity is already there, and migration policy is expected to come to terms with this diversity; that 'illegal residents' or 'second-generation foreign nationals born in this country' exist *before* migration policy, and are not its product. This paragraph thus contains two important keys to grasp Swiss migration policy: firstly, the classification of migrants according to issues, some of which appear to have to do with occupation, with origin, motives, and legality; and secondly, a classical European-American metaphysical stance of anteriority – a sense that a reality is "out there" and precedes us (see Law 2004a, 24). Migration policy is commonly understood

1 All quotes from fieldnotes, interviews, case records, websites, and documents are the author's translations.

2 As becomes visible in the third paragraph on asylum, emigration still is a part of migration policy, but only in the form of forced removal in the case of non-admittance.

to "come to terms" with a world already inhabited by a seemingly natural diversity independent from attempts to manage migration.

The senior official moreover pointed out that, according to the same SEM website, Swiss migration policy pursues three aims that are briefly introduced and discussed in the next three paragraphs. The first aim states the need for controlled migration:

> A good migration policy safeguards and advances this country's prosperity. For this purpose, we need employees from other countries. Without these, many industries such as construction, tourism and health care, as well as Switzerland overall as a financial centre and a workplace, would be unable to preserve their current level of prosperity. It is for this reason that we depend on controlled immigration. (SEM 2017b)[3]

The bottom line of this paragraph, on the one hand, claims that immigration is a necessity: it explicitly states that "we depend" on it. On the other hand, it renders immigration a functional element of the political economy: i.e., it serves the provision of labourers "from other countries" for certain sectors of the national economy. As Kearney (1998, 125) pointed out, immigration policies of "receiving states" can be read as attempts to resolve a fundamental tension when it comes to foreign labour: that it "is desired, but the persons in whom it is embodied are not desired". The emphasis of "controlled immigration" implies a selection of potential immigrants according to their 'added value' in this equation.[4] If we follow Kearney's (2004) argument on the "value-filtering mission of borders", value (and class) of those crossing borders, however, do not precede filtering practices at borders, but are their effect. Omitted in the policy text is the consequence of this valuation: it prevents, in turn, those from immigrating who are considered "aliens", or "subaltern Others" (Kearney 1998, 130). Partly a consequence of European integration and concerted border regimes, Switzerland's migration policy since 1998 has built upon a "two-circles" or "dual admission" model common in the Schengen area: little regulation of migration between EU and EFTA countries,

3 I present the aims in a different order than the original.

4 It moreover contends that immigration is controllable: a persistent myth closely related to that of state's sovereignty, which, however, requires continual performance (see Hansen and Stepputat 2006)

and highly restricted terms of immigration for people from the outside. For so-called "third-country nationals" who do not fall into particular categories of highly-skilled,[5] it is increasingly difficult to travel to Europe and Switzerland legally. On first sight, immigration policy thus simply aims at ensuring the supply of a labour force needed for the national economy to 'prosper'. At a closer look, 'controlling' immigrants produces what it names – 'employees' recruited abroad as well as an illegalised, precarious workforce (see Anderson, 2010). The latter's "illegalisation" (Walters 2002) can moreover only be ensured by reiterating their "alienation" (see Kearney 1998).

The second paragraph of aims explicitly addresses the category of asylum:

> A good migration policy grants protection to people who are really persecuted, as befits Switzerland's humanitarian tradition. People who must escape from war, persecution and torture should be able to find refuge here. However, by no means all those who apply for asylum are recognised as refugees or are provisionally admitted. Rejected asylum-seekers must leave this country again, and their return should be supported. (SEM 2017b)

This paragraph introduces the Swiss migration policy regarding the 'special case' of asylum. According to this representation, the aim of asylum policy is to "grant protection" to those "who must escape persecution, war and torture". I consider a few sections in this portrayal particularly indicative of Swiss asylum policy: it suggests that only those "who are *really* persecuted" (my emphasis) are to be granted protection, and "*by no means* all those who apply" (my emphasis) deserve such protection. In other words, one has to figure out who amongst those applying for refuge shall be recognised and granted asylum. As the senior official commented, "this requires a proper evaluation" (Fieldnotes , basic training for new caseworkers, autumn 2012). The first statement thus hints at the key distinction to be accomplished in the implementation of this policy: between people who are 'really' persecuted and those who are not. The second statement reads more like a warning directed at people potentially applying for asylum in Switzerland: chances to be granted protection are not high; and those not granted protection will

5 For detailed regulations see Federal Act on Foreign Nationals (1998) or the summary of the criteria for non-EU/EFTA nationals according to the dual access system of the SEM (2015d).

be forced to leave the country again.[6] It can be read as an expression of "gatekeeping" (Nevins, 2002) to reduce the number of people filing an application in Switzerland (see also section 8.2.3).

Interestingly, and more addressed towards the Swiss population, I contend, is the reference to the "Switzerland's humanitarian tradition", which reads in the German version of the same paragraph on the SEM website even with the addition "of which we are proud" (SEM 2017b). A further addition in the German version[7] consists of the citation of the approximate number of people granted refugee status in Switzerland every year: "Every year, Switzerland receives about 2000 refugees". This reference to the humanitarian tradition and the rather low number of refugees presented (compared to the statistics, see for instance SEM 2017a) appears to me like an appeasement of the Swiss population. The whole representation of asylum policy in this paragraph implicitly testifies to an important feature of asylum policy: its high politicization in political and public discourse. Key issues in this discourse are the alleged abuse of the asylum system by 'economic migrants' (addressed both in this paragraph and the one that follows), the sheer numbers of asylum seekers (explicitly addressed only in the German version of this paragraph), and – more in the tabloid newspaper and right-wing propaganda – links drawn to purported criminal activities (as well addressed in the paragraph below). Notably, these tensions of asylum policy are far from new: already Werenfels (1987, 173) stated in his legal study of Swiss asylum law that "Doing asylum policy means for the federal government, on the one hand, to do justice to humanitarian expectations and responsibilities. On the other hand, it means to rigorously counter potential abuse and at the same time strive for wide appeal for one's position."[8]

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6 According to Holzer and Schneider (2002, 38), countries generally have two possibilities to reduce their attractiveness as destinations for asylum seekers: on the one hand, strategies that aim at reducing the incentives for asylum seekers to file an application in the respective country. Examples for such strategies are the reduction of social welfare or the restriction of labour market access for asylum claimants, their accommodation in camps, but also the conscious reduction of the recognition rate. On the other hand, states can adopt measures to restrict who is eligible for asylum. These include 'safe country' categories, third-country agreements, and restrictive visa regulations for potential countries of origin.

7 Both additions are not only missing in the English, but also in the French and Italian version.

8 Own translation from German to English.

The third paragraph alludes to the issue of integration, but evokes something more:

> A good migration policy aims at a situation whereby both natives and immigrants feel safe in Switzerland. This is why everyone must accept our fundamental rules of living together. Often – but unfortunately not always – immigrants succeed in becoming integrated. We pay particular attention to the fight against crime, abuse and racism. (SEM 2017b)

A further important purpose of migration policy is established here: that of security for the population. According to this representation, this feeling of safety is primarily depending on the successful integration of immigrants. Three points are important here: first, the paragraph introduces the fundamental (and ahistorical) distinction between "natives" and "immigrants" – which performs the boundary between 'us' and 'them' and can thus be read as informed by a politics of belonging (see Yuval-Davis 2010, 266). Second, security is primarily "to feel safe", and this feeling is to be achieved through migration policy. Behind this statement looms the political instrumentalisation of immigration as a threat and the parallel 'securitisation of migration', i.e., the (re-)orientation of migration policies on questions of security (Bigo 2002, 64). Third, in the emphasis on the need "to accept our fundamental rules of living together" and to see whether "immigrants succeed" lies an implicit understanding of integration as assimilation: it is *their*, the immigrants', task to become integrated, for which a key is to accept *our* rules. Of the three issues raised at the end of the paragraph ("the fight against crime, abuse and racism", SEM 2017b), crime and abuse are located on the side of those immigrating and only racism concerns 'natives'. It appears as if these 'phenomena' were completely unrelated – and outside – the realm of migration policy itself: however, in the age of what Richmond (1994) called a "global apartheid" of the global North vis-à-vis the global South, I would not be too assured about this purported dissociation. A remark could be made about the involvement of migration policy itself in forms of racism: according to the Federal Commission Against Racism, the dual admission policy entails an unequal treatment of persons pertaining to the two categories and unequal residence rights which cannot be explained with 'objective reasons'; it partly

violates the non-discrimination rule of various human rights conventions to which Switzerland is signatory.[9]

After introducing migration policy through this official definition, the senior official provided us with a synopsis of the asylum policy in Switzerland.[10] The slide on the last era of asylum policy the senior official referred to was entitled "Europe? Africa! Challenges of the 21st century". He highlighted that, more recently,

> the European countries of origin have become less important. We increasingly have people seeking asylum who are not affected by persecution at home. The measure of a welfare moratorium was adopted for people with a DAWES[11] (2004), after which asylum applications dropped. In 2006, a new foreigners law and asylum law was passed. Between 2004 and 2007 we had a more or less constant, low number of asylum applications. Notably, there are no other possibilities outside asylum to get a legal status in Europe for many people. New developments since 2008: significantly more asylum applications related to arrivals in Southern Italy. The Swiss accession to the Dublin agreement was pending at the time: as an island outside Dublin it attracted many asylum seekers. After the accession, numbers again stabilised. From 2011 onwards, the Arab spring and the European economic crisis have become key. In 2012 [the year of the training], we expect about 30,000 applications. The reasons for this are: (A) the economic situation in Italy is bad which leads to increased onward migration as people do not find work; (B) the economic situation in the Western Balkans is bad for Roma: for them the journey to and asylum application in Switzerland has become a lucrative business. To counter these 'abusive' applications, a SEM taskforce introduced the 48-hour procedure (inspired by Austria's recently introduced three-week procedure), which reduced them drastically; (C) precarious human rights and security situation in many countries, amongst them Afghanistan, Eritrea, Iran, and Syria: we must not forget that this exists as well; (D) currently still

9 See the report of the Federal Commission Against Racism on the dual admission system from 2003 (EKR 2003).

10 For an extensive socio-historical reading of the emergence of Swiss asylum policy and law, I refer the reader to Miaz (2017).

11 Dismissal of Admission Without Entering into the Substance of the case [*Nichteintretensentscheid*].

> relatively long procedures – although they never took four years, that's a press myth.[12] (Fieldnotes, basic training for new caseworkers, autumn 2012)

At the end of this introduction to Swiss migration policy, the senior official emphasised that "unilateralism is hardly possible in the asylum domain", thus there is a need for international cooperation. A whole part of the SEM is concerned with such cooperation, and "we do a lot in this domain", he said: "we worked out about 20 readmission agreements [with countries of origin] and migration partnerships (…) that they do not arrive in Chiasso [the most important point of entry to Switzerland at that time], and we are active in EU bodies such as the European Asylum Support Office (EASO)".

This portrayal of the evolution of Swiss asylum policy in the basic training for new caseworkers is remarkable in at least three respects. First, it presents asylum policy as having 'naturally' evolved in response to necessities and challenges: as the numbers and types of applications change, as the needs and views of the people shifted (indicated with the impersonal pronoun 'one' in the presentation), so did policy in response. In turn, in this reading, policies cause an immediate effect on applications: for example, as the Austrians introduced a three-week procedure, the number of applications from the Balkans dropped. While shifts in policies usually have some effect, I suspect the effect to be less clear-cut than this view implies. For instance, if numbers of applications dropped after the welfare moratorium, it is not sure whether this was actually caused by the moratorium. In this particular example, dropping applications across Europe at that time rather indicate a relationship of correlation, not causation, between policy change and application numbers. Second, the presentation of asylum policy is interesting for the small annotations the senior official makes to the main narrative. They offer a qualification of events: for instance, that the 'low point' of asylum policy was in World War II; that he anticipated a shift of significance from Europe towards Africa considering applications; or that the procedures taking four years was a 'press myth'. A surprising qualification was in my

12 According to a report by the Federal Council from 2011 widely cited in the media, the average duration for the whole national procedure (without Dublin cases) – until all remedies have been exhausted (including applications for re-examination) – amounted to 1400 days, i.e., approximately four years (e.g. Brönnimann 2012; Glaus, Schwegler, and Tischhauser 2011). The duration of the procedure until a first instance decision was, however, only 231.5 days according to the same report (FDJP 2011).

view the remark "we must not forget" that the "precarious human rights and security situation in many countries" is a reason for the recent increase in application numbers. I think it implies that other factors tend to dominate the view on rising numbers in the office, namely (abusive) applications for economic reasons. Third, the presentation highlights that asylum policy is far from evolving in a vacuum, but on the contrary "policy-making worlds are becoming more intimately and deeply interconnected than ever before" (Peck and Theodore 2015, xvi), also in the domain of asylum. It does so by explicitly emphasising the significance of various forms of international cooperation. But it also implicitly points to the interconnection between policy developments: namely the adverse effect Switzerland faced when it was not yet signatory to the Dublin Regulation or follow the Austrian example of fast procedures for Balkan applications.

With this peculiar reading of migration policy, I tried to give the reader a minimal idea of key framings the policy discourse of the asylum *dispositif* introduces. These framings – of immigration being instrumental to prosperity, of gatekeeping to avoid immigration of the wrong kind, and of political sensitivity of the domain of asylum and its association with abuse and insecurity – are crucial to understand practices of asylum case-making.

### 4.1.2 Asylum Law

In 1981, the first law on asylum was enacted in order to formalise the practice of refugee protection in Switzerland (Piguet 2006, 96). Since then, the Swiss Asylum Act has recurrently undergone complete or partial revision on average every three years (eleven times until today; see Cassidy, 2016). Piguet (2006, 106) spoke of a "legislative intoxication" to emphasise the detrimental effect this tremendous legislative turnover has had on the asylum procedure. There is still no end in sight: the Swiss parliament passed the next total revision of the Asylum Act in 2015, and the referendum against it was rejected in a popular vote in 2016 (Miaz 2017, 96).[13] But the dynamics in numbers and types of asylum applications to be managed is not the only reason for the recurrent legislative shifts. Equally important seems to be the fact that asy-

13 The total revision of the Asylum Act was in negotiation already during the time of my field research. I refer to some of its consequences in the outlook section of the conclusion (Chapter 9).

lum has become one of the most controversial issues in Swiss national politics in the last thirty years. Mobilising asylum matters has been instrumental to the ascent of a Swiss populist party (the Swiss People's Party, SVP), which has used asylum issues to constantly exert pressure on the public authorities – both by launching popular initiatives to tighten the legislation and by resorting to referenda against revisions of the law (Piguet 2006, 106–7).

Despite constant change in asylum legislation, there are nevertheless important continuities as well. The legislative revisions and amendments mostly revolved around the preservation of the existing protection system; the adaptation to the changing landscapes of flight by multiplying status categories; the acceleration of the asylum procedure (and the effective enforcement of rulings); the cutback of benefits as a measure of deterrence; and the demand to economise and reduce public spending on asylum (Piguet 2006, 107). Hence, on closer examination, many revisions can be considered 'variations of the same theme'. Conspicuously, a discourse of crisis has been at the heart of many legislative debates, which is reflected by the recurring revisions of the Asylum Act as 'urgent measures' to become effective proximately after their negotiation in parliament. The asylum *dispositif* can thus be said to have emerged and its legal scope expanded in response to a recurrent "urgent need" (Foucault 1980, 195) of managing asylum seeking.

In what follows here, I briefly situate the Swiss legal frame for the governing of asylum in some broader developments. It may run the risk of overgeneralisation, but still appears to me as a useful starting point to understand some key questions at stake. A review of Swiss legislation and reforms as described in the Swiss Federal Gazette[14] reveals some interesting broader tendencies. To start with, there have been some fundamental continuities: the determination of asylum eligibility has always been in *federal* (i.e., national) competence according to Swiss foreigner and asylum law; it has always been about *political* persecution; and it has always required applicants to show this persecution *credibly* (in a hearing). Already in the first legal article mentioning asylum I found, the Federal Act on the Stay and Residence

14 The Swiss Federal Gazette is containing the messages of the Federal Council to the Parliament for revisions of national law or the constitution as well as the laws passed by the Federal Assembly. The Swiss Federal Assembly consists of the two chambers of the Swiss parliament: the National Council (*Nationalrat*) and the Council of States (*Ständerat*) (Swiss Confederation 2014).

of Foreigners (ANAG) from 1929 encompassed these elements: "The Federal Council can grant asylum to a foreigner who makes credible to seek refuge from political persecution … by committing a canton, after consultation, to his acceptance" (Article 21, ANAG 1929, Draft).[15] Thus, the very foundations of Swiss asylum law are not derivatives of the Geneva Refugee Convention from 1951, but preceded the latter (see also Gast 1997, 311–30). Yet, there have also been important shifts in the legal frame for the governing of asylum. Asylum law has been increasingly formalised both concerning the criteria for evaluating asylum eligibility and procedural intricacies. This is reflected, on the one hand, in the introduction of a separate Asylum Act[16] in 1981 and, on the other hand, in the fact that the legal provisions in the Asylum Act have more than doubled from 54 Articles in the first law of 1981 to 123 Articles[17] in 2014 (and also increased much more in length, from 12 to 58 pages).

An instructor in the basic training pointed out that asylum law has become increasingly complex, which would make it a difficult area to work in. He added that the Asylum Act has basically been in constant revision, what he referred to as a "tale of woe" [*Leidensgeschichte*]. Very broadly, three policy goals seem to have been key drivers for the proliferation of and experimentation with new legal provisions: first, the goal to avoid asylum applications 'of the wrong kind', for example through the introduction of additional matters of fact leading to the inadmissibility of applications and new regulations on the social assistance related to asylum seeking (Holzer and Schneider 2002). Second, the alignment with European developments regarding asylum procedures: as one the last countries in Europe, Switzerland, for instance, abolished the possibility to file asylum applications in Swiss embassies abroad

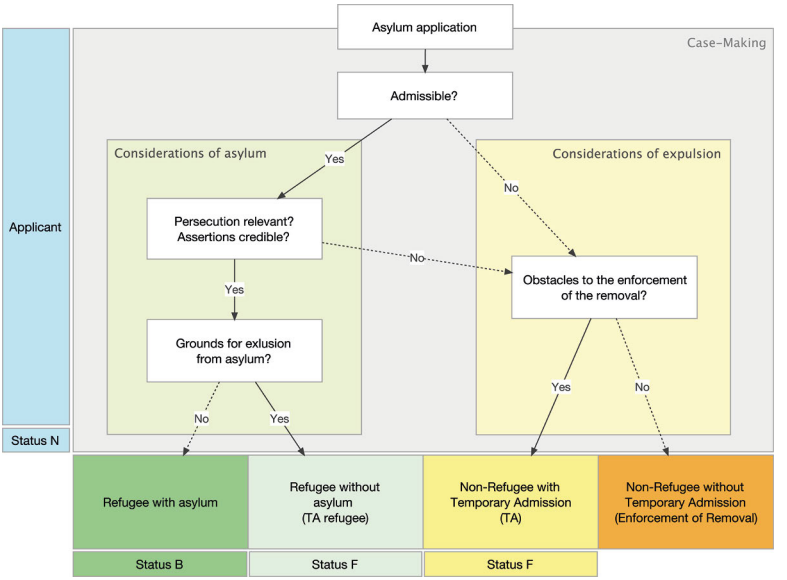
15 Own translation. The original reads: "Der Bundesrat kann einem Ausländer, welcher glaubhaft macht, er suche Zuflucht vor politischer Verfolgung, und welchem eine Bewilligung verweigert wurde, Asyl gewähren, indem er einen Kanton, nach Einholung von dessen Vernehmlassung, zur Duldung verpflichtet" (Swiss Confederation 1929, 930). This was the only article on asylum in the comprehensive Federal Act on the Stay and Residence of Foreigners (ANAG) that entered into force in 1931.

16 According to an instructor, the Swiss Asylum Act has the status of a *lex specialis*, which means it precedes the Administrative Procedure Act, but the latter applies if the Asylum Action does not specify anything differently (Fieldnotes, basic training for new caseworkers, autumn 2012).

17 This includes the five final provisions. In the latest revision, however, some grounds for the non-admissibility of applications introduced some years earlier were discarded.

in 2012. Third, the goal to accelerate the procedure, for example through a concentration of processes in federal centres and synchronised procedural steps in envisaged in the latest revisions; this goal has been at the heart of debates about revisions of asylum law since the 1980s (see for instance Swiss Confederation 1986). Further important drivers of this proliferation lie in the increasing Europeanisation of asylum, namely through the introduction of the Schengen area and the Dublin procedure, and the increasing digitisation of procedural means that for instance involved the introduction of various databases requiring extra provisions on data protection.

*Figure 3: Evaluations of asylum procedure, outcomes and respective legal status*




(Source: own data)[18]

18 Synthesis of different flowcharts received in basic training (adapted from Affolter 2017, 54). The different appeal periods of "non-refugees without temporary admission" for those who received a (substantial) negative decision and those whose application was not admissible (DAWES) is not indicated but quite relevant in practice (thirty days versus five days).

There are more or less constant key considerations in the asylum procedure according to asylum law. According to the handbook on the asylum procedure (SEM 2015b, sec. hb-c4, Ch2), "asylum means to provide state protection and residence to foreign persons who are persecuted for particular reasons. In the asylum procedure in the narrow sense it is necessary to examine whether the person seeking asylum fulfils the requirements for being granted asylum". An asylum procedure in the wide and the narrow sense have thus to be distinguished. The former notion is more intuitive in that it comprises all the procedural steps through which an asylum case is assembled and concluded. The second notion 'in the narrow sense' is rather for specialists (as is the handbook) and acknowledges that the resolution of an asylum application requires two different sets of considerations (and thus two 'procedures' in the narrow sense): those of asylum and those of expulsion. Considering the latter, the handbook states "in the course of the expulsion procedure, it is examined whether the asylum-seeking persons who do not fulfil the requirements for being granted asylum have to leave to their native country or a third-state or can remain in Switzerland" (ibid.).

What is usually subsumed under the heading 'asylum procedure' is thus a rather complicated set of legal examinations (that becomes of course again more complex when moving closer). Similarly to what Zetter (2007) observed more generally, in Switzerland "refugee labels" have also multiplied while the numbers of asylum seekers qualifying as refugees dropped since the introduction of the first asylum law (see Piguet 2006, 109). The first Asylum Act of 1981 only distinguished between asylum seekers and their recognised counterparts: refugees. The revision of 1990 added the (non-)status[19] of 'temporary admission', a subsidiary and provisional protection status with limited rights. In 2006, a further status was introduced, "temporary protection", which can be granted to a *group* of persons "exposed to a serious general danger" (Asylum Act, Art. 4). In contrast to the other forms, this status is not based on an individual examination of an application but can be granted to a collective of persons fleeing from civil war. However, as one of the instruc-

19 As was pointed out in the basic training for asylum caseworkers, temporary protection is not a residence status in itself. Legally, it only means that the enforcement of the expulsion order, which follows every rejection of an asylum application, is temporarily suspended. Such a suspension is envisaged if the enforcement of expulsion is considered inadmissible, unreasonable or (technically) impossible (see FNA, Art. 83).

tors in the basic training clarified, this provision has remained "dead letter", as it has never been applied until today. Importantly, as examinations proliferate, so do the legal consequences for persons seeking asylum (see Figure 3): they may get the 'full package' and be granted asylum (B: residence status); recognised as refugees but excluded from asylum for some reasons[20] (F: temporary admission as a refugee); rejected for not fulfilling the conditions for refugee status and still stay in Switzerland because 'compensating measures are ruled' (F: temporary admission according to the Foreign Nationals Act); or receive a negative decision with a removal order. Furthermore, applicants may receive a Dismissal of Admission Without Entering into the Substance of the case (DAWES, or *Nichteintretensentscheid NEE*). Such a DAWES could, at the time of my fieldwork, be written on various grounds (for instance, identity fraud or serious violation of the duty to cooperate; see also the excursus on Article 32.2a below). An appeal can be filed against every decision except the positive one at the court of appeal, the Federal Administrative Court. While a temporary admission is supposed to be regularly evaluated and potentially revoked, reasons that lead to the temporary admission have proven to persist over prolonged periods of time. Many people live in this insecure status for many years before cantons (may) propose to the SEM to convert it – for humanitarian reasons – into a residence status (as so-called "hardship case" SRC 2018, see also FNA, Art. 30, para. 1).[21] Therefore, as an instructor told the new caseworkers, the "temporary admission … works like a fish trap – there are many more ways in than out of it" (Fieldnotes, basic training for new caseworkers, autumn 2012).

20 Two provisions of the Swiss Asylum Act may apply: "Unworthiness of refugee status" (Article 53) if an applicant has committed offences in Switzerland or poses a threat to the national security; and "Subjective post-flight grounds" (Article 54), which means that applicants were not persecuted in their native country prior to their flight. Article 1F of the Geneva Refugee Convention excludes persons from its scope for certain "serious reasons", namely if they committed a crime against peace, a war crime, or a crime against humanity.

21 Both rejected asylum seekers as well as those only temporarily admitted can apply in the canton to which they are allocated for a case of hardship to receive a (proper) residence status (SRC 2018).

## Excursus: Article 32.2a Asylum Act

Legal provisions in the asylum sector may come and go unnoticed, but some of them profoundly impact the associations drawn in and beyond encounters. A good example of a legal provision that had a quite marked effect was Article 32.2a of the Asylum Act (in force between January 1, 2007 and January 31, 2014) unofficially referred to as a "paperless(ness) article" [*Papierlosenartikel*] or "Blocher's legal facts" [*Blochertatbestand*].[22] It had been invented to accelerate the procedure and increase the quota of asylum seekers submitting identity documents when applying for asylum (see Mutter 2005). In practice, however, the duration of procedures did not significantly decrease (for various reasons, e.g. SDA 2009). Nevertheless, the article still was most commonly used for decisions written in the reception centre when I did my field research there. The reason for this is arguably that it was considered a 'light' version of a negative asylum decision since it offered a rather effective way of associating the lack of papers with a simpler argumentation part to write in the decision*, and a short appeal period of five days (instead of thirty).

But how where these associations actually established? At closer investigation, the legal fabric was already rather complex: Article 32.2a stated that applications are considered non-admissible "if asylum seekers do not submit travel or identity papers to the authorities within 48 hours after filing the application" (AsylA, 2012). Article 32.2a, however, was balanced by a further article to safeguard the legal protection of applicants, Article 32.3. Article 32.2a would not apply if (a) applicants could credibly argue that they had "justifiable reasons" for not providing papers within 48 hours; if (b) applicants were considered to have a well-founded fear of persecution; or (c) if after applicants' hearings, further clarifications were considered necessary for concluding the case. To become legally effective, applicants thus had to be notified about their duty to submit identity papers (see subchapter 6.1) and their reasons for not doing so would be scrutinised in the hearings (see subchapter 6.2). Moreover, their reasons for asylum had still to be sufficiently evaluated. Interestingly, apart from the obvious identity paper-admissibil-

22 The later designation points to the then-Federal Councillor and Head of the Federal Department of Justice and Police (including the asylum office) Christoph Blocher, leader of the populist and right-wing Swiss People's party, who had a crucial part in the introduction of this legal article.

ity nexus, Article 32.2a offered two other powerful associations to be drawn: because the defensible absence of papers had to be made credible, it could be linked to the credibility assessment of the reasons for persecution. If the reasons for asylum were considered untenable, this suggested that the justifications for not providing papers were not credible either. And if applicants could not make credible the absence of papers, this already cast doubt on the credibility of their persecution narrative.

In the basic training, a senior official explained the background of numerous types of dismissals of admission without entering into the substance of the case (DAWES) including article 32.2a: "The legislator has tried to fight abuse with tightening the law. The problem of this is that it reacts to things that have already occurred. Weaknesses of the law are exploited, that's understandable. The reaction is that one tightens the screw, tightens the law, and closes gaps. The DAWES are a result of this practice. But the only result of this is: we tripped ourselves up [*haben uns ein Bein gestellt*] – we cannot clearly decide anymore when we have to consider an application [i.e., entering into the substance of a case]. The most recent law reform therefore will mean: abolishing [most of] the DAWES, back to the roots" (Fieldnotes, basic training, autumn 2012).

When I conducted my research in the reception centre, where these DAWES were mainly written, the head of the section had not heard about the planned abolishment of most DAWES yet. When I told him, he could not believe it and said, "this would be a pity". When I chipped in with my impression that they were contested, he insisted that "they are not contested at all, if anything about them then the five days' appeal period". He suspected that they were only abolished to appease the political opponents of the revision in the parliament. He explained to me all the DAWES decisions and why those that effectively existed in practice made perfect sense in his eyes. About the Article 32.2a decisions, he emphasised that "they are very successful and … well-rehearsed". Nevertheless, the Article 32.2a decision was discarded together with most DAWES in the revision that became effective in February 2014. A frequently used legal association to close asylum cases was thus lost and alternative associations had to be found.

### 4.1.3 The Asylum Office

In Switzerland, asylum applications are processed in the State Secretariat for Migration (SEM) (until the end of 2014, it was called the Federal Office for Migration, or FOM). The SEM is the Swiss national administration dealing with key questions concerning the status of foreigners.[23] The SEM is one of the three offices of the Federal Department of Justice and Police (FDJP), together with the Federal Office for Justice (FOJ) and the Federal Office of Police (fedpol). The SEM is composed of different "directorates": the asylum directorate that I call the "asylum office", plus directorates with different foci, namely immigration and integration, international cooperation, and planning and resources. Its headquarters are located in a large, symmetrically arranged building with two wings and a central glass areaway, which had originally been designed to host a shopping centre (Fieldnotes, headquarters, autumn 2013). Additionally, several annexe buildings pertain to the headquarters.

The SEM headquarters is located at the fringes of the Swiss capital of Bern in suburban Wabern, at the end of a tramway that connects it to the central train station. During my fieldwork, it employed about 800 officials internally and about 700 additionally through the affiliated service providers. The SEM has had in the last few years a budget of more than a billion Swiss Francs per year, of which the largest share – about 80 per cent – amounts to transfer services for asylum seekers and refugees (SEM 2017a, 56). About 400 officials worked in the subdivision of the asylum directorate: what I will refer to for reasons of simplicity as the asylum office.

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23 Swiss federalism makes questions of competence in the field of asylum a bit more complicated: It is in the competence of the SEM to evaluate the eligibility of asylum applicants. Then, the SEM shares some of competences with cantonal migration offices and municipalities; others are completely devolved to these lower levels of federal government. For (up to) the first three months of the procedure, it is also responsible for the accommodation of asylum applicants. Thereafter, applicants are allocated to the 26 cantons according to a distribution key relying on the population. The cantons are responsible for the housing and social welfare of asylum applicants but receive subsidies from the SEM. Some cantons further distribute asylum applicants after a certain period (in the canton Zurich for instance after a maximum of six months) to the municipalities (again in numbers proportional to their population), which then take over the tasks of accommodation and social welfare. According to the Foreign Nationals Act (FNA), questions of return fall into cantonal competence, but they can request assistance from the SEM.

The asylum office consisted of two central or "productive"[24] divisions with together about 200 employees who are responsible for the processing of asylum applications. One of these divisions with its eight sections was located at the headquarters; the other consisted of the five Reception and Processing Centres which are distributed across Switzerland and located close to the Swiss border (in Chiasso, Vallorbe, Basel, Kreuzlingen and Altstätten) and the two Dublin offices – again in the headquarters. A small number of officials from SEM also work at the two international airports in Geneva and Zurich, where cases of people arriving by plane are opened. Besides the two 'productive' divisions, there is a services division that administers interpreters and hearings (SAM), expert reports (LINGUA) and country of origin information (COI) (inter alia), and a finance division that deals with subsidisation (of cantons) and reporting. Furthermore, in 2014, an office pilot centre called "Test Operations" [*Testbetrieb*] evaluated the latest reforms for restructuring the asylum procedure opened in Zurich.[25]

The recurrent shifts in asylum law outlined in the last subchapter have been accompanied by repeated changes in the organisational structure of the asylum office. While legal changes sometimes induced reorganisations, as in the example of the most recent restructuring of the procedure, other reorganisations were initiated for reasons of efficiency. Already before the first Asylum Act became final in 1981, the Federal Office for Police[26] was the competent body for the processing of asylum applications on the national level.[27] It was not until a major revision of the procedure in 1990 that a separate administrative body – the Federal Office for Refugees – was established.

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24 This designation is related to the calculative government and the discourse of production and productivity discussed in sections 8.2.1–2.

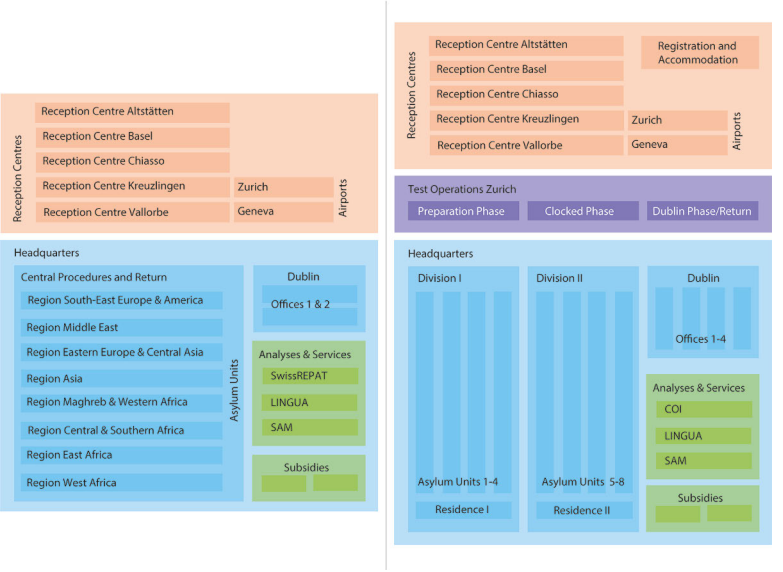
25 As of March 1, 2019, Switzerland introduced a restructured asylum procedure. It primarily aims at an acceleration of the procedure, which is achieved through the coordination of processes, and centralised accommodation of applicants in federal centres, synchronisation of procedural phases, shortened appeal periods, and legal representatives free of charge for all applicants. It was evaluated in the *Testbetrieb* between 2014 and 2015 and considered successful (SEM 2015a).

26 *Bundesamt für Polizeiwesen* (Swiss Confederation 1977, 145)

27 Regarding asylum eligibility, cantons have been involved in the asylum procedure, particularly in the establishment of the facts – but to various extents over time. The details of this involvement and its historical evolution are quite complicated: for the purpose of my endeavour, it suffices to know that the cantonal share has decreased considerably in the last two or three decades. The main argument for what can be considered an increasing

Although in the late 1990s, political advances for merging the Federal Office for Refugees with the IMES (*Schweizerisches Bundesamt für Zuwanderung, Integration und Auswanderung*) failed, in 2005 their consolidation succeeded and led to the establishment of the Federal Office for Migration (FOM). The internal structure of this relatively large public administration; however, it was soon after reformed in order to increase efficiency and improving processes in 2010. As this reform turned out to have rather converse effects to what had been envisaged, the structure of the organisation was again changed in 2013.

*Figure 4: Schematic overview of asylum office before and after reorganisation*




(Author's illustration, 2018)

Particularly in the headquarters, the structure of the "productive sections" significantly changed during the time of my research. When I started in 2012, there were 'integrative' sections with a regional focus (such as Eastern Africa or the Middle East) that processed not only asylum applications, but also supported cantons in the organisation and enforcement of return (see Figure

centralisation of the procedure has been the demand to accelerate the procedure (see for instance Swiss Confederation 1983, 785–90).

4, left). In the restructuration of the office during my research, the sections of the asylum directorate became (again) limited to asylum procedures (see Figure 4, right). Return procedures were addressed in sections of another directorate of the SEM: International Cooperation. Parallel to organisational reforms, the size of the administrative body has varied over time, as it had to be recurrently adapted according to the volume of asylum applications and backlog. Therefore, every sketch of the organisational structure of the migration office and the asylum directorate amounts to a snapshot: reorganisations and the restructuring of procedural pathways have been a constant feature of the asylum office.

These rough framings of governing asylum – in terms of policy, law, and the office – I have provided here serve two purposes: they are supposed to reveal how the 'context' in which asylum case-making takes place is introduced to those starting to work as caseworkers in the administration. And they are a first step in situating my own encounter with the asylum *dispositif*, which took place at a particular spatiotemporal conjuncture (Massey 2005): When I started this study in 2012, the Swiss asylum administration faced serious challenges – politically, legally, and organisationally. At the time of my fieldwork, a few conjunctures complicated the processing of asylum applications in the Swiss asylum office considerably.

First, regarding what a senior official in the introduction referred to as an "office on the move" (Fieldnotes, basic training for new caseworkers, autumn 2012), the migration office went through two reorganisations within a few years that were accompanied by increased staff turnover that resulted in a related loss of expertise and a reshuffling of hierarchies. At the same time, more personnel were required and hired, but new caseworkers needed to be trained first.

Second, the backlog of cases became an issue: Related to the problem of limited 'productive' personnel and rising numbers of applications in the aftermath of the Arab Spring in 2012 and 2013, the number of pending cases was growing rapidly instead of decreasing. After a momentary stagnation in the second half of 2013, the application numbers again rose when human smuggling from Libya to Italy increased and migrants fled the country after the fall of the Qaddafi regime (Garelli and Tazzioli 2013; Zaiotti 2016, 6). The Syrian war was also escalating (e.g. Bischoff 2013). The management board

of the office therefore always aimed at both reducing the backlog and keeping up with the numbers of new applications.

The third conjuncture concerns the restructuring of the asylum procedure in Switzerland. At the time I entered the asylum office, the restructuring of the asylum procedure and the testing of the new configuration in a pilot was discussed and decided in parliament in December 2012. The legislative and executive branches had reached a consensus about the main aim of the reform, namely the acceleration of the asylum procedure. Nevertheless, the rapid evolution of legal provisions continued: revisions of asylum law in various respects (for instance a reduction of the grounds for non-admission of cases) – some declared urgent and effective soon after – made time- and resource-consuming adaptations of organisational procedures and approaches indispensable.

While these conjunctures complicated the processing of applications in the asylum office, another conjuncture arguably facilitated the access of researchers seeking to research practices inside it, namely the access of Jonathan Miaz, Laura Affolter, and me. This conjuncture, on the one hand, involved the social democrat Federal Councillor Simonetta Sommaruga becoming the head of the Federal Department of Justice and Police (to which the SEM is subordinated) in 2010, who appointed a former relief organisation senior and long-term senior of the migration office, Mario Gattiker, as head of the SEM. On the other hand, this conjuncture involved key persons in the management board of the SEM who were supportive and facilitated research access despite some internal resistance.

My account of the asylum *dispositif* thus relies on insights related to these conjunctures. It is a story of the *dispositif* at a particular time and place: a partial and apparently fragmentary view on policy, legal, and administrative assemblies to which the asylum *dispositif* relates. It reflects my situated perspective from somewhere and sometime within the office. Yet, I want to emphasise that the perspective of everyone in the office is situated in this sense. I suggest that highlighting this situatedness of governing of asylum might render this account insightful beyond the particular conjuncture of its production.

## 4.2 Common Sense? Assembling Meaning

In this subchapter, I provide a general overview of essential ways of knowing for enacting the asylum *dispositif*. For this purpose, I will outline a sort of 'common sense' explanation of key objects and categories of case-making. I thus 'assemble meaning' quite in the way caseworkers starting their work become acquainted with knowledge practices relevant for their work. This approach has little in common with legal accounts of the asylum procedure which systematically introduce the relevant legal categories of the Asylum Act (AsylA), the Foreign Nationals Act (FNA), the Administrative Procedure Act (APA) and case law to outline their application in administrative practice. To provide such legal accounts remains a task reserved to – and a crucial value of – handbooks (see for instance Kälin 1990; SEM 2015b; 2008; SFH 2015). Instead, I will outline selective material-discursive associations required for asylum case-making. I then introduce an analytical reading of how such a 'common sense' understanding of asylum might come about through the notions of heuristics and exemplars.

When I approached the public administration to negotiate my fieldwork, I first had to learn the language and style of asylum officials to convey the purpose of my work to them. The governing of asylum is facilitated by a professional jargon – a sort of officialese[28] – which "formats" (Latour 2005, 226) everyday tasks. As with any other specialist language, the ability to speak officialese is an expression of membership to a certain community of meaning (Yanow 2003a), in this case: that authorised to enact the asylum *dispositif*. But, importantly, most of this bureaucratic language is operational – and fulfils certain tasks. For instance, because of the peculiarities of legal reasoning, some notions of officialese operate as small references, building up small "referential chains" (Latour 2010, 226), which produce – either spoken or written – what we conceive of as 'legal'.[29] In short, I suggest it is utterly impossible to make sense of the governing of asylum without introducing

28 Officialese is synonymous with *Verwaltungssprache* in German. According to Wagner (1984, 7–8), officialese refers to the distinctive language of administrations and bureaucratic files, which has its own terminology as well as a particular linguistic structure (syntax). At the same time, some notions of everyday language have a very specific meaning when used in the administration.

29 See Latour (2010, 255–56) on the inescapable tautology of defining what is legal through reference to law or legal practices.

some of the more pervasive terminological building blocks. Notions that have a very specific meaning in the asylum office and are marked with an asterisk (*), not to be confused with the everyday use (e.g. decision) or analytical use (e.g. practice) of the terms. They are amongst the core discursive elements that allow for a convergence of everyday practices of case-making (see also Latour 2005, 52). I will limit myself to the administrative device and record towards which most practices converge: the asylum decision* [*Asylentscheid*], the facts of the case* [*rechtserheblicher Sachverhalt*] and the considerations* [*Erwägungen*].

### 4.2.1 The Asylum Decision* and the Facts of the Case*

The asylum decision* is the most important association of an asylum case: all other associations mobilised and produced in the course of case-making point towards it. New caseworkers learn in the basic training that the asylum decision* is a written administrative order [*behördliche Verfügung*]. It is sent to the applicant in a registered letter and enters the case file as a record (see subchapter 6.5).[30] Once such a decision* becomes legally binding [*rechtskräftig*], it marks the closure of an asylum case – the file is closed.[31]

Asylum decisions* occur in two major forms: positive decisions and negative decisions. The simpler positive decision* has two parts: an administrative order – a letter sent to the applicant informing her or him about the positive decision* and the granting of asylum; and an internal decision* proposal – a record stating the relevant facts and the considerations for the positive decision, which remain undisclosed.[32] In contrast, the negative decision* is subject to appeal and therefore has to disclose these considerations. An appeal against a first-instance [*erstinstanzlich*] decision* issued by the SEM can be filed at the appeal body, the Federal Administrative Court (FAC), which is the

30 Exceptionally, the decision can also be orally disclosed at the end of hearing or, in the reception centre, on other occasions.

31 This does not, however, mean that the case is closed forever and will thus remain in the archive: The applicant may open a new file of the case by submitting another application or an application for re-examination of the case.

32 A lot of secrecy is devoted to preventing asylum seekers from learning about the administrative considerations for granting asylum. It is fuelled by a discourse of "learning effect", which says that news would spread amongst applicants about how to sell their story to be granted asylum.

second and at the same time last national instance.[33] Hence, the main difference between the positive and the negative decision* is that in the latter the outcome is not only to be disclosed [*eröffnet*], but also justified [*begründet*]. Internally, positive decisions* also have to be justified, but generally less detailed (see section 8.2.2 for a glimpse into the 'economy' involved in case-making). Therefore, more work is usually devoted to negative decisions. In our basic training, the session on the actual writing of asylum decisions* focused solely on these. During the training for new caseworkers I attended, negative decisions were referred to as "business cards" of the office because they are the main outward directed records of the asylum procedure.

The evidentiary basis of an asylum decision* are the so-called "facts of the case"*. Asylum case-making is fundamentally about the establishment of these facts of the case. The legal basis for this can be found in the Administrative Procedure Act and is introduced in the Handbook Asylum of the SEM as follows:

> According to Art. 12 APA [Administrative Procedure Act] the authority has to determine the facts of the case. This inquisitorial principle means that the authority – except for the parties' duty to collaborate – takes the initiative to establish the facts necessary and relevant for the case, clarify the legally relevant circumstances, and duly reason and appreciate the results of the evidentiary procedure. (SEM, 2008, Chapter e, §2, p.1)

Crucially, this means that it is in the responsibility of the authority, the asylum office, to assemble the facts relevant for resolving the case. Such facts of the case mainly consist of evidence submitted by the applicant, evidence gathered by the asylum office and her or his testimony given in hearings. Concerning the establishment of the relevant facts, the handbook adds:

> For the asylum procedure this inquisitorial principle means that the assertions of a person seeking asylum have to be assessed as far as they are relevant for the granting or rejecting of asylum. They must not solely be countered by a counterclaim or presumption of the authority. What the authority counters the assertions of the person seeking asylum with has to be either clearly proven or at least be objectively closer to the truth than what the per-

33 Its rulings can be appealed at the European Court of Human Rights.

> son seeking asylum claims according to the evidentiary degree of predominant probability. (SEM, 2008, Chapter e, §2, p.2)

If the conviction necessary for resolving a case does not arise from the assertions and evidence the applicant provides, so-called "further clarifications on the facts of the case" are required. According to an experienced caseworker in an internal one-to-one training session with a new caseworker that I attended, such further clarifications are only necessary in more complex cases, such as if origin remains unclear, if there are special assertions or illness. "Such cases stand out through their thicker case files and longer decisions*", she added. The facts of the case are what crucially provide – in material-discursive records of case files – the associations to the lives of applicants: the personal history that led to their flight. Producing these associations requires, at minimum, the hearings, but in some cases also further clarifications on the facts of the case (see subchapter 6.4). Only if the facts of the case are 'established' is the case ready for its legal resolution in a decision*. Caseworkers then draw upon key legal associations to argue about the 'persecution relevance' and 'credibility' of applicants' assertions in the considerations* of decisions* (see subchapter 6.5).

### 4.2.2 Legal Associations to Resolve Asylum Cases

> Rules, as Wittgenstein (1953) long ago showed, do not suggest their own proper application. (Law 2004a, 53)

The brief overview above already indicated that the production of the asylum decision* requires two different evaluations: determining asylum eligibility and considering obstacles to expulsion. The affirmation of such obstacles leads to a suspension of expulsion and the granting of a subsidiary, so-called "temporary" protection in Switzerland. I focus in this section only on the key legal provision for writing the argumentation in the asylum part of the decision*. This argumentation focuses on the existence of a well-founded fear of persecution according to the refugee definition and/or applicants' credibility. The crucial questions to be answered regarding the granting or rejecting of

asylum are thus: firstly, does the applicant meet the demands of the refugee definition? And, secondly, is the person's testimony credible?[34]

I introduce Article 3 of the Swiss Asylum Act on the refugee definition and Article 7 on credibility here in some detail because they provide core associations for cases' legal resolution. The first article states who is to be considered a 'refugee' and the second lays out the standard of proof for asylum eligibility. Thus, these two articles provide the primary associations to *argue with* in the considerations* of an asylum decision*. Accordingly, negative decisions are often internally referred to as "(Article) 3 decisions" [*Dreier-Entscheid*], "(Article) 7 decisions" [*Siebner-Entscheid*] depending on the article (mainly) argued with (see also section 6.5.2).

The first paragraph of Article 3 states:

> Refugees are persons who in their *native country* or in their country of last residence are subject to *serious disadvantages* or have a *well-founded fear* of being exposed to such disadvantages *for reasons of* race, religion, nationality, membership of a particular social group or due to their political opinions. (Asylum Act, art. 3, para. 1, own emphasis)[35]

I take from this definition three important diagnostic flags that particularly matter: origin, temporality, and the reasons for leaving the country of origin. First, an important presupposition resonates in this so-called "refugee definition" (which largely overlaps with that of the Geneva Refugee Convention): the notion of the refugee rests on the premise that the international community only has a responsibility to protect persons who cannot expect protection from their own states in cases of threat (Caroni, Meyer, and Ott 2011, 231).[36] The notion of refugee status thus associates persecution to a circum-

34 In German, a distinction is made between the credibility of a person (*Glaubwürdigkeit*) and the credibility of the case (the testimony) (*Glaubhaftigkeit*). In the basic training for caseworkers, it was emphasised that not the credibility of the person ought to be assessed, but only the credibility of her or his testimony. The (old) asylum handbook of the office succinctly stated "not the human is measured by the asylum law but his/her assertions" (*Nicht der Mensch wird am Asylgesetz gemessen, sondern seine Vorbringen*) (SEM, 2008, Chapter c, §3d, p.6).

35 Source: The Federal Assembly of the Swiss Confederation (2014)

36 Country of last residence only applies for stateless persons, as they are not covered by the term "native country". It is assumed that the native country could always provide protection for its citizens in case of persecution elsewhere (see for instance Kälin 1990, 34). See

scribed space – i.e., the sovereign territory of a "native country". For this reason – and for reasons of expulsion – the question of applicants' origin looms large in the procedure. Second, according to the definition, someone needs to have fled his or her native country because of "serious disadvantages". This notion occurs twice in this short legal paragraph, which points to an important temporality of the refugee definition: either persons "are subject" to such disadvantages, which indicates at present but actually means *at the time of leaving* the native country (condition: temporal relevance of disadvantages [*Aktualität*]); or they "have a well-founded fear of being exposed to such disadvantages", which means *in the future*.[37] Hence, temporality matters. Third, such disadvantages refer specifically to reasons – causes for which a person was persecuted – which are exhaustively listed: "race, religion, nationality, membership of a particular social group or due to … political opinions". Membership of a particular social group, however, was called in the basic training an "absorption matter of fact" [*Auffangtatbestand*] because it allows to stretch the scope of the refugee definition and to incorporate new grounds (such as was the case with homosexuality in certain countries). Obviously, in practice, the considerations required to evaluate the so-called "persecution relevance" of a case are more complex (see Table 1).

*Table 1: Considerations for evaluation of "persecution relevance".*

| Question | Consideration |
|---|---|
| What did the person suffer? | Events that led to the flight |
| Who persecuted the person? | State or third party; persecution infrastructure? |
| Is the person effectively the target of persecution? | Targetedness [ Gezieltheit ] of persecution |
| Why is the person persecuted? | Persecution motivation |
| What are the consequences? How severe are they? | Seriousness of disadvantages |
| Was flight abroad the only solution? | Internal flight alternative (IFA) |
| Is persecution imminent? | Actuality of persecution |

(Source: Fieldnotes and presentation notes, basic training, autumn 2012)

also the refugee definition of the Geneva Refugee Convention, which states this difference more intelligibly (UNHCR 2010).

37 If claimants can make credible that they experienced persecution in the past, this is considered a good indicator for a well-founded fear of future persecution; in any case, however, there must be a reasonable likelihood of (still) being threatened by persecution in case of return.

The Swiss refugee definition deviates in a small but remarkable aspect from the notion of the Geneva Refugee Convention:[38] it refers to "serious disadvantages" instead of "persecution".[39] But what are considered "serious disadvantages"? The second paragraph of Article 3 of the Asylum Act specifies that this notion includes "a threat to life, physical integrity or freedom as well as measures that exert intolerable psychological pressure" (Asylum Act, art. 3, para. 2). This specification could be a definition of persecution as well. And in practice, inside the asylum office serious disadvantages are (as I understood it) used synonymously with persecution – officials often speak of the "well-founded fear of persecution" as it is phrased in the Geneva Refugee Convention, not of serious disadvantages. By adopting the term serious disadvantages, the Swiss legislative authority has – probably unwillingly – expressed one of the predicaments in the work of asylum adjudication: the notion of persecution implies that a person who is a refugee is distinguishable from a person who is not by an attribute, a 'state of persecution'. In this reading, the "well-founded fear" of that person appears as a sort of diagnosis of that state of persecution (and asylum the remedy). In contrast, the notion of serious disadvantages immediately raises the question 'how serious?' and therefore points to the problem that, on closer investigation, what is considered persecution is a *matter of intensity*, as a range of disadvantages are not considered serious enough to count as persecution (Handout, basic training for new caseworkers, autumn 2012). The non-exhaustive enumeration of what should be considered 'serious enough' disadvantages highlights this even stronger: on the one hand, the provision gives some indication of who should clearly be considered a refugee – for instance, someone whose life is threatened. On the other hand, it concedes that the threshold to refugee

38 A second slight difference is the double temporality mentioned before, which seems also to be a speciality of the Swiss refugee definition.

39 To reiterate the refugee definition of the Geneva Refugee Convention of 1951 and the Protocol of 1967, a refugee is a person who "owing to well-founded fear of being *persecuted* for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence … is unable or, owing to such fear, is unwilling to return to it". Omissions follow the 1967 Protocol, which extended the scope of the 1951 Convention on events before January 1, 1951 and beyond Europe (UNHCR 2010).

status is utterly indeterminate with notions demanding to rate, for example, "measures that exert intolerable psychological pressure".[40] To be clear: I do not want to suggest that the Swiss refugee definition has major flaws or that the Geneva Refugee Convention definition would be preferable. The two definitions seem more or less exchangeable when it comes to practice. Yet, I suggest that the Swiss definition offers a candid appreciation of the difficulty to draw the boundary between who is, and who is not, a refugee. It is therefore less a prescription but rather a representation of what the administrative work requires in practice.

The "persecution relevance" (Article 3) of a case is evaluated on the basis of the facts of the case* [*rechtserheblicher Sachverhalt*]. As it is often difficult, if not impossible, to prove persecution, the standard of proof in asylum procedures is rather low: it suffices to "credibly demonstrate" refugee status. The first paragraph of Article 7 on the "proof of refugee status" of the Asylum Act states that "any person who applies for asylum must prove or at least credibly demonstrate their refugee status" (Asylum Act, art. 7, para. 1–3). In practice, people are rarely able to *prove* their refugee status. Applicants sometimes have documentary evidence for certain events, for instance an arrest warrant – but this does not usually suffice to proof that they suffered "serious disadvantages" as a consequence. The latter is a matter of what applicants experienced, for instance if they were tortured or maltreated in prison or had realistic fear of such treatment.[41] Generally, evidence submitted by the asylum applicant only operates as one element (though often an important one) in the evaluation of the whole case, and its evidentiary value largely depends on the testimony associated with it in the hearings (see subchapter 6.4). In turn, the credibility of the testimony can be impacted, positively or negatively, by an evidentiary puzzle piece, depending on whether it corroborates or raises doubt about the story told. Hence, in most cases, refugee status arises not from proving it but from 'credibly demonstrating it' in applicants' verbal testimony.

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40 See also section 7.2.3 on evolving practice doctrines to see the effects of this indeterminacy of the notion of refugee.

41 Only in rare cases can a court decision be considered a relatively unambiguous proof for a so-called "*polit malus*": a disproportionate degree of penalty related to discrimination for reasons of religious, ethnic, political (or some other) affiliation of the person accused (Handout, basic training for new caseworkers, autumn 2012).

But what is the measure for evaluating the credibility of a case? The authority examining the case has to *regard* it as predominantly credible, as the second paragraph of Article 7 clarifies, "refugee status is credibly demonstrated if the authority regards it as proven on the balance of probabilities."[42] Regarding a statement as predominantly truthful or "proven on the balance of probabilities" in practice means that the caseworker writing the decision* needs to be convinced of an asylum seeker's persecution account. As one of the senior instructors inculcated the quintessence of this examination to the newly employed caseworkers, "it is not about finding the truth, that's impossible; it's about *convincing* us. If you [the applicant] did not convince me, that's decisive" (Fieldnotes, basic training for new caseworkers, autumn 2012, emphasis added). The notion of "balance of probabilities" also means (in theory) that what speaks for the credibility of an account only needs to outweigh that which speaks against it. As another instructor pointed out, the standard of proof in the asylum examination "leaves room for doubt": one does not need to be completely sure. But the notion's allusion to probabilities amounts, in my view, to a performative objectification of a qualitative evaluation. The legal principle of the notion 'balance of probabilities' seems much better captured in a dictum of the office: "*in dubio pro refugio*" – in doubt for the refugee. It involves considering what speaks in favour and against the person's claim and thus the difficult and qualitative weighting of the different facets of a claim to arrive at a conviction: about the story being predominantly true (see also section 7.1.2).

The third paragraph of Article 7 adds some negative criteria or indicators, what kind of statements are considered to be *not* credible: "Cases are not credible in particular if they are unfounded in essential points or are inherently contradictory, do not correspond to the facts or are substantially based on forged or falsified evidence" (Asylum Act, art. 7, para. 1–3). In the basic training, an instructor highlighted that these criteria carry different weight in the examination of credibility – clear contradictions being a stron-

42 Remarkably, while the German version of this Article 7, paragraph 2 corresponds to the English one (*"Glaubhaft gemacht ist die Flüchtlingseigenschaft, wenn die Behörde ihr Vorhandensein mit überwiegender Wahrscheinlichkeit für gegeben hält", AsylG*), the French version defines the extent of the probability necessary to demonstrate credibility slightly, but noticeably different: *"La qualité de réfugié est vraisemblable lorsque l'autorité estime que celle-ci est hautement probable" (LAsi)*. The notion "*hautement probable*" means that the probability needs only to be high rather than only outweighed.

ger indicator for incredibility than mere unfounded statements (Handout, basic training for new caseworkers, autumn 2012). In practice, caseworkers writing an "Article 7-decision" will need to associate applicants' accounts with at least one of these criteria (or a few more derived from case law; see subchapter 6.5).

To be sure, case-making requires becoming acquainted with a wider set of legal notions – articles 3 and 7 of the asylum act are just the most important ones – and terms of administrative language in the asylum office. And this means grasping the 'texture' of abstract notions, their 'actual meaning' and 'capacities' to resolve, as enacted in their material-discursive associations with concrete cases. An instructor in an basic training session put this quite succinctly:

> I can't teach you this [the meaning of Article 3] here. The experience, your work will teach you, this [training session] won't. In this sense, it does not help you, but it can show you that it is difficult! (Fieldnotes, basic training for new caseworkers, autumn 2012)

This notion of having to learn what these abstract notions of law really meant by doing casework appeared to be widespread in the office, a classical expression of notions of "metis" (de Certeau 1988, 162), "local knowledge" (Yanow 2003a) or "tacit knowledge" (Polanyi 2009) – of forms of knowing difficult if not possible to codify because they are so closely associated with embodied practice. Below, I attempt to make sense of such practical forms of knowing and their relationship to case-making. I suggest that the notions of "heuristics" (Gigerenzer 2013, 44) and "exemplars" (Kuhn 1967, 199) are useful in this respect.

### 4.2.3 'Decision-Seeking': Classification and Heuristics

Complex legal and policy classification systems, which set the standard for eligibility evaluations, are constantly translated into principles for work by everyone involved in casework. According to Bowker and Star (1999, 149), a classification system can be understood as "a set of boxes, metaphorical or not, into which things can be put in order to then do some kind of work – bureaucratic or knowledge production". Bowker and Star (1999) have analysed classification systems as political and historical artefacts. They state

that "assigning things, people, or their actions to categories is a ubiquitous part of work in the modern, bureaucratic state" (Bowker and Star 1999, 285). And categories "are learned as part of membership in communities of practice" (ibid., 287), but "the work of attaching things to categories, and the ways in which those categories are ordered into systems, is often overlooked" (ibid., 286). Heyman (1995) referred to this as "thought work". But what does such thought work implicate for caseworkers' practical approach to classifications of asylum law and policy?

I suggest that more or less institutionalised rules of thumb – what I consider a form of "heuristics" (see Gigerenzer 2013, 44) – are significant, as they help caseworkers to grasp the complex classifications of law and policy. As Gigerenzer (2013, 44) emphasised, in all kinds of situations of uncertainty we draw on such heuristics, i.e., internalised "rule[s] of thumb … [that] enable us to make a decision fast, without much searching for information, but nevertheless with high accuracy". They allow us to "focus on the one or few pieces of information that are important and ignore the rest" (ibid., 47). In the process of arriving at a decision* in an asylum case, caseworkers draw heavily on such heuristics – which means they set out to seek and discover (the original Greek meaning of *heurískein*, from which "heuristics" derives) the decisional cues in their incorporated conceptual landscapes. As heuristics evolve in practice, decision*-seeking [*Entscheidfindung*] has to be considered an "art", as my administrative supervisors insisted, which needs substantial experience.[43] This art involves more or less implicit heuristics that allow caseworkers develop a sense of law, and to see cases as instances of a legal constellation. And it involves cases that exemplify possibilities and resolutions as exemplars.

Although basic training sessions with groups of new caseworkers are conducted to introduce basic terms and principles, all the people I met in the asylum office emphasised the importance of learning by doing. This means caseworkers start early to test and refine their heuristics on real cases. Moreover, a novice is usually allocated to an individual mentor or coach – a more experienced caseworker – to receive a form of "direction" (Foucault 2014a) and guidance to navigate in unknown landscapes of casework for

43 It can be seen as an art in the sense of ability, finesse and (learnt) skills in a certain field (Duden online) – but also in the sense that it provides those introduced to it with a sense of what is correct and incorrect in the field of asylum case-making.

avoiding mistakes and accelerating the learning process.[44] Key elements that mentors convey are typically guiding principles, rules of thumb, schematic approaches to the matters, and innovative pathways for resolving cases. Beyond this, superiors seem to control novices' decisions quite thoroughly in the first few months of work and will complement and help to refine the development of heuristics. Unlike mentors, who only have the competence for direction, superiors can also impose (more) authoritative heuristics, as they have the 'last word' concerning the associations drawn in asylum decisions. With their authorising signature on the ruling (and some other core documents), they also confirm the resolution – i.e., the heuristic adopted – in a case. Ultimately, some influential heuristics become a sort of institutional myth or legend of what 'works best' or what 'is possible'. They are to be considered an invaluable feature of the reasoning powers that enable caseworkers and seniors to distinguish elements in individual cases and to recognise the boundaries or scope of legal and policy categories.[45]

At the outset, heuristic principles appear relatively simple, but they become refined every time they are measured against 'real' cases. To be of practical use, caseworkers have to learn about the scope of the application of principles, including the exceptions in which they are not applicable. Hence, heuristics are constantly evolving with every successful interpretation, which amounts to an association of abstract law and policy with actual cases. As cases are resolved through certain heuristic 'ties' become established and heuristics become stabilised and potentially diffuse along caseworkers' networks. I frequently heard comments on my attempts to make sense of law and policy classification systems about the dos and don'ts of case-making, which shifted and improved my navigational heuristics. This entailed numerous revelations about how things are to be approached. Take, for instance, the composite evaluation of Article 3 (the definition of a refugee) as introduced in the basic training for new caseworkers. The instructor highlighted a subtle difference concerning the meaning and utilisation of the notion of "collective persecution", which needs to be targeted to count as relevant grounds for refugee status:

44 A mentor system exists in most, but not all sections of the asylum divisions.

45 On the importance of the ability to draw such boundaries see also Liessmann's (2012) book about the "praise of the border" [*Lob der Grenze*].

> It is directed against a group that is distinct from the broader community in terms of social features. These could be, for example, participants of a demonstration. This has to be distinguished from undifferentiated, non-targeted persecution, like the general consequences of a civil war on the population of a country. (Fieldnotes, basic training for new caseworkers, autumn 2012)

The instructor introduced in this example a crucial heuristic for identifying "collective persecution" in actual case-making: some shared features have to unite the collective, which has to be "distinct from the broader community". The heuristic thus distinguishes collective from undifferentiated, non-targeted persecution. I already introduced some of the key heuristics about the proper understanding of the key legal provisions of asylum casework in the previous subchapter. Now, I will outline some additional important heuristics new caseworkers learn to grasp not only the applicability but also the relatedness of key legal provisions. The most fundamental provisions introduced in the previous section – Articles 3 and 7 of the Asylum Act – are intimately related. But how they are related only becomes clarified in the heuristics (partly) taught in the basic training.

This interrelatedness of assessments in asylum orders concerning Articles 3 and 7 cannot simply be recognised in the text of the Asylum Act. When it comes to the reference to these Articles in the argumentation of an asylum order, their relationship becomes even more complex, as the explanations of a senior official in the basic training reveal:

> The mixing of Article 3 and 7 argumentations is problematic: if the credibility of assertions is doubted 'between the lines', it gets diffuse. Therefore, the main principle is: either Article 3 or Article 7. Often the core of assertions is credible, and besides it a lot which does not seem credible: in such cases, do use elements of both Article 3 and 7, but separated, never in the same argument. And make clear where you refer to what. (Fieldnotes, basic training for new caseworkers, autumn 2012)

Thus, in the argumentation of decisions, the preferable option is usually to argue (primarily) with only one of the articles, either with Article 3 or 7. The two should not be mixed in arguments, but a combination of elements from

Article 3 and 7 can be reasonable – and in many cases expedient – if clearly separated.

This first heuristic quickly became refined in the training: "Are always both [articles] examined? – No, if the relevance is clearly not given; in all other cases the examination of credibility is worthwhile" (Fieldnotes, basic training for new caseworkers, autumn 2012). But how do I understand the seemingly contradictory statements "it's a double examination" and "not always both have to be examined"? It comes to a differentiation between theory and practice: Both have to be examined in theory, but if it is obvious that the grounds are not fulfilled, considering credibility becomes unnecessary. In other words, if the relevance of statements is evidently not given, it makes sense to believe the applicant in order to reject the application. In all other cases, the credibility assessment is 'worthwhile'.

But another statement in the same basic training session suggests that a credibility assessment is not only worthwhile, but that "The examination of Article 7 takes priority over that of Article 3" (Fieldnotes, basic training for new caseworkers, autumn 2012). But what does that mean? And what is the rationality behind it? This was not explained in the training. I dug deeper to find the reasons for this particular way in which Article 3 and 7 are associated. A caseworker offered a possible explanation in an interview:

> Caseworker: There are really co-workers who say "make rather an Article 7 decision" for tactical reasons.
> Researcher: Ah, instead of an Article 3?
> Caseworker: Yes. Because it is always more delicate with a 3, because with Article 3 you actually say: "I believe you, but it is not relevant for asylum". If he then comes with something else in the appeal, he can always say: "but you did believe me, generally you did not doubt my credibility".
> Researcher: Does this then mean, in principle you have to believe me about everything I tell now as well?
> Caseworker: And by tendency this is right, isn't it? And therefore, they [the co-workers] always say, if you do an Article 3 decision, always – and this is all just tactics – always state reservations regarding credibility.
> Researcher: Thus, a reservation that you can use, if further points are raised?
> Caseworker: Exactly. You have to, that's really like that, use an anchor, which you add at the end of the decision: at the end of the considerations[*] you say: "the facts stated by the applicant are not asylum relevant, therefore the credi-

> bility does not have to be examined, although here explicit reservations have to be raised". Just like that, very generally, you implicate "I don't comment on this, but by the way, I have noticed that there are some inconsistencies" [laughs].
> (Interview with caseworker, autumn 2013)

This conversation about the reasons behind the heuristic introduced before reveals that the heuristic is not inferred from the legal provisions; the legal text does not say anything about prioritising some articles over others. Thus, their relation has to be figured out in practical terms – and the rationalities for certain ways of associating. And the relation suggested, prioritising Article 7 over 3 follows a certain logic: basically, it anticipates what is easier (or less delicate) to defend in an appeal against the decision. Ultimately, applying such a heuristic does not require knowing the logic for its establishment. Caseworkers adopt heuristics because they yield a preferable outcome (in whatever terms) or because they practically indicate how things 'have to be done' in certain constellations.

In this section, I suggested that heuristics about how to practically make sense about key legal articles such as Article 3 or 7 of the Asylum Act evolve and sometimes proliferate. They often become refined in their enactment in concrete cases – if they contribute to the successful resolution of a case, they gain currency; otherwise, they may be revised in form or applicability or completely abandoned. Heuristics diffuse through various more or less stable associations of the *dispositif* and thus become variably widespread. Heuristics can develop a paradigmatic character (see Kuhn 1967) if they are shared across large parts of the personnel, i.e., they become practical approaches that are based on a shared grasp or intuition about the matter (see also Gigerenzer 2013). They can also collapse and be abandoned: if the associations they establish are rejected by the appeal body, they become debunked as 'wrong' with a more authoritative heuristic, or they get replaced by another, timelier and more acknowledged heuristic.

### 4.2.4 Making Sense through Exemplars

> Sounds complicated, doesn't it? But when we arrive at the examples, the scales will fall from your eyes. (Head of section, fieldnotes, basic training for new caseworkers, autumn 2012)

Exemplars complement heuristics in the evolution of a pragmatics of governing asylum. Institutional conversations often revolve around asylum cases and take a particular form: they are usually boiled down to what is considered their core narrative, their essence. These can be conveyed in a few sentences and draw on a range of shared meanings. Such core narratives of cases can become mediators in casework by altering ways of associating and assembling cases. I suggest it is useful to think of them as what Kuhn (1967) termed "exemplars".[46] Similarly to Kuhn's illustration that learning physics principles operates not through abstract formulae, but through concrete examples exposing the principles' forces and effects, asylum case-making is learnt through seeing abstract law and policy principles in light of concrete cases. However, I also consider exemplars to render conceptual landscapes of caseworkers more complex, as every case adds texture to the considerations of encountering another one. Exemplars associate cases and abstract legal and policy norms in particular ways. They are key to understand both processes of categorisation and interpretation in asylum case-making. I thus tend to think that a lot of caseworkers' 'knowledge' in case-making relates to the various roles exemplars play in practices of governing. I will outline some of these roles and provide examples.

In my analysis, I have encountered exemplars of different sorts. I propose a tentative distinction according to their mediating role (Latour 2005) and their scope across locales of case-making. With regard to their mediating role, exemplars can be differentiated according to the work 'they do', i.e., the effect they have on categorisation in asylum case-making. I distinguish three types of exemplars: illustrative, formative, and transformative.

The first type, illustrative exemplars are, in a way, 'classical' model-cases in a Kuhnian sense. They operationalise legal provisions and process principles and provide caseworkers with a neat 'model' for understanding their substance; they are therefore often raised in the training of new caseworkers. Consequently, many of them tend to stabilise the *dispositif*. For instance, in the basic training for caseworkers, the instructor pointed out "the most common construction for inadmissibility [of a removal order due to the principle of non-refoulement]" based on a concrete exemplar: that of "Eritreans … exiting [their country], and people from the Middle East demonstrating [against

46 I thank Robbie Duschinsky for pointing Kuhn's notion of exemplars out to me.

the government of their countries of origin]" (Fieldnotes, basic training for new caseworkers, autumn 2012). Besides exemplars illustrative for certain provisions, some exemplars are illustrative for certain regions or countries of origin (sometimes intersecting with other categories such as gender or ethnicity). However, such 'classic' narratives usually imply a certain way of legal categorisation as well. During my fieldwork, caseworkers habitually referred to 'classic' narratives: for example, women from the Democratic Republic of the Congo, who tell that they had been the wives or servants of a politician and after some incident fell out of favour, which lead to their persecution (Fieldnotes, reception centre, spring 2013). Such narratives were commonly dismissed as not credible. Both versions of illustrative exemplars helped caseworkers simplify the navigation of the complex legal landscape, as they either provided a typical example for abstract legal notions or pre-classified certain types of stories in legal terms. They thus serve the reduction of abstractness (exemplifying law) and the reduction of complexity (typifying stories).

The second type of exemplars are formative – broadly said, all cases encountered by caseworkers (and their superiors) which shape their senses for categorisation and add a sort of texture to notions of policy and law. Formative exemplars can take two distinctive forms: one the one hand, extreme cases that point out the limits of what is possible – or advisable – to subsume under, i.e., the scope of, a certain category; on the other hand, borderline cases which challenge seemingly neat categorical distinctions and reveal indeterminacies in categorisation or categorical overlap.

Extreme cases are raised to make explicit the scope of a legal or policy category. An example mobilised in the basic training to exemplify the potential coverage of removal orders being "impermissible"* [*unzulässig*] was a hypothetical case: what if a murderer from the USA fled to Switzerland and claimed asylum? S/he would certainly not be granted asylum, but would the enforcement of a removal order be permitted*? The answer was: rather not; s/he would be temporarily admitted in Switzerland. Unquestionably, the legitimacy of prosecution of murderers by the US government is given, but in line with Article 3 of the European Convention on Human Rights (ECHR), the legal consequence would be considered disproportionate. However, to the surprise of most participants of the training, we were told that it is not the death penalty itself that conflicts with the ECHR, but the so-called "death cell syndrome", i.e., the long waiting times in the death row. Such rather

unlikely extreme cases take the important role of exemplifying the potential to dilate the categories of law and practice* in casework (Fieldnotes, basic training for new caseworkers, autumn 2012).

Borderline cases occur much more often and reveal the blurriness of the boundaries between legal categories. Such a blurry boundary exists, for instance, between legitimate *prosecution* and *persecution* by state authorities. I discussed with an experienced caseworker a case of Kurdish man who was considered a former Kurdistan Workers' Party (PKK) combatant: The caseworker pointed out that prosecuting the combatant for hostilities he committed against the Turkish government was not considered illegitimate and thus did not amount to persecution according to Swiss asylum practice*. In the past, however, the regulating presumption* [*Regelvermutung*] had been different: the Turkish government had systematically tortured prisoners of Kurdish origin, thus amounting to persecution; but this was not the case anymore. At the same time, rule of law in Turkey remained questionable, despite recent improvements. Ultimately, the effective consequences the claimant had to face in case of return depended a lot on the officials he encountered. Crucial was, moreover, the question of whether the Turkish authorities (on some governmental level) had recorded his PKK activities (Fieldnotes, headquarters, winter 2013/14). As this borderline case exemplifies, the boundary between legitimate prosecution and persecution is neither clear nor static. To draw this boundary in an individual case requires various aspects to be taken into consideration. As this example furthermore reveals, borderline cases do not fix boundaries, but on the contrary highlight their fuzziness and indeterminacy.[47]

Borderline cases are often considered difficult to resolve and can become a burden for the caseworkers who have to deal with them. But if cases are in some respect borderline, for instance in terms of the refugee definition (Article 3), they do not have to be indeterminate in other respects. Some of the heuristics developed by caseworkers then explicitly serve to avoid inde-

47 Ultimately, borderline cases also compel caseworkers to draw a line. In turn, as similar cases of this type may end up on both sides of the line – meaning that asylum or temporary admission is granted or applications are rejected – their resolution may appear arbitrary from the outside at times. Hence, decisions in such cases tend to foster resistance on the side of the applicant as well. Borderline cases, I hypothesise, are more likely to be challenged at the appeal body.

terminacy, for instance by choosing another categorical 'pathway' to resolve the case:

> In cases of doubt, I prefer to argue with the [article] 7, because it's just simpler. You just say 'not credible', then it does not matter whether it is asylum-relevant or not. There you have many stories, which are on the borderline. (Interview with caseworker, autumn 2013)

In sum, borderline cases form what one could call "frontiers" of legal categories, whose terrain remains fraught with "epistemic anxiety" (Stoler 2009) and prompts coping (see also subchapter 7.2). Extreme cases foster caseworkers' sense of the scope of legal categories. Borderline cases may become formative exemplars if the indeterminacy of categorical boundaries they carry lead to a form of negotiation about how this indeterminacy is to be resolved. Such a negotiation can take place between peers, with a head of section or in a more formal group setting.

The third and last type of exemplars I introduce are transformative exemplars: cases which lead to a transformation of how a category of cases is approached, a shift in the paradigm of practice*. Again, I suggest distinguishing between two sorts of transformative exemplars according to the revelatory mode they operate in: navigational and disastrous cases. First, navigational cases can, on the one hand, take the form of the classical precedent, e.g. leading decisions of the appeal body. Importantly, such 'external' decisions are not just something 'happening' to the office, but are at times actively sought, for instance in cases with unclear legal constellations or likely changes in the evaluation of the situation in a country of origin. In decisions*, navigational cases are sometimes called a "test balloon" [*Testballon*] (see section 8.3.2). On the other hand, navigational cases can occur as more internal cases of reorientation, such as cases for developing a new doctrine on gender-related persecution (see section 7.2.3). Second, transformative exemplars also take a second form of disastrous cases. These exceed and potentially suspend the standard mode of evolution. They can entail personal failure or even systemic breakdown and are forms of "overflowing" (Çalışkan and Callon 2009; 2010; Callon 2007b; see subchapter 7.3). Both types of transformative exemplars, however, are catalytic of new categorical interpretations, of rethinking and adaptation. Both types can involve pub-

lic attention, but do not necessarily. They can affect law, case law, internal guidelines, or personal approaches concerning a category of cases.

A typical example of a navigational case is the one culminating in a leading decision by the appeal body. The leading decision can lead to a change in 'theory', i.e., what a legal category is about.[48] A good example of such a change in theory is the leading decision in an appeal case of a Somali man of 2006. In his application, he had claimed to be persecuted in Somalia, not by the state, but a third party – a militia of the Hawiye clan. The (then) Federal Office for Refugees had considered his persecution credible but not relevant in the sense of Article 3, the refugee definition, due to a small but crucial aspect: the Somali was not persecuted by the state, but by a clan militia. According to the 'accountability theory' that prevailed at that time, persecution had to be state-led to count as persecution in the sense of Article 3. Therefore, the office rejected his application. The appeal body (the Asylum Appeal Commission at that time) took this case as an opportunity to address foregoing legal scholarly and parliamentarian debates about a shift from the accountability to the 'protection theory'. The latter had already been adopted by a majority of signatory states to the Geneva Refugee Convention, and the EU qualification directive had incorporated it. The protection theory stated that not the source of persecution ("authorship") should matter, but the sort of protection the person concerned could rely on (no matter whether from a state or quasi-state body). Drawing on this theory, the appeal body repudiated that the applicant could have received adequate protection in Somalia at that time.[49] And it stated more generally that "in practice, it has to be established, who in the native country can grant sufficient protection (…). Furthermore, this poses the question of what kind and what degree of protection respectively in the native country suffices to acquit the asylum state from its responsibilities of protection under international law".[50] Thus, the grounds for rejecting the Somali application exemplified that Switzerland's asylum practice lagged

48 For other rulings of the appeal court, the effect is less clear: some may have an impact and become navigational cases; but others can also be dismissed as "outliers" [*Ausreisser*] and henceforth ignored.

49 "It is not possible for the appellant to apply for effective protection in his native country" (EMARK 2006/18: 205).

50 The German original reads: "Konkret ist zu prüfen, wer im Heimatland ausreichenden Schutz gewähren kann (vgl. nachfolgend unter Erw. 10.2.). Zudem stellt sich die Frage, welche Art respektive welcher Grad von Schutz im Heimatland ausreicht, um den Asyl-

behind in this respect. At the same time, the case offered an opportunity to introduce the protection theory, which altered the frames of evaluation and provided (a first crucial) navigational exemplar for how one had to argue in future cases with the constellation of persecution by a third party.

Disastrous cases are of a more disruptive and unexpected nature: they suddenly occur and may shatter well-established institutional appraisals, for instance about the situation in a country of origin, or may shatter the belief of an individual caseworker in her or his ability to assess the truthfulness of asylum applicants' accounts. A good example of the former constellation occurred during my fieldwork in the headquarters: after the end of the civil war in Sri Lanka, the suspension of enforced returns for rejected asylum seekers had been lifted in 2011. But then, unexpectedly, in summer 2013, two returnees were imprisoned upon arrival at the airport in Colombo. Soon thereafter, the Federal Office for Migration decided to suspend further enforced removals to Sri Lanka until the whereabouts and the reasons that led to the arrest of the two men could be clarified (see also coverage on press communiqué, e.g. NZZ, 2013). The two disastrous cases thus produced an "overflowing" (Callon 1998) of the asylum and removal practice* for Sri Lanka that ultimately led to its complete revision (see section 7.3.1).

It is, moreover, possible to distinguish between the scope of exemplars: some operate on the more personal level of the caseworker and are shared with only a few colleagues or in one or several sections; others become so prevalent that even I as an intruder inevitably came across them. On the personal level, every case is at the beginning an instance of a particular aspect of abstract legal principles: it gives caseworkers a feeling what, for instance, Article 3 is about and how they can successfully argue with it in an asylum decision. On the institutional level (with sufficient circulation), exemplars may take the form of archetypes, i.e., 'classic' constellations that are associated with a certain *modus operandi*. If cases become approached only as instances of such archetypes, this amounts to stereotyping (with all its potentially detrimental effects; see also Spijkerboer, 2005). Exemplars and heuristics are closely interlinked in associations of the *dispositif* and are key modes of the latter's enactment. Practical ways of knowing evolve through the interplay of heuristics and exemplars in what could be termed "herme-

staat von seiner völkerrechtlichen Schutzverpflichtung zu entbinden" (EMARK 2006/18: 202).

neutic spirals": heuristics evolve through their invocation and translation in concrete cases. As some of these cases become exemplars, they may give rise to new heuristics and may induce the demise of others. Unlike standards (Bowker and Star 1999), heuristics and exemplars are not formalised, but rather circulate in institutional networks of various reach. They thus do not lend themselves to exhaustive classification or mapping; they are modes of knowing that allow both for simplifying complexity (seeing cases through law), and complexifying simplicity (seeing law through cases) (Mol and Law 2002). Their fine-grained and contingent translations of the *dispositif* lead to a fragmented landscape of practical knowing or 'common senses' – and multiple and overlapping "communities of meaning" (Yanow 2003a) and "communities of practice" (Wenger 2003) of a certain spatiotemporal scope and durability (see subchapter 8.1).

Heuristics and exemplars thus offer a particular reading of knowledge practices in the governing of asylum. For asylum caseworkers, a web of meaning expands with every case they assemble: cases both anchor and provide meaning to abstract provisions. At the same time, principles are turned into more fine-tuned heuristics which serve to take 'well-founded distinctions' when assembling another case. As heuristics and exemplars are embodied forms of knowing, they may account for what is often referred to as an ominous "gut feeling'" in caseworkers accounts of how they 'knew' (see also Affolter 2017, 45).

In this chapter, I have suggested that in order to engage in case-making, caseworkers have to acquire a minimal sense of what migration policy, asylum law, and the office mean for case-making. I have offered a reading of knowledge practices as being strategically oriented towards resolving asylum cases in decision*, which means to know both what relevant persecution is and how legally relevant 'facts' of a case arise from caseworkers' convictions about what is credible. Case-making, I have argued, can be considered a knowledge practice that is about managing both the complexity encountered in cases and the simplicity of law and policy.

# 5. Equipped for Case-Making

In this chapter, I trace the question of agency related to *dispositifs*. I take up the crucial insight of material-semiotic approaches that practices of governing are enabled and mediated by material-discursive arrangements (Latour 2010; Scheffer 2010, 45) of government. Caseworkers are becoming material-discursively assembled or equipped to be able to assemble cases and enact the *dispositif* (see Rabinow 2003).[1]

In the first subchapter (5.1), I assemble individual and collective agentic formations that are crucial for enacting the *dispositif* in practices of case-making: primarily caseworkers, sections and 'the office'. I suggest some associations and socio-material technologies to be central for assembling them, namely associations that compose a proxy of the 'nation', membership devices, ritualised events of assembling collectives and associations of super-vision. In the second subchapter (5.2), I introduce central devices for re-cording lives in terms of asylum: material-discursive tools for acting upon the lives of those who claim asylum in prosaic practices of case-making. I distinguish between various types of devices, namely recording, inscription, coordinating, and writing devices. Together, these devices are crucial mediators for assembling asylum cases towards their resolution (see Part II).

1 This also has consequences for the crucial issue of accountability (see also section 8.1.4): viewing practices as mediated by such composite agentic formations shifts what accountability means by both altering what counts or matters (increasingly numbers), and who accounts (increasingly nonhuman mediators).

## 5.1 Assembling Agentic Formations

> From now on, when we speak of actor we should always add the large network of attachments making it act. As to emancipation, it does not mean "freed from bonds" but well-attached. (Latour 2005, 217–18)

In this subchapter, I address the following question: What does it take to assemble an administration – as a composite reality, a collective – and administrators – as individuated parts of this collective? A few things, I suggest, have to be achieved: first, one needs to be able to *distinguish those who belong to the collective(s) from those who do not*. Second, one needs to *enrol people and things in the manufacturing of decisions* and the enactment of the dispositif*. And third, who and what is enrolled needs to be *connected through differentiated webs of 'super-vision'*. This account intends to destabilise the prevailing view of public administrations of something out there, already assembled, naturally operating, administering whatever task they are entrusted with.

### 5.1.1 Caseworkers: Lone Warriors?

> That's quite interesting with the new one [caseworker], who just started. He has his office next to mine. On the one hand, I almost feel a bit sorry for him, because he's now also in the situation in which you are [he is] a little overstrained. You know, that's totally normal … But it's really cool to watch what you really go through. (Interview with caseworker, reception centre, autumn 2013)

New caseworkers (in German, *FachspezialistInnen Asyl*) start more or less from scratch. As the quotation above indicates, they are usually thrown in at the deep end: although they attend the basic training for new caseworkers, they usually have to start doing casework as soon as their jobs start. Most of the caseworkers I met in the basic training shared both the feelings of excitement about all the new things they learned and of being overstrained, as the caseworker observed with her co-worker in the quote above (and remembered she also went through). Caseworkers are thus connected through the shared experiences of learning and doing casework. Early in my fieldwork, I was struck by the paradoxical state caseworkers appeared to have: as composite "actants" (Latour, 2005) constituted by institutional associations, and

yet strangely dissociated in their everyday work on parts of cases as sort of "lone warriors" (Interview with caseworker, 2013). Both states of caseworkers, I suggest, are essential for understanding the governing of asylum. I will thus briefly trace some of the central associations as well as some of the dissociations that constitute caseworkers.

Caseworkers are at the heart of the asylum procedure: they process cases in their various stages in the reception centres and headquarters of the asylum office. Caseworkers in the Swiss asylum office have different professional and educational biographies – a colourful mix of social scientists and jurists, linguists, historians and a veterinarian. Some of those entering public administration as caseworkers already have work experience in the field of migration or asylum,[2] while others have no previous experience. Asylum casework broadly consists of two core components: conducting interviews with asylum claimants and writing legally binding decisions. According to senior officials who are involved in the hiring of new caseworkers, different competences are required for casework: socio-cultural communication and interview skills, legal skills, and linguistic skills. Depending on the relative emphasis of these competences, more or fewer jurists, social scientists, or linguists were recruited during certain periods (for an extensive discussion of the recruiting process and the 'types' of people hired in the asylum office see (Affolter 2017, 23–27; Miaz 2017, 185–92). Generally, a balanced mix of different backgrounds seems to be valued by most members of the office. In the basic training, I was in good company of social scientists, linguists, philosophers, and jurists.

In the basic training for new caseworkers, their work was characterised and framed in a certain way. One of these framings appears particularly meaningful for understanding how caseworkers are associated with 'the state': "In your work, you will perform legal acts in the name of Switzerland" (Fieldnotes, basic training for new caseworkers, autumn 2012). This statement resonates with the idea that the 'state' takes form where acts are performed in its name (see also Gupta 1995; Reeves 2013). By explicitly referring to "Switzerland", the instructor moreover invoked the idea of the nation-

2 I met a few people who had worked as relief organisation representatives in asylum hearings before becoming caseworkers. And some employees of the Federal Administrative Court 'changed sides' to the asylum office when the court was moved from Bern to (faraway) St. Gallen in mid-2012.

state (see Abrams 1988) and established a relationship of loyalty towards this transcendent figure: caseworkers enact the asylum *dispositif* as proxies of the Swiss nation-state. The framing of acts as "legal", moreover, underlines caseworkers' role as being rooted in a notion of the rule of law. This appears crucial for the foundational legitimacy of resolving questions of "life and death" in an institution (see Douglas 1986, 111). Such a resolution is at stake in the governing of asylum, which means – according to a self-declaration in the training – that "we decide about who is granted protection in our country and who does not require it" (Fieldnotes, basic training for new caseworkers, autumn 2012).

This second framing of what the work of caseworkers 'is all about', I think, is characteristic of how this essential delegation is performed: through the collectives that are invoked. A first 'we' – the asylum office – is enacted, a collective who decides "who is granted protection". It thus never remains on the shoulders of an individual person to decide, but rather on a caseworker who is part of the office collective (see also subchapter 8.1). A second 'we' is invoked: the nation-state where protection is sought. While, according to the first quote above, caseworkers solely act in the name of this second 'we' (Switzerland), the framing "in *our* country" in the second quote implies that they are a part of this more comprehensive 'we'. And finally, a third collective is performed: that of the subjects of asylum ("who is granted protection … and who does not require it").[3] Thus, to become caseworkers, humans entering the *dispositif* become associated with multiple collectives: an organisational one, the asylum office with the competence of "deciding" on asylum applications, and a national one, Switzerland, in whose name it is to decide. As caseworkers, they are delegated the ethical quandary of selecting, according to legal standards, who is eligible to reside "in our country" (see also Fassin 2013) from the collective of 'applicant others'.

Caseworkers can thus be considered composite actants as they are unthinkable outside the collectives that confer the authority to assess eligibility to them. But, paradoxically, they also portray themselves as 'lone

3 These are in fact two questions. Why not "who is granted protection and who is not"? The second part can be read as an explication of "who is not granted protection", namely "who does not require it". But it can also be read as an implicit reference to the moral weight of the question to be answered by the institution: the necessity to protect (or the deservingness of) someone who is asking for protection (i.e., membership in the larger 'we').

warriors' in their everyday work. I also had the impression that case-making happens dissociated from others: case-making usually means a particular case file was assigned to a caseworker for the task at hand. Consequently, a lot of work takes place at the desk in the office where caseworkers assemble some types of records on their computer by filling forms or writing standard letters, for instance. In the hearings that caseworkers conduct, they are not literally alone, but are nevertheless 'lone warriors' as 'representatives of the state'. When it comes to numbers – the crucial measure of administrative efficiency – every caseworker (and also every head of section) is individually responsible for the output she or he produces (see sections 8.2.2–3). Of course, meetings, training sessions and informal exchange with other caseworkers and seniors are crucial for the everyday life of a caseworker as well (see sections 5.1.3–4). Yet, actual casework typically implicates isolation from others until the records necessary for the case to be passed on or resolved are assembled (see subchapter 6.3). It seems important to keep this double constitution of caseworkers through both strong *associations* and *dissociations* in mind when both looking at the pragmatics of case-making.

### 5.1.2 Membership Devices: Access and Insignia

Becoming agentic as a caseworker is accomplished not only through being exposed to ways of organisational knowing (see Chapter 4) but is crucially mediated through what I call "membership devices". Membership devices enrol humans in the collectives of case-making and bestow them with agentic 'potential' and legitimacy. They are thus crucial for caseworkers' agentic formation. Such mundane devices mediate membership by providing access to the built and digital landscapes of the administration; by allowing identification as an official with a certain position in (a specific subdivision of) the administration; and by enabling the incorporation of individuals and various subdivisions of the collective into the administrative circuits of information and correspondence. Crucial about caseworkers' access to various spaces of case-making and their location inside them is: the enrolment of humans in governing asylum not only implicates that they become assembled to have a positionality to know and see asylum from but also becoming situated in a spatiotemporal location from which to enact the *dispositif*.

Asylum case-making involves clearly delimited spacings and timings (see Gill 2009).[4] All the entrance doors of the buildings in the headquarters require a badge; those in the reception centre in which I did fieldwork required a programmable key. Non-members of the administration have to register for a visitor card at one of the main gates. This was also my fate at the very beginning of my visits to the asylum office. With the visitor card, which I had to wear visibly on my clothes, I was clearly identifiable as a non-member. Already in the reception centre, access to and movement in the office wing was unobstructed, since I was provided with a key. For the last part of my fieldwork in the headquarters, I received a badge. For my bodily circulation in the asylum office and my feeling of belonging, both key and badge were significant. Without them I would have depended heavily on officials opening doors for me all day long. For 'real' officials, badges have another crucial function: mounted just behind the gates inside all the office buildings are devices that log staff work-time, which have to be touched with the badges when entering or leaving the building to register working hours. They render having the capacity to 'act as a bureaucrat' not only a matter of office space but also office time, a "chronotope" in Bakhtin's terms (Valverde 2014). Various transgressions of this office timespace occur – as in telework and evening and weekend shifts – but require special permissions and also foster contestation.

For my internship and fieldwork in the headquarters, I moreover received a "smartcard".[5] The card is crucial to access the digital spaces of case-making: to log into a computer, to enter key databases, and write in the name of the state (see section 5.2.4). In short, it enables one to act as an official in very basic ways. The smartcard is thus a crucial device for a caseworker's agentic formation. This was also true for me: for the last part of fieldwork (as an intern), I not only received a smartcard but also a federal laptop, which I could plug in at every vacant workstation in the asylum office.

Once, access to my computer was not possible so I had to call the Federal Office of Information Technology, Systems and Telecommunication, inter-

4 As Gill (2009) has pointed out in the case of UK asylum sector workers, such spacings and timings that he considers a form of "presentational state power" come with particular ethical implications for encountering claimants.

5 I was in turn bound to the obligations of every caseworker concerning data and personal protection, information security, and the duty of confidentiality through a declaration of commitment.

nally only referred to in the German acronym BIT (whose logo with the phone number was part of the standard blue desktop image of all computers in the office). After explaining my situation and providing my authentication, I was given a temporary substitute login. The authentication involved giving the computer scientist the answers to questions I had once named when I had received my smartcard. I smilingly gave the answers to the questions regarding the name of our first dog and my dream job as a kid, and jokingly added that he would probably learn a lot about federal employees by asking these questions. He laughed and confirmed my presumption. He said that they were sometimes quite intimate, and that he thinks many people do not expect to be asked these questions on the phone one day.[6] This short episode certainly hints at the association of the asylum *dispositif* with another large assembly: that of federal IT. It moreover indicates the personalisation accompanying membership in the federal administration – including potentially confessionary encounters. In brief, keys and badge appear to mediate the corporal access to the built landscape of the administration, while the smartcard is crucial for accessing the digital infrastructure. But how is one identified as an official in the first place, and as one with a certain position in the administration?

Personal identifiers are key for the circulation of objects and registration of work on- and offline: every official receives a unique acronym, usually composed of three letters of the first and surname. My personal identifier, for instance, was the easily pronounceable "Poe". Such acronyms are omnipresent in the asylum office: they are used instead of or in addition to full names on records, sticky notes, in letter headers, meeting protocols, and various other forms of documents. Soon I knew the acronyms of all my co-workers. Some long-term employees I met markedly identified with their acronyms and people referred to them by their acronyms in their absence. In one case, people even mainly addressed a person by her or his acronym.

With the addition of the section identifier, the acronym is used to designate the case file location, to deliver case files to the right person in the office,

6 Such personal authentication questions evidently require a certain degree of intimacy, because the answer to them should not be found in your CV or elsewhere on the internet. But to draw a picture of the federal administration with information from this BIT database would be both a tempting and frightening possibility.

but also represents an official in the digital databases (e.g. "1AV6 Poe").[7] This identifier that all officials have – together with the necessary interfaces and letterbox – associates them with the digital and analogue channels of circulation; it *locates* them inside the administration and it renders them addressable and their activities traceable in documents, folders, and databases.

Many more such devices are involved in assembling "communities of practice" (Wenger 2003). Another mundane but vital medium of membership is, for instance, the email client. Issuing emails with official state mail signatures made me aware of being located within the asylum community of practice – any recipient could use either the digital or the postal address to reach me as an 'official'. Certainly, both identifiers and email clients are mundane and self-evident elements of various types of office infrastructures today. Nevertheless, they play a widely neglected but important role in the mediation of membership and authorship as exclusive infrastructural devices. They also operate as both collectivising and individualising mediators – involved in the shaping of an 'organisation' and an 'official' (and all the subdivisions in between). Both do not just exist, they have to be actively composed: my argument here draws on Latour (2005) and what he called "individualisers or plugins":

> to obtain 'complete' human actors, you have to compose them out of many successive layers, each of which is empirically distinct from the next. Being a fully competent actor now comes in discreet pellets or, to borrow from cyberspace, patches and applets, whose precise origin can be 'Googled' before they are downloaded and saved one by one. (Latour 2005, 207)

Hence, officials as human actors are conceptualised to consist of more than mind and body, to be "a kind of machination, a hybrid of flesh, artifact, knowledge, passion, and technique" (N. Rose 1996, 38). They become composed through mental and bodily, analogous and digital technological *trivialia*, which appear as natural inhabitants of office spaces but are also amongst the plugins for their composition. But besides operating as individualisers, they also work as collectivisers – because they are shared, indicate membership and allow for authorship and thus the *dispositif's* enactment.

7 The first part of this longer identifier indicates the division (AV stands for *Asylverfahren*, i.e., asylum procedure) and the organisational section (No. 6).

Membership moreover literally means having a 'place' to enact the *dispositif*. It is strongly related to the key inhabited space of administrations: the office. It is at the same time a highly standardised space and a personalised space.[8] I noted a key division between officials having their own office and those sharing an office with others. Having an individual office was highly valued by caseworkers in the headquarters. While seniors and long-term employees usually had their own office, most newly hired caseworkers, some part-time employees, and the secretaries had to share an office with usually two to three others. The most important advantage of caseworkers with a personal office is that they can conduct hearings in their rooms, while those in shared offices need to go to other rooms for the hearings, sometimes in other buildings. In contrast to the limited and thus contested working space in the headquarters, the office situation in the Reception and Processing Centre where I did field research was not an issue (at that time). All caseworkers had their own personal offices there.

Membership devices are crucial for agentic formations of caseworkers: they consist of badges, keys, smartcards, acronyms, but also allotted office space and time to work from. While such devices appear trivial, their mediating role becomes apparent when they are lost, ambiguous, or contested. They, in a crucial way, enable caseworkers to become bodily and virtually part of various spaces, times, and circulations – outside of which case-making is hardly possible.

### 5.1.3 Super-Vision

I use the term "super-vision" to describe how some people are able to see more than others in the office – and have a different associative capacity in terms of the *dispositif*. It is usually associated with people with higher positions who have influence over decisive matters. A caseworker, with whom I had attended the basic training and interviewed a year later, had just been appointed as vice-head of his unit. He told me about why he sought this promotion:

8 Ordered office space (on different levels – buildings, offices, desks, shelves, archive, forms) and ordered office time (regular working hours, sequenced tasks, appointed meetings and completions) both allow for and mirror systematic and orderly administrative activities (see Valverde 2014).

> To make a career in this sense [was not central], I mean it is nice to see you get on somehow and are able to develop yourself. But for me it was more that I had the feeling, if you are a bit higher [in the hierarchy] you see a bit more. I mean you see this yourself if you do research about this: that's intricate, this whole business, right? That's a huge cake [*Riesenkuchen*], and to be in the know [*den Durchblick bekommen*] is not that easy. And I had the feeling, if you are in a leadership position, you see a bit more. And I really think I have already figured out two or three things that I did not understand before. (Interview with vice-head of section, autumn 2013)

When I asked him what he had figured out now, he said "procedural stuff" and added:

> before [my promotion] it virtually ended for me with having conducted the hearing or the decision* written, right? Now it has become interesting … what happens to the case file after a decision*, what happens to the people themselves after such a decision* and that sort of thing. (Interview with vice-head of section, autumn 2013)

His new position only comprised part of his employment, and he emphasised that he was still conducting hearings and writing decisions alongside his new tasks. What these quotes highlight is the peculiar vision (but also "myopia", see Whyte 2011) that comes with hierarchical positions in the office. While in this particular case the vision still remains closely associated with assembling cases, there is arguably a certain disjuncture in vision between the heads of sections (and to some extent of divisions) and the upper management not directly in touch with casework. The upper management 'sees' casework to a considerable extent through statistics, as officials engaged in casework on various occasions suggested (and I discuss in sections 8.2.1–2). Aside from work statistics, it attempts to conduct caseworkers' conduct through quality charters, internal guidelines, recurrent training sessions, information emails and events, and the promotion of a good "office culture" [*Amtskultur*] (which, for instance, headlined an issue of the internal magazine of the SEM, the PIAZZA in 2015).

Inside the 'productive sections', super-vision consists of much more than seeing casework through numbers. The association between caseworkers and their heads of sections (which also refers here to vice-heads) is key for

case-making. In the sections in which I did my fieldwork, the role of heads of sections – as the word "supervision" indicates – encompassed both oversight and assistance. Heads of sections monitored case-making quantitatively as well as qualitatively, and they could be consulted in any question concerning casework. They also gave novice caseworkers written or oral feedback on their decision* drafts.

Probably the most important technique for directing the quality of casework, namely the content and form of decisions*, is the so-called "four-eye principle" [*Vieraugenprinzip*].[9] Formally, the four-eye principle implicates clearly defined responsibilities: caseworkers determine the facts of the case* and write a decision* proposal [*Enscheidantrag*]; (vice-)heads review and authorise or reject the proposal. The latter confirm with their signature that the case was processed respecting the binding quality criteria and that the decision* conforms to law, internal instructions, and the asylum practice*. In practice, it means that the head or vice-head of the section has to see important records before they are issued and confirm this inspection with their signature in the right place in the document. Such an acknowledged inspection is compulsory for asylum decisions* and some laborious and expensive mandated investigations (such as LINGUA tests and embassy inquiries). While the depth of inspection by the superiors remains off-record, their signature on the document is testimony to the document having 'passed their desk'. Additional to the mere 'control' of important records, it serves to distribute responsibility for what could be implicating serious consequences (see section 8.1.1).

The heads of section I spoke with all looked with variable scrutiny at the rulings (and other important documents) depending on the experience and (perceived) reliability of the caseworker who had written them. They had a sort of sampling system of how they picked out caseworkers' decisions to scrutinise them. The reception and processing centres used a similar system in regard to protocols of first hearings. A head of section in the headquarters employed what he called "red flags", a form of heuristic for the selection

9 Other crucial figures are relief organisation representatives in hearings who have an important function in the 'monitoring' of main asylum hearings. With the new procedure introduced in 2019, legal representatives will attend both first and main hearings and comment on decision* drafts and thus become key not only for the monitoring of hearings but also concerning asylum decisions*.

of cases, for which he always examined the decisions more closely: those of unaccompanied minor asylum seekers and single women, and of caseworkers who (in his eyes) were struggling. But, he added, how closely he would look at the decisions largely depended on his capacities and how "in form he was that day" [*seine Tagesform*] (Fieldnotes, headquarters, winter 2013/14).

In their inspection, head of sections rarely overturned the type of a decision* itself, but rather the argumentation to corroborate it.[10] As a caseworker told me:

> It's more about the argumentation, I think. That they [the heads of section] either say: the argumentation does not withstand or argue differently or more clearly, structure it differently. That's what I was blamed for two or three times: structure it differently, this won't work out like that; well, the argumentation works but build it up differently. Yes, and the argumentation [with Articles] three and seven he also told me once, I guess. Or he enquired further: why do you argue with [Article] seven not with [Article] three, that would actually be a clear three. By trend, in our section, it is not virtually a command, but it is rather – because you are the one who knows the case best – it is rather a question, why do you make it that way? And if you then can argue reasonably, then it's actually ok. Furthermore, very banal: mistakes in writing are corrected. (Interview with caseworker, autumn 2013)

Overall, the inspection of head of sections can consist of a thorough (proof-) reading and commenting of the argumentation in the decision. But the inspection may also be limited to flicking through the document and appending a signature. Most superiors acknowledged that this meant they occasionally missed something. Yet they emphasised that, like the caseworkers, they had to economise their time resources.

Importantly, this account of super-vision in the asylum office implicates that there is no "god's eye view" (Haraway 1988), neither in an administration. All vision is situated and necessarily partial – however, super-vision also implies that views may be crucially connected. In effect, super-vision also means that "life and death decisions" (Douglas 1986, 111) do not place a

10 This can be read as a sign of trust of superiors, but could also be an effect of caseworkers' anticipation of what their superiors consider the 'right' approach (for certain types of cases at that time).

heavy responsibility on the shoulders of a single human: they are always at least shared between two (well-equipped) officials – the caseworker and the superior.[11]

### 5.1.4 Re-Collecting Collectives: Meetings and Minutes

Meetings are key events for the asylum office and its subdivisions as moments in which they constitute themselves as collectives. I could participate in meetings on various occasions and in various assemblies: regular team meetings of sections, but also a range of other meetings such as information and training events and meetings to develop the practice* (for an example, see section 7.2.3). A key part of the weekly team meetings of the sections consisted of the head or vice-head of the section summarising the key issues which had been raised in the upper organisational bodies' meetings; besides, the minutes of these meetings were circulated amongst all employees of the asylum office (at least of the headquarters); and in some sections, important sections were directly copy-pasted into the minutes of their meetings.[12] Communications from the upper bodies could consist of both directives affecting casework and reporting on upcoming issues and on-going projects to inform employees about what was decided and planned 'above' and in special working groups. They could also contain upper bodies' acknowledgements of problems raised by the caseworkers themselves and actions envisaged or already taken to resolve them. Here's a glimpse of the scenery of a section meeting I attended:

> All of the caseworkers (except three) of the section are gathered in the unadorned meeting room around tables arranged in a large oval. Also present are the secretary of the section, who writes the minutes, and the vice-head of the section. Thomas, the head of section, sitting on the short end of the oval, opens the meeting and welcomes everyone. He will not comment on

11 While the four-eye principle prevents caseworkers from resolving cases single-handedly, it seems not able to alleviate the tendency that no one feels responsible for a case anymore arising more generally from the division of labour in case-making (Eule 2013; see also section 8.1.4).

12 I was thus in various ways informed about the activities of other organisational bodies (particularly the executive board [*GL – Geschäftsleitung*], the steering committee [*PILAR*] and the heads of division [*ABR – Abteilungsrapport*]).

> the minutes of the executive board's latest meeting, he says. At the management retreat [*Kaderklausur*], he briefly states, it was decided to shift bonuses from small bonuses for everybody to large ones for only a few employees. They moreover discussed leadership principles and Kristina gave an awareness-raising input on human trafficking. Bernd, a caseworker, asks Thomas how they should take the statements of the director [of the migration office] about the work of the asylum directorate regarding its production [he had expressed his concern about the low production despite considerable new staff having been hired]. Thomas responds that he [the director] is also under strain from above [Federal Council and Parliament] – he therefore had to see where one could become more productive and save time. (Fieldnotes, meeting, headquarters, winter 2013/2014)

In meetings, the sections and divisions take form: they are assembled, in every sense of the word. The bodily encounters in meetings add an experiential grasp of belonging for 'communities' which are otherwise brought to existence on organisational charts, in mailing lists and identifiers and spatial allotment in office buildings. Administrative meetings are highly scripted encounters – featuring a particular spatiotemporal arrangement, a set of agenda items to be completed, assigned roles of speech, and a particular form of textual outcome. Sometimes the scripted nature of meetings expresses itself, as in some instances, the announcement of agenda items for the meetings already have the form of provisional minutes. In these cases, the scripting and recording of meetings coincide to a considerable extent. However, I would not infer that such meetings are necessarily more strongly scripted in practice than others; rather, they more openly disclose the script of the meeting. For many parts of meetings, speech is clearly assigned. The person leading the meeting opens and closes it and guides through the agenda items. Other persons will receive the permission to speak on certain items, for which they prepared. On certain items, however, participants are explicitly asked about their opinions and assessments. Moreover, they can raise questions concerning more scripted items and concerns about issues and put things troubling them on the agenda as well. This happened in the meeting I started describing above:

On the section level, he mentions that he discussed a suggestion by Wenger [the head of division] with Carla this morning, which they should turn into a

report by, hopefully, next Monday. He does not want to say anything specific about this. But when a caseworker asks him about the suggestion, he still explicates a bit more: it is envisaged to conduct accumulative hearings[13] for Eritrea, similarly to those successfully employed for Nigeria. A murmur goes around the 'crowd'. A caseworker objects that this could have consequences for the numbers of applications filed from Eritrea, because currently their proceedings take so much time in Switzerland that they prefer to move on and file an application in Sweden. He asks whether the executive board has considered this. Thomas negates this and adds with an expression of mild sarcasm that as very often the management hasn't been concerned with this, the consequences remain uncertain.

> Kristina asks how this should actually work in practice. They always speak of improving efficiency and now: accumulative hearings. Yet for two months now they have to pick up applicants arriving for hearings in the Q6 [the main building] before going to the hearing room, which takes them about a quarter hour. If they only make one break per hearing (in the main building), this sums up to a whole hour of travel. Bernd joins in to state that this is really cumbersome. Thomas asks whether it would make a difference if applicants could register directly in the Q17 [the annexe building hosting the bulk of asylum caseworkers]. (Fieldnotes, meeting, headquarters, winter 2013/2014)

Remarkably, a silent agreement seemed to prevail in administrative meetings I attended about what parts of the meeting would be on- and off the record. Minutes are crucial, not only in public administration, for every formal meeting. But I suggest it is exactly the mundaneness as a seemingly natural artefact of re-presenting meetings which makes it worth pondering on them a little bit. The minutes are the only written recollection of meetings and bear different roles. On a first level, they serve to record organisational acts and participation. They perform organisational associations by officially yet internally transmitting news, decisions, and specifications 'from above'.

13 In contrast to the common organisation of hearings – an applicant is allotted a half-day slot with the according 'team' for conducting the hearing – in accumulative hearings, a number of applicants are invited for their hearings on the same day and then queue for their hearing to be conducted by one of the 'hearing teams'. This form of organising hearings is considered more resource-efficient, but only works for countries of origin with many applicants and rather short hearings on average (Fieldnotes).

They are both retrospective and prospective: they capture what happened and they announce what is going to happen in the office and its (relevant) subdivisions. They serve as a classifying tool to distinguish between the inside and outside of the meeting, between the said and the unsaid in relation to the record. As a textual artefact of office-making, they have an afterlife and circulate inside the office via email distribution lists and in print, and they are archived on a document server for future reference. They are important elements in citational practices within organisations (Butler 2011), performing belonging and hierarchy and enrolling participants in common action (Callon 1986). They are both intra-referential by citing earlier protocols of this collective, and extra-referential by citing protocols of others (e.g. the management board) and other sources (such as leading decisions from the Federal Administrative Court).

An analysis of my fieldnotes on the different meetings of productive sections I participated in revealed the following five recurring elements of such meetings: *awareness-raising and preparation, direction, b/ordering, lobbying, and practicalities*.[14] Meetings serve for *awareness-raising* and *preparation*. Caseworkers are introduced to the larger developments related to their work such as upcoming legal revisions, the consequences of novel legal provisions and of changes in country or thematic practice* for case-making. They are informed about mandatory and optional upcoming events on various levels of the office and beyond. Moreover, they are prepared for organisational reforms, including human resources issues which may affect their posts or requirements (e.g. agreements on objectives).

In meetings, caseworkers receive *direction* for their work as priorities are made explicit. They are reminded of principles, standards are introduced, and more. The quintessence – in the eyes of the superiors – of new regulations is enunciated. Both written guidelines and verbal heuristics are offered to caseworkers for their everyday categorisation work. Regarding the question of how to increase the output, a superior suggested in a meeting to not be overly formalistic and perfectionist:

> The superior asked for a pragmatic stance: if [considering an asylum appeal] the Federal Administrative Court asks you for a clarification on various

14 Overall, I participated in more than a dozen meetings of four different sections including the reception centres.

> points, which imply a temporary admission, you should not do the 'exercise' but make a temporary admission right away. (Fieldnotes, headquarters, winter 2013/2014)

Meetings are key sites for *b/ordering*. They provide authoritative 'readings' of what is happening. A crucial element of meetings is the qualification of performance: the output accomplished in, or production expected of, the unit. Such 'numbers talk' often offers a relational qualification – how is the performance relative to other sections, targets, or the past (including justifications for differences amongst sections or targets not reached)? Furthermore, meetings are used for the b/ordering of competence: for stating what is within and beyond the scope of sections, and relatedly the delegation of work upwards and outwards. Crucially, meetings are sites of identity formation through the mobilisation of manifold discursive *Othering* practices (see Said 2009). A difference between 'us' and 'them' is erected through the distancing of suggestions or practices of others, or blaming them for problems (see section 8.1.3). Caseworkers are sworn in to the views and approaches of this particular section, and also its established ways of coping with difficulties. They moreover learn about their superiors' taste and matters of preference. And meetings can offer some room for superiors to display their own discretion in the implementation of orders from above by instating small acts of resistance or calling for disobedience regarding measures from above they consider unnecessary or detrimental. They offer some room for joking about irrationalities of the system they have to deal with:

> The superior said with an ironic undertone that it's nice that all … employees of the migration office receive the minutes of meetings of Gattiker [the director] over email; but the important things (…) they only hear via the media. (Fieldnotes, headquarters, spring 2014)

A further key element of meetings that I identified is *lobbying*: meetings offer a common space for raising problems, for example concerning working conditions; they are also an open space for discussing or dismissing solutions. This becomes obvious in the continuation of the meeting above:

> Kristina raises the list of deficiencies she had prepared, sacrificing a whole morning, but this would probably be neglected. The security in Q17 is alarm-

> ing, she says; if the people are in the waiting room, nobody monitors them anymore. They could easily get into the main wing of the building. Furthermore, the applicants and the interpreters and relief organisation representatives are all in the same room. We don't have to do hearings anymore if they can conspire beforehand. Yet, there is a second waiting room next to it that is unused. And to add to the chaos in the corridors of the Q17, one wants to conduct accumulative hearings… Thomas apologetically chips in that the issue with the side entrance [reserved for officials] is still pending in a committee. These just are not decent working conditions, Kristina indignantly stated. (Fieldnotes, headquarters, spring 2014)

Sometimes, meetings seem to have the function of a pressure valve for caseworkers, where they can voice anger and protest and be heard.

A last aspect of meetings are *practicalities*: superiors or other caseworkers suggest workarounds to deal with everyday problems or introduce heuristics or tools for simplifying things. In sum, meetings are key sites for assembling and perpetuating communities of meaning (Yanow 2003a) by offering frames for interpretation, authoritative readings and an arena for participation and negotiation. They moreover provide means for formatting communities of practice (Wenger 2003) by stabilising classification systems through re-configuring heuristics, offering new exemplars, and defining what matters.[15]

In this subchapter, I have suggested considering the complex agentic formations of caseworkers: as 'lone', yet also crucially as 'collective warriors'. Their individuated agency takes shape through their equipment with devices for accessing and enacting (physical and virtual) space-times of case-making. Their collective agency arises, for instance, in associations of super-vision and meetings which enrol them in assemblies of case-making. For such assemblies to become agentic, however, a transcendental figure – here, the nation-state that (allegedly) delegates them the duty to resolve claims of 'applicant others' and thus authorises case-making – must be invoked.

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15 I do not discuss special committee meetings here. They occur quite rarely, but have often far-reaching consequences for case-making, as they shift the scope of notions and technologies; for instance, doctrine meetings [*Doktrinrapporte*] (re-)forming a specific asylum practice* (see section 7.2.3) or country-specific situation assessment meetings [*Lagebeurteilungssitzungen*].

## 5.2 Technologies for Assembling Cases

> Documents promote control within organizations and beyond not only through their links to the entities they document but through the coordination of perspectives and activities. (Hull, 2012, 257)

In this second subchapter, I focus on the material-discursive devices that enable casework. I follow Hull (2012a, 259), who suggested to attend to the "generative capacity" of documents, as they "are essential elements of the constitution of a vast variety of entities", in my case asylum and its subjects. Considering the material politics of asylum, I treat bureaucratic documents and other socio-technical devices as mediators, "things that 'transform, translate, distort, and modify the meaning or the elements they are supposed to carry'" in order "to restore analytically their visibility" (Latour 2005, 39). Latour and Woolgar (1979) introduced a now-famous type of mediator in their laboratory study: the "inscription device" that refers to a thing (in their case an item of the laboratory machinery) able to "transform pieces of matter into written text" (Latour and Woolgar 1979, 51). Such devices "can transform a material substance into a figure or diagram which is directly usable by one of the members of the office space" (ibid.). They thus provide simply 'readable' traces – inscriptions – of a complex laboratory experiment, which are "regarded as having a direct relationship to 'the original substance'" (ibid.), yet omit the intermediary steps of their production (ibid., 63). Such inscription devices not only exist in laboratories (Law 2004b, 7), but also, as I suggest, in administrations. However, as Law (2004b, 9) pointed out, inscription devices are not the only devices for enacting realities; thus, we "should be trying to discover and characterise what we might think of as alternative enactment devices or modes of enacting". These material-discursive devices have to be conceived as elements of governmental *technologies* which comprise "the forms of knowledge, skill, diagrams, charts, calculations and energy which make [their] use possible" (Barry 2001, 9). I thus suggest considering a range of technologies involved in the enactment of the asylum *dispositif* and their respective devices. I distinguish them according to the work they do in recording (5.2.1), inscription (5.2.2), coordination (5.2.3), and writing devices (5.2.4). They do not 'act' on their own, but mediate practices of case-making and thus crucially (re)shape the ways in which lives are recorded through the asylum *dispositif*.

### 5.2.1 Recording Devices

Governmental technologies of recording assemble and 'hold' things pertaining to a case together and allow them to speak forcefully as records [*Akten*]. Crucial technologies of recording are filing and pagination. Recording devices help transforming documents of various sorts and origin into records. Key devices for the unequivocal attribution of records to cases are, for instance, case files, numbering, and file registers. Signatures, stamps and seals render records to be the 'bearer of rules' and provide "a spectral presence" of the state (Das 2004, 250–51), i.e., one capable of re-cording lives of those they enrol.

*Figure 5: Desk with case files in the headquarters*

(Source and Copyright: Dominic Büttner)

When I first entered an office in the asylum administration, I was drawn to the omnipresent case files of varying thickness populating desks and shelves (see Figure 5). From afar, only the colourful, six-digit N-numbers protrud-

ing their covers were visible.[16] This number not only labels the envelope of the case file but also marks all records pertaining to it. It is automatically inserted in the standard letters written for the case and added by stamp or in handwriting to, for instance, materials submitted by the applicant to enter the file. Case files are often complex composites, as they hold all the federal immigration-related application files of members of a core family (spouses and minor children are bundled in the same case file) and also non-asylum files with records on immigration-related applications (for instance regarding visas, return assistance or family reunification). This means, on the one hand, that case files also circulate and become assembled partly outside the asylum divisions of the office. On the other hand, even though such additional files may not be directly relevant for the asylum application, they still mediate how caseworkers encountering the case 'see' it. Case files may grow to a size of more than one volume with second applications, applications for re-examination, or applications by different members of a core family.

In the reception centre, I received for the first time a case file to inspect and had a closer look at its composition:

> The whole morning, I plough through the seemingly interminable case file, which consists of two application files (yellow), between which an enforcement assistance/ZEMIS[17] file (green) and some loose emails and partial prints of a ruling of the Federal Administrative Court (FAC) are scattered. On the backside of the latter, handwritten headwords of argumentation fragments are listed, on whose basis the decision* will likely be assembled. They differentiate between an argumentation with Article 3 and Article 7, respectively. Means of evidence are collected in brown envelopes in the application files, which are provided with a register of their content. On the cover of the application files, the chronology of records inside is listed. Moreover, it is indicated by a code letter, which records an applicant can inspect on request. I go through the records from the back to the front, which means

16 Every numeral has a specific colour for simple recognition. The initial letter "N" has historical roots and stands for German "*Niedergelassene*" – "established person" – although this does not make much sense for asylum applicants. I was told that before the N was introduced for all foreign national dossiers in 1936, case files had a "P-number" (for German "*Person*").

17 ZEMIS is the abbreviation of the central migration information system (*Zentrales Migrationsinformationssystem*) (see also section 5.2.3).

> from the beginning to the end: records are filed in reverse chronology, with new records added on top of older ones. Thomas had asked me just not to make a mess with the content – I try my best. Roughly, the case file consists of a first application from 2011, which the Federal Office for Migration (FOM) concluded in the same year with a DAWES 32.2a and which also the FAC confirmed. About half a year after the first decision* came into legal force, the applicant filed a second application. The FOM wrote a DAWES 32.2e decision [a formal rejection of application due to previously unsuccessfully traversed proceeding without leaving the country and without new reasons]. However, in the second application the applicant had furnished two newspaper articles as fresh evidence, which the FOM had not considered substantively. The FAC therefore scrapped the decision* and determined that fresh evidence needed to be assessed substantively. In February, another hearing had been conducted by the FOM, and the decision* is now pending. The file came here to an end and so did my inspection. (Fieldnotes, reception centre, winter 2012/13)

Besides offering a glimpse into the content of this single case file, the inspection reveals a few more general aspects of case files' composition: case files are inside partitioned into files (at least one), which are again filled with records.[18] A common and fairly minimal set of records in an asylum application consists of the personal form, the triage form (a form that summarises and categorises the case and accordingly stipulates further steps of processing), protocols of two hearings, and an asylum decision*.

These records are listed on the cover of such files in the file register [*Aktenverzeichnis*] (see Figure 6), another key recording device. Already from this register, one can therefore recognise the records officially assembled in the file so far. The file register moreover indicates the stage of an application. In the file register further associations are established: a keyword characterising the record (for instance "protocol of first interview") and the acronym of the person registering records and the date are specified. Finally, a letter (A–E) prescribing whether or not a copy of the record is to be released with the decision* or in case of an application for the inspection of records [*Akten-*

18 Files for different proceedings are distinguished by their colour – yellow files containing asylum applications.

*einsichtsgesuch*] is prefixed to the record number.[19] Through this classification, some records are rendered 'out of reach' for claimants and their legal representatives outside the administration. File registers are thus recording devices that allow the things that belong to a case record to be assigned to them in a well-ordered, sequential, and referable form. They are the central devices in the governmental technology of pagination.

*Figure 6: File directory of asylum case*

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Eidgenössisches Justiz- und Polizeidepartement EJPD
Département fédéral de justice et police DFJP
Bundesamt für Migration BFM
Office fédéral des migrations ODM

Inlandgesuch

N [redacted]

Aktenverzeichnis / INDEX N

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Pers. Nr. (Hauptperson) / N° pers (personne principale): [redacted]

| Nr. / N° | Datum Eingang/ Ausgang / Date de réception/ sortie | Beschrieb / Description | Datum der Paginierung / Date de numérotation | Pag. von / Num. par | Nicht zur Edition / A ne pas produire |
|---|---|---|---|---|---|
| A1/2 | 01.09.11 | Personalienblatt Erz | 28.09.11 | Mhm | D |
| A2/1 | 02.09.11 | Dakty-Resultat | " | " | D |
| A3/10 | 28.09.11 | BAP-Protokoll | " | " | |
| A4/2 | 28.9.11 | Tiegelblätter | 29.9.11 | CPV | B |
| A5/7 | 29.9.11 | Adm. FYZ-Akt | " | " | D |
| A6/2 | 19.01.13 | BFM-Vorladung | 10.09.13 | Bgy | E |
| A7/23 | 10.05.13 | BFM-Anhörungsprotokoll | " | " | |

(Source: Fieldwork materials, winter 2013/14)

## Provisional records

Usually, not all of the documents pertaining to cases in the making are registered yet, but the newest ones are loosely assembled inside, waiting to be rendered official records. Sometimes documents' transient state is related to their unsettled status when they are not ready to be officially registered: for instance, when the control and signature of a decision* is yet missing. In this case, they end up on a pile, with the document to be checked attached with a paper-clip outside to the cover of the case file. For reasons of efficiency, documents are often only registered before the case reaches a certain stage, for instance just before they are passed on to another caseworker or section (see subchapter 6.3). Transforming provisional records into official case files

19 The legal provision regulating inspections of records in administrative procedures is found in Articles 26–28 of the Administrative Procedure Act (APA).

records occurs through a technology referred to as pagination [*Paginieren*]: it inscribes and thus stabilises the association between documents and case files; the former become records of the latter. New caseworkers are introduced to pagination work as a part of their training in the sections. A short excerpt from my fieldnotes shows how I learnt about the key distinctions to be made regarding the classification of records:

> We go with Katharina, the mentor of the new caseworker I could accompany, through the classification of records. A-records are those of "public interest", the release of which could give someone valuable clues about confidential issues and cause harm to Switzerland: one would classify an embassy enquiry or LINGUA expertise as A. B-records are internal documents, for instance file notes or triage forms; but Katharina said to us that we could also put a D in these cases if they do not provide anything new. She advocates for common sense in this respect. C-classified are records produced by other authorities, often the canton or the municipality (for instance the civil registry office), which the Federal Office for Migration receives in copy. D-records are "inessential records" (from a procedural point of view), a typical example being asylum seekers' transfer permit from the reception and processing centres to the canton. E-records, finally, are records known to the applicants: either documents or evidence submitted to the office by applicants or their legal representatives or documents sent to them or their legal representatives by the office (for instance the summons to the hearing). Upon request for the inspection of files (after the investigation has been concluded), the office provides the applicants or their legal representative with a compilation of all non-classified records in the file. Upon explicit request, records classified D or E would also be provided. (Fieldnotes, headquarters, spring 2014)

In the training, we were further given an "internal directive on the creation, management and editing of procedural records"[20] containing a long (and somewhat outdated) list of records that could potentially enter a file with the appropriate classification for each of them. During pagination, some documents are filtered out that are not envisaged for the record (such as personal notes and interview guides). While the classification of records can be challenged in the appeal court, the removal of records that could tell something

20 In German: "*Interne Weisung über die Anlegung, Führung und Edition von Verfahrensakten*".

about the considerations and events through which the case has emerged is definitive. Records' existence is at stake in such prosaic pagination practice, as Vismann (2011b, 102) rightly suggested, since "what shall be included in the records … is contested". Records' ability to speak in subsequent citational practices (Butler 2011) varies considerably. Some of the records are only able to internally whisper (through their classification as "internal" or "confidential"), but may nevertheless remain forceful in speaking for or against protection or expulsion of a claimant. Other records (such as the hearing protocols) are made to speak more publicly and are extensively cited in the asylum decision*. The classification of records thus determines where and how they are able to speak.

## Excursus: Delivery fiction

Asylum applicants are usually[21] informed about the outcome of their claim with a registered letter sent to their housing address containing the asylum decision*. The applicant has to has to confirm the reception of the registered letter with a signature on the return receipt [*Rückschein*]. The date of reception on the return receipt is crucial because it determines the beginning of the statutory period for an appeal against the ruling. If the letter cannot be delivered but is fetched at the post office, the date of collection marks the beginning of the statutory period. A copy of the doubly signed and registered letter delivering a ruling enters the case file as a record. If the letter cannot be delivered and is not fetched at the post office, the unopened envelope is returned to the asylum office. As a record in the case file, it represents a failed notification attempt. The letter is directly returned to the asylum office, for instance, if the address of the applicant is for some reason incorrect. However, if the address is correct and the letter is not collected at the post office, the letter counts "at the seventh calendar day following the unsuccessful delivery attempt as delivered" (Fieldnotes, basic training for new caseworkers, autumn 2012) – a legal construct called 'delivery fiction' that also applies if the reception of the letter is refused. The fictitious event of order delivery is recorded in the case file to induce the statutory period for an appeal. In sum, the "delivery fiction" of asylum decisions* points to an interesting difference:

21 Decisions are, rarely, disclosed to the applicants in oral form as well. (This applies potentially to all types of decisions in the reception centre but only clearly positive decisions in the headquarters.)

what *counts* as a delivery is amounts to more than what *is* effectively delivered. This legal invention resolves the problem of decisions* becoming legally effective if the applicant cannot be notified about it. It responds to the recurring problem of applicants absconding before the end of their procedure. While the significance of stamps and signatures has been widely acknowledged (see Das 2004; Hull 2012a; Mathur 2016), the delivery fiction can be considered as an example of a technique to render a provisional record 'official' without the otherwise essential signature.

### 5.2.2 Inscription Devices

What I call "inscription devices" are a rather heterogeneous set of material-discursive devices that make 'outside realities' amenable to the case. They converge in their purpose of producing what I introduced above as the "facts of the case" necessary for resolving it. But they have – as for the inscription devices described by Latour and Woolgar (1979) – the characteristic of removing the complicated procedure for their production from view. They are readable and citable in other records – most importantly asylum decisions* – but also beyond the case. Two core technologies for 'importing' realities into cases are discussed here: hearings and further clarifications. Hearings produce key records that associate the case with the applicant's life – or, more precisely, they import a particular version of lives into cases through the inscription devices called *protocols*.[22] Further clarifications produce certain supplementary renderings of 'realities out there' to be imported into cases. Such clarifications comprise linguistic tests, document checks, consultations, embassy enquiries, medical reports, and supplementary hearings.[23] Below, I will briefly introduce linguistic reports as the probably most common of these devices (an embassy enquiry and a consultation appear in subchapter 6.4). Instances of such technologies of inscription and their devices that I introduce here are (a) hearings as a form of testimonial interviews to produce protocols extensively cited in decisions* considering

22 Hearings are a typical example of a technology involving more than one kind of devices. Various coordination devices crucially script them: forms, interview guides, and so-called APPA (see section 5.2.3).

23 Further enquiries also need to be registered in the code at the end of the decision because they are statistically relevant. They thus count in a particular way and are grasped by 'coordination devices' (see section 5.2.3).

the "facts of the case" and "credibility"; (b) country of origin information (COI) that produce 'facts' about certain places at a certain times that can be compared with accounts captured in protocols; and (c) linguistic tests that produce LINGUA reports as 'expert accounts' of applicants' origins.

## Hearings and protocols

Hearings are a quintessential technique for case-making: they allow the association of cases with applicants' statements, which they both elicit and inscribe. For case-making, two hearings are standard: a first hearing conducted in the reception centre and a main hearing typically conducted in the headquarters. The first hearing is a rather structured hearing internally referred to as BzP (*Befragung zur Person*), which literally means "enquiry about the person". It consists of filling out a form with questions focusing on the person: the applicant's identification by reference to nationality, residence, age, family, identity documents and the travel route from the country of origin to Switzerland. Applicants have to briefly state their reasons for asylum as well.[24] The second, main hearing [*Anhörung*] focuses explicitly on the reasons for asylum: it is less structured – usually only conducted with an interview guide developed by the caseworker. It is supposed to leave enough room both for a "free account" [*freie Erzählung*] of the central persecution story that led to the applicant's flight. Another core part consists of the caseworkers' enquiry into any aspects of this story that appear implausible or unclear with respect to their relevance for asylum.[25] The two forms of hearings are different regarding the participants: in first hearings, usually only an applicant, a caseworker and an interpreter take part; in the main hearings, a relief organisation representative and minutes taker are also present. Both hearings are protocoled and materialise in printed form at the end. Before becoming records, they are retranslated for the applicants who have to sign each page to confirm that the protocol properly represents what they said. Finally, the caseworker and the interpreter sign on the last page. The relief organisation representative's form with potential 'objections' to the conduct

24 Caseworkers can amend questions in the form to any of the categories if they consider doing so necessary for the case. Such a first interview usually takes between one and three hours.

25 Such main hearings are – depending on the complexity of the case anticipated from the first hearing – usually either scheduled for half a day or a whole day.

of the hearing is attached at the end (see subchapter 6.2). In institutional terms, such records contain what are called "on-file facts" [*aktenkundige Tatsachen*], i.e., "fragments of written texts [that] can be used for reasoning decisions" (Affolter 2017, 48). Such fragments contain thus the bits and pieces required for case closures (see subchapter 6.5).

In the frequent absence of material proof or evidence for persecution and origin, hearings are the key technology for producing "the facts of the case" that become citable through the inscription device of the protocol (Presentation handout, basic training, 2012). In the vast majority of cases, protocols provide the crucial associations to the 'outside reality' required to resolve them. But they have another purpose: they serve to gather information which can be taken as an indication for or against the credibility of applicants. According to the basic training for new caseworkers, an essential function of hearings is thus the "production of usable statements" (Presentation handout, basic training, 2012). A range of techniques and devices are involved in this production. New caseworkers were advised to prepare main hearings thoroughly by studying previous records (certainly the protocol of the first hearing), considering the threat profile (the persecuted person, persecutor, persecution motivation, persecution event(s)), consulting country-specific background information, and developing a written interview guide. During the hearing, they need to "ensure that the applicant makes usable statements to the topics relevant for the decision" (Presentation handout, basic training, 2012). For this purpose, caseworkers were introduced to particular techniques for asking questions (e.g. moving from open-ended questions to targeted questions and, if necessary, closed questions). Hearings can be analysed in the way they are conducted as a form of testimonial interview (Scheffer 2007b). The double role of hearings as a technology for the "neutral gathering of facts" and the "production of usable statements" can be read, according to Scheffer (2007b), as the "duplicity of testimonial interviews" (see section 6.2.3). Hearings can moreover be analysed in terms of the process of "entextualisation" (Jacquemet 2011), of turning speech into text detached from the social context of its constitution. For the latter process, protocols operate as crucial inscription devices.

A crucial facet of hearings is that the 'right questions' are asked and find their way into the protocol. In the basic training, the senior official teaching the module on "credibility assessment and hearing technique" shared some of her heuristics with new caseworkers:

> It's wrong to protocol feelings. But it's good address feelings by for instance stating: "I realise that you are very amused". It's important to address 'strange' emotions. They can tip, from laughing to crying, for instance. Sometimes applicants try to overplay how affected they are by what happened: this means you should not assume someone is lying because he laughs! But have the courage to enquire – it's not bad to look stupid. In the end, it only counts what is in the protocol. (Fieldnotes, basic training, 2012)

This is just to give a glimpse of a whole range of heuristics and techniques that caseworkers I encountered have suggested regarding the conduct of hearings. I came to see hearings as a complex technology considering the knowledge and skills it takes to conduct a hearing, but also because it involves the interplay of human participants (interpreters, relief organisation representatives and minute-takers) and non-human participants (namely protocols, interview guides, computers and printers). As Latour (2005) highlighted, such participants may all have an (unforeseeable) effect on the course of such events as forceful mediators. A group of experienced caseworkers with whom I discussed questions of discretion told me in a coffee break that they think the work of conducting hearings "is highly underestimated" in the office (Fieldnotes, headquarters, spring 2014). They did not imply that their work is not appreciated, but that both the management and most caseworkers do not sufficiently admit the complexity and full scope of asylum hearings in their view.

## Country of origin information (COI)

> Imagine you have a Belarusian who says that he's part of an anarchist group and he is thus threatened with imprisonment upon return to Belarus – which counts as the last dictatorship in Europe. Then you will need country of origin knowledge: COI. (Fieldnotes, basic training for new caseworkers, autumn 2012)

The production of so-called country of origin information (COI) is a crucial technology for generating more or less generic and authoritative 'facts' against which the statements of applicants can be compared. Caseworkers may draw upon COI to "objectify" applicants' fear of persecution (Barsky 1994; Gibb and Good 2013, 292; Popovic 2005) and unmask 'bogus' accounts.

It is consultants of a specialised country analysis unit of the asylum division who produce such knowledge about applicants' countries of origin.

Country analysis, as the practice of producing any type of COI, draws upon a range of technologies and inscription devices for producing authoritative knowledge about the world 'out there'. A country analyst introduced her work in a module of the basic training. She introduced what country analysts produced: "written products" from things such as consultations for individual case clarifications, but also extensive reports about certain topics, for instance about the medical situation in a country, and more comprehensive country reports. Analysts also compile information for the internal COI database (reports, maps, statistics from other sources). She suggested that for individual case clarifications, we should first consider collecting the information needed ourselves, because analysts were often working to capacity. She gave us some advice for ascertaining the quality of sources used:

> The quality of the sources is essential. But how do we evaluate the information we find? Probably many of you still know about this from university, source criticism and the like. It's always good to compile as many sources as possible – which might be at times contradictory – and at best to consult the original source. It's always quite important to ask yourself: who stands behind it? What authority, NGO, or other entity? There are NGOs that are funded because of conflicts, they don't have any interest that conflicts are over. And then you have to know: how do they work? Do they conduct regular monitoring, fieldwork, or other research activities? Who works there? Many of the NGOs also engage in migration policy and have different views than ours from the FOM. Always read the 'about us': how is the funding, who are the partners? If there is no 'about us', that's a bad sign, as is no 'contact' [information]. It's up to you to decide what sources have a higher value. That is to be justified in the decision*. Sure, you can't always do everything; you have a lot to do – so focus on the important information! (Fieldnotes, country analyst, basic training, autumn 2012)

Her advice appears revealing in at least two respects: on the one hand, compiling COI seems to depend crucially on trusted sources – original sources and sources that disclose their methods and positionality – and to address the agendas of other producers of information. On the other hand, a high

degree of discretion seems to be involved in the selection and 'valuing' of sources. The country analyses I read were compiled from – and are supposed to balance, in the view of country analysts – various sources, including the media, government and NGO reports. They also drew on data gathered in so-called 'fact-finding missions' by country consultants (involving interviews and informal talks with various local actors). They also comprise often heavily cited COI reports produced in other countries in the EU (or in the US).

Take as an example a so-called COI-"note": this is a mid-range COI that is not case-specific, but considers a specific topic related to persecution, not the 'general situation' in a country (see Figure 7). It declares to provide answers to questions about the "situation of homosexuals in Uganda" – an issue of high topicality at the time of my research in the office. The note was addressing, according to the grey box on the front, three main questions: What Ugandan laws refer to homosexuality and what punishment do they potentially foresee for this? How are these laws applied in practice? Are there indications of persecution of homosexuals by the state or society in Uganda? The "contracting entity" for the report was indicated as the under the "Aegis [*Federführung*] Uganda" (see part on APPA in section 5.2.3). The sources cited in the note included, for instance, the Ugandan Penal Code Act, a Human Rights Watch "Update", a UK Border Agency COI Report, a Conversation with Representatives of the Ugandan Consular Agency, the BBC, and a Ugandan newspaper. After discussing the questions above in light of these sources over several pages, the country analyst provided a brief concluding "commentary" in which he provided his reading of the "situation of homosexuals" in Uganda at the time.

While such reports are usually classified as "internal", there seemed to be a tendency to extensively share COI information and reports on the EU level via the European Asylum Support Office (EASO).[26] The Swiss COI note also featured a disclaimer at the very end that declared, "The note at hand was created by the country analysis according to the common EU guidelines for the processing of information about countries of origin" (COI note, fieldwork materials, 2013).

26 https://www.easo.europa.eu/(last accessed June 2, 2020)

*Figure 7: COI note concerning the "situation of homosexuals" in Uganda*

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Eidgenössisches Justiz- und Polizeidepartement EJPD
**Bundesamt für Migration BFM**
Direktionsbereich Asyl und Rückkehr DB AR

Intern

Bern-Wabern, 8. Oktober 2012

**Notiz**

Uganda: Situation der Homosexuellen

Im vorliegenden Produkt werden die folgenden Fragen behandelt:
- Welche ugandischen Gesetze beziehen sich auf Homosexualität und welche Strafen sind dafür allenfalls vorgesehen?
- Wie werden die Gesetze in der Praxis angewandt?
- Gibt es Hinweise auf staatliche oder gesellschaftliche Verfolgung Homosexueller in Uganda?

Auftraggeber: Federführung Uganda

**1. Rechtliche Lage**

**1.1. Ugandisches Strafgesetz**

**1.2. *Anti Homosexuality Bill* von 2009**

[1] Uganda: The Penal Code Act. 15.06.1950.

[2] Human Rights Watch: Uganda: 'Anti-Homosexuality' Bill Threatens Liberties and Human Rights Defenders. ; UK Border Agency: Country of Origin Information (COI) Report.

[3] UK Border Agency: Country of Origin Information (COI) Report.

(Source: Fieldwork materials; 2013)

The "fact-finding missions" mentioned above are now often conducted in collaboration between country analysis services from different European countries as well. This indicates the increasingly significant networks in which the knowledge practices of COI have to be situated. However, the information generated in networks of immigration authorities does not necessarily remain in these. As Rosset and Liodden (2015) found in their analysis of a recent Danish COI report on Eritrea:

> Even though conclusions may be heavily disputed, we observe the ways in which the Danish [Eritrea] report began to take on 'a life of its own' in the

> international sphere. Information that can legitimise restrictions seems to be picked up very quickly, especially by political actors with a populist and/or anti-immigrant agenda. (Rosset and Liodden 2015, 29)

While COI usually are inscribed in reports, they may also take the form of presentations. During my fieldwork, I was invited to, and attended, such presentations on several occasions. Furthermore, COI and country analysts are not the only sources of knowledge to associate narratives with the spatiotemporal 'realities' of persecution on the ground. Caseworkers may themselves have incorporated such 'knowledge': an academic specialisation such as Middle Eastern studies, or work experience in a country or region of origin – or they may rely on co-workers who are 'experts'. They may also consider interpreters' evaluation of dialects of claimants or their insider knowledge in the evaluation of purported flight motives. This means that interpreters are not only crucial mediators of the communication in asylum hearings (see Latour 2005, 135), but they are moreover important sources of knowledge as 'language or cultural experts'. Interpreters' subjective evaluation of an applicant, their comments or objections may in turn trigger further clarifications (see also Noll 2005; Scheffer 2001), such as linguistic tests. In practices of case-making, information about the countries of origin neatly blend with official COI, incorporated knowledge (from expert to hearsay), and what the interpreter says. Only in written accounts authored in decisions* does the citable 'information' of inscription devices of country analysts trump other forms of knowing: "states of conviction" (see Chapter 7) have to be turned into reasonable resolutions.

## Linguistic expertise

For considering applicants' eligibility to asylum, identifying their nationality is essential. This poses huge difficulties since, as Torpey (2001, 269) notes, "a person's nationality simply cannot be determined without recourse to [passports and other identity] documents. As an ascribed status, it cannot be read off a person's appearance". In many cases, applicants do not provide such documents, which means that the identification of claimants in the asylum procedure poses considerable challenges.[27]

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27 Papers are not provided for various reasons I cannot detail here. In the hearings, applicants often say that they lost their identity and travel documents on the route or did not

In the absence of documents, caseworkers either draw on technologies of linguistic expertise (see Eades, 2009) or country of origin questions (see section 6.4.1) to associate applicants with a country of origin (which is equally the country to which they are potentially deported). For linguistic expertise, caseworkers in the asylum office can commission so-called "LINGUA tests" to inscribe the linguistic and cultural context of socialisation of claimants. In such tests, external experts interview claimants on the phone and evaluate their speech and knowledge. They ask questions about culture, local habits, prices of goods, places, schooling, or politics and analyse linguistic specificities of the interviewees' vocabulary and expressions. Then they write a confidential report for the migration office that contains meticulous descriptions of their analysis and an assessment of the likelihood of socialisation in the purported country of origin or an alternative. LINGUA tests are relatively costly and laborious but are favoured by many officials because they are considered more objective than non-expert questions in the hearings:

> The LINGUA analysis is of course great, because you can, depending on the language, say really precisely where people come from: this means from which area, less from this and this city. Depending on the dialect they have, this is quite the safest possibility, because you cannot necessarily fake the dialect when speaking. (Interview with caseworker, autumn 2013)

LINGUA tests are thus quintessential inscription devices of asylum case-making: after a complicated and – for non-linguists – untraceable procedure, they provide caseworkers with a simple tick response to their question of origin. Figure 8 shows the example of not "definitely" but at least "most likely from: Sierra Leone".

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take them from home. A common explanation by caseworkers for the largely absent papers is that applicants fear to be sent back (more easily or quickly) if they provide papers.

*Figure 8: LINGUA expertise form*

Confidential – Not for editing

**Expert** [redacted]

I have written the following expertise* concerning the area of socialisation of the named person on request of the Federal Department of Justice and Police (FDJP) and through the scientific unit LINGUA. According to my working contract I am obliged to fulfil this assessment as an independent specialist, working in a confidential manner and not responding to any kind of directives. My work with LINGUA undergoes continuous quality controls.

**Expertise**

**Applicant**

File/Dossier number: N [redacted] Personal number: [redacted]

Other references:

**Basis for analysis**

☐ Telephone conversation on Length: Min.

☐ Videoconference on Length: Min.

☒ Recording on [redacted].2012 by [redacted] Length: 45 Min.

**Areas of analysis**

The determination of the area of socialisation has been based on

☒ analysis of the knowledge of the country and its culture.

This analysis examines important domains relative to the experience and the knowledge the applicant has of the geographical area and/or socio-ethnical background he claims to come from.

☒ linguistic analysis.

This analysis examines the applicant's language(s)/dialect(s) in terms of phonology, morphology, vocabulary and other features.

**Result**

The analysis allows me to state that the predominant socialisation of the applicant took place within the following geographical area and/or socio-ethnical background:

☐ definitely:

☐ definitely *not*:

☒ most likely: Sierra Leone

☐ either:

or:

* According to Swiss procedural administrative law (VwVG; SR 172.021) the expert's result equals an expertise. An expert is a person who, due to his/her specific knowledge, is directed by the competent authority to analyse the applicant and must impart the knowledge resulting from the analysis to the authority. The result will be put to protocol orally or be the subject of a written report (Art. 12 Bst. e VwVG).

(Source: Fieldwork materials, autumn 2013)

Such tests, however, are not obtainable for all countries and may not deliver clear results in every case. According to an internal instructor, they are only advisable in cases in which their outcomes are decisive for the case. But if used, they become crucial evidence – and arguments (see subchapter 6.5) – in support of or against an applicant's purported origin. They extend the scope of defining and inscribing 'origin' in effective, recordable ways. They authorise associations of applicants to the state they fled according to their performance of knowledge and speech linked with it as a space of socialisation. Of course, one could object that they have at least two major pitfalls. Firstly, spaces of linguistic and cultural socialisation rarely coincide with national territories, and these spaces are becoming increasingly hybrid (see Pieterse 1995). Secondly, they build on a notion of sedentarist socialisation which is not congruent with the migratory trajectories (Garelli and Tazzioli 2013, 1014) and potentially multi-local livelihoods (see Thieme 2008) of many

claimants. However, these 'problems' usually do not limit their effectiveness as inscription devices that provide crucial associations to resolve cases.

### 5.2.3 Coordination Devices

Technologies that allow for the coordination of practices of asylum case-making are a further crucial form to be analytically distinguished. I suggest considering technologies of coordination to make sense of how practices become orientated "toward some kind of good that delimits the reality taken into account" (Thévenot 2002, 75–76). I draw here on Thévenot (2002) who introduced the notion of coordinating devices to grasp complex pragmatic conventions. Conventions in his terms do not refer to "collective agreements", but to "nothing more than a limited agreement about selected features people use to control events and entities" (ibid., 83n18). They thus render different perspectives and approaches (see section 8.1.2) commensurable by generating a sort of minimal agreement about what exists, what is inconvenient, and what irrelevant for case-making – they are a form of heuristic that has materially stabilised in a device and transport particular classifications for practices of case-making. In my view, administrative guidelines and forms, but also digital interfaces, can be understood as such coordinating devices. They are all supposed to coordinate and align events and entities of case-making to some extent, but do not imply (nor allow for) complete alignment. Such devices thus coordinate case-making by formatting work in certain categories of governing asylum (see subchapter 8.2).

Forms should not only be considered as the ubiquitous inscription and writing devices they are, but also as quintessential *coordinating devices* of case-making. On the one hand, forms coordinate much of the interaction with asylum seekers who have to fill such forms to make themselves legible and/or their applications formally submitted (e.g. Gill 2014). On the other hand, forms are excessively used inside administrations to render the production of records both more efficient and considerations selective. I introduce two different types of forms in PART II: the first is a personal data form, filled out by those seeking asylum in reception centres, which coordinates the registration of applicants-with-cases (in subchapter 6.1; see also Gill 2014), the second a triage form filled out by caseworkers in the reception centres after the first hearing coordinating a case file's further trajectory

through the processual events of case-making (see subchapter 6.3).[28] In this section, I will instead concentrate on two other types of coordination devices crucial for case-making: asylum practice* guidelines, so-called APPA and digital and analogue databases.

## Asylum practice* and APPA

The asylum practice* is – as the name indicates – a technology for coordinating practices of asylum case-making and thus stabilising the *dispositif*. As a senior suggested in the basic training:

> At work: read Article 3 and keep the refugee convention in the back of your mind – however, it is not written there in black and white who counts as a refugee according to current case law. (Fieldnotes, senior's recommendation in basic training for new caseworkers, autumn 2012)

Who counts as a refugee and how certain types of cases are to be approached thus cannot be found in the law itself but are rather a matter of knowing the asylum practice*. Asylum practice* combines a discourse about how things are to be done for certain types of cases with codified, authoritative knowledge of internal guidelines. More specifically, asylum practice* becomes internalised through heuristics and exemplars (see sections 4.2.3–4), is written in internal guidelines, and conveyed, or performed, in institutional events such as recurring internal training sessions and information meetings. The latter are particularly important for making caseworkers and seniors aware of changes in the asylum practice* of a certain country or domain. Rare but crucial events are those concerned with defining the terms of changes in a practice* (see section 7.2.2 for an example of such an event).

The asylum practice* materialises in internal guidelines – or coordination devices – called APPA,[29] an acronym composed of the German and

28 See also section 8.2.2 for an account of how case trajectories may be affected by a non-legal, calculative "kind of good that delimits the reality taken into account" (Thévenot 2002, 75–76).

29 APPAs for countries of origin are internally also referred to as the "country practice"*. This country practice of each country is under the aegis [*Federführung*] of a head of section and one or two caseworkers of this section. The documents outlining the practice – APPAs – only exist, however, for countries of origin from where a significant share of asylum applicants emanates. The documents can be downloaded from the internal COI database

French terms *Asylpraxis* and *Pratique en matière d'asile*, respectively. APPA is used simply as an abbreviation for asylum practice. APPA guidelines contain specific "guidelines for practice", which namely outline what persecution scenarios are well-known in a specific country of origin (similar to operational guidance notes (OGN) in the UK; see Gibb and Good 2013, 298–99). They also indicate potential obstacles to removal, possibilities for identification measures (e.g. LINGUA tests or document analyses) or crucial considerations to take when cases fall into a specific thematic domain (e.g. gender-related persecution). APPAs are crucial devices of coordinating case-making in legal-pragmatic terms, not least because of their authoritative character: the compliance of caseworkers with these APPAs is regularly evaluated. A caseworker emphasised this authoritative character when I asked him about 'different approaches' that caseworkers tend to develop in case-making:

> Researcher: Do you realise, if you work together with other people, that everyone has a slightly different approach?
> Caseworker: Yes, of course. But then, very much is prescribed by the country practice*. For instance, I can't just say I have the feeling a Bahai in Iran is not persecuted. Here the country practice* just tells me, no, he is persecuted. Then you only have to see whether that is credible that he is persecuted due to his religious affiliation or not. And when I say, I have the feeling that a Pentecostal in Eritrea does not have any problems, then it says in the APPA, sure, he has a problem (laughs). Then I cannot value that myself, I just have to look, is it credible or not, that is what I can still determine. But it's a lot that is predetermined in this respect, your leeway is not huge, right? Because you have… the people who determine the practice, these are like neuralgic points, which can dictate a lot of things.
> (Interview with caseworker, autumn 2013)

Hence, APPAs partially align 'slightly different approaches' of case-making by 'evoking' certain constellations of persecution that caseworkers cannot simply ignore. A senior once formulated this more positively when I asked

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*KOMPASS*. Additional to the country doctrines, thematic doctrines exist for important topics such as gender-related persecution, family reunification, or exclusion from asylum. These are assigned to *Federführungen* as well, where the heads of section in turn have the competence for suggesting changes in the doctrine. This has been read as a form of "bottom up" policy-making (see Miaz 2014).

him about the role of APPA: he said they primarily provide clues to what you need to pay attention. For instance, he continued, the APPA of Iraq contained information about how the persecution of Yazidi had highly intensified in the last years and questions which had to be clarified in this regard.

Guidelines such as APPA thus format case-making by outlining 'real' scenarios, which have to be considered. They provide clues for asking the right questions in hearings and state possibilities for further clarifications. They work towards the establishment and maintenance of a *practice* doctrine* to facilitate that similar claims are evaluated alike. This is, besides the effort to compile and maintain them, why they are only considered worthwhile to establish for countries of origin such as Eritrea, Syria or Afghanistan, which a larger share of the workforce has to deal with. For these countries of origin, caseworkers could draw on an APPA that was regularly updated to the latest developments. At times, new APPAs had to be compiled, as for instance in the case of Syria: As the share of Syrian applications was very small when I started my fieldwork, no APPA existed. When applications from Syria started to rise slowly and then from mid-2013 onwards even drastically increase, a doctrine was established and codified in an APPA (see excursus).

## Excursus: APPA Syria

During my last period of my fieldwork in the headquarters, I attended a meeting between the head and vice-head and two caseworkers of a section who had the joint lead [*Federführung*] regarding Syrian asylum practice* in the office. Syrian applications had constantly risen and about 2000 were pending at that time. Syrians had increasingly claimed persecution in relation to the military service (desertion or conscientious objection). The meeting was about a "practice decision" concerning these types of claims: how should they be treated, what needed to be considered, and what did that mean for their resolution? In line with my duties of data protection (see Chapter 3), I will – instead of stating what was decided – introduce some of the crucial questions that were addressed in the meeting:

> Was the envisaged practice change in line with the practice* of other key European countries, to avoid a 'pull effect', but also not to stay 'too far

> behind'?[30] [A table distributed amongst the participants outlined the practice* of such key countries.] What different persecution constellations could be sensibly differentiated? [A document outlined a possible solution.] This led to questions like: What people were concerned? Should a difference be made between deserters and conscientious objectors? Could the supposed differences in drafting practices based on religion or ethnicity justify a different treatment in practice? Should a temporal boundary for the evaluation of such cases be erected to distinguish between those who fled before the civil war began and those who fled during it (for whom consequences could be considered to be more severe)? What forms of evidence were relevant for persecution constellations? What were their legal basis and consequences (asylum, exclusion from asylum, temporary admission)? What distinctions were reasonable based on what was known about the draft practice of the regime? What distinctions could be practically achieved based on applicants' testimony and pieces of evidence? What standard of proof was to be applied in credibility assessments? What to do about central pieces of evidence that could be easily forged? (Field notes and documents, spring 2014)

The answers to these questions implicate what Thévenot (2002, 70) called "orders of worth" or pragmatic conventions of evaluating what shall count as persecution and what legal consequences this shall have.

The participants of the meeting discussed some of these questions intensely until they arrived at a conclusion. After the meeting, the head of the section had to defend their suggestion for the new practice* in a high-level meeting with the senior management of the office. After it was accepted there, the APPA was updated accordingly, and a scheme outlining the persecution scenarios and the crucial distinctions to be made was provided to the caseworkers by email and introduced at an internal meeting in the headquarters.

## Digital databases and interfaces

Digital databases and interfaces are additional and increasingly significant types of coordination devices. Their scope goes far beyond simple digital storage and retrieval. They crucially format the coordination of practices

30 This indicates that identifying and incorporating 'best practice' examples strongly informs 'national' practices of governing asylum.

of case-making by enabling certain forms of (super-)vision. Crucial for case-making is the central digital migration database called ZEMIS (*Zentrales Migrationsinformationssystem*).[31] The senior official who introduced ZEMIS to new caseworkers and me declared it to be "one of the most important work tools" [*Arbeitsmittel*]. He said it serves to "map our work and provides the basics for [writing standard] letters, which we can extract from it" (Fieldnotes, basic training for new caseworkers, autumn 2012; see also subchapter 6.5). One could moreover find the procedural state of a case file in ZEMIS to "see what has happened until now" (ibid.). He mentioned that access rights to sections of the database vary and thus "we do not see everything". There are various other authorities – such as the cantons and the FAC – whose agents also have (partial) access. Importantly, he also highlighted that the management and controlling of asylum case-making is solely based on what is in ZEMIS: "ZEMIS is the basis of statistical analyses, controlling and strategic decisions in the asylum domain" (Handout, basic training for new caseworkers, autumn 2012). Thus, for the management, logging case-making in ZEMIS brings it into existence and makes it calculable and governable. By consequence, ZEMIS operates as the most crucial mediator between the centres of calculation (see section 8.2.1) and those doing casework.

How does data about case-making enter the database? While caseworkers in the reception centres have writing rights in ZEMIS's proceedings section, caseworkers in the headquarters do not. This is the task of a special unit in the migration office, the DSDE (*Dienst für Sachdatenerfassung*), which stands for "service for the registration of technical data". Caseworkers send them special forms for adding persons to a case file or registering the completion of a main hearing; asylum order templates already contain numeric codes on the last page indicating the transactions concluded by them. A copy of the last page of outgoing rulings is delivered to the DSDE for registration.

What vision of case-making does ZEMIS offer? It lists the asylum permit history which includes an overview of the distribution process, i.e., the allocation of the applicant to a canton. The most interesting part for case-making is the section about the state of the proceeding. Importantly, ZEMIS reveals the location of the physical case file, which can be a collaborator in any section of the SEM, the FAC, the archive, but also, for instance, the Federal Intelli-

31 While at the time of my fieldwork it did not yet contain actual records of cases, their incorporation as 'e-case files' [*eDossier*] was close to being launched.

gence Service. If the case file is located in the asylum office, ZEMIS indicates the (acronym of the) official in charge of the proceeding. Here, a case file can be ordered or transferred to another official. "Over the years you'll know all the acronyms by heart" (Fieldnotes, basic training for new caseworkers, autumn 2012), the instructor said with a smile. The responsibility for correct registration lies with the person transferring a case file. Only the insertion of case files into (and removal from) the archive is automatically registered.

Altogether, a large and intricate assembly of different devices – software, hardware, delivery devices, forms and codes – and people populates the analogue-digital interface of the asylum *dispositif*. Its operation is fraught with peril, and a small defective update of software can lead to a breakdown of myriads of working processes, as I witnessed several times. For instance, all the affected members of the administration were repeatedly informed about breakdowns and malfunctions of the infrastructure per email. A search through my emails revealed that during one year of observation (autumn 2013 until summer 2014), IT infrastructure problems of varying severity and duration had occurred every few weeks. Both the Single-Sign-On (SSO) portal for accessing all databases (including ZEMIS) and ZEMIS itself broke down several times completely; moreover, on one occasion the electronic records and process management interface GEVER (*elektronische Geschäftsverwaltung*) and recording PT (Personal Time) were temporality interrupted, the new e-case files[32] could not be accessed and all printers in the network went offline. A particularly persistent malfunction occurred at the interface connecting ZEMIS and the word-processing program, which is crucial for capturing data in all records to be written. It meant the applicant and editor data were merged inaccurately in the documents over more than four weeks. According to Latour (2005), it is exactly in such events of failure that the crucial mediating role of devices for practices becomes visible, which is otherwise taken for granted. On such occasions, processual events of case-making (see Chapter 6) were interrupted, suspended or became at least more complicated. And they frequently forced caseworkers to improvise (see Jeffrey 2013) and to find workarounds for the technological devices' failures.

32 As indicated above, e-files are supposed to replace analogue case files in the asylum office in the long run. At the time of research, they represented merely a sort of digital appendix to the analogue case files in the main procedure. In the test centre of the State Secretariat for Migration, however, e-files have already become the new standard.

In sum, I have suggested here that databases and interfaces operate as crucial coordinating devices for asylum case-making. On the one hand, they format those who assemble cases, such as caseworkers, sections, divisions, or the whole office; and they capture output, working time, availability of caseworkers, and further data. On the other hand, they format what is assembled by listing case events and their outcomes, linking case networks, and registering case files' assignment for processing and their physical location. Overall, these devices stabilise a certain powerful vision of the assembler, the assembly and what is (re)assembled through the *dispositif* and are thus profoundly entangled in the ways in which asylum is governed.

Both types of coordinating devices introduced here – APPA and digital interfaces – assemble a particular perspective on asylum case-making. These perspectives imply certain values or "orders of worth" (Thévenot 2002) by coordinating what counts – as persecution (APPA) and as work (ZEMIS). Coordinating devices have thus a crucial impact on how cases are approached, not only by conveying a certain agreement about what 'counts', but equally "a common acceptance of what is … irrelevant" (Thévenot 2002, 83n18).

### 5.2.4 Writing Devices

Technologies of writing are crucial for case-making as they are not only involved in the production of most records of cases, but allow for cases' resolution in written letters.[33] I suggest that the associations to record asylum cases are to a considerable extent preassembled in writing devices such as forms, database queries, standard letters and boilerplates. I focus here on the latter two: Standard letters and boilerplates are key "writing devices" (Callon 2002) that are amongst the organisational "tools for managing complexity" (ibid.) and allow for (the illusion of) "collective writing".

More than four hundred standard letters populate the server in the SEM and they reflect the classification of legal avenues available for case-making

33 Darling (2014) provided a detailed account of how letters (from the Home Office in the UK) become crucial mediators of the relationships between the state and asylum claimants and create particular atmospheres and encounters in a drop-in centre for asylum seekers. In contrast, I consider letters here from the perspective of the sender, of those issuing standardised letters to give instructions to asylum applicants or convey decisions.

(Bowker and Star 1999, 10–16).[34] Standard letters are thematically organised in internally accessible folders labelled with a code number and a few keywords. The Microsoft Word program used has an interface to the ZEMIS central migration database installed, which allows caseworkers to automatically insert case-specific data (such as name, address and dates) into a standard letter and also add information about the caseworker editing it (such as identification codes, name and head of section).

If there is no standard letter for a certain purpose and caseworkers have to write their 'own' letter, they still format the letter to appear as though it were a standard letter. As a caseworker told me, for a case we were discussing, that he composed a letter for the DNA test of the Angolan family the day prior and that it had cost him the whole day. No standard letter for this existed, so he said he had to write something that looked like a standard letter. This example suggests that a standard letter with its particular format not only makes work more efficient, but is moreover a key tool for coordinating administrative production: writing in the name of the state seems both to require a certain aesthetic and a performance of impartiality in written representation. This is mediated through prefabricated documents and document parts – or alternatively through the imitation of their visual and linguistic appearance.

Boilerplates [*Textbausteine*] are prewritten paragraphs that can be inserted at the relevant position in standard letters and (if necessary) adapted to the case at hand. They arguably shape the 'realities' of how to argue in a decision*:

> Interviewer: And for the argumentation [in a decision*], what possibilities do you have, what room for manoeuvre?
> Caseworker: Hmmm. We have lots of text modules, that is, boilerplates already written, which are sometimes specified for countries or some kind of assertion or so. And then you have to adapt them of course. Or you sometimes have to subsume under them what was asserted to you [by the claimant]. Or if for instance some module on credibility says this and that assertion contradicts the common logic of action, then you yourself have to argue why this is the case. But like that you have a somewhat more concrete yardstick

34 Each letter exists in the three administrative languages of German, French and Italian, which makes about 1300 standard letters altogether.

> to measure it [the assertion] against. And for the countries, you partly have even more concrete things. (…). That's quite convenient [laughs].
> (Interview with caseworker, autumn 2013)

According to this quote, what caseworkers consider they can 'argue with' in asylum decisions* is crucially mediated by the "boilerplates already written". These are not only "quite convenient" for decision*-writing, but offer a yardstick for how to argue regarding certain assertions. The most widespread ones formulate an official reading of legal articles and provide framings to argue with them in an asylum decision* (see subchapter 6.5). Usually, such boilerplates alternate in legal syllogisms with case-specific readings thereof.

Standard letters and boilerplates in the database have to be constantly updated to changes in law and policy. In the basic training, new caseworkers were warned that outdated boilerplates exist, and were asked to always check their content for timeliness. But it turned out that not only outdated, but also 'wrong' standard letters and boilerplates exist. In a conversation, a caseworker recounted how she once probed the legal relation established by a standard letter that she wanted to use:

> Caseworker: Often, they rejected applications for reconsideration [of asylum claims] and then charged a fee of six hundred Francs. And then, I just had a closer look at this. I looked into the law on administrative procedures and looked whether there is case law on this. Then I realised, when it comes to legal aid, Article 65, paragraph 1 on the relief of procedural costs and paragraph 2 on legal representation free of charge … this is actually not possible: you can't say first, it [the application for reconsideration] does not have 'any prospect of success', enter into the substance of the case, and thereafter charge a fee – since if it had had 'no prospect of success', you would have not been allowed to enter into the substance of the case in the first place.
> Researcher: Yes, this is contradictory [we both laugh].
> Caseworker: Yes, but there is a standard letter, where it is written like that, then it must be possible; just because some 'fool' has once written this. This is damn great, you just have to enter the N number [of the file] and it writes the letter all by itself, you just have to adjust the argumentation a little.
> Researcher: But how should you find out what applies? I guess for many people the understanding and interest in how things look behind the curtain lacks, doesn't it?

> Caseworker: Totally, if there is a STAD [abbreviation used for standard letters], then it has to exist. But now there exists a standard letter which is just wrong, obviously.
> (Interview with caseworker, autumn 2013)

Such 'wrong' standard letters are certainly rare. But they reveal the potential influence of inconspicuous "writing devices" in co-producing realities and mediating practices of governing asylum (see Callon 2002), where a legally inexistent connection can become unquestioned standard practice. Such connections, in turn, entail reassembling applicants' accounts in terms that may or may not be contested later on (in an appeal, for instance) and capture them in a peculiar association with the state. Yet, as the example of standard letters shows, the re-cording of applicants' lives enacted in writing decisions* is partly black-boxed by such technological devices at work (see also Murakami Wood and Graham 2006, 186).

From a perspective of case-making, standard letters and boilerplates crucially mediate what legal pathways are perceived to exist and what consequences they have. For many constellations, they offer a shortcut of how a particular constellation is translatable into legal text and action. They provide a standard response to problems which caseworkers are expected to – and usually gladly – pursue. Boilerplates offer a tested textual bridge to associate the specific case to the general practice for all or certain types of decisions; standard letters and other templates are devices that enable caseworkers to act in a scripted manner and advance the case on its trajectory to resolution. At the same time, they document work as they return into the case files as testimonial records of these actions (Vismann 2011b, 102). In short, they are crucial, yet hardly acknowledged, mediators in the governing of asylum. As is the case with many technologies, their mediating role becomes particularly visible if they fail (Latour 2005, 39). And they are implied in an uneven 'account-ability' – an ability to account for – between those engaging in writing and those subjected to it:

> We must not forget that collective action is always tyranny. It is a tyranny of the past acting on the present and the future and a tyranny of those who write acting on those who are permanently excluded from writing. This is the other side of the management of complexity: the domination of those who

> have access to the tools without which management would not be possible. (Callon 2002, 214)

This tyranny of collective action – the vastly uneven agentic formations of those equipped with devices for managing the complexity of asylum applications and those subjected to such devices' effects in asylum encounters and the records that are re-cording their lives – is also a crucial feature of governing asylum.

# Summary PART I

In Part I, I introduced a set of material-discursive associations that make casework possible. First, I described associations for 'knowing' what asylum casework is about, namely through policy, legal, and organisational framings; and legal devices, classifications, and ways of 'knowing asylum' through heuristics and exemplars. Second, I presented associations for 'doing' asylum casework and thus "act[ing] in the name of the state" (Gupta 1995) – namely positionality and membership devices, techniques of super-vision and re-collecting collectives; and key devices that mediate particular facets of the work of assembling cases like recording, inscription, coordination, and writing devices.

In terms of the asylum *dispositif*, I argued that it becomes stabilised – and is in a way constituted – in material-discursive associations such as those introduced in Part I. First, I provided insights into some crucial framings of the asylum *dispositif* which allow caseworkers to situate their practice – and ultimately to make sense of the various rationalities that inform them (see subchapter 8.2). I suggested some of the ways in which the governing of asylum is crucially entangled in the "relational politics of (im)mobilities" (Adey 2006) underlying much of Swiss (and European) migration policy. I turned to the evolution of asylum law and highlighted some important 'constants' of much legislative activism of the last decades, such as the acceleration of procedures and the deterrence rather than legal protection of asylum seekers. I further situated practices of case-making in an asylum "office on the move" (Fieldnotes): an administration that went through various reorganisations in the last years, and at the brink of a substantial restructuration of the Swiss procedure.

Considering knowledge practices involved in case-making, I suggested that they all converge in the need to resolve asylum cases in administrative

orders called decisions*. I provided a glimpse in the basic notions of arriving at this decision*: the facts of the case* and the considerations*. The production of the facts* involves the evaluation of evidence and conducting of hearings with applicants. The writing of the considerations* involves argumentation in terms of (at least) two core provisions of Swiss asylum law: the refugee definition (Article 3) and credibility (Article 7). I have suggested that how to resolve cases in these terms requires essentially practical knowledge which can be usefully thought of in terms of heuristics and exemplars. Heuristics, as embodied rules of thumb (Gigerenzer 2013), offer crucial simplifications of the complex legal and organisational conceptual landscape. While heuristics 'boil down' law and policy to its pragmatic 'essences', it is only through caseworkers' encounters with concrete cases that they start 'making sense' of the terms of governing asylum. Such concrete cases operate as exemplars in a Kuhnian (1967) sense, as they exemplify the meaning of abstract theories and concepts. In the interplay of heuristics and exemplars, caseworkers develop a sense of how to best navigate new cases they are supposed to (partially) assemble or resolve.

I have furthermore cautioned against taking agency for case-making for granted, but instead considering the intricate and indeterminate "agentic formations" in which the asylum *dispositif* becomes (re)assembled. Such agentic formations entail that caseworkers – who are both indivisibly human *and* well-equipped and assembled in larger collectives (at least the nation and the office) – become enabled for case-making. Equipment, on the one hand, serves their incorporation in collectives of case-making; on the other hand, it provides them with the material-discursive 'means' for case-making. I have introduced crucial equipment for incorporation, such as membership devices (including keys, badges and smartcards) that allow caseworkers' bodily and virtual access to and circulation in the space-times of case-making. Super-vision and meetings can be considered technologies for assembling and enacting particular collectives of case-making (superior-caseworker super-vision for case resolutions; or meetings for, for instance, enrolment in calculative collectives).

In the last subchapter, I introduced some crucial technologies for making cases in such assemblies. I suggested distinguishing between technologies and material-discursive devices in terms of their capacities of recording, inscription, coordination, and writing. For instance, I suggested that the technology of pagination and devices of file registers enable the inclusion

and exclusion of documents as records in case files, indicate the procedural stage of a case, and limit the release of records (by, for instance, classifying some as internal or confidential). I considered hearings as technologies of inscription by enabling the selective import of 'realities of the applicant's lives' into the case. In this view, protocols are crucial inscription devices for turning situated dialogical events into textual records detached from the social context of their constitution. An important technology of coordination that I introduced is the asylum practice*. Asylum practice* guidelines, called APPA, crucially mediate how applicants are encountered by formatting 'realities of flight', for instance, in terms of (ir)relevant persecution scenarios. When it comes to technologies of writing, I introduced crucial writing devices for assembling decisions*: standard letters and boilerplates. These not only make writing practices more efficient, as I suggest, but become crucial mediators for the legal and argumentative pathways caseworkers consider to exist.

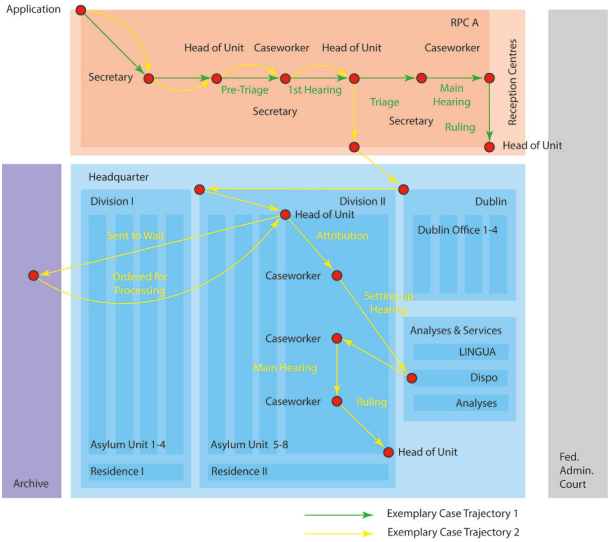
In Part II, I turn to the pragmatics of governing asylum: the situated practices and considerations of case-making.

# PART II – Enactment

Part II focuses on the pragmatics of case-making. After having become equipped to assemble cases towards their resolution, caseworkers in the asylum office meet cases in a number of events along their trajectory (see Figure 9). It is in these events that the asylum *dispositif* is enacted: brought to life and to having an effect on people's lives. To recall, the *dispositif* refers to the associations between the heterogeneous set of technologies, ways of knowing and people that gather around the problematisation of asylum and produce its multiple objects as well as its subjectifications and spatialisations. Case-making is thus key for producing the difference between the protective and exclusionary spaces of governing asylum. I suggest to analytically distinguish five "processual events" (Scheffer 2007a) of case-making:[1] openings (6.1), encounters (6.2), assignments (6.3), authentications (6.4), and closures (6.5). In each of these processual events, crucial (dis)associations are produced for cases to become resolvable. For the purpose of my account of them, they are roughly ordered between cases' openings and closures, but may occur in different order and several times along a case's trajectory of assembling.

1 The notion of "processual events" captures that case-making occurs along a process of the legal-administrative ordering, but that it equally is shaped by the coincidental, indeterminate conjunctures of situated events of their assembling (see also Chapter 2).

*Figure 9: Case trajectories and processual events of case-making*




(Own illustration)

Following Mol and Law's (2002) suggestions of how one might attempt to do justice to complexities, my account should not be considered a classification of the pragmatics of governing asylum that tries to catch everything, but rather a form of list, which "expresses a refusal to make an order, a single – simple – order that expels complexity" (Mol and Law 2002, 7). Such a list does neither claim to be comprehensive nor to give equal weight to its elements – it juxtaposes them and leaves them provisional. Furthermore, my account is to some extent performative and not explanatory: it does not remove, order or comment the 'details' of case-making, but often just offers a sort of landscape of (re)presentations of case-making for the readers to walk through. The rather particular form of my account of the pragmatics of case-making thus reflects my attempt to preserve some of the complexity of enacting the asylum *dispositif*. My account begins with my arrival at one of the two crucial places of processual events which cases usually become assembled: a reception centre.

# 6. Case-Making

## Prelude

It was a cold and sunny winter morning when I travelled to the Reception and Processing Centre of the asylum office located at the fringes of a small provincial town for the first time. From the train station, asylum seekers and I alike were led to the reception centre by yellow signposts marked with BFM (*Bundesamt für Migration*, the Federal Office for Migration) next to the hiking signs.

I followed them through the underground crossing and further through the residential area of single-family houses that were interspersed with a few old farmhouses. When I first arrived at the centre, the building and its setup struck me. Adjacent to a sizable parking lot, a large, aged, block-like building appeared with an open stairway on that side and doors on the ground, first and second floors. The patina of the concrete building left a somewhat run-down mark on me. Still guided by the signposts, I passed the parking lot and headed for the main entrance, a larger glass door adorned with the insignia of the Federal Office for Migration (FOM). Suddenly, I found myself at the security gate in the entrance area with a reception counter behind a hole in the wall on the right side and a black man waiting on a chair on the left. A man who looked Maghrebi argued with a security officer at the counter. I could not really follow the conversation, but I heard the applicant explain something in French and the security officer give instructions regarding departure in German and broken English. After the applicant left, I wanted to defer to the waiting man, but he waved aside. I reported my appointment with the head of the centre at the counter whereupon I was asked to pass the gate. Accompanied by the security officer, I walked from the noisy and cramped wing of the building that houses asylum applicants to the strikingly deserted and silent office wing of the FOM restricted by locked doors. We

passed a few empty offices and meeting rooms until we arrived at a kitchen area where I met the head of the centre, who was drinking coffee with three or four other officials at the table.

For the next few months, I could work in a rarely used, small office on the first floor of the building next to that of the head of the centre and his deputy. An intriguing feature of the reception centre, it appeared to me over and over again during the time of my fieldwork there, was its juxtaposition of housing and office spaces. They were separated by a sort of semipermeable membrane of locked doors that produced an extraordinary atmosphere of both proximity and distance for those assembled. It was this membrane that separated people's lives, rhythms and destinies which could in many respects not be considered further apart;[1] yet these different 'populations' of the centre also encountered each other in hearings or in the vicinity or the corridors of the building. This was one of the most marked differences to the offices at the headquarters, where asylum applicants only visit for scheduled main hearings. This Part tells a story not so much of the applicants and their lives in the asylum procedure, but of the records of case files that come to speak for them in processual events of case-making. And the initial processual event of opening cases usually takes place at a reception centre.[2]

## 6.1 Openings

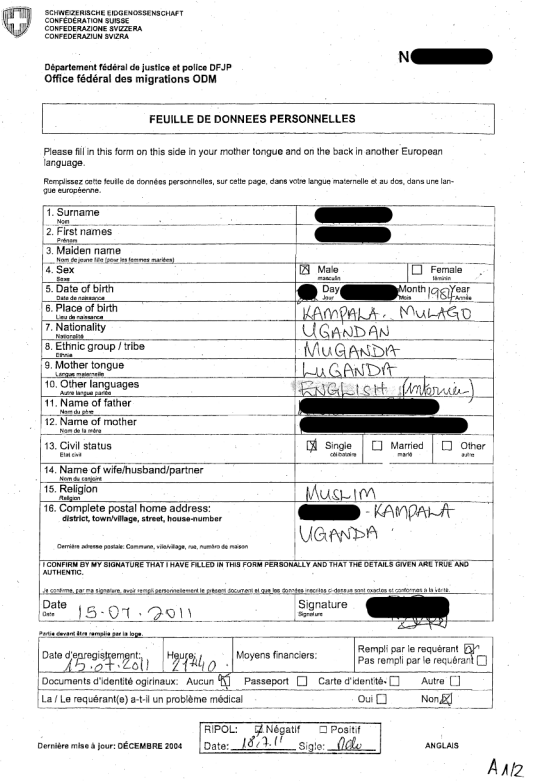
In this subchapter, I trace some of the case-making practices that are concerned with the opening (or, occasionally, non-opening) of a case. Most of the practices of case-making in the asylum office involve case files going forth and back between caseworkers and the secretaries who are in charge of many of the routine writing, filing and assignment tasks of cases-in-the-making. Yet it is neither of them, but security guards at the entrance gate who do the

1 Without elaborating on these differences here, I can still allude to some: legal status, security, occupation, life experiences, and perspectives.

2 Applications can also be filed at the international airports of Zurich and Geneva. While the airport procedure does not concern a significant number of applicants and has not been included in the research (in 2014, for instance, 19,111 applications were filed in the five reception centres, 257 at the airports of Zurich and Geneva; SEM, 2015, 12-3), it is nevertheless an interesting case for its liminal space of waiting zones (see Maillet 2016; Maillet, Mountz, and Williams 2018; Makaremi 2009b).

first assembling work of new case files. They ask people applying for asylum to fill a "personal data sheet" (in their mother tongue on the front side and in a "European language" on the backside). The form contains fields for the applicant's names, birth date, place of origin and residence, nationality, ethnic and religious affiliation, languages, and parents' names (see Figure 10). After the applicant fills it out, a security guard has to fill the bottom part containing important first clues for further case-making.

*Figure 10: Personal form for asylum applicants*



SCHWEIZERISCHE EIDGENOSSENSCHAFT
CONFÉDÉRATION SUISSE
CONFEDERAZIONE SVIZZERA
CONFEDERAZIUN SVIZRA

N[redacted]

Département fédéral de justice et police DFJP
Office fédéral des migrations ODM

FEUILLE DE DONNEES PERSONNELLES

Please fill in this form on this side in your mother tongue and on the back in another European language.

Remplissez cette feuille de données personnelles, sur cette page, dans votre langue maternelle et au dos, dans une langue européenne.

| | |
|---|---|
| 1. Surname / Nom | [redacted] |
| 2. First names / Prénom | [redacted] |
| 3. Maiden name / Nom de jeune fille (pour les femmes mariées) | |
| 4. Sex / Sexe | ☒ Male / masculin ☐ Female / féminin |
| 5. Date of birth / Date de naissance | [redacted] Day / Jour [redacted] Month / Mois 1981 Year / Année |
| 6. Place of birth / Lieu de naissance | KAMPALA. MULAGO |
| 7. Nationality / Nationalité | UGANDAN |
| 8. Ethnic group / tribe / Ethnie | MUGANDA |
| 9. Mother tongue / Langue maternelle | LUGANDA |
| 10. Other languages / Autre langue parlée | ENGLISH (informal) |
| 11. Name of father / Nom du père | [redacted] |
| 12. Name of mother / Nom de la mère | [redacted] |
| 13. Civil status / Etat civil | ☒ Single / célibataire ☐ Married / marié ☐ Other / autre |
| 14. Name of wife/husband/partner / Nom du conjoint | |
| 15. Religion / Religion | MUSLIM |
| 16. Complete postal home address: district, town/village, street, house-number / Dernière adresse postale: Commune, villa/village, rue, numéro de maison | [redacted] - KAMPALA UGANDA |

I CONFIRM BY MY SIGNATURE THAT I HAVE FILLED IN THIS FORM PERSONALLY AND THAT THE DETAILS GIVEN ARE TRUE AND AUTHENTIC.

Je confirme, par ma signature, avoir rempli personnellement le présent document et que les données inscrites ci-dessus sont exactes et conformes à la vérité.

| | |
|---|---|
| Date / Date 15.07.2011 | Signature / Signature [redacted] |

Partie devant être remplie par la loge.

| | | | |
|---|---|---|---|
| Date d'enregistrement: 15.07.2011 | Heure: 21h40 | Moyens financiers: | Rempli par le requérant ☒ Pas rempli par le requérant ☐ |

Documents d'identité ogirinaux: Aucun ☒ Passeport ☐ Carte d'identité ☐ Autre ☐

La / Le requérant(e) a-t-il un problème médical Oui ☐ Non ☒

Dernière mise à jour: DÉCEMBRE 2004

RIPOL: ☒ Négatif ☐ Positif
Date: 18.7.11 Sigle: Ade

ANGLAIS

A 1/2

(Source: Fieldwork materials, 2013)

A first important date for the procedure, the date of entry, is put on the record. Two important distinctions are already inscribed here: between those who submit and those who do not submit original identification documents; and

between those who indicate a medical problem and those who do not. If any declaration of this form becomes questioned later in the procedure, the tick in the right field regarding whether the form was "filled independently" or with the help of someone else – "not independently" – can be decisive. Financial means of applicants are noted on the form and, if exceeding a certain amount, confiscated.[3] Furthermore, as most records in bureaucratic procedures, those of the asylum procedure usually come with handwritten credentials, initials or a signature (see Das 2004). Besides this, at the time of my fieldwork, applicants who did not submit original identification documents had to sign the "orange sheet". It stipulated, in the form of an ultimatum, to submit "legally sufficient" travel or identity documents within 48 hours. These forms can be considered *performative* by telling asylum seekers what to do, giving information and submitting documents (Gill 2014). But they are also *formative* of asylum procedures in important ways, as Gill (2014, 223) has pointed out: "They insist that the asylum seeker collects about them a set of materials without which they are not recognized as complete".

The security guard also takes the first fingerprints, the "2-F", of two fingers, for comparison in the national databases.[4] Then the material case file is literally opened, a still very thin plastic sleeve with only the filled identity form and in most cases a signed orange sheet in it. It next arrives in the inbox of the secretariat, where the next steps occur. The secretary, Vera, introduced me to these:

> Vera fetches the case files of those admitted yesterday from the designated stack. She looks at the 2-F fingerprint hardcopy generated from the fingerprints the gate already fed into the database.[5] On this hardcopy one can see whether the person is on an international wanted list, whether she or he already filed an application before, whether there is a Swiss Border Guard report and whether the person applied for a visa in Switzerland and received

3 The threshold was an equivalent of CHF 1000 at the time of my fieldwork. Applicants received a receipt for the assets seized.

4 The "10-F" fingerprints of all ten fingers for the international database are only taken later.

5 The fingerprint entries can be retrieved from the *Automatisiertes Fingerabdruckidentifizierungssystem* (automated fingerprint identification system, or AFIS), a German system on which also EURODAC is based.

> one (to be evaluated in the EVA[6] database). This information was already transmitted to Bern, so Vera now has received an email from the division for Data Exchange and Identification (D&I). In this email, the PCN (Process Control Number) is indicated and various things are listed: whether a ZEMIS case file already exists for the person in question, whether the person was subject to an entry ban – for instance, if an arrest warrant has been issued for the person on RIPOL[7] – and whether the person has applied for a visa. If the latter applies, the visa application is attached to the email and has to be printed now and added to the case file.

What fascinated me about these practices related to case openings to which Vera introduced me was how many (dis)associations need to be established only to open a case. Many databases had to be queried about potential ways in which applicants had previously been re-corded to the asylum *dispositif*. It already reveals some of the ways in which digital and analogous writing and querying technologies for producing records interlock and require coordination, and the respective devices required to do so. This excerpt also testifies to administrations' obsession with acronyms, which are part of the office's vernacular and make it hard for a non-initiated person to understand who and what is involved in the assembling work.

> Vera orders the material case files according to their MIDES[8] number. Under the flag "Overview entries gate", MIDES shows a digital list of the new entrants which are necessary to process. Therefore, Vera checks for every case file and whether the information in MIDES entry corresponds to the one in the identity form or identity papers (if available) registered by the gate. Then she copies the first and surname and searches ZEMIS to check that there is not already an existing case file. If not, she carries out the input of the application in ZEMIS by selecting "new entry" in the MIDES interface. She prints

6 EVA, in German *elektronische Visums-Ausstellung*, is a digital system for the processing and documentation of worldwide visa applications for Switzerland. In early 2014, the central visa information system (C-VIS) that is connected to the EU-VIS of all Schengen states replaced EVA.

7 RIPOL stands for the French *Recherches informatisées de police* and is the Swiss federal search system of the police.

8 MIDES is the information system of the reception and processing centres and at the airports. Its own interface is connected to the central migration database ZEMIS.

> two copies of the official entry sheet generated: one for tacking to the entry sheet of the gate and the other to put into the clear plastic display box on the case file front to identify the case file from now on until the triage.[9]

Case-making obviously involves numbering and sorting: if applicants' bodies are associated with a case file through fingerprinting, the records are associated to it through numbers, particularly the so-called "N number" (see section 5.2.1). This N number is either stamped or written on all the records and displayed in bold letters on the case file sleeve. Associations between case files and their digital database counterparts have to be equally univocal. Vera thus does her best to make sure that the information on paper and in the database correspond and that the case file is the first to be opened for that person.

*Figure 11: Extract from applicant's potential "hits" in different databases*

Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Eidgenössisches Justiz- und Polizeidepartement EJPD

**Bundesamt für Polizei**

N [redacted]

**Erfasst:** 02.09.2011 05:42:59 / 39943 **Mutiert:** 02.09.2011 13:40:32 / 64773 **Auftrag-Nr.:** 1420509

**Meldung Header**

**Search Type:** 10F
**Name:** [redacted]
**Vorname:**
**Geb. Datum:** 01.01.1956
**Daktyort:** BS1+
**Delikt/Daktygrund:** 8500200000 / Asylgesuch

**Sex:** F
**Nationalität:** Somalia
**Dakty-Dat.:** 02.09.2011

**PCN:** [redacted]

**Meldung von IPAS**
No Hit

**Meldung von ZEMIS (Asyl)**
No Hit

**Meldung von IPAS-GWK**
No Hit

**Meldung von EVA**
No Hit

**Meldung von EURODAC**
Eurodac SRE NOHIT message

SWISS TESTING
STS 511

(Source: Fieldwork materials, 2013)

A further crucial, if ubiquitous, technology for case-making has also been indicated above in the example the "official entry sheet": the *printing* of documents. Printing is how most records materialize in the first place: as forms

9 The processual event of the so-called 'triage' is introduced in subchapter 6.3.

to be filled, as records of lists (as in this example) to be distributed to agents or filed, or (as discussed below), as protocols of hearings. And what does not materialize is fleeting: maybe remembered, but not durable and citable and thus not able to make a difference in the case (Law 2009).[10]

> Vera puts a sticky note onto the case files for which a report exists with the abbreviation "GWK" (*Grenzwachtkorps*, or Swiss Border Guard). These reports are automatically ordered with applicants' fingerprint registration at the gate and usually arrive per email in the afternoons between 3 and 4 pm. They are then allocated together with the 10-F fingerprint digests in the case files. The 10-F digests emanate from the EURODAC database and reveal, amongst other things, the "Dublin hits" (see Figure 11). If someone is on a "wanted list", this is mentioned in the D&I email. In such cases, the reasons for the search have to be retrieved from the AFIS [automated fingerprint identification system] and filed in the case file. If someone is already registered in ZEMIS, she or he already went through an asylum procedure. In these cases, Vera prints the procedural history from the ZEMIS interface, which represents which procedural steps took place when and by whom and when they were terminated. She orders the paper case file in the digital order form on ZEMIS. The case is then held until the existent material case file arrives, usually the next day.
> If someone is subject to an entry ban,[11] according to the information of the D&I email, then a yellow sheet has to be put into the clear plastic display box on the case file front which states in large, capital letters: ATTENTION!!!!! PERSON BLOCKED IN ZEMIS. ENTRY BAN. DATA MUST NOT BE CHANGED.
> Offences registered in IPAS[12] are listed with a number which refers to the offence. In the case file at hand, the applicant had committed an "offence" in

10 An interesting question about the materialisation of records is how it is impacted by the increasing digitalisation of case-making, particularly with the planned introduction of e-case files in the restructured procedure (from 2019 onwards). Of course, digital records also have their particular materiality, but one that is quite different from paper records. Some caseworkers with whom I talked about it hinted at the possibility of still printing important records such as protocols to "work with them".

11 Entry bans are, for instance, ordered for violations of the statutory period for departure or for the disruption of public order (communication with senior official, SEM).

12 IPAS (from the German *informatisiertes Personennachweis-, Aktennachweis- und Verwaltungssystem*) is the information system of the Swiss Federal Police for personal data and file verification.

> the canton of Basel-Stadt of an illegal stay and filing an asylum application. Vera sarcastically remarks that according to this database, "filing an asylum application is already an offence in Switzerland". The Swiss Border Guard can order an entry ban of up to three years. But the request for asylum is always stronger than an entry ban or a warrant, and this is why the asylum application will also be processed in such cases, she tells me.

Two things are notable about labelling applicants as being subject to an entry ban. First, databases have usually been designed to offer only specific possibilities to differentiate between categories of a classification system. This is why, in the example, not only an illegal stay but also filing an asylum application appears in the 10-F listing of database entries as an "offence" [*Delikt*]. Such labels (that to the best of my knowledge vary between the cantons making these entries), however, are not 'innocent' even though they tend to disappear behind numbers as in the IPAS. They seem, on the one hand, expressive of the pervasive public discourses of abuse and criminalisation regarding people seeking asylum. On the other hand, they are performative in that they suggest to the officials encountering case files containing such lists that the applicant has in fact committed an offence (see Dery 1998). However, as Vera reveals, officials may be – and quite often are, in my experience – reflective of shortcomings of the technologies they use, including such lists. Second, not only processing steps, but also their suspension, can be ordered: as in the case of entry bans, it is boldly announced on the case file with a yellow sheet that "data (about the person) must not be changed" – neither in the information system ZEMIS nor in the case file – and thus nothing about the current application is to be recorded or become traceable.

### 6.1.1 Non-Openings and Re-Openings

Opening cases may not only be suspended but altogether revoked, as this example Vera and I accidentally encountered reveals:

> One D&I email states that the Federal Office for Migration would determine (in the Reception and Processing Centre) by Tuesday morning [the next day] whether the applicant could stay [in the reception centre and the asylum procedure]. Vera says she will discuss this with Ramona, her superior. If the transfer abroad to the Dublin state responsible for him dates back less than

> six months,[13] then he will be sent back to the canton which is responsible for the enforcement of the expulsion order. She checks. For the applicant at hand, this dates back one or two days short of six months; therefore, she will probably have to send him back to the canton of Tessin. To be sure, he could wait for only two days and then would have to be admitted. Vera thus asks Ramona, who regards it as a "borderline case": she would keep him here, but Vera should ask Uwe [a senior caseworker] as well. So, Vera calls Uwe. I can follow the conversation because the phone speaker is on. She explains the circumstances to him: that she had a borderline case, a Somali who arrived on the weekend with medical problems. Uwe first sounds sympathetic – "yeah, if it is only one or two days, we could just keep him here". But then he suddenly changes his view and starts to argue that this must be a rather difficult case, a Somali applicant with an application for re-examination. "And these days we have enough work, don't we? It says (in the regulations) 'more than six months', right, and if he arrived on Easter, it must be three to four days rather than two." Vera objects that he only arrived on Easter Monday, which makes two days less than six months. Anyways, Uwe concludes, "this is indeed close, but we did not have a lot of work with it so far, right?" She should "send" him. Immediately after this phone call, Vera calls the security guards at the gate and says, "you can send him … because of the Dublin procedure". She sends me down to the gate to fetch and shred the man's papers and documents.

I was quite surprised to learn how case files that seem already opened can get simply erased if a few numbers do not match up. In the example above, the two secretaries interpreting the regulations opted for still taking the man seeking asylum in and opening the case because, pragmatically speaking, he might be back two days later and they would have to do it then. But the principled senior caseworker had more weight in this decision and decided to stick to the rule. 'Borderline cases' are generally indicative of how caseworkers and other officials interpret the scope of legal and organisational categories. But I got the feeling, in this example as well as in others, that such decisions often dangle on a string and a momentary mood may topple them: if Uwe followed his first impetus of 'yeah, if it is only one or two days' with-

13 Applications for re-examination of Dublin cases that were transferred to another Dublin state within the last six months are not considered (Fieldnotes, reception centre, spring 2013).

out starting to think about what work the case could bestow on him (or the centre), he would have allowed the man seeking asylum to stay and the case to remain existent. Overall, cases seem to linger in a liminal state for the first days: their opening may still be reversed and their existence as a case (and thus their presence in the centre) revoked. Another secretary told me vividly about the possibility of erasing cases on the way to the centre:

> As for them, we pretend we don't know them. As soon as the administrative office [the secretariat] has established this [recent transfer to another Dublin state], they are kicked out [of the centre], their applications and [asylum] papers shredded, as if they had never come here. There are no traces left. (Fieldnotes, reception centre, spring 2013)

Openings are thus processual events that are not solely instigated by the persons claiming refuge, but depend on the existence and form of past associations to the *dispositif*: associations younger than six months can lead to the rejection of the claim and the – legally sanctioned – non-opening of the file. Openings are thus about disassociating who must remain a 'seeker' of asylum from who becomes an 'applicant'.

Furthermore, the basic training for new caseworkers already made clear that re-openings of cases are quite difficult to classify concerning the competence of the two asylum instances in Switzerland, the SEM and the FAC. A senior official explained the cumbersome considerations:

> If the FAC has dealt with the matter and rejected an appeal, then you always have to refer it [the renewed application] to the FAC as a potential application for revision. (…). You have to substantiate in the letter to the FAC why the competence is with the FAC and not with the SEM. The better the substantiation, the higher the chances that the application stays in St. Gallen [where the FAC is located]. In the FAC they are not very keen to get more work either. Thus, you exert yourself for the substantiation. (…). In case a medical report is submitted after a decision* became final, the FAC tends to read this as a simple application for reconsideration (a simple WEG [*Wiedererwägungsgesuch*], for which the SEM is competent) and assumes we are competent. In my opinion, however, it is – if the health condition has not significantly changed – a qualified application for reconsideration or an application for revision. There are

> cases that oscillate two or three times between the FAC and the SEM [until it is determined who is competent]. (Fieldnotes, basic training, autumn 2012)

Classifying cases as applications for reconsideration (simple/qualified) or applications for revision is thus a tricky business. Introducing caseworkers to the considerations necessary took a whole module in the basic training. This short insight into such considerations moreover indicates that cases may always become re-opened for some reason, for instance a medical report submitted after the cases' putative closure.

A more frequent distinction to be made when cases are opened is that of competence between states of the Dublin agreement: is it a case Switzerland is responsible for according to the Dublin agreement, or can the case be simply closed again as another state is responsible?

### 6.1.2 The Dublin Track

A crucial distinction for cases' openings is whether they are going to end up on the "Dublin track" or in the national procedure. The Dublin agreement states that asylum seekers can only claim refuge in one of its signatory states, (technically) the state of first arrival (ORAC 2014, 2). This is intended to prevent so-called "asylum shopping" (Ajana 2013b, 582) and to identify states responsible for processing asylum applications. A fingerprint "hit" from another country in in the EURODAC database indicates such an association to another Dublin state.[14] This means that the case file ends up on the Dublin track: it is forwarded (usually after the first hearing) to the Dublin section of the asylum office for further processing.[15] The Dublin track changes the timing and spacing of case-making – Dublin cases will be processed quickly and usually be resolved in the reception centres and Dublin offices. Furthermore, it changes the key considerations in case openings, particularly if the

14 There is an expiration date of fingerprints in the Dublin system: the fingerprint data of "irregular border crossers" is erased from EURODAC after two years, that of asylum seekers after ten years. Moreover, data is immediately erased in case a foreign national receives a residence permit, has left the territory of the EU, or has obtained citizenship in a EU country (EUR-Lex 2010).

15 Dublin decisions make up a substantial share of decisions taken in the asylum office: of about 27,000 first instance decisions taken in the office 2017, about 8400 were Dublin decisions (Asylum Act, Art. 31.a 1b; see commented asylum statistics, SEM 2018b).

likelihood of the case taking the Dublin track is high. This is determined in the so-called "Dublin triage". A senior caseworker of the reception centre explained to me:

> [The Dublin triage] is mainly about finding out whether we can conduct a shortened first hearing. This is the case if an applicant fulfils one of the criteria listed on this form [the Dublin triage form]. We introduced this [form] here [in the reception centre] because it is not always necessary to make comprehensive hearings (…). One example is the 'DubEx' – sure-fire [*todsichere*] Dublin cases – for which the Dublin procedure is started even before the first hearing. All DubEx cases have shortened first hearings, but short first hearings are not limited to DubEx cases. (Fieldnotes, reception centre, spring 2013)

He continued to explain to me the detailed considerations for non-DubEx cases being suitable for shortened first hearings. The "sure-fire Dublin cases" were those with a recent hit – and equally those applicants had demonstrably resided more than five months in another Dublin state before entering Switzerland.[16] It is important to know that, at that time, a considerable part of cases were potential Dublin cases – the head of the reception centre estimated that about 70 to 80 per cent of the cases were forwarded to the Dublin Office for evaluating another Dublin state's (most often Italy's) competence. The senior caseworker above said that all cases were "fed into Dublin" [*im Dublin eingespiesen*] if only the "slightest clues" for a previous stay in another Dublin country existed. Of course, not all of those cases were ultimately resolved on the Dublin track: Italy rejected many Swiss requests.[17] Then they ended up in the national procedure and their asylum eligibility was evaluated here.

While applicants were not informed about the database queries and their outcomes (introduced above), the issue of Dublin competence was raised in almost all first hearings I attended. Applicants were asked the 'Dublin ques-

16 During the time of my research, a significant number of applicants had received a temporary residence permit [*permesso di soggiorno*] in Italy that was sometimes still valid.

17 For some time, Italian authorities left many requests unanswered within the prescribed period. This meant, according to the Dublin regulation, that Italy became responsible for these cases (see Regulation (EU) No 604/2013 and section 8.3.2 for a discussion of how authorities, including the Swiss, tend to relate to such regulations strategically).

tion' – "What speaks against a [potential] return [to a Dublin country]?" – in what was legally a "right to be heard" [*rechtliches Gehör*] at the very end of first hearings.[18] As a caseworker explained:

> Sure, some know it before anyway. They know, I have a 'hit' in Italy, so I have to return to Italy – so let's get it over with, right? And then, if you ask them, I mean you read this little sentence to them, the right to be heard for Dublin, which no one understands anyway – we hardly understand what it means – then they ask: what does that mean now? (Interview with caseworker, autumn 2013)

As this caseworker highlighted, while some applicants did not react to or maybe had anticipated the Dublin question, it sometimes sparked incomprehension, fears or irritation. Caseworkers face applicants who have never heard of Dublin and others who have a 'wrong idea' of it. They often use the occasion to clarify its meaning and consequences, as this example shows:

> Where did you stay in Belgium? – In a camp near C. (…) [He shows it on a map.] – You are well versed in Belgium! – I had been almost sure that I would get papers in Belgium. But in the Belgian decision* said that I could have also received protection in the Ukraine. Thereafter I had to leave Belgium. – Have you already heard of the Dublin procedure? – I have heard about it. But I also know that if I tell the truth in Switzerland and can prove it, then my application will be examined. – That's not exactly true. I will enlighten you: Your application is in the competence of Belgium. Other [European] countries will therefore not go into your application. Only if Belgium would not agree to a transfer, Switzerland would look at the application. That's why I asked you whether there are reasons that speak against a return to Belgium. – In Belgium there are two parts of the country, the French and the Flemish one: they have a totally different asylum practice. That's completely incomprehensible. I had the same reasons for asylum as my brother [who had been granted protection]. – As I said I cannot comment on the Belgian procedure. Belgium

18 The Charter of Fundamental Rights of Citizens in the European Union states in Article 41a the right to good administration: "the right of every person to be heard, before any individual measure which would affect him or her adversely is taken". Article 29.2 of the Swiss Constitution grants the same right ("Each party to a case has the right to be heard").

> will be asked whether they agree to a transfer. – I don't want to be transferred to Belgium. I will end up on the street there. – I cannot guarantee you that you can stay in Belgium, only that it is responsible for your procedure. Even if the application was processed in Switzerland, you could receive a negative decision – it would only mean that Switzerland examines your application. (Fieldnotes, reception centre, spring 2013)

At this point of the procedure, it is – except for in DubEx cases – usually not yet clear whether the other Dublin state, in the case above Belgium, will take the applicant back. Not only must the Dublin track thus be considered, but also other possible pathways to a case's resolution.[19]

Considering the processual events of opening asylum cases, it has appeared that many pragmatic considerations revolve around questions of Dublin competence. Databases of biometric data and technologies of re-cording bodies in terms of Dublin thus crucially mediate openings and further trajectories of cases-in-the-making (see also Amoore, 2006). Fingerprints become, once scanned and registered in the database, material associations that tend to capture applicants in terms of Dublin. They tend to "haunt" (Mountz 2011b, 119) those seeking protection in governmental encounters along their further potential journey (Griffiths 2012b, 724). But applicants are not simply subjected to this facet of governing lives through bodily re-cording them: they too have tactics for *preventing* identification. Many adopt tactics of "identity stripping" to prevent liberal states from figuring their identity or itinerary out (Ellermann 2010, 410–13). Applicants sometimes go as far as mutilating fingertips to make their fingerprints indecipherable (ibid., 425) and thus dissociating themselves from former re-cords. Examples of such tactics were also mentioned in the reception centre where I did research. But re-cording lives in terms of Dublin becomes even more contingent as states adopt tactics to avoid competences by not taking fingerprints of undocumented migrants arriving at all or by experimenting with at what stage they take fingerprints (see also section 8.3.2). And they moreover attempt to require countries with overstrained administrations to take cases back by assuming that they will not reject these requests in the appropriate time frame. By consequence, fractured and contingent associations of com-

19 The considerations of the Dublin office in which cases on the Dublin track become further assembled have remained unexplored, as I did not conduct fieldwork there.

petence (and thus, potentially, protection) are produced in such contested practices of re-cording lives in terms of Dublin.

## 6.2 Encounters

Asylum hearings are likely the most researched facet of asylum procedures both on the level of asylum administrations and of courts of appeal.[20] Studies have particularly focused on various aspects of language and communication in asylum hearings, namely cross-cultural misunderstandings (Kälin 1986), the crucial and complicated roles of interpreters in hearings (Dahlvik 2010; Kolb 2010; Pöllabauer 2005; Scheffer 1997), the linguistics of intercultural "crosstalk" (Jacquemet 2011), the "entextualisation" of asylum interviews (Blommaert 2001b; Jacquemet 2009; 2011; Maryns 2005) and the related discursive "production of a constructive Other" (Barsky 1994; see also Blommaert 2009). These studies provide at least two key insights that are relevant for my endeavour. First, they highlight that the production of written accounts of persecution narratives are far from straight-forward because of the difficult communicative setup of asylum hearings. Second, they point out that interpreters are far from neutral intermediaries, as is often suggested in institutional framing, but rather crucial mediators (Latour 2005, 39) of such hearings that crucially affect the communicative production of hearing protocols.

In my analysis, I set a slightly different emphasis by exploring the assembling work taking place in processual events of encounters.[21] I am interested in the ways in which various participants are involved in producing accounts and records that thereafter allow for the necessary (dis)association in the further course of the procedure. I show that both the stabilisation of encounters and their materialisation is laborious and remains to some extent unpredictable. The asylum encounter cannot build on pre-established associations except those few mentioned in the subchapter 6.1. This calls a

20 In Switzerland, generally no hearings take place in the court of appeal, the Federal Administrative Court. Appeals are purely written procedures. But in many other countries, procedures in courts involve hearings as well (for instance in France, the UK, or Canada).

21 Notably, my notion of encounters is a little different from Gill's (2016). It does not foreground "morally demanding encounters" (ibid., 16), but rather refers to the situated and embodied meetings of caseworkers and applicants.

number of strategies and participants into action as a remedy for settling this shaky relationship and for assembling the associations required for re-cording lives in terms of asylum.

A key aim of encounters is to establish and stabilise the fundamental association between the applicants' lives and their cases. This association is primarily established through the applicants' verbal (self-)representations in hearings that materialise in the record: the hearing protocol. Both the authenticity of identity affiliations and persecution narratives are unascertained and need to be established through a performance deemed credible or material evidence. In practice, the former means producing a number of experiential accounts and descriptions associable (later on) with 'verifiable' bits and pieces (often country of origin information, or COI). I highlight here only a some of the important associations drawn for this purpose, and sketch out a few dissociations.

The hearings in which I participated namely highlighted the crucial role of associations that (1) mediate between what is on and off the record, (2) format narratives in ways conducive for their citation later on, and (3) allow for the spatiotemporal anchoring and ordering of applicants' accounts. Hearings moreover revealed the preoccupations with other objectifying associations, namely with what are considered facts and evidence (see also subchapter 6.4). But they also pointed to the difficulties of achieving key *dis*associations based on hearing protocols: interviewers are urged to disassociate the experiential from the generic, the possible from the impossible, and the relevant from the irrelevant. For it is the records – hearing protocols – that are supposed to speak in the name of the applicants outside the situated encounters of their (co)production in further processual events of case-making.

### 6.2.1 Recording Lives

I sit on a chair behind Leo, a caseworker, in one of the Swiss reception and processing centres. He is conducting a first hearing with an asylum applicant, Amadou, a young man speaking the Western African language Peul. The fourth person in the small office is Babacar, the interpreter. Leo is writing the protocol of the hearing using a template on the computer. I can see that he has a window open with Google Maps and an intranet page of information about Mali as a country of origin. As the hearing unfolds, it turns out that Amadou was born in Mali, but grew up in Senegal and only returned to Mali

> as an adult. His mother was Malian, his father Senegalese, but he says he has only Malian citizenship. As this is revealed, Leo tells me with a low voice: "It is always difficult, if you have two countries." In a short break after the first part of the hearing, Leo explains to me that he believes Amadou is from Senegal, but "at the moment it just pays off to be from Mali". (Fieldnotes, reception centre, spring 2013)

This empirical example provides a glimpse into a first hearing in an asylum procedure in the Swiss administration. This encounter reveals, first, that distinguishing and fixing spaces of origin is essential in asylum procedures, yet that this is potentially difficult and contested; and second, that a number of mediators – an interpreter, but also Google Maps and internal COI – are involved in this mundane yet crucial event for the applicant's case. And the caseworker's comment that "it pays off to be from Mali" hints to the political geographies that the governing of asylum is involved in producing (see also section 8.4.3). I will take up this case again below and in the subchapters on authentication (6.4) and closures (6.5) to illuminate how spaces of origin as one crucial facet of applicants' identity are addressed in hearings and beyond.

The main hearings take place sometimes weeks, sometimes years after the first interviews. They centre on the applicants' accounts of persecution, namely the essential episodes that led to their flight. They involve the probing and questioning of elements in these episodes that appear unclear or contradictory. But they may also entail clarifications on the statements of the first interview, for instance on identity papers or travel route. I turn to an empirical example of a main hearing:

> Iris, an experienced caseworker, has already conducted the first hearing of Yassir, a claimant from Sudan. Shortly before the main hearing, she explains to me what she prepared. The other participants – the interpreter, the relief organisation representative and the minute-taker – are already assembled in the office. The minute-taker sits in front of the desk with a computer screen on it; the others sit around a rectangular table. I sit on a chair in the back of the room. Iris's office is full of closed filing cabinets. On one, cubicles and stacks of case files pile up. Next to it, I see toys, a fly swatter, and fruits. Opposite the door, the sun shines through a large window, in front of which plants are blooming. The wall behind the seat reserved for the applicant is painted in a warm yellow colour. A sunset picture printed on three canvases decorates it.

Next to the applicant's seat towers a huge laser printer. On the wall behind Iris, a large whiteboard is covered with slips of paper, on one of which the catchy phrase "Statistics are the mathematical form of lying" is written in bold letters. Iris tells me she compiled a list of issues with open questions to be addressed based on the first hearing (she prints the sheet with the questions for me):

Papers:
What efforts were taken up to now?
Contacted embassy?
Contacted family? Nationality permit in the original, birth certificate, ID card (never applied for, never received)
Passport: issued when and where? Extended when and where?
Where is the passport? (lost in Turkey – circumstances of passport loss, loss reported?)

Reasons for asylum:
Applicant observed by the security service – washes cars. Weapons are found in a car.
15 days detained and maltreated in the mountains (arrest: [date])? About 1.5 months of break, then again detention, for 5 days …
14 or 15 days later – the car owner (Bashir K. of the group [name] invaded Omdurman) helps applicant to leave the country (the applicant had washed cars for him from 1991 until 2008)
5 months later: incidents in Omdurman – applicant was wanted by the security service 6 months after leaving the country (received information from sister [name] of applicant)
Car washing: how does that work, how much is charged, where is the water from, assistants?
? Description of daily routine under arrest
? Description of cell
? Differences 1st and 2nd detention
? Physical abuses, medical aid, visible traces
When did the battles in Omdurman take place? – before or after the applicant left the country? New information from family?
(Sheet with questions for the hearing, caseworker, spring 2013)

Iris adds that Yassir told her the story of an attack: she learnt about the background through Google, but she also printed a newspaper article on the "Attacks in Omdurman" which mentions the date: she therefore can ask whether that was before or – as he had said – after he left the country. She briefly explains to me the points on the sheet (above) she put together. She explains that people who claim to be Sudanese are quite often actually Nigerians who masquerade as Sudanese (termed "Crypto Sudanese"). But Yassir is fluent in Arabic and has therefore cleared the first hurdle. He moreover provided a copy of his nationality permit: this is not incredibly conclusive, but still some 'sign'. What is at stake in the main hearing, it turns out, is the credibility of the core narrative that led to Yassir's flight.

Iris leaves the office to fetch Yassir, the applicant in the accommodation wing of the centre but returns soon after without him. After all, she would not dare to enter the men's dormitory, she clarifies. Soon after, a security guard drops Yassir off at the office. Iris begins the hearing by stating, "Eventually, Switzerland is responsible for your asylum application and therefore we will process your application."[22] Then she reels off the set phrases for opening asylum hearings of the protocol template in front of her:

> I welcome you to today's hearing at the Federal Office for Migration (FOM). The aim of this hearing is to gather the facts necessary for the assessment of your asylum application and essential for the asylum decision. You have the opportunity today to state the reasons for your application. I can interrupt you if this is necessary for the translation, but also if your statements are irrelevant for the asylum decision.
> (Set phrases, protocol of main hearing, spring 2013)

Openings and closings of all hearings are standardised by such set phrases and are often read to the applicants or quickly 'reeled off' from the protocol template because of their repetitive nature for caseworkers. As such, they can be read as an expression of the governmentality of the encounter: they shift what was until then a more-or-less informal encounter between per-

22 Because almost all applicants are 'warned' at the end of the hearings that other countries in Europe they travelled through could be responsible for their application, this clarification is not only necessary to make for cases in which a Dublin procedure had been opened (see section 6.1.2).

sons to the formal level of an encounter led by those who were assembled to impersonate the nation-state (see Chapter 5). This shift is achieved through the official welcome note and the mentioning of the FOM; through technical language, by for instance saying that the encounter is "to gather the facts necessary for the assessment of …" or "state the reasons for your application"; and, of course, by highlighting that the rhythm of the interview and the scope of what is relevant is defined by the caseworker ("I can interrupt you"). These statements are thus performative of the *dispositif* and constitutive of the caseworker's role in the hearing. The roles of the further participants are also officially introduced in all hearings.

Iris introduces the participants of the hearing, except for the relief organisation representative who is asked to introduce himself (which is common):

We assembled the following team for your hearing:
The interpreter translates the questions and your answers. He is neutral and impartial. On the decision he has no influence.
F1: How do you understand the interpreter?
A: I understand him well.
F2: Did you engage a legal representative for your asylum procedure?
A: No.
F3: This man [she refers to me] also takes part as a neutral observer (PhD student of University of Zurich). He is subject to the duty of confidentiality. Do you agree with his attendance?
A: Yes.
(ROR):[23] I am from an independent relief organisation and have according to the law the responsibility to observe the hearing. I do not work for the Federal Office for Migration (FOM). I can ask questions, suggest further investigations and raise objections to the protocol. I am here in your interest, but I am not your legal representative. If you do not mind, I will participate in the hearing.
A: I don't mind.

23 The Relief Organisation Representative, indicated in the English version with ROR, appears in the protocol only in the German abbreviation HWV (*Hilfswerksvertreter/in*).

> The person at the computer will take minutes of the questions and your answers. The protocol will be retranslated for you in your language at the end of the hearing.
> I am an employee of the Federal Office for Migration and conduct this hearing.
> (Protocol of main hearing, spring 2013)

The further participants and their scope of action are thus officially introduced. A first noticeable feature of this introduction is that the interpreter is not only introduced for what he does, translating, but also for what he does not have – partiality or influence on the decision. Certainly, some researchers would contradict this statement and highlight interpreters' powerful role as mediators (e.g. Dahlvik 2010; Scheffer 1997). Yet, for the processual event to be able to unfold, this allowedly performative declaration is fundamental. Without at least the applicant having some confidence in this statement, the mediating role of the interpreter might surface and provoke contestation. Only in rare cases in which interpreters apparently violate the framing of being neutral and impartial during a hearing does this produce an "overflow" (Callon 1998, 188) that destabilises the event – and may even lead to a rescheduling of a hearing with another interpreter. More frequently, I observed the language skills of interpreters (particularly their German) to be insufficient for the accurate translation of applicants' statements – with all the misunderstandings and potential mistakes arising from this. Yet, interpreters' mediating role may not only be detrimental to applicants and their cases but also provide support in a situation of adversity (see Gill et al. 2016).

In this hearing, I was introduced as a "neutral observer" and PhD student, bound to the "duty of confidentiality" as all other participants. It was interesting how various caseworkers whose hearings I attended dealt with my presence, which required them to move outside the standard protocol: in most cases, I was either introduced as "another member of the FOM attending for training reasons", which normalised my presence; or caseworkers openly introduced me as a researcher, as in the example above. Any introduction that went without normalising my presence in hearings had the potential to disrupt its course. While in most first hearings my presence was only mentioned by the caseworkers but remained unrecorded, it was on the record in the case of main hearings. The practice of asking the applicant for consent concerning the presence of participants appears as a performative

act: I never witnessed a negative answer by an applicant to this question. However, the inscription of applicants' consent in the protocol can be seen as decisive for it becoming a record: only through the written authorisation of the presence of other participants does the record of the event retain its citational value as legal document and as a core association of case-making.

After having introduced the participants of the hearing, Iris continues with the opening formalities:

> In the asylum procedure you have rights and duties. You were already informed about these with an information sheet and in the first hearing.
> Q4: Do you know these rights and duties? A: YES

Even though Yassir said "Yes", Iris briefly summarises Yassir's rights and duties in the procedure. The phrases about the duties of all participants in the hearing are again to some extent standardised, yet they may be paraphrased by the caseworker in the hearing and are not necessarily in the protocol. They are a reiteration of what was already said about these duties in the first hearings. This is one version of a protocol:

> You have a duty to say the truth and the duty to collaborate in the process of gathering the facts for the evaluation of your application. You bear responsibility for your statements. If you make untrue statements, this may have negative consequences for you.
> All persons that are present in today's hearing have to treat your statements as confidential. The statements will not be forwarded to the authorities of your native country. You can therefore speak without fear.

Many caseworkers appear to remind applicants of their rights and duties in every hearing: the first part that admonishes applicants to tell the truth is given particular weight through the obscure warning about "negative consequences" if not followed.

> Iris finished the introduction to the hearing by telling Yassir that his application will be decided on the basis of his statements, the pieces of evidence submitted, and the Swiss asylum law. She asks him, moreover, whether he has engaged a legal representative [the order of set phrases and questions is sometimes adapted].

In sum, although an inconspicuous part of hearings, the opening formalities introduced here play an important role in the legal-administrative "bracketing" (Blomley 2014) of the encounter as the stage for the production of 'facts' for the procedure. The same is true for other standardised parts of hearings such as transitions, closures or the "rights to be heard" [*Rechtliches Gehör*] (most frequently afforded to applicants in first interviews regarding Dublin or in main hearings concerning contradictions in their account).

### 6.2.2 On and Off the Record

After the opening formalities of the hearing with Yassir, Iris asks him the obligatory questions about the whereabouts of his papers (see questions prepared above):

> Q5: Do you have pieces of evidence that you want to hand in today?
> A: No, I don't have anything to hand in.
> Q6: What efforts did you make to organise identity papers up to now?
> A: Well I travelled across the sea. My papers were lost on this journey. There were dead people as well. Several people drowned on the trip. I also lost my bag and my cloths. I did not do anything in this respect yet.
> Q7: You stated at the last hearing that you would contact your embassy. Did you do this?
> A: I cannot do this. The embassy is subordinated to our government. How am I supposed to contact the embassy?
> Q8: You said that your family is in the possession of your nationality permit and the birth certificate. What did you do to get these documents?
> A: I got photocopies of these documents and you have them at your disposal.
> Q9: I already told you the last time that we need the originals.
> A: I am not capable of getting the originals. Here I was transferred to the mountains. I was housed on the Lukmanier pass and from there one has no possibility to undertake something.[24]

24 During the time of my fieldwork, some military shelters in remote mountain areas were used as temporary outposts to temporarily host applicants from the reception centres. These shelters increased the capacity of the asylum office to host applicants. Mostly young male applicants were hosted there for up to three weeks after their first hearing.

> Q10: In [name of mountain village] there are telephones too, and what is more, you receive tickets for the public transport there.
> A: Yes, this is true. My nationality permit and my birth certificate are at home with my family. My passport, my ID card and my driving license were lost on the way. They fell into the water. A mail with DHL from my home country is too expensive. We do not have money to send a letter via DHL here.
> Q11: ROR: No further questions.
> (Protocol of main hearing, spring 2013)

The answer to question 10 in the protocol appears a bit strange: as if it was not one but multiple answers to several questions asked. In my fieldnotes, I only noted that at this point "the applicant is telling a lot" and "the interpreter is taking notes". At some point, Iris explicitly asked the interpreter to translate. The written answer summarises thus in fact the answers to several interposed questions by the interpreter (for instance after "Yes, this is true" a question like "Where are the original papers?"). That protocols of hearings are selective is not surprising in itself: it is partly an expression of the complicated communicative setting in which the authority to speak and write is unevenly distributed. Yet, the selective materialisation of interactions and statements in records is consequential because what protocols carry is taken in the further course of the procedure at face value.

A key disassociation to be drawn in processual events of encounters thus relates to its key inscription devices: protocols. Writing a protocol of a hearing disassociates what is on the record from what is off the record. Typically, and also conventionally, *off the record* is what is said before the official opening of the hearing and after the formal closing, as well as what is uttered in the breaks. Everything in the formal time-space of the hearing is *on the record*. Sometimes, if interviewers deviate from this convention, they explicitly emphasise that a statement remains off the record, for instance, if they want to give applicants advice:

> Then he offered the applicant, again "off the record," to return home with the assistance of the IOM [International Organisation for Migration] – "with better conditions, financially, and (…) with a business plan for support on the spot". He asks the applicant whether he is interested, then he would make an annotation to the case file. And he needed to get in touch [with the IOM per-

> son in the house] as quickly as possible because the offer would expire once the procedure is completed. The applicant receives a slip of paper with the letters IOM written on it. (Fieldnotes, first hearing, reception centre, spring 2013)

In the first hearings, caseworkers can also draw the boundary between statements on and off the record less explicitly. They can also author the discursive associations to materialise in protocols and keep others associations from materialising, as the following example shows:

> [During retranslation] The applicant objects when it comes to the passage [of the protocol] in which his marriage plans had been brought up. He had mentioned them to the caseworker in the corridor before the hearing. He explains that he had said that off the record and that it therefore would not belong into the protocol. The caseworker responds that everybody who is present in the room heard what he said [because she addressed it afterwards in the formal space of the meeting] and therefore she has to record it, this would be the rule. (Fieldnotes, first hearing, reception centre, spring 2013)

In this example, the interviewer played with the convention and imported something the applicant had said outside the formal space of the hearing into it and inscribed in the record:

> Q: When I picked you up for the hearing, you spoke of marriage plans and Liechtenstein. What is it all about?
> A: I met a woman. We are far from being ready to marry. You understood me wrongly. This is something private and only concerns me personally. (Protocol, main hearing, spring 2013)

It is important to note that during retranslation, applicants can also ask interviewers to add or alter statements. If the interviewers consider statements amended too contradictory or too extensive, however, they might not change the answer directly in the text, but append it at the very end of the protocol – sometimes only for the pragmatic reason that the whole protocol must not be reprinted because page breaks altered but only the last page. Eventually, the protocol only becomes a legally relevant record through the signatures of the participants: the interviewer, the interpreter, and the applicant sign the last

page. The applicant, moreover, has to sign each single page of the protocol to acknowledge the correctness of what has been transcribed from her or his statements. This makes these statements available for authoritative citation in the future processual events of case-making (and possibly beyond).

The distinction between what is on and off the record was also crucial in the case of Amadou introduced above. Right at the end of the first hearing, Leo, the caseworker, began with the formal right to be heard concerning Amadou's origin. If caseworkers decide to change the country of origin or age (from minor to adult) in a legally effective way, they have to make this explicit and present the evidence they draw on to the claimants. In turn, claimants have the opportunity to react and possibly avert such a change. Long discussions can erupt around these issues, which are often kept off the record. Such negotiations are much more likely to happen in the first hearing, since no representatives of relief organisations participate. The only witness is usually the interpreter, who is employed by the asylum office.[25] The following discussion about Amadou's origin is a comparatively strong example of a negotiation in a right to be heard:

> A dispute about Amadou's origin ensues. Leo says (off the record): "I think you are Senegalese." – Amadou replies: "No." – "Your father is Senegalese; therefore you are somehow Senegalese too." – "My mother is Malian." – "Why did your father live in Mali anyways, if he was Senegalese?" – "I don't know." – "Can we agree upon you being Senegalese? Or shall I record 'further clarifications'?" Amadou looks perplexed and eventually repeats: "I am Malian." Leo answers: "This is not a solution for the authorities here. I will thus write 'first nationality Senegal, second nationality Mali'. Since you were also socialised in Senegal." – "My father was Senegalese, but I was never registered in Senegal. I am Malian." – "Is it a problem for you if I record it like that?" – Amadou gets upset: "I ask you then: can someone get dual citizenship there? You said I should bring documents. I never possessed a document from Senegal!" – Leo insists: "If you can prove that you are from Mali, no problem, then I am going to change this again. But at the moment, for me, everything supports that you are Senegalese. Do you object, if I write 'Senegal'?" – "I was born in Mali." (Fieldnotes, spring 2013)

25 I was an additional witness in my role as a researcher, arguably with a moderating effect on the interview situation.

Although this is not an example representative of hearings in general, I think it can still draw attention to some important epistemological issues underlying these encounters. What resonates quite strongly in this dispute is the caseworker's suspicion of nationality fraud, which he had made explicit with the rationale that "it just pays off to be from Mali". The phrase "this is not a solution for the authorities here" is revealing: if claimants have no reasonable chance of receiving protection, it is crucial to establish their "deportability" (de Genova 2002). This is closely related to producing associations conducive of expulsion: Most Western African countries share a very low asylum quota, but what varies is the possibility of deportation. Representatives of the Swiss government have negotiated migration partnerships or readmission agreements with some countries, but other countries refuse to take back their alleged nationals. In this case, Switzerland had a readmission agreement with neither Mali nor Senegal. But at the time of Amadou's hearing, Mali had just been taken off the 'safe country' list compiled by the Swiss Federal Council, while Senegal was still on it.[26] Caseworkers can be led to presume that asylum seekers know about and try to take advantage of such variations in deportability. And while the asylum seekers certainly have a stake in attempting not to become associated with spaces of expulsion, the caseworker's 'intimate conviction' about what is true often prevails in the record.

The off-the-record dispute moreover reveals a facet of the politics of re-cording lives. In the records of Amadou's case, it does not really matter what is possible – whether dual citizenship exists in Mali and Senegal – or that the claimant continuously insists on being a Malian national. The caseworker uses the claimant's period of socialisation in Senegal as an argument, although it has nothing to do with nationality per se. And he tries to make the claimant to agree with his suggestion of just writing "first nationality Senegal, second nationality Mali", or at least to back down by not objecting anymore. Ultimately, the caseworker has more pull in these negotiations – he

26 The Asylum Act states in Art. 6a paragraph 2 that "The Federal Council shall identify states in which on the basis of its findings: a. there is protection against persecution, as safe native country or country of origin; b. there is efficient protection against refoulement as defined in Article 5 paragraph 1, as safe third countries". Furthermore, it states in Art. 31a paragraph 1a that "The SEM shall normally dismiss an application for asylum if the asylum seeker: a. can return to a safe third country under Article 6a paragraph 2 letter b in which he or she was previously resident". The list with 'safe countries' can be found in the appendix of the Swiss asylum regulation 1 [*Asylverordnung 1 über Verfahrensfragen*].

can 'resolve' such a dispute by writing "I agree with it" in the record, despite all objections of the claimant. In this way, a claimant becomes re-corded in an unexpected way to spaces of expulsion: Amadou could ultimately be threatened with the deportation to Senegal.[27]

The omission of disputes – or, equally, disputed omissions – in the protocols reveal how records are "artefacts that are often partial in … [two] senses" (Hull 2012b, 118). They only partially record what was done and said in an event; and one interested party, the state representative, has a much stronger influence on what enters the written record and in what form. States have been shown to shape their own situational ontology as "the *ascribed* being or essence of things, the categories of things that are thought to exist" (Stoler 2009, 4 emphasis in original) to "which most of the population must dance" (Scott 1998, 83). Mountz (2011c, 321) has argued that an analysis of the governing of asylum needed to consider an "ontology of exclusion" which "accounts for offshore silences, black holes, and concealment of what happens along the peripheral zones of sovereign territory". I suggest that analysts of the governing of asylum not only need to take into account how asylum seekers are encountered (for instance on islands) *offshore*, but also *off the records* – in encounters of case-making. An important facet of governing applicants' lives consists of shifting the scope of what enters the written and thus citable record.

### 6.2.3 Formatting Narratives

In the further course of the hearing with Yassir, Iris addresses a contradiction:

> Q15: You said in the last hearing you'd lost the passport in Turkey. Today you say, you'd lost it on the sea. What is now right?
> A: It was after I left Turkey, when I was on the high seas. We tried three times to leave Turkey by boat. There was a small forest at the seashore. The migrants in each case went down the slope on foot. Three times the police seized us. As I said, on the way several people died.

27 It depends moreover on the availability of a "*laissez-passer*" by the Senegalese authorities, issued only if they recognise him as a Senegalese national on inspection.

> Yassir gesticulates often to support what he says. He moves his legs nervously from one to the other side.

This empirical material reveals a further tension of "entextualisation" (Jacquemet 2009; Maryns 2005): the situated encounter with its atmosphere, tonality, gestures, smells, and expressions of feelings such as anxiety do not find their way into the text of the protocol. Moreover, what is verbally said becomes often at least slightly rephrased – simplified, phrased more formally or corrected grammatically – or the other way around if set phrases already prewritten in the protocol template are rephrased verbally.

> Q18: Where is your ID card?
> A: I mentioned before that my ID card fell into the water together with the passport and the driving license. As I said, I have the nationality permit and the birth certificate at home. If you gave me money, I would immediately obtain the originals with DHL.
> Q19: In the enquiry about the person on [date] you claimed that you never applied for or possessed an ID card.
> A: Pardon?
> Q20: You were asked in the first hearing [in the protocol "BzP"] whether you had an ID card. You stated that you never had one and never applied for one.
> A: What I was suggesting is that I currently only possess the nationality permit and the birth certificate and the other documents were lost.
> (Protocol of main hearing, spring 2013)

While various types of documents are imported to hearings and are more or less extensively referenced in them, one type stands out: identity papers. It was quite remarkable, certainly in first hearings but also in main hearings, to witness the emphasis given to identity papers, or more precisely, their absence. This emphasis is undoubtedly owed to the general importance of identifying applicants for evaluating their well-founded fear of persecution (see Bohmer and Shuman 2008). But then it is also crucial for enabling their deportability after a potential rejection of their claim. Notably, during the time of my field research, a particular legal avenue to reject applications on the basis of not providing legally sufficient identity documents existed and was extensively used (see excursus on Article 32.2a in section 4.1.2).

At stake is moreover the symbolic relationship of nation-states to 'their' citizen-subjects that is primarily enacted through material papers. As Dery (1998, 678) put it nicely: "Even saints may end up in jail if their papers are not in order". Not only the state idea (Abrams 1988) is performed in asylum encounters in specific ways, but also their materiality. Dery (1998) called this particular reality produced in papers "papereality" (ibid.).

> Iris explains to Yassir that she needs to clarify these questions so that in the end everything is clear, that no ambiguities remain. He replies that whoever has undertaken such a journey is also mentally ailing. He adds that he has been thinking of suicide as well. Iris says she wants to be able to write a fair decision* and therefore she occasionally needs to ask uncomfortable questions. "OK, let's continue."

This short, off-the-record conversation is a typical example regarding two facets essential for encounters taking place in asylum hearing. First, the urge that caseworkers sometimes feel that they have to explain to the applicant why they so excessively probe an issue like identity papers – even in the face of the disturbing experiences of flight and suffering applicants tell them about. Applicants often seemed to sense that behind these questions loom instrumental avenues to their exclusion – and expulsion. Caseworkers' explanations thus appeared to occur often in response to the discomfort that applicants display about this obsession with papers. Second, there is a striking difference between the intimate suffering the applicant raises in response to this explanation and the aloof reaction of the caseworker. I was often told by caseworkers that hearings are not the place to reveal dismay about applicants' experiences and suffering – that they needed to retain a neutral stance. Yet, is this to be read as an expression of the indifference towards the suffering of asylum seekers that Gill (2016) considers essential for bureaucratic encounters with them? He states that "where exposure to suffering is frequent there is a possibility that uncalculated compassion and spontaneous kindness could break out and disrupt the smooth functioning of bureaucratic systems of rule that require the morally disinterested treatment of vulnerable individuals. Various institutional features mitigate against this possibility, however, so that compassion is made costlier on the one hand, and insensitivity is made easier on the other" (ibid., 129). He is, I think, right in highlighting that institutional features make an ethical

encounter and (the display of) compassion more difficult. Yet, in my view, caseworkers' reactions need further qualification. My impression was that caseworkers avoid being emotionally engaged for another crucial reason. They often cannot alleviate the applicant's suffering, and they do not want to raise the impression that they can; additionally, they may feel a dissonance of caring about the applicant's destiny while simultaneously potentially increasing their plight by rejecting their application. Moreover, it does not suffice to read how the caseworker reacted to the above example of suffering as simply a sign of *personal* indifference. From the perspective of the procedure, the *kind* of suffering described by the applicant does not make any difference to the outcome of the case: it is beyond the legal scope (and thus "jurisdiction", see Valverde 2011).

Opening the core part of the hearing on the reasons for asylum, Iris asks Yassir, "What are the reasons that induced you to leave your country and apply for asylum in Switzerland? Tell the whole story again in detail!"

Q22: Why are you applying for asylum in Switzerland?
A: I worked for a so-called car wash. My working place was in Omdurman. A man called Bashir, one of our clients, owned a Renault of the year 1985. He each time left his car at our place and I washed it. After I had washed the car, I wanted to relocate it from the washing ramp so that another car could drive there for washing. Suddenly, four security officials in plainclothes showed up. They sat into the car. They removed the back-seat bench. Under the back-seat bench, 25 pieces of weapons were hidden. Afterwards one brought me blindfolded to a place unknown to me. Where I was brought, I don't know. In this place, I was detained for 45 days. I was tortured too. One can still see the traces of torture on my feet (…). After 45 days one let me go. 15 days later, I was again arrested. One detained me for another 5 days. One did not speak a word with me. I wasn't beaten either. The authorities were after [name of client]. They wanted to arrest him. I assume that I was observed by the authorities. Why I was again detained for these five days I don't know. In the fifth month of 2008, different incidents occurred in Omdurman. Many people were killed back then. After I was released after five days, Bashir visited me at home. When he came to me, he was dressed like a woman and wore a headscarf and veiled face. He gave me 2000 dollars. He organised

> my departure within one day. How he organised the journey and with whom he had contact I don't know. At the airport I was accompanied by different persons to the plane.
> F: Are there other reasons for you leaving the country?
> A: No.
> *Break*
> (Protocol of main hearing, spring 2013)

First of all, it struck me that this is considered a "free account": some of the sentences are quite obviously responses to some sort of stimulus either by the caseworker or interpreter that went unrecorded (for instance "How he organised the journey and with whom he had contact I don't know"). Importantly, while caseworkers conducting interviews consider it appropriate to remain 'neutral' regarding applicants' experiences, intimacies of suffering are nevertheless central to their evaluation of such free accounts. According to technologies of credibility assessment (see Chapter 6.4.4), it is often exactly what goes beyond 'facts' that speaks for the credibility of an account, such as vivid narration, minute details, unexpected twists, display of emotions or direct speech. In this respect, the framing that 'facts' are gathered conforms to the expectations of a rational legal-administrative procedure, yet misleads asylum applicants in what is expected from them. I do not want to imply that state agents intentionally deceive applicants in uttering these set phrases. But it speaks of the ambivalence of seeing encounters, on the one hand, as fact-gathering endeavours and, on the other hand, taking from the transcripts of these hearings the clues to evaluate applicants' (or more precisely, their statements') credibility. This is what Scheffer (2007b), following Holly (1981), has called the "duplicity" of testimonial interviews:

> Duplicity, according to Holly (1981, 286), can be reformulated as the discrepancy of production and reception: the interviewer asks as a friend and receives the answer as a foe; he invites open speech and utilises the careless answers. Duplicity is not created by means of asking questions only, but by contrastive footings of questions and reception. The ways the answers are motivated differ from the ways they are taken and used. (Scheffer 2007b, [3])

Similarly, in asylum hearings, applicants are – often quite sympathetically – asked to give "a free account" of the event(s) that led to their flight. But this

invitation to "free speech" hides the fact that everything in this account is going to be "taken and used" in the decision*. I now turn to a specific way in which persecution narratives of applicants become formatted in a majority of hearings: through their spatiotemporal anchoring and ordering.

### 6.2.4 Spatiotemporal Anchoring and Ordering

Following "free accounts", main hearings enter a phase of concerted questions that may both aim at testing credibility and at the well-foundedness of the fear as indicated in the persecution narrative. Interviewers therefore pose various types of questions to the applicants and scrutinise "core elements" of their accounts. Persecution events including their core protagonists and sites of applicants' lives become dissected and anchored in geographical space and chronological time. Moreover, events and sites are brought into a relative order: events according to their relative positioning in time with other events in categories of 'before', 'simultaneous', 'after' or regarding their (dis)continuity; sites according to their relative location to other sites in prepositional terms (like outside, inside, in front of, behind, above, below, between) and concerning proximity-distance. In this vein, applicants' accounts of persecution (and their travel routes) become crucially formatted through their spatiotemporal anchoring and ordering.

An example I would like to start with concerns a core scene of an encounter with Issa, an applicant from Guinea-Bissau. In the hearing, Issa told that he had attempted to save his younger sister from female genital mutilation. He had intervened on the very day the 'circumcision' (as it was referred to) was supposed to happen and was thereafter threatened to death by his father, who tried to save his face in front of the guests. The caseworker, Rita, was confused about the spatial setup of the scenery "at home" and tried to clarify the micro-geography of the key event. I quote from my fieldnotes of this encounter:

> Rita: What does that mean, you waited outside?
> Issa [via the interpreter]: I thought the [female] circumciser would come to me to get my sister. That wasn't the case. My father came.
> Rita: [I have an] interposed question [to the interpreter]: Was he not in the room with his sister?
> The interpreter [after having consulted Issa]: No, the sister was alone.

> Rita [taking up the applicants answer to a question asked earlier]: So, the house is round. How many rooms has it?
> Issa: It is a round room [he gesticulates].
> Rita: Draw the house from above. [Issa receives a notepaper and a pen and starts drawing.] Rita [interrupting him]: No, no, from above, we are a bird. [everybody watches the applicant drawing.] It is a room. Does it have a door, windows somewhere?"
> Issa: [Draws the door.] There aren't any windows. (...)
> Rita: Ok, now, I don't get it. [Asks Issa via the interpreter]: You brought your sister into the house and waited outside, in front of the door?
> Issa: Yes.
> Rita: For the circumciser?
> Issa: Yes.
> Rita: What happened out there?
> Issa: There were many people. There were musicians in front of my father's house.
> Rita: Were the guests, your father and the circumciser in front of the house too?
> Issa: Yes. My father was in his room with a few guests. The circumciser was outside with the musicians.
> A debate ensues about what "the room of the father" means. The interpreter explains to Rita that this is normal there [in Western Africa] – "they have several small houses around a courtyard, that's the same as a room". They are called *case* (a regional type of huts) in French. Rita says, in this case, Issa should draw the courtyard with the rooms. [Issa draws. Afterwards Rita labels the houses with, for instance, "father".]. The relief organisation representative steps in and suggests that Issa describe the situation. (Fieldnotes, main hearing, spring 2013)

What this excerpt exemplifies is that micro-geographically situating events is often key to the anchoring of narratives on paper. Applicants are often asked to describe the scenery and to place protagonists in them as in the example above. Following de Certeau (1988), this forces the applicant to distance her/himself from the actual situation. This makes both the situation legible for the caseworker and forces the applicant to frame it in the "lan-

guage of stateness" (Hansen and Stepputat 2001, 5).[28] These descriptions of situations are later on used as a 'reality test' for applicants' behaviour and reasoning to gauge the credibility of their account.[29]

Situating events *temporally* is even more important in this respect: Applicants are regularly quizzed about the sequence and dates of events – or, if they do not know the exact dates, asked to at least provide a rough calendric placement.[30] Considering the locale of core events, they are asked about the time (or at least the time of the day) at which they unfolded, as for instance this example:

> Question: Why did the policeman bring you something to eat at night?
> Answer: It was time to eat.
> Question: Then it was evening and not during the night?
> Answer: It was at about 8 pm. In Africa it is night then.
> (Protocol, main hearing, spring 2013)

Crucially, caseworkers ask about durations of events or journeys and the time between events. The latter allows caseworkers to check the calculated duration against the dates with the duration indicated by the applicant. Issa was, for instance, asked, "What was the interval between the announcement of the circumcision and the ceremony and your flight from home respectively?" (Protocol). Durations offer a rather popular avenue for evaluating the rationality of applicants' actions. Issa was also asked, "Why did you wait until the day of the ceremony to take steps, while you had one week of time?" (Protocol). In this example, already the way the question was asked reveals that Rita did not consider it reasonable to wait for the day of the ceremony since Issa knew about the looming circumcision of his sister a week before (see section 7.2.2 for the case's contested further assembling in the decision* draft).

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28 I thank Rony Emmenegger for suggesting this analytical reading.

29 The Eurocentric assumptions about houses and rooms in Guinea-Bissau challenged in this dialogue are already indicative of some of the (questionable) standards against which applicants' accounts are tested.

30 In a few instances, I encountered applicants from countries with other calendars (e.g. Islamic or Ethiopian calendar) that were at pains in translating dates or months into the Gregorian calendar or had to explain inconsistencies in the temporal indexing they had provided.

In the process of making sense of applicants' persecution and flight accounts, temporalities allow for calculations that can match up – or not. Here an example from the protocol of Yassir's main hearing that exemplifies this:

> Q82: If you were arrested in the eleventh month, were 45 days in prison, then 15 in liberty, then again five days in prison and then worked for another seven to eight days, you could not have left before mid-January 2009. But you said you left in the twelfth month of 2008.
> A: I roughly indicated the days, I never stated a specific date. I stated that I left roughly by the end of 2008. I did not read any newspaper either. I don't know what happened on which day of the week.
> Q83: In the first hearing you put it a bit more concretely. At that time you specified the first arrest happened August 2, 2008 and the exit in December 2008.
> A: In the first hearing I could not name concrete dates either. The interpreter had told me to specify dates.
> Q84: Why then did you give for the first arrest a date in the eighth month and not in the eleventh in the first hearing?
> A: The first arrest was after the events mentioned. How long after these I don't know. Whether my arrest was in the fasting month of Ramadan or afterwards I don't know. It is possible that I was not arrested six months after the events but four or five months.
> (Protocol of main hearing, spring 2013)

Such calculations again provide associations that caseworkers can draw upon in the effort of disassembling the credibility of an account (in the asylum decision*). However, as the dialogue in Yassir's hearing above indicates, there is always a tension between asking applicants to be as specific as possible – even more specific than they may remember the events – and using such information later on to demonstrate their account's inconsistency. I observed often in hearings that applicants were asked to specify dates. In this specific example, the caseworker, Iris, had already conducted the first hearing with the applicant. She told me appeasingly (maybe because she saw my look of confusion) when the applicant said that he only indicated the days and did not spontaneously state a specific date in the first hearing: "I know the interpreter, he had said 'approximately'" (she repeats the word in Arabic

to prove her point). And she added: "You know, I never ask for specific dates." However, in the protocol of the first hearing, even if the interpreter had only asked for the "approximate" date of the arrest, this had been straightened out in the protocol:

> Question: When did you get arrested by the security service for the first time?
> Answer: That was on August 2, 2008.
> (Protocol of first hearing, spring 2013)

Even if Iris posited that Yassir had only been asked to give the rough date in the first hearing, the official record made the inconsistency look much more pronounced than it came across verbally. It was an inconsistency that could easily become a "contradiction" to argue with in a decision* (see subchapter 6.5).

An important spatiotemporal connection that is often used to test the credibility of journeys is the one between distance and duration. Digital maps sometimes serve as factual reference and are used to calculate the (minimal) duration of travel between two geographical locations (with a specific means of transport).[31] This is tantamount for translating space into time, that is, an experientially and individually calculable entity. Then the applicant is quizzed about the duration of the journey between these locations, sometimes quite perseveringly, as in Issa's example:

> Question: How long were you on the move from [place of origin] to Dakar (Senegal)?
> Answer: We departed in [place of origin] during the night and arrived in Dakar in the early morning. But I don't know about the time.
> Question: At what time did you approximately depart and when did you arrive? How many hours where you approximately *en route* in total?
> Answer: I cannot tell. I didn't have a watch. I don't know it exactly.
> Question: Estimate, you have a sense of time – everyone has. Was it three, six, twelve or twenty-four hours? About.
> Answer: We departed in the night when it was dark and we arrived in the morning in Dakar. I can't tell you how much time I spent in the car exactly.

31 Caseworkers particularly seemed to rely on Google Maps.

> Question: How often did you eat something during this drive and how often did you go to the toilet?
> Answer: From [place of origin] to Dakar I did not eat anything. (On enquiry): Once I went passing water.
> (Protocol of main hearing, spring 2013)

This spatiotemporal indexing of accounts is for some reasons essential. It is supposed to provide caseworkers with intersubjective and sometimes verifiable clues in experiential narratives that are otherwise difficult to assess. Furthermore, it helps interviewers to picture situations to understand how events unfolded. An experienced caseworker connected it in the training also with a particular notion of empathy towards applicants, based on trying to understand what they went through:

> Empathy for me means: I put myself in the position of the applicant and try to understand what he experienced. I watch it like in a film – a story with a beginning and ending – and I dig deeper if things do not fit into the story or confuse me. (Fieldnotes, basic training for new caseworkers, autumn 2012)

Thus, credible stories in the caseworker's eyes are those that resemble the stories of films. This approach to evaluating narratives seemed to be quite widespread amongst caseworkers (see also Affolter 2017, 68).

The success of such 'sense-making' enterprises is certainly not limited to spatiotemporal features. Liveliness and detail of accounts of such events play an equally important role. However, their spatiotemporal consistency is ultimately a prime element in the credibility assessment. To put it more bluntly, such spatiotemporal inconsistencies work as rather 'cheap and effective' arguments in discrediting applicants' accounts: if the dates of key events are not the same in successive accounts of the story, the story can be easily questioned; if the duration (or manner) of travel contradicts realistic expectations, it is easier to classify whole accounts as not credible.[32] Inter-

32 Classifying the travel narrative as not credible played an important role in the argumentation of applications rejected on the grounds of non-admissibility for not providing identity papers (according to the abolished Article 32.2a – see excursus section 4.1.2). For decisions entering into the substance of the case [*materielle Entscheide*], the credibility assessment focuses on the core persecution narrative. But also then the travel narrative

estingly, in the hearings I attended, applicants seemed more likely to fail on performing a 'sense of time' than a 'sense of space', since space is often only indirectly accessed in accounts: namely, distances are grasped through the duration of travel. However, applicants are often asked to describe places of persecution-related events and residence and know the "essential features" of how space is culturally and politically organised (for instance, by naming monuments or administrative units).

A key difficulty of encounters thus lies in reconciling various spatiotemporal modes of narrating events and events unfolding. On the one hand, the situated story of the events that led to the flight of the applicant need to be reconciled with orderly (Western) historical accounts. Personal memories of (often traumatic) events that may be both vibrant and erratic in their spatiotemporal unfolding are re-ordered through attempts to anchor them universally and spatiotemporally. Accounts become dissected into chronological periods and locations in Euclidean space that allow for recounting the events in the characteristic rationale of the facts of the case*. On the other hand, the "*kairotic*", lived time (Czarniawska 2004, 775) of the encounter of various participants needs to be aligned with the chronological time of organisational and legal rhythms and time frames, including the proper narrative representation of the event in the record.

A further significant preoccupation in hearings besides the one with events' spatiotemporal ordering is that with numbers. For instance, applicants were regularly asked how often relevant persecution events, such as assaults, abductions or arrests, occurred:

> Question: How often were you both [meaning the applicant and his wife] abducted?
> Answer: Once.
> Question: Think about it again: How often were you abducted alone and how often together with your wife?
> A: Me alone, I was abducted and assaulted several times, together with [name of the wife] it was only once.
> Question: How often were you abducted? You always say "several times", I want to know that a bit more specifically.

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could still be used as an additional argument for an account's general lack of credibility (although some caseworkers with whom I talked considered this to be bad practice).

> Answer: Several times.
> Question: Give a number. Such things one knows certainly more specifically.
> Answer: I think three times.
> (Protocol of main hearing, spring 2013)

In general, frequencies and durations are considered to be less difficult to remember than specific dates and times. They become crucial associations – inscriptions – of the inauthenticity of accounts to be raised in written decisions* (see subchapter 6.5).

Furthermore, a crucial facet of asylum encounters is the enactment of a particular 'political geography' of stateness. This facet becomes particularly apparent in questions of border-crossing: applicants are regularly asked whether they crossed the border legally or illegally when leaving the country of origin. The practical reasons for this are again obvious on closer inspection: a legal emigration is taken – in some countries of origin – as an indicator for the absence of a 'well-founded fear of persecution' originating from state authorities. Otherwise, or so is the rationale, the applicant would not have been able to cross the border unhindered, as it is controlled by state authorities. However, even if one accepts this rationale, the distinction between the legal and illegal border-crossing itself risks equating 'uncontrolled' with 'illegal'. As long as the border-crosser does not need a travel or residence permit to enter the neighbouring country, there is nothing illegal about the immigration. How can applicants possibly make that distinction if borders are not controlled? Emigration is only in rare cases itself illegal (for instance in Eritrea).

Yet beyond merely stating its partiality or inaccuracy, I suggest these framings fulfil an important desire of the state to instate and perpetuate itself as an idea and ideal, as a macro-actor both standing outside and above society (Ferguson and Gupta 2002). Let us return to the example of questioning the feasibility of applicants leaving the country legally – i.e., 'controlled' – if they are really persecuted by state authorities. On the one hand, the notion of a fully controlled border implies an ideal (yet horrific) vision of an 'all-seeing' and coherent state, in which every border guard would recognise the border-crosser as an 'enemy' of the state and enact the state-as-perpetrator: such a framing enacts the idea of the state standing above society by confusing the ideal of a powerful sovereign state in control of its borders with more

messy everyday state encounters experienced by citizens and border-crossers alike (see also Jones 2012). On the other hand, the mere portrayal of illegality as an attribute of border-crossers misconstrues illegality as a particular socio-political condition, "a juridical status that entails a social relation to the state" (de Genova 2002, 422) and the product of practices of "illegalisation" (ibid.) regimented by law. It requires an active alienation of political subjects through acts that construct legal identities. Immigration laws provide the parameters for both disciplinary and coercive interventions, but are largely tactical in character in that their disciplinary effectiveness exactly lies in their conjunctural and uncertain realisation (ibid., 425). This provides a crucial clue for understanding how in the tactics of performing immigration laws of Switzerland the relationship of the applicants to their 'native' states-qua-jurisdictional-territories are both tested and reified. Those enacting the state effectively conceal that they responsible not only for the detection of illegality but also for the previous definition of what counts as illegal.

> The question as to how the applicant left the country serves to determine the legality or illegality of exit. This time, the question in the questionnaire of the first hearing is not explicitly asked by the caseworker. But an answer is written in the questionnaire: illegal. This is deduced from the circumstance that the applicant travelled without documents. (Fieldnotes, reception centre, spring 2013)

The hearings as key encounters of the asylum procedure can thus be seen as a prism of state-society relations. The state has to be continually reiterated as standing outside society (Mitchell 1991) and as preceding it (see Law 2004a). But furthermore, the state speaks for states in the plural. Regardless of whether or not the border crossing where it occurred was actually 'illegal', if it was not detected by the state authorities 'there', it should not matter for the procedure. However, the generalisation of the Swiss state's definition of illegality in the asylum procedure apparently makes the ascription of illegality possible far beyond Swiss territory. The association of applicants to the state of origin is in this vein effectively transposed to their association to the Swiss state.

In this subchapter, I have introduced hearings as peculiar spaces for encounters in case-making. In these encounters, cases become associated with those

they represent in various ways. Importantly, these associations become dissociated from the situated encounters in which they are produced. Hearings as encounters materialise selectively in protocols: caseworkers and their collaborators in record-making – interpreters, transcript writers, and protocols themselves as "inscription devices" – crucially mediate what is ultimately on the record. The text is rendered a record for authoritative citation in decisions* through signatures, namely the key participants signing it on the last page. However, caseworkers not only decisively crop narratives where they go into directions considered to be irrelevant for the case, but the multiple participants in these encounters also format these narratives in particular ways. Narratives of applicants become formatted through the techniques of conducting hearings as testimonial interviews. Both artificial 'free accounts' and the subsequent questioning phase of main hearings are infused with the need to produce associations for the resolution of the case. I have introduced one exemplary form of producing such associations: that of spatiotemporally anchoring narratives through questioning the micro-geographies of key events, the temporality of these and through spatiotemporally ordering stories of flight. Ultimately, as records of encounters, protocols' situated events of production become black-boxed and, for the purpose of rendering cases resolvable, lives of applicants enacted by the statements inscribed in these records.

## 6.3 Assignments

In November 2013, I was sitting in a head of section's office in the headquarters in Bern. We sat in front of a pile of case files attributed to his unit.[33] He took the first stack of case files, opened the case file on top and commented: "an application from Eritrea, opened quite recently, in July 2013", and checked the triage forms. He closed it again, said "goes to the archive" and put it on the respective pile. He said he processes cases from Eritrea strictly according to the "first in, first out" maxim. Yet, he added: "if there had been reasonable doubts about the country of origin, reflected in the attribution of identity category C, it would have to be processed, because questions of origin have

33 Probably every head of section develops her or his own routines of doing this, but the description that follows is at least indicative of the broader concerns at hand.

> to be settled before the file ends up in the archive for a longer period". He took another case file: "Somalia, application from August 2013, goes to the archive". He clarified that it depended beyond the country on the region of origin, as expulsion is considered reasonable to some regions of Somalia (which in turn would change the priority of the case). He said there could be cases with high priority amongst these, but this would not easily be apparent in the physical case file. He therefore preferred to draw a list [a sort of digest] from ZEMIS, which would provide more information on the case, such as identity and priority category. These categories are critical for the decision of which cases to take out and process. He did this about every two weeks. He further considered it better not "to bury his people in case files", which meant not to attribute more than 40 to 50 case files to an official. And so, he continually worked his way through the pile of twenty case files and decided about their immediate future trajectory. (Fieldnotes, attending case attribution at a head of section's office, autumn 2013)

In the Swiss asylum office, assembling case files involves multiple such processual events of their evaluation, categorisation and (re-)assignment that shape, but do not determine their future trajectories. Yet, the mundane sorting of case files into those sent to wait until they are considered ripe for further assembling and those to be rapidly processed is not merely technical in nature. Rather, it is part of the enactment of a politics of deterrence – in conjunction with management concerns such as productivity targets and asylum law (see sections 8.2.2–4). This subchapter is concerned with the "timing and spacing" (Gill 2009) of case-making through institutional rhythms and routings of case files and their assignments – to divisions, sections, heads of sections, and caseworkers – and idle time in shelves and the archive. To consider assignments as processual events of case-making in their own right means to acknowledge both cases' partial assembling – in different places and by different agentic formations – and their collective grouping, piling, and shelving along their trajectory of becoming assembled. I introduce here some general features of how case files are distributed and allocated, considerations of when case files are 'passed on', kept or sent to the 'archive', lost and getting reassembled.

### Excursus: Ephemeral associations

Canary-yellow sticky notes are a ubiquitous device in the asylum office. These are used for informal communication that is supposed to remain ephemeral, i.e., off the record. As in the case of the border guard (GWK) reports of case openings, sticky notes are routinely attached to the front cover of case files. They communicate processing information, deadlines, and urgency to the person who receives it for further processing; or just indicate the addressee of files by writing the organisational acronym on them. In some sections, sticky notes are regularly used by seniors to provide (additional) clues to the caseworker to whom they attribute a case file. For example, a senior I met asked his collaborators to indicate on a sticky note on the case file "if anything is special about the case" (Fieldnotes). In the Reception and Processing Centre, caseworkers were asked to list all rights to be heard [*rechtlichen Gehöre*] (except for the ones concerning Dublin competences) they conducted on a sticky note on the cover of the respective case file (Fieldnotes). In other sections, seniors developed their own order forms with some frequent options to tick off and some blank lines to specify the addressee and add information. For case file transfers to officials of other sections, caseworkers usually use slightly more formal yellow case file transfer sheets that fit in the case file's protection sleeve. Furthermore, caseworkers often use sticky notes for their individual sorting of cases into sub-categories of processing. While systems of ordering vary between caseworkers, a certain convergence appears to exist: I frequently observed a system of ordering that at least distinguished cases "to be heard" from cases "to be decided" and between the type of application, such as first or second application, application for reconsideration or family reunification. Quite often, compartments of caseworkers' shelves were labelled with such categories on sticky notes and filled with corresponding case files.

## 6.3.1 Distribution and Allocation

The quantity and types of cases opened in the five reception and processing centres can vary quite a lot, depending on the migratory routes of applicants and other factors. The reception centres have limited capacities for both hosting applicants and opening their cases. If the numbers of applicants exceed the capacity of a reception centre, applicants are redistributed to other centres, pictorially referred to as "overrun". During the time of my fieldwork, the central Mediterranean route from Libya to Italy was the most common.

By consequence, a large share of asylum seekers entered Switzerland at the Swiss-Italian border and applied for asylum in the reception centre in the border town of Chiasso. Organised coaches occasionally transferred them to other, less frequented centres like the one I visited at the time. Another possibility – which was logistically less complicated – was simply forwarding asylum seekers to other centres. They received a route description and a ticket for public transport at the gate of the reception centre. Their applications were only recorded at the destination centre. Because of increasing numbers of asylum applicants, the Federal Office for Migration had negotiated the temporary usage of army shelters for the accommodation of applicants with the Federal Department of Defence, Civil Protection and Sport. Some reception centres therefore ran one or several shelters or bunkers to host some dozen applicants during the time between the application and the first decision* about the further trajectory of their procedure (namely applicants whose cases were on the Dublin track with pending requests). For the first period of the processing of cases, the bed capacities of reception centres play thus a role additionally to the number of personnel. Crucial are, moreover, the first categorisation (triage) of cases according to their further track (Dublin or national procedure) and priority category. Not only heads of sections, but also caseworkers themselves have to navigate such priority categories. I was introduced to the heuristics of an experienced caseworker in an internal training session in the headquarters:

> The priority lists: sometimes I strictly adhere to them, sometimes I do this at my own discretion. At the moment, all 'enforcement-friendly' countries are priority one. Some of these cases don't even end up here with us: Dublin or Safe Country cases. But some do: I had for instance Russian or Serbian cases. – Lena [another new caseworker trained] notices that Libya is actually third priority. – Exactly. But with the Libyans we have a special regulation. They are more swiftly addressed than other third-priority countries. (Fieldnotes, headquarters, spring 2014)

Thus, cases are not only reshuffled according to automatic assignments and prioritisations, but also according to the heuristics based on the interpretation of rationalities for the reshuffling (see also sections 8.2.2–4) and "special regulations" for some categories of cases.

Whether a certain case was processed completely in a reception centre was the result of an equation into which all of these factors played. With asylum seekers leaving the reception centre and being allocated to a canton, their case files also usually left the reception centre and were sent to the headquarters in Bern. But particularly cases of high-priority categories were, if possible, completely resolved in the reception centre. If the workload and availability of beds allowed, generally what were considered 'simple' cases were processed completely in the reception centre. In the example of the reception centre I researched, the head of the centre decided which cases were kept and for what processual events.

> What is being assigned is whether the case will be decided here or go to headquarters. If it's a Dublin or Safe Country, it is decided on our end. That's clear. And then I think the cases get somehow distributed amongst caseworkers. On the one hand, there are these whole gender-related persecution stories, that's rather limited to whom you assign these. And then there are some people of whom you know: they have already done such decisions* three or four times, similar ones. Then you rather give these to them. Or with new caseworkers, you do not assign them the toughest decisions* where you have to make some three thousand clarifications. Rather let them get there slowly, that's a consideration. But in general, everyone has to decide everything. (Interview, senior of reception centre, autumn 2013)

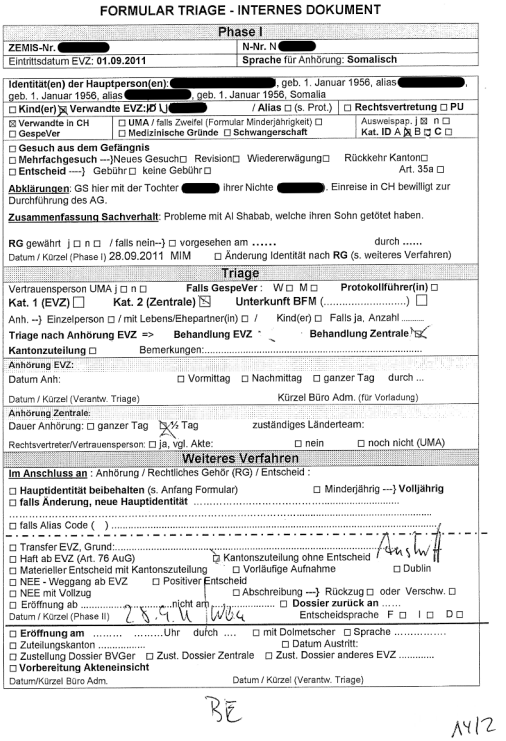
The triage and thus potential reassignment normally happened after the first hearing had been conducted in the reception centre. The categorisation of the case and its potential outcome was suggested in an internal form – the "triage form" – by the caseworker after the first hearing (see Figure 12). The head of the section might confirm the caseworker's evaluation or alter it, but he also consulted caseworkers about their preference or confidence to process a case further on. Inspecting the triage form was considered "important work", but much of it is "boring" routine, as the head of the centre said. When I asked if he also has interesting cases, he replied:

> Yes, yesterday I had an interesting case, of a Sudanese, even a genuine one by Iris [Yassir's case]. But all available records on Sudan are already older, a [formally documented] asylum practice* [APPA] does not exist because it is not a focus country. Iris told me her view and outlined her arguments for a

> 32.2a [common type of decision* at that time], which would be sufficient. I asked her whether she wanted to do the decision, whether she dared to do this. And whether she would persevere the FAC [in other words, whether she could argue with the Federal Administrative Court in case of an appeal]. Then she hesitated. So, I will forward it to the caseworkers responsible [*Federführung*] for Sudanese cases [in the headquarters]. That's good, if there is for once a proper Sudanese coming. (Fieldnotes, reception centre, spring 2013)

Not only competence and what is assigned to caseworkers seems to play a role according to this example, but also (at times) how they *feel* about it.

*Figure 12: Internal triage form of asylum case file*



FORMULAR TRIAGE - INTERNES DOKUMENT

Phase I

ZEMIS-Nr. [redacted] | N-Nr. N [redacted]

Eintrittsdatum EVZ: **01.09.2011** | **Sprache** für Anhörung: **Somalisch**

**Identität(en) der Hauptperson(en):** [redacted], geb. 1. Januar 1956, alias [redacted], geb. 1. Januar 1956, alias [redacted], geb. 1. Januar 1956, Somalia

☐ **Kind(er)** ☒ **Verwandte EVZ:** ID U [redacted] / **Alias** ☐ (s. Prot.) | ☐ **Rechtsvertretung** ☐ **PU**

☒ **Verwandte in CH** ☐ **GespeVer** | ☐ **UMA** / falls Zweifel (Formular Minderjährigkeit) ☐ ☐ **Medizinische Gründe** ☐ **Schwangerschaft** | Ausweispap. j ☒ n ☐ **Kat. ID** A ☒ B ☐ **C** ☐

☐ **Gesuch aus dem Gefängnis**
☐ **Mehrfachgesuch** ---}Neues Gesuch☐ Revision☐ Wiedererwägung☐ Rückkehr Kanton☐
☐ **Entscheid** ---} Gebühr☐ keine Gebühr☐ Art. 35a ☐

**Abklärungen**: GS hier mit der Tochter [redacted] ihrer Nichte [redacted]. Einreise in CH bewilligt zur Durchführung des AG.

**Zusammenfassung Sachverhalt**: Probleme mit Al Shabab, welche ihren Sohn getötet haben.

**RG** gewährt j ☐ n ☐ / falls nein--} ☐ vorgesehen am **.....** durch **.....**
Datum / Kürzel (Phase I) 28.09.2011 MIM ☐ Änderung Identität nach **RG** (s. weiteres Verfahren)

Triage

Vertrauensperson UMA j ☐ n ☐ **Falls GespeVer**: W ☐ M ☐ **Protokollführer(in)** ☐
**Kat. 1 (EVZ)** ☐ **Kat. 2 (Zentrale)** ☒ **Unterkunft BFM** (.....) ☐
Anh. --} Einzelperson ☐ / mit Lebens/Ehepartner(in) ☐ / Kind(er) ☐ Falls ja, Anzahl .....
**Triage nach Anhörung EVZ =>** **Behandlung EVZ** ☐ **Behandlung Zentrale** ☒
**Kantonzuteilung** ☐ Bemerkungen:.....

**Anhörung EVZ:**
Datum Anh: ☐ Vormittag ☐ Nachmittag ☐ ganzer Tag durch ...
Datum / Kürzel (Verantw. Triage) Kürzel Büro Adm. (für Vorladung)

**Anhörung Zentrale:**
Dauer Anhörung: ☐ ganzer Tag ☒ ½ Tag zuständiges Länderteam:
Rechtsvertreter/Vertrauensperson: ☐ ja, vgl. Akte: ☐ nein ☐ noch nicht (UMA)

Weiteres Verfahren

**Im Anschluss an** : Anhörung / Rechtliches Gehör (RG) / Entscheid :
☐ **Hauptidentität beibehalten** (s. Anfang Formular) ☐ Minderjährig ---} **Volljährig**
☐ **falls Änderung, neue Hauptidentität** .....
.....
☐ falls Alias Code ( ) .....

☐ Transfer EVZ, Grund:.....
☐ Haft ab EVZ (Art. 76 AuG) ☐ Kantonszuteilung ohne Entscheid Ausw
☐ Materieller Entscheid mit Kantonszuteilung ☐ Vorläufige Aufnahme ☐ Dublin
☐ NEE - Weggang ab EVZ ☐ Positiver Entscheid
☐ NEE mit Vollzug ☐ Abschreibung ---} Rückzug ☐ oder Verschw. ☐
☐ Eröffnung ab .....nicht am ..... ☐ **Dossier zurück an** .....
Datum / Kürzel (Phase II) 28.9.11 Wüa Entscheidsprache F ☐ I ☐ D ☐

☐ **Eröffnung am** ..... .....Uhr durch .... ☐ mit Dolmetscher ☐ Sprache .....
☐ Zuteilungskanton .....
☐ Datum Austritt:
☐ Zustellung Dossier BVGer ☐ Zust. Dossier Zentrale ☐ Zust. Dossier anderes EVZ .....
☐ **Vorbereitung Akteneinsicht**
Datum/Kürzel Büro Adm. Datum / Kürzel (Verantw. Triage)

BE

1412

(Source: Fieldwork materials, spring 2014)

How do files reach a caseworker's desk in the headquarters? No matter how long the former history of a case, it may at some point for some reason be attributed to the division, then section, and ultimately – whereby a head or vice-head of section will take a hand in it – assigned to a specific caseworker. Case files may be physically placed in caseworkers' inbox or – when they are still in the archive – directly reassigned to a caseworker in ZEMIS, which means they will be automatically delivered to their inbox and listed amongst 'their cases' in ZEMIS. The head or vice-head of section will usually not inspect the case before distributing it in detail. Rather, they rely on their heuristics when drawing on the case categories visible in key forms (triage) and/or distinguished in the central migration database. A caseworker explained:

> Our head of section has currently about two thousand files assigned to her in the system [the central migration database]. And they are just in the archive. And then she fetches them, according to requirements, you know, she just digs them out and distributes them amongst the people. Then a little pressure is put on, we have output targets, at least two hearings and three decisions a week. And then, you'll have to make more decisions than hearings, because that's the idea: that you can decide cases already heard. (Interview with caseworker, autumn 2013)

There are distribution keys for the allocation of cases to divisions and sections. The distribution keys determine the volume and categories of cases assigned to the entities on a different scale. Overall, the distribution and allocation of case files to reception centres or sections in the headquarters mainly consisted of their quantitative balancing, and at times redistribution. Their (re)assignment to specific caseworkers, in contrast, involved not only quantitative but also qualitative considerations such as caseworkers' experience, specialisation and preferences. Moreover, case reassignment (at times) involved asking caseworkers about their confidence in resolving a case. And it could mean withdrawing cases from caseworkers with which they become obsessed for some reason.[34]

34 For an example of such a case, see section 8.1.3.

### 6.3.2 Ownership and Passing Things On

In this section, I carve out a particular feature of the association between cases and caseworkers. Ownership of cases is assigned to caseworkers, which is reflected in the practice that caseworkers often speak of "their" cases. We could also say that caseworkers have their cases; but in turn, cases also have their caseworkers. Cases and caseworkers can be considered in a process of co-formation: cases become assembled with the records caseworkers produce and add to them, and caseworkers are in turn assembled as the cases they encounter become their exemplars (see also section 4.2.3). Ownership is something materially experienced as case files are piling up on caseworkers' desk and filling their shelves. Such ownership is fleeting, since caseworkers usually 'own' cases only for a phase of their formation. For some cases, however, the ownership extends from very early on in assembling them until their conclusion with a legally binding [*rechtskräftig*] decision*. No matter how fleeting ownership is, it leaves traces: in the database (in the file and application history), on the server (as digitally drafted records) and in the case file itself (not very obvious, in records' acronym and signature, and often in the file's pagination cover).

The fleetingness of ownership is partly owed to the division of labour, in stepwise assembling cases in different sites and by different hands. But beyond this, caseworkers may also decide to more or less willingly keep or forward case files of a certain kind and in a certain stage of assembling. The reasons for this, it appears, lie in considerations related both to the economy of case-making (see section 8.2.2) but also to officials' professional ethos. A head of section, for instance, told me that he did not delegate a case – a difficult, old case – because he felt remorse to saddle someone else with it (Fieldnotes). In contrast, under other circumstances, officials consider it reasonable to pass a case on that was assigned to them:

> Researcher: If you have very difficult cases, can you pass them on, or do you have to finish every case you get?
> Caseworker: I think I could pass them on. Well, with the current superiors I could certainly do that, and I think also with the new one this is not a problem.
> Researcher: But you never had such a case?
> Caseworker: No. I have cases for which I need help, but I also get it. Well, it occurred that I went to the head and said: "Yes, I don't know what to do" [laughs].

> No, but I think you can do that. And it is also important, because occasionally one gets so obsessed with something that one cannot judge it so objectively anymore. Then, I would deem it very reasonable as a superior if an employee came and said: that simply does not work. Then, you give it to someone else. (Interview with caseworker, headquarters, autumn 2013)

Thus, if caseworkers not only take ownership of cases, but become 'obsessed' by them, the caseworker considers it better to pass them on.

According to my impression, a marked difference exists concerning the practice of passing case files on between the reception centres and the headquarters: in the former, it is the rule, not the exception, that case files are passed on after the first (or main) hearing; in the latter, caseworkers inherit case files from the reception centres and are usually supposed to resolve them. Therefore, as the caseworker above stated, they rarely pass on case files, but potentially could. The statement above does not mean, however, that caseworkers in the headquarters do not delegate some acts in the assembling of "their" cases – for instance, the hearing might be conducted by members of the hearing pool, or investigations on origin conducted by LINGUA services – but that they normally keep the ownership of the case until the decision* is written (and becomes legally binding).

Passing cases on usually means that caseworkers lose sight of them. There is no institutionalised mechanism to inform caseworker involved in earlier processual events of the assembling of cases about their outcome. But sometimes, caseworkers trace cases beyond their assignment. And they may be disappointed, if not outraged, if the case turns out in ways opposing their evaluation of it:

> I ask a caseworker in the reception centre whether she has passed on the Hazara case she told me about. – Yes, she replies, although she would in the future think twice, she would perhaps not pass on anything [any case] anymore if she did not have to. She explains that she had this case of an Iraqi woman last autumn, which she passed on to Bern because of the gender-related persecution [commonly treated by the specialists in Bern]. She considered it a clearly positive decision. Now she has seen the decision: the woman only received a temporary admission. And not even in Bern, but in [another reception centre]. – I ask her why such a case was treated in another reception centre if she sent it to Bern because of its complexity. – They probably did not have enough

> work and therefore ordered case files [from the headquarters]. She says she is deeply disappointed. She has ordered the case file for inspection. They apparently conducted an additional hearing in the other reception centre, which she could absolutely not understand. (Fieldnotes, reception centre, spring 2013)

This example is rather exceptional, as far as I can tell, for I did not notice that caseworkers regularly followed up on cases they passed on voluntarily or by requirement. But the caseworker's reaction to her discovery that the case outcome opposed what she had anticipated seems nevertheless revealing. She stated to use her discretion on whether to pass on a case or not in the future, and she would only give one away if necessary. She appears to have lost faith in the proper treatment of a case after it left her desk: not only did the case end up with another outcome, it was also treated in the wrong place. A further appalling discovery for her was that an additional main hearing had been conducted.[35] Generally, this occurs only if either the caseworker in charge of the decision* considers the main hearing outdated or s/he regards the hearing already conducted as insufficient for taking a decision. Accordingly, the hint at the second possibility was another affront to her.

This case also indicates, from the opposite perspective, that the inheritance of cases from other caseworkers can be an issue. Mostly this occurred precisely if the preliminary work of others was regarded as insufficient. Quite often, in the view of the caseworker entrusted with writing the decision, the 'wrong' questions had been asked in the hearings while the 'right' ones were lacking. What distinguishes the 'right' questions from the 'wrong' ones is that the latter fail to provide "utilisable statements" for the argumentation in the decision* (see subchapter 6.2). The above example illustrates that records remain prone to destabilisation in the course of the procedure: case files may resurface from the archive or simply be reassigned, leading to their fundamental reassembling.

In the reception centres, concerns about capacity utilisation complicate the issue. In times of few incoming applications, reception centres will avoid passing on case files which might be processed there. For some categories of cases, the heads of the centres have some leeway in this decision. Additionally,

35 Additional hearings are only conducted rarely: according to an analysis by the quality manager of the office, Stephan Parak, during the last few years, additional hearings only occur in about 100 to 200 cases per year, or 2 to 4 per cent of all cases.

they will order pending case files from the headquarters if necessary, to utilise their resources. However, this seems not that simple; and it works opposite to the pathway foreseen for case files, where they start in reception centres and end in the headquarters. Case files already attributed to and thus 'owned' by sections, and potentially caseworkers in the headquarters, have to be taken away from them again. And depending on how far they have been assembled, case files are considered of specific value, as more or less work is required for them to yield countable output (see section 8.2.2). By consequence, it was at times difficult for reception centres to receive cases from the headquarters ad hoc for processing. In light of high numbers of pending cases in the headquarters, a caseworker shook his head in disbelief when I raised this topic:

> Researcher: And then, it's quite funny, because I think it is not that easy to get cases, right?
> Caseworker: Yes, yes. But I have not understood this at all. People from [a reception centre] told me "we don't get cases". Then I told them: "Phew, you can have ten of mine; ten Afghans or ten Tamils, or… I have plentiful old cases, which have been waiting for a decision* for four years, sometimes five. I have one from 2008, which was heard in 2008 and does not have a first-instance decision* yet. I mean, everybody was frightened because it was a prominent case. Now it has been left untouched, they have suspended it over and over again. And yeah, I feel, we have countless cases. I couldn't understand that one didn't just send them these case files. I mean, that's why we have a courier. [We laugh.] And if there is a hearing [protocol] inside, they have to be able to decide as caseworkers. In case they don't understand, they can call, ask the country specialists [*Länderfederführung*]. Or they can say, look, this case is really too complex and return it to the headquarters: Ok, then we still have twenty other cases that are less complex.
> (Interview with caseworker, headquarters, autumn, 2013)

Passing cases on is thus in principle an institutional necessity and the rule as in public administrations more generally (e.g. Bogumil 2009), but in practice the conditions for passing cases on might be contested. Interestingly, contrasting theories exist about the effect of an elevated division of labour on the manner of casework, the way in which a case is looked at. One strand maintains that fragmentation of the steps of case assembling is conducive to the neutrality of the person encountering the case. The other strand suggests minimising the changes of ownership of a case because it is considered detrimental to the effec-

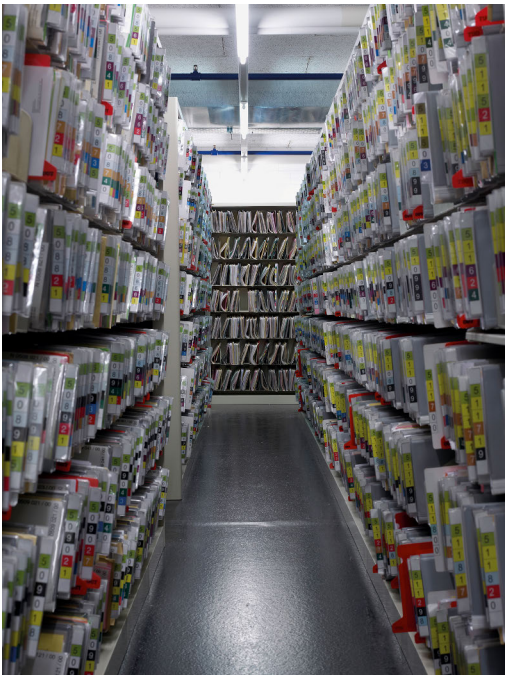
tive processing of the case if the same person does not both conduct the main hearing and write the decision. While both theories prevail in the office, the latter seems to have more support amongst caseworkers. From a managerial point of view, however, changes of ownership are considered a small trouble essential for the flexible re-distribution of cases. In a previous reorganisation of the asylum office, the management had attempted to make caseworkers both responsible for the asylum decision* and the return measures potentially to be taken in the same case. This did not prove feasible and was abandoned again in the re-reorganisation that followed soon after. Overall, the association between 'sending' and 'receiving' caseworker remains quite loose – it is mainly the records of cases that tie them together across office time and space.

Processual events of assignment are crucial for assembling cases, as they render ownership ephemeral. Crucial parts of the eventful processual becoming of cases are black-boxed for caseworkers along the chains of cases' reassignment: caseworkers receiving new cases encounter them through the records already assembled inside their case files (and digitally logged in ZEMIS) – and they anticipate those records that are yet to be assembled and lie beyond their scope. They enact a part of its composition before referring the case file to another caseworker, or – after having a decision* signed by their superiors – sending it to the 'archive'.

### 6.3.3 The 'Archive'

What is usually referred to as 'archive' in the asylum office is a sort of depository full of shelves holding innumerable case files located in the basement of the main building of the headquarters of the migration office in Bern (see Figure 13). This depository was at the end of my field research mid-2014 filled with more than 600,000 case files. A senior I asked figured out that the oldest case files in them dated back to 1936, when the first case file with the number 1000 was opened. The archive holds both case files of asylum applications archived after their completion and case files deposited and waiting for further processing in the future. Collaborators working in the depository do not only process in- and outgoing case files, but also shelve single records which are delivered from various parts of the office with the note on it "a/a" (short for Latin *ad acta*, meaning literally "to the records") in the respective case files (see also Vismann 2011b).

*Figure 13: The SEM archive*



(Source and Copyright: Dominic Büttner)

According to an instructor in the basic training, the archive in the basement of the headquarters contains "heaps of case files, but well-ordered of course" (Fieldnotes, headquarters, autumn 2013). He said that there are several thousand case file movements per day, and therefore it is important to know where a case file is located. We were asked to accustom ourselves to the 'reflex' of entering case file transfers in the system – in this way we would "get rid of them". He smiled and added, "all of you have certainly already received search requests for missing case files per email". Yes, I had. But I was still surprised how many such requests filled my inbox. However, considering the large volume of case files circulating, if only a small percentage of case transfers were not registered in ZEMIS, this could already add together to a significant number of case files not locatable every day. It is another small but not insignificant example of the mediating role of technologies (see also Latour 2005).

Sometimes, case files are sent into a depository loop to be recomposed. Once a document was missing in one of the case files I was processing. When I asked the head of section what I should do, he told me to send the case file to the depository. If the missing documents were in the depository, they would enter the case file again. I would simply have to re-order the case files from the depository in a few days. That would be much easier, he said, because if everyone with such issues called the archive, they would be unnecessarily strained. But I had to remember to re-order it. The archive of the SEM is thus not only a place where case files are archived but also a place of their transition, re-composition, and suspension. I conceive of it as a "chronotope" (Valverde 2014): a place of wait, re-assemblage and memory, from which it gains its particular significance for case-making. The archive plays moreover a crucial – and in some respect unexpected – role in processual events of assignments. To start with: cases are either assigned to any official or the archive (or occasionally, external authorities such as the Federal Intelligence Service).

I would like to highlight a further facet of archives and their power, which Derrida referred to as "consignation":

> The archontic power, which also gathers the functions of unification, of identification, of classification, must be paired with what we will call the power of consignation. (…). Consignation aims to coordinate a single corpus, in a system or a synchrony in which all the elements articulate the unity of an ideal configuration. (Derrida 1995, 10)

Archives come with a particular function: it is their topological association and synchronous "consignation" or "gathering together" (Derrida 1995, 10). In terms of governing case files, this means on the one hand, that case files are always to be considered as more than one and less than many (Law 2004b; Mol 2002): they are in a sense always encountered as multiples, since they cannot be completely dissolved from their topological association with the case files having arrived before them and anticipated to arrive after them; and are part of the single topological order of the archive (enacted with their unequivocal and consecutive numbering). The archive becomes thus emblematic of the "complex composites of space and power" enacted in the governing of asylum (see subchapter 2.4).

## 6.4 Authentications

Crucial processual events for cases' resolution are those in which applicants' origin and their persecution narratives become authenticated. Such events of authentication may partly overlap with encounters (see subchapter 6.2). This is the case if caseworkers become convinced of the authenticity of applicants' identities and accounts directly in the hearing. But for two main reasons, caseworkers still seek (further) authoritative associations to authenticate both origin and persecution stories in many cases. First, they need to alleviate doubt to reach a 'conviction' about how the case is to be resolved (see Chapter 7). Second, in order to pragmatically conclude the case, they need sufficient associations for argumentation in the decision*. In this subchapter, I will therefore outline some of the strategies and technological devices caseworkers employ to authenticate both applicants' origin and their persecution stories.

Associating applicants with their country of origin is crucial because the evaluation of their 'well-founded fear of persecution' is closely connected to it (Bohmer and Shuman 2008, see also section 4.2.2); and so is the possibility of enforcing an expulsion in case of a negative decision* (which is always anticipated). But identification remains a difficult endeavour in the frequent absence of identity documents. Furthermore, alternative techniques for associating applicants with national spaces of origin usually cannot simply resolve ambiguities, as a caseworker emphasised:

> Researcher: It's difficult in the end to say where people come from, right?
> Caseworker: Yes, very. We also have a lot of forged documents.
> Researcher: Or none at all.
> Caseworker: Yes, or none at all. That's also very frequent. And this is very, very difficult, because you can hardly clarify anything. There's only a tiny number of countries where we have better possibilities for clarifications.
> Researcher: And then, what can you do about it?
> Caseworker: Well, one just tries things. First, we have certain data, for instance, how you recognise a forgery, depending on the country, not everywhere. But there are certain signs. Recently I just had an Afghan ID in my hand which I asked the interpreter to translate. I actually only wanted to know when it was issued [laughs]. But then she started [translating] and looked at me and said: "this is one hundred per cent forged". Because this

> type of ID did not even exist anymore in the year it was purportedly issued. On the front page, the title was incomplete, two words were missing – just things like that, then you realise. Or you try to ask questions. They [caseworkers in the reception centre] already do this in the first hearing: [they ask about the applicant's] father, mother and how the applicant is positioned [socially]. There you try to find out, does it match up as a whole? (Interview with caseworker, autumn 2013)

As this caseworker's experience illustrates, even if applicants submit identity documents, caseworkers need to be vigilant and 'try things' to uncover attempts of identity fraud and document forgery. But as the caseworker also pointed out, it remains difficult to find out where people come from. She also mentioned a crucial heuristic that she and other caseworkers employ: to find out whether things 'match up as a whole'. If things do not match up, they adopt strategies for clarification. In the case of potentially forged documents, they could send them to the document examination centre. In the case of doubtful origin and in the absence of documents, caseworkers can commission LINGUA tests (see section 5.2.2). But there is a further option, as I explain below.

### 6.4.1 Country of Origin Questions

Country of origin questions are a simple (and inexpensive) alternative to LINGUA tests. Such questions will be usually posed in the first short hearing, but are also possible in the main hearing. Leo considered Amadou's origin ambiguous and thus asked him such country of origin questions in the first hearing (before the dispute described in section 6.2.2):

> Q (Question): What is the Malian soccer team called?
> A (Answer): I don't know. I know this from Senegal, but not from Mali.
> Q: When did Mali gain independence?
> A: I don't know.
> Q: What is Mali's international phone prefix?
> A: +223.
> Q: What are the most common ethnicities in Mali?
> A: Bambara, Soninke, Korobor, Mandinga, Peul.
> Q: What does Mali mean in Bambara [the language most spoken in Mali]?

> A: It is a water animal.
> Q: What are the names of the eight regions in Mali?
> A: I only know Kayes.
> Q: Please name some Malian radio stations.
> A: I don't know.
> (Protocol of first hearing, spring 2013)

A few more such questions were asked in Amadou's first hearing. This non-standardised set of questions is a typical example of country of origin questions: a mix of geographical, (popular) cultural, language, historical, and political questions compiled by caseworkers at will, often from online sources such as Wikipedia. It is then up to the caseworker to set the yardstick for claimants to pass their test: how many of the questions they must be able to answer and what the 'right' answers are (see also Scheffer, 2001).[36] In the example at hand, Amadou did not pass the test and thus his (first) nationality is recorded as Senegalese instead of Malian. It seems important to note that some caseworkers only use such tests reluctantly, either because of doubts about their usefulness or because they deem them Eurocentric and arbitrary.[37] A caseworker pointed out that he would not expect claimants to be able to answer these questions. But she still found them useful, because they would provoke justifications for not knowing the answer, which would reveal even more about the origin than the proper answer. Here is another example from the protocol of a first interview of an applicant from Nigeria:

> Q: What is the name of the acting governor of Niger State [a state in north-central Nigeria]?
> A: The former's name was A. A. Kure.
> Q: But the acting one has been in office since 2007. Why don't you know this one?

36 Other such 'membership knowledge' of the claimants may also be quizzed, for instance about religion. Testing such knowledge seems to be widespread in asylum procedures beyond Switzerland (Griffiths 2012a; Scheffer 2001).

37 In 2014, a leading decision by the appeal body, the Federal Administrative Court, heightened demands on such country of origin questions by non-expert officials. It notably has forced officials to indicate the correct answers, COI sources and the standard applied, and has substantiated claimants' right to be heard concerning their 'wrong' answers (BVGer E-3361/2014).

> A: I do not care about all this. It is depending on whether a human is likeable, then one has an interest in him, otherwise not. But the acting one is member of the PDP [People's Democratic Party, party of former president Jonathan Goodluck].
> Q: How far is Minna [the birthplace of the applicant] from Abuja?
> A: The cities Zuba, Madala, Lambada, Seledja lie in-between.
> [Question repeated]
> A: Privately, it takes about one and a half hours, with public transport about two hours.
> (Protocol of first hearing, spring 2013)

In this example, the claimant acquitted himself well (enough), despite not meeting the caseworker's expectation of knowing the current regional governor. In the end, the caseworker did not challenge his Nigerian origin (not least, I suspect, as it was of little advantage in the procedure: the admission quota was close to zero and expulsions were well enforceable). In Amadou's case, however, his failure to answer such arbitrary questions was considered sufficient to record the space of origin relevant for persecution and expulsion contrary to his assertions as Senegalese.

The technique of asking country of origin questions reflects a specific educational approach, which in a way parallels that of eligibility procedures for naturalisation in Switzerland. For these, candidates also have to pass such tests to prove themselves worthy of Swiss citizenship (see Achermann and Gass 2003). Nationality then becomes more than a set of rights and duties coupled to a territorial state, but something to be studied and performed – it requires a specific form of knowledge (similar to that asked for in games such as Scattergories [*Stadt-Land-Fluss*] see also Scheffer 2001, 146–47). What implicitly resonates in this approach is that a good or deserving member of such an "imagined community" (Benedict Anderson 1991) needs to be able to display shared national knowledge. What such knowledge consists of then is a universalized set of markers – for example, the national soccer team, political figures, independence days, monuments, political subdivisions (such as provinces, and states), ethnic groups – populating the stage of every nation. This association to *knowing nationality* has become legally authorised and is thus widely used. It is of little interest whether people from a country can be really assumed to know certain 'facts' about the history, politics or popular culture of a country. Rather, it seems that applicants' failure to display

'good nationality' through such knowledge makes them suspicious not only concerning their associations to the nation they left, but also regarding the nation they applied to enter. In this way, eligibility procedures are not only descriptive, that is, interested in what people know, but normatively prescriptive: stipulating what is possible, probable, and desired (Benda-Beckmann, Benda-Beckmann, and Griffiths 2009). People claiming asylum and citizenship become thereby enrolled in enactments of nation-states (in the plural) and their authorising associations.

### 6.4.2 Embassy Enquiries

An embassy enquiry can be considered the *ultima ratio* of clarifications or "further clarifications" in asylum procedures. It means that someone is commissioned by a Swiss embassy to investigate an applicant in her or his country of origin. As a senior caseworker explained in a training session:

> An embassy enquiry works like this: The embassy contacts "counsels (or doctors) of trust" who investigate on the questions raised. These enquiries are always case-specific. This is a relatively delicate issue: counsels of trust sign all sorts of documents, but nevertheless, in some cases it was only the investigations that called the authorities' attention to the applicants. Sometimes it is necessary to talk to the person responsible for the country doctrine about an embassy enquiry envisaged; regarding counsels of trust, not only the possible result of an enquiry but also their means of investigations are relevant. (Fieldnotes, individual training, headquarters, spring 2014)

Embassy enquiries are a particularly delicate form of enquiry, as it can potentially itself create a well-founded fear of persecution by placing the applicant on the radar of local authorities. And I was told that it is also a very costly and time-consuming (often taking several months) form of gathering information. For these reasons, caseworkers need the consent of their superiors to conduct such an enquiry – it is a rare form of enquiry that requires double signature. Embassy enquiries are further limited because they are not feasible in all countries, and the information that can be obtained from an enquiry varies considerably between countries. If such an enquiry has been carried out, applicants have the right to be heard regarding the relevant results of the investigations. But what can be possibly probed by way of such

an enquiry? Considering the well-founded fear of applicants or obstacles to the enforcement of removal orders, embassy enquiries can (for some countries), for instance, reveal the stage of court proceedings, (dis)confirm the former place of residence or the purported statelessness of an applicant, or the social net an applicant could rely on in case of return. Here is an anonymised (and translated) example of such an enquiry:

***Confidential / Via Courier FDFA*** [Federal Department for Foreign Affairs]
Swiss Embassy in [Capital]
[Country]
File Reference: N … … [abbreviation of caseworker]
Our Reference: Personal No. XX (please repeat in reply)

Bern-Wabern, [date]

**Request for clarification: asylum application of [name of applicant], born [date], alias [another name], born [date]**

Dear Sir or Madam,
We allow ourselves to concern you in the following matter (Art. 41 Abs. 1 AsylA):

Last address of residence of the applicant in the native country (presumably): [Address]
Personal data and address of parents:
[name & address of father in country of origin]
[name of mother] (admitted as refugee in Switzerland)
[address of mother in Switzerland]

The above-mentioned applicant applied for asylum from abroad, on the Swiss embassy in [city, country] on [date]. Against the negative asylum decision of [date] was appealed at the Federal Administrative Court on [date]. The Federal Administrative Court approved the appeal and overturned the first-instance decision in the judgement of [date]. It decided that the entry of the applicant into Switzerland for the procedure has to be granted. The FOM granted the entry of the applicant in the order

of [date] whereupon the applicant filed an application for asylum in Switzerland on [date]. The applicant asserts to have been active for the [militant group] in [region of country of origin]. He claims to have been responsible for the provision of food of the [militant group] fighters and not to have actively participated in combat operations. He left the [militant group] after 15 years in [year] "to conduct a normal life". He fled via [country] to [country]. In [country], he was detained and only released after intervention of the UNHCR. He thereupon filed an asylum application at the Swiss embassy in [capital]. According to his application, his well-founded fear of persecution emanates from the knowledge of the [country of origin's] authorities about his active membership. Therefore, in case of return to [the country of origin], he fears to face a (disproportionate) prison sentence and a threat to life and physical condition. An embassy enquiry in [country of origin] in the course of the asylum procedure of the applicant's mother ([name of mother]) in [year] showed that at the [country of origin's] police "neither a political nor common law data sheet" about the applicant existed at that time; yet he was wanted by the gendarmerie of [place of origin] for his military service since [three years earlier] and therefore was subject to a passport ban.

About the family of the applicant, the following needs to be mentioned: The mother was granted asylum in Switzerland on [date, more than 10 years ago], in part grounded on reflex persecution that she suffered due to the involvement of her sons in the [militant group]. One of the brothers ([name of brother]) was sentenced twice for alleged support of the [militant group] in [capital]. Serving his first sentence in prison, he suffered from torture. Against this, he lodged a complaint at the European Court of Human Rights – with success. After the second trial, he fled to Switzerland; he was granted asylum in Switzerland on [date]. A further brother ([name of brother]) asserted in his asylum procedure to have a well-founded fear of persecution due to his involvement in [two political parties related to the militant group]. His application was rejected; this was also backed by the Federal Administrative Court. His deportation from Switzerland was enforced on [date].
We request you for the confidential clarification of the following questions:

Does a political or common law data sheet about the applicant exist in the mean time?
Is the applicant still wanted by the gendarmerie of [place of origin] because of his military service?
Are currently criminal proceedings pending against the applicant or one of his three brothers?
What sentence would the applicant presumably face in [country of origin] if his long-term [militant group]-activity was known or he was convicted of that respectively?
Can information about possible contact of the brother ([name]) with authorities after his repatriation on [date] be obtained?
Thank you in advance for the invaluable collaboration.
Yours sincerely,
Federal Office for Migration

| | |
|---|---|
| [signature] | [signature] |
| [name] | [name] |
| Scientific collaborator | Head of section |

During fieldwork in the headquarters of the asylum office, I was able to discuss the pros and cons of an embassy enquiry in a concrete case with an experienced caseworker who was considered a specialist for that country. I drafted the embassy enquiry introduced above together with the caseworker responsible for the case after this discussion. An excerpt from my fieldnotes of that meeting reveals some of the considerations for adopting this measure. It sets in after I briefly introduced the case to the caseworker:

> In response to my question of whether an embassy enquiry makes sense [in such a case], he replied, as if to prove the intricacy of that question: "It depends." And then he started to elaborate on the considerations to take: "The threat profile has to analysed case-specifically in such cases. In a comparable case – although the applicant had effectively been in prison in [city] for 13 years – one concluded that the conditions for refugee status were fulfilled.[38] But also, then one needs to clarify whether the "worthiness for asy-

38 This is a nice example of how 'comparable cases' – a form of exemplar (see section 4.2.4) – mediate encounters with new cases.

> lum" is met as well. Concerning this question, the practice of both the FOM and the FAC has a wide range. In that [exemplary] case, a well-documented past and afterlife existed, by which he met refugee status."
> He continued: "In the case at hand, however, the activities do not seem very credible. How old is he?" – I checked and said, "he was born in [year of birth]." – "Then he was about the age of 18, 19 when he joined the [militant group]. Then he ought to be wanted for the military service that he probably did not serve. There actually are many [people of this nationality] who matriculate at a university but do not even study. But they can postpone the military service." – "No", I threw in, "he says, he learnt car mechanics. But in the former embassy enquiry concerning his mother (I show him the documents from her case file), it had been mentioned that he was wanted for military service." – "That's interesting. Then he could still get into trouble when he returns. Or not. The case law of the FAC suggests that already military service overdue is in certain constellations considered problematic. The registration with the authorities can however only be local, as with an arrest warrant. Therefore, this cannot necessarily be illuminated with an embassy enquiry. Basically, everything is possible."[39] (Fieldnotes, discussion with caseworker, headquarters, spring 2014)

The caseworker's reflections nicely illustrate a few crucial aspects about such embassy enquiries. First, what they will yield beforehand is often unclear, and interpreting their results is also not straightforward. As enquiries are always limited in scope in that they leave many things undiscovered, knowing these limitations is critical to be able to draw the right conclusions. Second, cases very often require joining various threads of someone's life that add up to a 'constellation' of factors. The caseworker ultimately suggested that a renewed embassy enquiry would still make sense to shed light on some of the issues at stake, namely regarding the registration for the military service and the arrest warrant. However, he emphasised that a negative answer to these questions would not mean that nothing exists locally. And also with an embassy enquiry, one does not get around the core questions: is the refugee status fulfilled? Is it legitimate state prosecution (not persecution)? What threats does the applicant face upon return? Hence, although it would be tempting to use the result of an embassy enquiry to argue that there is

39 Ultimately, he still concluded that an embassy enquiry would make sense in this case.

nothing to fear from the authorities back home, that is not exactly possible. Apparently, in the example at hand, only if the enquiry revealed that the applicant was still wanted for having missed his military service, or if a data sheet for him existed with the country's authorities, this would change something: either a well-founded fear of persecution or an obstacle to the enforcement of a removal order could be associated with such a disclosure. But the result still required interpretation. Otherwise, if nothing was discovered in the enquiry, one might assume that the likelihood of the applicant being wanted by the authorities and threatened was lower, but it still could not be completely excluded. To sum up, such an enquiry can both clarify and complicate matters: it may add evidentiary associations that make aspects of the case more apparent; but it may also heighten the complexity of the case by expanding the considerations to be taken.

### 6.4.3 Material Evidence

Besides such instances of "further inquiries" commissioned by caseworkers, evidentiary associations provided by the applicants often play a crucial role. Similarly to what other authors highlighted, I have witnessed an obsession with material evidence in case-making (Dahlvik 2014; Fassin and d'Halluin 2005; Good 2008; Houle 1994; Probst 2011). In the hearings, both bodies and documents are "summoned to testify" (Fassin and d'Halluin 2005, 600), as the example of Yassir's encounter with Iris in the reception centre (introduced in subchapter 6.2) shows:

> Yassir mentions that he was tortured and has traces of torture on his feet. Iris interrupts the narration of the persecution and asks him to show them. He moves one foot up. Iris says: "just up with it" and points to the table. Yassir moves both feet on the table, but seems a bit uneasy and takes them quickly down again. Yet she asks him to leave them up longer, because she wants to "see it properly". Then she dictates for the protocol: "Applicant shows extensive scars on the front side of the lower shin area" (Fieldnotes, spring 2013; last sentence: protocol of hearing).

Bodily marks as well as documentary evidence are addressed in the hearings and represented in the protocols. They mediate both identification (in the form of fingerprints and identity papers) and the authentication of perse-

cution narratives (in the form of scars or court rulings, for instance). However, scars and documents are often insufficient to "speak for themselves". They require being assembled with further authorising associations, such as medical reports, to authenticate the likely source and age of scars to render them capable of "truth-speaking" in decisions* (Foucault, 2014; see also subchapter 7.1).

Evidence provided by the applicants themselves could be highly effective for resolving cases in association with persecution scenarios of APPAs or so-called "examination schemes" [*Prüfschemata*]. Examination schemes are another type of coordination device outlining (more extensively than APPAs) questions to be asked in hearings and the consequences of answers and evidence provided by applicants. From the right evidence provided, the decision* could be at times inferred, rendering a close assessment of what was said in encounters more or less obsolete. At the time of my field research, one example of such an evidentiary device was the army conscription letter of Yemeni applicants. According to the examination scheme of the asylum practice*, Yemenis who had fled forcible conscription to serve in the army were considered to have a 'well-founded fear of persecution' in terms of the refugee notion. If they could make their conscription in times of civil war credible, they were granted asylum because they could not have been expected to fight against their compatriots and because of the severe punishment they would have faced when evading conscription. The simplest way to make conscription credible was to provide evidence for it: an army conscription letter.

During the time of my field research, such conscription letters became central associations for resolving Yemeni cases: basically, if a male applicant (of conscription age) provided such a letter, he was granted asylum. Such material documents were generally popular in the office for the quick and unambiguous associations for resolving cases they offered compared to the difficult evaluation of persecution narratives (see section 6.4.4). However, the problem is that the evidentiary associations such material documents offer are not stable once and for all: applicants may usurp them, or their evidentiary value may become questioned or collapse altogether. The latter happened to the conscription letter, as a caseworker told me:

> Just yesterday I had someone in the hearing that still came with an army conscription letter. But the evidentiary value of such a paper is very marginal: on

> the last [fact-finding] mission it became clear that, on the ground, hardly anyone had ever only seen such a conscription letter. … It seems to be a Swiss phenomenon. So, it is something we have to take out of the examination scheme. [At the time, the conscription letter led relatively directly to the granting of asylum]. You know, it had been very tempting to say "if someone provides such a document then they get asylum". This is also a bit the pressure associated with such examination schemes: that it becomes significantly simpler – which is of course given with an 'if-then' examination with a document. But in reality, it's just a bit more complex. (Fieldnotes, headquarters, spring 2014)

In the example of the conscription letter, a fact-finding mission had revealed that they hardly existed in Yemen itself and thus had to be considered faked. After this revelation, the evidentiary value of such letters dropped drastically. It was removed from the examination scheme for cases from Yemen. Its evidentiary effect had arguably become reversed: the provision of such a letter could now be read as an attempt of fraud. The introduction of examination schemes is supposed to make the processing of applications from important countries of origin more efficient and coherent. But as the caseworker nicely explained, there is always a danger in such schemes that they oversimplify the matter. And they offer 'if-then' associations to resolve applications that are relatively simple to be known and reproduced not only by the caseworkers, but also by the applicants themselves who "after a while have relationships in Switzerland and know what they have to tell; or that they need a conscription letter" (Fieldnotes), as the same caseworker said.

### 6.4.4 Verisimilitude of Accounts

In the absence of bodily injuries and evidentiary artefacts that can be 'summoned to testify', caseworkers are forced to rely solely on applicants' testimonial accounts produced in encounters and recorded in protocols (see subchapter 6.2). Yet, these accounts also require a form of authentication. As account's veracity is often impossible to empirically assess, their "subjective plausibility" or verisimilitude, as the "the appearance of what might be true" (McFalls and Pandolfi 2017, 231) becomes crucial. For this purpose, caseworkers can draw upon the 'classical' approach of arguing with the heuristics and case law surrounding the notion of credibility outlined in Article 7 of the Asy-

lum Act – namely the contradictions, unfoundedness of accounts, or their missing correspondence with (COI) 'facts' (see section 4.2.3).

Another approach for assessing this verisimilitude of applicants' accounts has been imported from forensic psychology: criteria-based content analysis (CBCA). Originally developed to assess the testimonies of US child victims of sexual abuse, they offer a list of nineteen so-called "reality criteria" or "reality signs" that indicate the verisimilitude of an account (Amado et al. 2016). In the case of Yassir, they were raised as well:

> After the hearing, Iris says to me: "This is a difficult case. I had to literally squeeze the details out of him [Yassir]: otherwise not much resulted. Regarding his flight from Omdurman, barely one reality sign appeared, only the statue [he had mentioned]". I disagree and tell her that, for me, the detention had also appeared very credible. She replied: "But concerning the daily routine in prison nothing at all was exhibited." – "Maybe it was just that not much happened, and thus little could be told about a 24-hour routine." And I added that it was not as easy to conform to the expectations of detailing, that it depended on how they understood the questions: whether they were about 'facts' or 'lived experience' for instance and what applicants would themselves consider relevant or worthy of recounting. She did not accept this rationale: "I just compare this with other applicants, where much more is brought up. But with him [Yassir] it is quite difficult." (Fieldnotes, spring 2013)

This excerpt of the conversation with Iris after the hearing reveals that all statements of a singular case are read against the backdrop of other, similar cases a caseworker 'knows'. In other words, caseworkers develop heuristics that set the standard against which applicants' performance are evaluated (section 4.2.3). These evolve mainly related to own encounters with applicants but also incorporate case stories told by other caseworkers (or exemplary cases circulating in the office, see section 4.2.4). Arguably, the significance of CBCA reality signs for the pragmatics of case-making is not as pronounced as their prevalence in internal training sessions may suggest (Affolter 2017, 59). As Parak (2017, 392), quality manager of the office, found in his analysis of Swiss asylum decisions*, they are rarely systematically used. A caseworker told me that one hardly ever solely argued with reality signs in decisions, but used them complementarily to the common Article 7 criteria (see subchapter 4.2). Besides, there is also some overlap between the

criteria of the two approaches: if a persecution account lacks of details, this can be both taken as an indicator for the lack of "reality signs" (CBCA) and a "lack of substantiation" (Article 7); or marked differences in the persecution account between the first and the main hearing can both be subsumed under a "lack of constancy" (CBCA) or essential points being "inherently contradictory" (Article 7) (see also Parak 2017, 392). But as Affolter (2017, 59) suggested, the technique of assessing accounts with reality signs might also to be promoted in the office, as they provide "credibility determination a scientific legitimation".

A more mundane but widespread way to authenticate applicants' accounts is to mobilise associations external to the case and its records. It means to assess an account's *plausibility* through contrasting it with 'facts' acquired from COI, from experts, or collaborators. The scope of such 'factual associations' used to authenticate accounts varies – some remain ephemeral and do not spread beyond the case; others are recorded and internally published (as exemplars); and still others are circulated by email. Take, for instance, the inscription device of the "consultation", a simple form that caseworkers can fill to ask country specialists for their evaluation of an aspect of an individual case and the filled form is uploaded on the internal country of origin information database (KOMPASS). During my fieldwork, I received several emails with the content of such a consultation. Here is an example of the content:

> Question: Against my expectations, my applicant was somehow able to plausibly explain why he should have been drafted as a Kurd from C. to the reserve service yesterday afternoon. [Detailed description of circumstances of draft as suggested by the applicant] (…). Simon [who had the country lead, or *Federführung*, at the time] thought this sounds somehow plausible. Therefore, my question: Do you know whether the recruiting offices in C. have been closed and moved to F. and continue to operate from there? Thank you for your short assessment.
> Reply: Indeed, this sound very plausible to me. [Detailed assessment of the situation described and the evidence provided by the applicant] (…). It is important for the army to still appear functional on the whole state territory. Otherwise the impression could emerge that the opposition areas have been given up or handed over. For you in the procedure, I would advise you to thoroughly query in the case of a military document with a stamp from C. in the relevant time period, where exactly the document was received: in C. or

> F. Irrespective of that the whole problem, Iraqi military documents remains the same: easy to forge, corruption, etc. (Excerpt consultation, email, spring 2014)

In this example, at least three people – the caseworker, Simon and the country specialist – and their knowledge (re)sources were involved in the sense-making endeavour that focused on the plausibility of an unexpected form of drafting a Kurd from another town (F.) than he lived in (but with the 'old' stamp from C.). The authority of knowing increases along this 'chain' of people – from caseworkers to country specialists – while their respective competence to inscribe the truth in a particular case decreases. In the collective pondering of the plausibility of key elements of the applicant's story, associations of authenticity were produced. Without removing all the indeterminacies, the constellation of drafting Kurds was accepted as sufficiently plausible. For the caseworker, the conviction for the case's resolution was thus reached. As the constellation was accepted as plausible beyond the single case, its scope was extended by making it part of the practice* of assessing cases of Iraqi Kurds (from C. and potentially elsewhere).

A more contested form of 'plausibility evaluation' concerns those of interpreters. For some caseworkers I met, interpreters are nothing but the neutral intermediaries of communications (as they are portrayed by the office), and caseworkers also direct interpreters to live up to this ideal. For others, interpreters are considered useful resources to speed up (mostly first) hearings but also to provide first-hand knowledge about the countries of origin of applicants. Take for example this episode a caseworker told me:

> And then, I really asked myself, is it possible that this person cannot tell this because s/he is not educated? I also asked the interpreter: "Hey, is it possible that you don't know this?" And, as the case may be, you get an answer like "that is not at all possible, at least this much you had to know". Since the cultural background plays again a role in this. (Interview with caseworker, autumn 2013)

According to this view, interpreters have access to authentic knowledge about 'how things are' and 'what is possible' in their countries of origin. This plausibility test is quite often used to authenticate accounts and origin of applicants. Of course, it cannot be cited when writing the decision*, but it

can decisively shape caseworkers' conviction about how a case should be resolved.

Overall, processual events of authentication can consist of (a) the commissioning of further clarifications such as embassy enquiries, but also LINGUA tests, medical examinations or document verification; (b) the consideration of bodily or artefactual evidence of applicants; (c) techniques for assessing the truthfulness of accounts (such as CBCA); and (d) plausibility evaluations such as asking country of origin questions or asking interpreters for their 'expertise' of what is conceivable in countries of origin. (In)authenticity is ultimately what caseworkers are convinced about, can mobilise evidence or facts for, and think they can convincingly argue for in the decision*.

## 6.5 Closures

Attempts for the closure of cases in decisions* are crucial processual events.[40] But they are also solitary events that are difficult to access: closing cases usually consist of writing letters silently at a desk – not just any form of letter, but official letters, or more precisely, administrative-legal orders. They are produced in the practice internally called "decision-editing" [*Entscheidredaktion*]. The key to understand this practice of decision-editing, I suggest, is standardisation and justification. The standardisation of the layout and structuring makes such letters appear interchangeable, instances of "collective writing" (Callon 2002). The emblems of state authority, the signatures, and the delivery as registered letters make the letters recognisable as legitimate legal orders for re-cording lives. Prewritten boilerplates are employed to partially standardise the language: set phrases as well as a prosaic administrative style of writing render these letters as impersonal as possible. I suggest that the practice of decision-editing is not so much about *deciding* but rather about *justifying* a conviction that caseworkers have made about the right and the possible way to close a case (see also Miaz 2017, 327). Caseworkers have even suggested that they sometimes just start writing a certain

40 I write 'attempts for the closure' here because at the moment of acting upon the case to close it, caseworkers cannot know whether it will return to them if their reading of the case is challenged at the appeal court.

type 'decision*' to see whether "they have enough arguments" for it, as in this example:

> This morning I had a case in which I did not know at all what I should write. Then I started writing a positive proposal [an internal note justifying a positive decision] and realised: it is just not enough. Now I've written a negative decision* with "TA unreasonable" [temporary admission for unreasonableness of the enforcement of expulsion]. (Fieldnotes, spring 2014)

Therefore, it would be misleading to look in asylum orders for the "reasons" why a certain case was concluded this way. What we can find there is only arguments for *why it was right* to conclude it this way – a justification for a decision*. As Miaz (2017, 327) summarised in his analysis of how decisions are written in the Swiss asylum office: "*en somme, les agents prennent une certaine décision parce qu'ils ont les arguments pour la justifier*" [in sum, the civil servants take a certain decision because they have the arguments for justifying it]. I think this is an important insight and one concealed by the fact that concluding orders are usually called decisions* by the administration (see also Miaz 2017, 318). I would, however, slightly revise Miaz's point and rather say: caseworkers write a certain decision* because they can mobilise the material-discursive associations necessary for closing a case this way. Decisions* contain, on the one hand, associations produced in processual events of openings, encounters, and authentications. On the other hand, they comprise associations for composing or 'editing' decision* text – technologies of writing (see section 5.2.4) and heuristics and exemplars (see section 4.2.3–4). This revision thus not only extends Miaz' conclusion; it also liberates the analytical argument of the fleeting category of the 'decision' and shifts the focus on the pragmatics of assembling closures in decision-editing. It acknowledges attempts for closing cases to be more than a simple writing task, but a meticulous and at times tentative task of assembling. Crucially, as I will suggest below, in this assembling work, arguments exist indeed beforehand in the literal sense: a lot of the possible 'modes of argumentation' are preassembled and can be inserted in decisions*. In short, decisions* do require arguments for justifying them, but these arguments are crucially associated with heuristic "modes of argumentation" (section 6.5.2) and "tried and tested justifications" (section 6.5.3). They are partly preassembled in decision* forms (see section 6.5.1) or boilerplates (see sections 5.2.4 and 6.5.3). Further-

more, decisions* assemble all the 'relevant' associations from the records of the case file (see previous subchapters): in a rendering of the facts of the case* and directly referenced in the considerations* of the decision*.

It is important to note that the audience of asylum decisions* can vary. Negative decisions (as well as negative ones with temporary admission) have an external audience: certainly the applicants themselves, but even more importantly the head of sections who will (potentially) reject an argumentation, and the court of appeal as the major antagonist in endorsing or rejecting modes of argumentation. Modes of argumentation thus are developed, endorsed by superiors and the court, and established as associations – heuristics and exemplars (see subchapter 4.2) – to be invoked in decision-editing.

### 6.5.1 Split Records

Positive decisions are unique in their form: they are what one could call "split records". They consist of a letter that is sent to the applicants to notify them about the positive decision* (without giving reasons) and a classified record – an "internal positive proposal" [*interner Positivantrag*] – that contains the justifications for the positive decision* for an internal audience. Internal positive proposals are often forms with tick boxes (see form below). Depending on the country of origin and complexity of the case, one has to write more or less to justify a positive decision. This version of an internal positive proposal form from the intranet serves as an example:

**Internal short note for positive asylum decision**
(For complex cases the longer standard version can still be used)

N XXX XXX / XXX,XXX

Facts of the case (short):
xxxxx

Art. 7 Asylum Act: [persecution credible on the balance of probabilities]
☐ The statements are free of contradictions, consistent and realistic.
☐ There are minor contradictions in secondary points. The overall picture, however, speaks predominantly for the credibility of the assertions.

Art. 3 Asylum Act: [serious disadvantages suffered or having well-founded fear of such d. for reasons of x, y., z]
☐ Suffered serious disadvantages and has a well-founded fear (from such disadvantages) in the future.
☐ Existing objectively grounded fear, has not suffered serious disadvantages so far.
☐ Risk category according to APPA xxx (country, paragraph)
☐ Women-specific reasons (copy to [Personal Identifier of Lead for Gender-related Persecution])

☐ Possibly further comments:

Granting of asylum:
☐ Because no reasons for exclusion are on-file [*aktenkundig*] (Art. 53 and 54 Asylum Act), asylum is to be granted.

☐ Without including other persons.
☐ With the inclusion of the following person(s) according to Art. 51 Asylum Act:

Date & Signature Caseworker Date & Signature Head of Section/ Vice Head of Section

Such forms offer an abbreviated version of the relevant legal provisions, but they also format the production of positive decisions decisively (Gill 2014). As they impose categories and distinctions for those filling them, they are moreover indicative of the considerations* necessary for concluding cases with a positive decision. Considering the assessment of credibility, there are two possibilities: the plain 'everything is credible', and one with a reservation that 'not everything is credible', but due to the 'balance of probabilities' is still convincing enough. The assessment of refugee status is concluded by ticking either that the applicant 'suffered persecution' in the past and has a well-founded fear to do so in the future, or that she or he did not suffer persecution in the past but still has a well-founded fear of persecution in the future. This is supplemented by two more specific 'tracks': either the applicant belongs to a "risk category according to the APPA" of the country of origin; or specific "women-specific reasons" for persecution exist (a category

explicitly introduced in Article 3 of the Asylum Act). The latter appears as a response to the part of Article 3 (2) that states "motives for seeking asylum specific to women must be taken into account". That these two categories deserve an extra tick-box in this form is, however, not owed to the fact that they could not be subsumed under the first two tick boxes, but is arguably rather related to the wish or internal requirement to monitor positive decisions based on such reasons.[41]

Remarkably, all processual events of assembling a case may become concluded with a simple form. No matter how many (dis)associations have been forged, how long the hearing protocols are, to how many caseworkers, heads of sections and secretaries the case has been assigned, how complicated and sophisticated the deliberations and clarifications: all (dis)associations assembled in the records of the case file compose the material-discursive assembly underpinning this decision*.

### 6.5.2 Modes of Argumentation

Let us turn to modes of argumentation in negative decisions* as I was introduced to them in the basic training and the internships. In the latter, I was supposed to draft decisions* (mainly on family reunifications but also a few on asylum). While caseworkers of course can be inventive and create new modes of argumentation, usually they employ well-established ones. A senior official of the reception centre explained to me:

> For the 32.2a [see excursus in section 4.2.2], one only works very limitedly with one, two syllogisms [in the considerations of the asylum decision]. This is easy and that's what people here can do best. We haven't written any substantive decisions in two years and now have to get used to the more difficult argumentation in such decisions. [They had just received a bunch of 'old cases' [*Altfälle*] from the archive in Bern to decide (as applications and thus the workload decreased).] (Fieldnotes, reception centre, autumn 2013)

41 As the version of the internal note for positive decisions above moreover indicates, a positive decision requires much less argumentative work. A short summary of the facts of the case* and a few ticks are considered adequate (even for 'complex cases', but for them and, arguably, for some cases of applicants who come from countries of origin for which positive decisions are exceptional, "the longer standard version can still be used").

This quote reveals, first, that *how much* argumentation is needed crucially depends on the type of decision – whether you enter into the substance of the case or take a dismissal of application on other grounds (e.g. 32.2a). This is nicely captured in the notion "density of justification" [*Begründungsdichte*]. A higher density of justification is normally required if one enters into the substance of the case. Second, the quote also highlights that the caseworkers are used to certain "modes of argumentation". This is not only related to the kind of decision* (DAWES or substantive) but also to the "country knowledge" required to argue convincingly in a decision*.

## Excursus: The asylum decision*

Roughly, a negative asylum decision* consists of three core parts indicated by Roman numerals in the document: (I) the facts of the case* [*(entscheiderheblicher) Sachverhalt*] of the case; (II) the asylum section [*Asylpunkt*]; and (III) the removal section [*Wegweisungspunkt*].

(I) The facts of the case* consist of an assessment [*Würdigung*] of the assertions [*Vorbringen*] of the applicant [*GesuchstellerIn*] exhibited in the first interview referred to as enquiry about the person [*Befragung zur Person*, or *BzP*], in the main hearing [*Anhörung*] and evidence [*Beweismittel*] handed in. It contains a list of key dates of the proceeding (date of entry and application in Switzerland, date and places of hearings). The main part then summarises the persecution story of the applicant. It is highly condensed into what are considered the relevant statements for the decision* and represented in 'neutral', indirect speech with subjunctive form.[42] Finally, it lists proceedings of family members and their (non-)status in Switzerland.

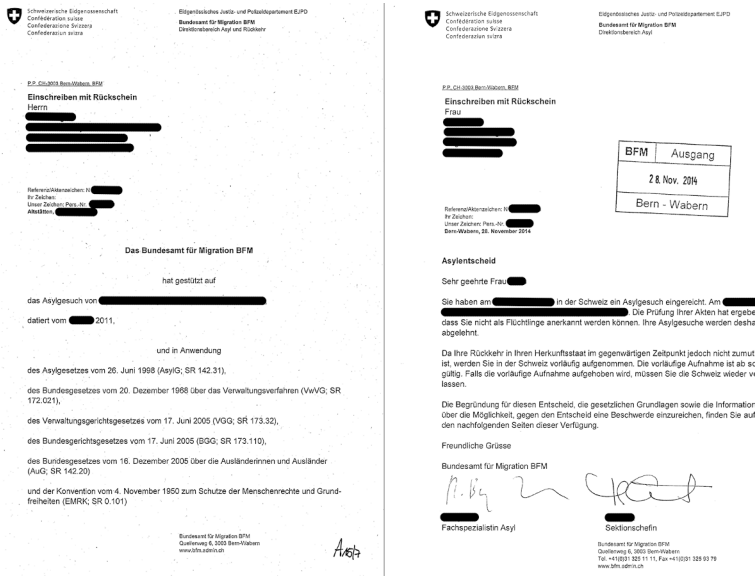
(II) The asylum section of the decision* consists of the considerations* [*Erwägungen*] for the refusal of asylum. These considerations* are (generally) expanded over several syllogisms – a form of logical reasoning, which combines a general statement and a specific statement to arrive at a conclusion. In the asylum case, each syllogism first states a *general* legal provision, then outlines how the statements and evidence in this *specific* case speak to this provision, and finally draws a conclusion (legal subsumption). In the asylum office, syllogisms are usually referred to as arguments, which are composed in a certain way to convey a specific argumentation in the asylum point.

42 In German, it appears that the use of general subjunctive in indirect discourse has the additional effect of evoking doubts in the reader about the veracity of the speaker.

Argumentations of why applications become rejected are internally considered as more or less 'strong', or sometimes even disapprovingly judged as "skating on thin ice" (Fieldnotes, basic training, autumn 2012). Importantly, the considerations* require arguing *with* something, i.e., with a legal article (see section 6.5.2. below).

(III) Every negative decision* entails a removal point which requires in itself specific considerations. The removal section in the asylum decision* consists basically of the assessment of obstacles to the enforcement of a removal order [*Wegweisungsvollzugshindernisse*]. Such obstacles can emanate from humanitarian obligations such as the non-refoulement principle of the Geneva Refugee Convention (permissibility of the enforcement) or the provisions of the Swiss constitution and the European Convention of Human Rights (reasonability). Or, there can have technical reasons for obstacles, for instance because countries of origin refuse to accept enforced returns.

*Figure 14: Front pages of decision* with and without outline of the outcome*



Schweizerische Eidgenossenschaft
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Eidgenössisches Justiz- und Polizeidepartement EJPD
**Bundesamt für Migration BFM**
Direktionsbereich Asyl und Rückkehr

P.P. CH-3003 Bern-Wabern, BFM

**Einschreiben mit Rückschein**
Herrn
[redacted]

Referenz/Aktenzeichen N [redacted]
Ihr Zeichen:
Unser Zeichen: Pers.-N. [redacted]
**Altstätten,** [redacted]

**Das Bundesamt für Migration BFM**

hat gestützt auf

das Asylgesuch von [redacted]

datiert vom [redacted] 2011,

und in Anwendung

des Asylgesetzes vom 26. Juni 1998 (AsylG; SR 142.31),

des Bundesgesetzes vom 20. Dezember 1968 über das Verwaltungsverfahren (VwVG; SR 172.021),

des Verwaltungsgerichtsgesetzes vom 17. Juni 2005 (VGG; SR 173.32),

des Bundesgerichtsgesetzes vom 17. Juni 2005 (BGG; SR 173.110),

des Bundesgesetzes vom 16. Dezember 2005 über die Ausländerinnen und Ausländer (AuG; SR 142.20)

und der Konvention vom 4. November 1950 zum Schutze der Menschenrechte und Grundfreiheiten (EMRK; SR 0.101)

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**Bundesamt für Migration BFM**
Direktionsbereich Asyl

P.P. CH-3003 Bern-Wabern, BFM

**Einschreiben mit Rückschein**
Frau
[redacted]

BFM | Ausgang
28. Nov. 2014
Bern - Wabern

Referenz/Aktenzeichen N [redacted]
Ihr Zeichen:
Unser Zeichen: Pers.-N. [redacted]
**Bern-Wabern, 28. November 2014**

**Asylentscheid**

Sehr geehrte Frau [redacted]

Sie haben am [redacted] in der Schweiz ein Asylgesuch eingereicht. Am [redacted] Die Prüfung Ihrer Akten hat ergeben, dass Sie nicht als Flüchtlinge anerkannt werden können. Ihre Asylgesuche werden deshalb abgelehnt.

Da Ihre Rückkehr in Ihren Herkunftsstaat im gegenwärtigen Zeitpunkt jedoch nicht zumutbar ist, werden Sie in der Schweiz vorläufig aufgenommen. Die vorläufige Aufnahme ist ab sofort gültig. Falls die vorläufige Aufnahme aufgehoben wird, müssen Sie die Schweiz wieder verlassen.

Die Begründung für diesen Entscheid, die gesetzlichen Grundlagen sowie die Information über die Möglichkeit, gegen den Entscheid eine Beschwerde einzureichen, finden Sie auf den nachfolgenden Seiten dieser Verfügung.

Freundliche Grüsse

Bundesamt für Migration BFM

[redacted]
Fachspezialistin Asyl

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(Source: Fieldwork materials, 2013/14)

Asylum decisions* feature a cover letter which introduces the outcome of the proceeding and a dispositive* [*Dispositiv*] which itemises the legal con-

sequences of the decision* including the statutory provisions it is based on. Additionally, a copy distribution list [*Kopienverteiler*] of the decision* and a list of codes to be entered for the registration of the analogue decision* in the digital database are attached to the record.

But how does a negative decision* look concretely? The arrangement and layout of the decision* changed completely during the time of my research:[43] from simply listing the basis of the decision – the application, the date, and the legal articles on which the decision* was based – towards a form of cover letter that directly informed the asylum applicant about the outcome of the procedure (see Figure 14). Before this change, applicants had to browse the whole summarising and deliberative pages of the decision* to find the plain outcome only in the operative part of the decision*, the dispositive* at the end. I find the old version to be symptomatic of the general impression I had: that the primary addressee of the asylum decision* is not a person but a legal body. The applicant was addressed as an abstract legal category and a potential appellant at the court of appeal.

The section that summarises facts of the case* introduces the key associations from the records of the case. Here is an example of the facts of the case* part of a decision*:

> The Federal Office for Migration relies in its evaluation of your asylum application on the following facts of the case [*Sachverhalt*]:[44]
> 1. You requested asylum in Switzerland on August 13, 2011. You were summarily interviewed on the occasion of the inquiry on the person on August 22, 2011. On October 9, 2012 you were questioned concerning your reasons for asylum at the Federal Office for Migration (FOM).
> In essence, you claim that you managed a small restaurant in Mogadishu (Somalia), which was attacked by members of the Al-Shabab militia on July 1, 2011. This attack was directed at policemen of the transition government who were customers at your restaurant. Two weeks earlier, an anonymous caller had threatened you with death in case you wouldn't close the restaurant. Because of this attack you left Somalia two weeks

43 This change was part of a larger administrative project of revising all the standard letters to become more readable and directly addressing the applicants.

44 The set phrases cited here may vary slightly in their formulation over time.

> later, on July 15, and, after a short stay in Djibouti, entered Switzerland on August 18, 2011.
> 2. Mr. J. E. with whom you are married religiously requested asylum in Switzerland in 2009 and was temporarily admitted in Switzerland with the decision of October 11, 2011.

The summary of the facts* [*rechtserhebliche Sachverhalt*] of the case is usually longer than in the example above. But it is generally a selective reading including only the 'legally relevant' elements of the applicant's persecution narratives derived from protocols of the testimonial interviews of encounters (see subchapter 6.2). And it is selective in an instrumental way: it should only contain what is then cited in the considerations part. Essential for the recounting of applicants' narratives in the facts of the case* is thus what underlines the justification used below to dismiss the application as unfounded or not credible.

The core part of the considerations* [*Erwägungen*] of the decision* relies on the legal grounds of the refugee definition (Article 3 of the Asylum Act) and credibility (Article 7). Decisions* thus heavily draw on the modes of argumentation they offer. Some of the latter are directly derived from the legal text of the Asylum Act; others operationalise the core terms and are usually backed by case law (see also section 6.5.3 below).

The considerations always begin (in the case of decisions that enter into the substance) with an introduction:

> The decision of the SEM on your asylum application is based on the following considerations:
> Switzerland grants asylum to applicants if they make a persecution in the sense of Art. 3 Asylum Act at least credible (Art. 7 Asylum Act) and no grounds for exclusion exist.

The next set phrases state the legal content of Article 3 or 7 of the Swiss Asylum Act or both (depending on the type of decision) as boilerplates.[45] The argumentative part consists commonly of a number of syllogisms – formal legal arguments – that have the structure of: (A) the legal norm (*major prem-*

45 According to the Asylum Handbook of the office, the use of boilerplates serves the purpose of the "administrative economy" (SEM 2015b, hb-i1, 9).

*ise*), (B) the specific facts of the case* (*minor premise*), and (C) the application of the legal norm on the specific case (*consequence* or legal subsumption).

Here is an example of a very common mode of argumentation that is based on Article 7. It is assembling contradictions 'found' between the protocols of the two common encounters, the first and the main hearing:

> [A] Assertions are contradictory if different specifications are made regarding principal points in the course of the procedure.
>
> [B] On the occasion of the first hearing you had recorded [*gaben Sie zu Protokoll*] that you lived with ELN troops in the jungle. Until 11.2.2010 you were in the jungle. Thereafter, the commandant received a letter with the order to resort to Medellín for a meeting. You accompanied the commandant in his car and left the jungle. You were then tracked down by the Colombian secret police. That was in the night of 15.2.2010. The commandant realised that he had been betrayed. His troops returned fire and everyone fled in different directions. You fled to Cali where you hid with a fellow countryman (B4/p.10).
>
> On the occasion of the main hearing you told another version of these events. On the questions for what reasons you finally left the jungle after a year, you said that the commandant was also forced to leave. He went to Medellín. You suffered from health issues and did not feel that fit anymore. The commandant saw this and told you that he would accompany you to Ecuador. After a meeting he did accompany you to Ecuador and left you in Alto Tambo. (B10/p.12) Towards the end of the main hearing you were confronted with these contradictory specifications, but you were not able to rectify them. (B10/p.16)
>
> (...). [Further contradictory specifications]
>
> [C] The overall appraisal of these contradictory specifications leads to the conclusion that you rely on constructed asylum reasons. From a person who really wants to have experienced what was described can be expected that (s)he makes precise and consistent specifications because such incidents are formative [*prägend*] for a person and are precisely remembered according to experience [*erfahrungsgemäss*]. Therefore, it is

> out of question that you stayed in the jungle the way you described it and ultimately ended up in Medellín. Your asylum assertions have thus to be considered not credible.
> (Excerpt from decision*, spring 2014)

This example of an Article 7 decision* argues with 'inherent contradictions' of the account. Two other ways exist to challenge accounts on the basis of *contradictions* in asylum orders: if they 'contradict the facts' [*tatsachenwidrig sind*] or, a bit less strongly, if they are considered implausible, which is framed as to 'contradict the general experience' [*der allgemeinen Erfahrung widersprechen]*. Besides contradictions, Article 7 argumentations often challenge the credibility of accounts on the basis of their *substantiation* (not credible are particularly assertions that are in principal points not reasonably grounded/sufficiently substantiated; if assertions lack *consistency*, i.e., are only introduced later in the proceeding ('belated') or are not mentioned anymore *[nachgeschobene bzw. nicht mehr geltend gemachte Vorbringen]*; or if assertions are associated with 'forged' or 'unsuitable evidence'. For all of these modes of argumentation with Article 7, boilerplates exist.

But what are the pragmatic considerations for editing decisions* and attempting to resolve cases with certain modes of argumentation? Article 7 argumentations can draw upon connections established in case law that relate the behaviour of applicants in the procedure or non-persecution information provided with the credibility of their persecution account. The asylum handbooks states in this respect:

> Reason for doubt regarding the credibility of asylum-seeking persons is indicated, for instance, if their behaviour during the asylum procedure does not conform to that of a really persecuted person who hopes to be granted protection by the competent authorities. Who hinders the procedure instead of promoting it through their concealment of their travel route, of their identity or their unfounded refusal to give evidence, expresses a lack of interest in the speedy clarification of the facts of the case and reveals a fraudulent intent. (SEM, 2015a, hb-c5, p.15)

This means in practice a persecution account's credibility can be challenged if applicants hide their real travel route – which they almost always did in the

cases I encountered. This "travel route-credibility connection" (*Konnex*) was often used in the Article 32.2a decisions* I encountered.

> As I meet him on the corridor, Oskar, a head of section, says he has a decision* he'd like to show me: "I am interested in what you think about the argumentation." He prints the two versions of the decision – one of Ingo [the caseworker in charge of the case] and his – and marks a section [the facts of the case and a part of the considerations] on which I should particularly focus. It is the first time I am directly confronted with an asylum decision*. I read through the facts of the case of Ingo's version, which I summarise here:
> A Georgian couple applied for asylum. The man said that he had witnessed a hit-and-run accident back home. The accident perpetrator returned and asked him not to report the accident. But he still called the ambulance and the police. When he reported the accident, the police did first not believe him and refused to register his testimony, as they realised that the accident perpetrator was likely one of their colleagues. The next day, after having nevertheless given his testimony, a man forced him to enter a car on the open street. The accident perpetrator, wearing a police mayor uniform, was sitting in the car and intimidated him, threatened him and asked him to leave the country. The police mayor also appeared at his wife's workplace and threatened her. When his wife asked her husband about the incident, he dismissed it as a mistake, but thereafter behaved strangely and soon gathered his family to leave the country, though without having enlightened his wife about what had happened.
> I go through the considerations of the decision. It is apparently a 32.2a decision* that has two main parts in the considerations* of the asylum part: one focusing on the justifiability of not having provided identity papers within 48 hours, and a second one that is introduced by the following boilerplate: "Furthermore, it has to be examined in the case of paperlessness, whether refugee status can be determined on the reasons stated in the main hearing as well as based on Article 3 and 7 of the Asylum Act or whether further clarifications are necessary to determine refugee status or obstacles to the enforcement of the removal." What follows in this second section is thus a somewhat abbreviated examination of the "well-founded fear of persecution" compared to a substantive examination.
> Ingo argued that, in the first section, the applicant could have sought the protection from the Georgian state and taken legal action against the police

mayor. In the second section, he argued that the applicant's account "lacked plausibility and inner logic" and listed several facets of it that were "not comprehensible": why did the police mayor return after the hit-and-run accident and thus identify himself, why was the police mayor afraid of his testimony at all, and why did he not simply withdraw his testimony after having being threatened?

It all seemed a bit confusing to me. When I told Oskar about my impression and suggested that the state's protecting function could be rather questionable in such a case, I soon realised that was not what Oskar bothered about in the argumentation. He explained to me: "In asylum decisions, you can in principle argue with Article 3 or with Article 7 or with a hybrid form. In the example, it is argued with Article 3 and 7, thus a hybrid form, though more strongly with Article 3 than 7. As the Georgian state has to be considered in this case as 'capable of protecting', the argumentation with Article 3 is valid. But the following argumentation with Article 7 clashes with it – it pulls the rug from under Ingo's argumentation with Article 3 if he writes about the lack of accountability of the authorities. Furthermore, some of the elements of arguing against the credibility [*Unglaubhaftigkeitselemente*] are weak arguments, while the strongest is missing: that he [the applicant] did not tell his wife about what had happened. That's not comprehensible at all." Oskar had retained Ingo's argumentation with Article 3 in his corrected version of the decision* draft. Instead of the formerly equally important paragraph on Article 7, he added the phrases: "In case of a clearly missing asylum relevance, it is not necessary to go into potential elements that speak against the credibility in the statements of the applicants. Nevertheless, it is essential to assert that the descriptions of the applicants lack plausibility and inner logic." In the now shorter paragraph that followed, he retained two of the former arguments against credibility, and added the strongest one, the applicant not telling his wife about it. A final sentence again bracketed out that this arguments on Article 7 were comprehensive: "At this point, dwelling on further implausible moments and inconsistencies in the statements of applicants is set aside." (Fieldnotes, spring 2013; decision* drafts)

What I want to show with this empirical example is that, on the one hand, when it comes to how argumentations of decisions* are composed, the "devil is in the details": a few changes in the considerations* render the type of argumentation (Art. 3) clear, and a framing about the retained Article 7 argu-

ments make them subordinate, but still "speak" against the applicants. On the other hand, for me at least, this case shows quite distinctly that both strands of argumentation – through Article 3 and Article 7 – touch upon "the reality on the ground". The first makes a premise about the Georgian state's capability to protect its citizens from abusive officials (yes, it is capable); the second makes a premise about what is "comprehensible conduct" under the circumstances at hand or question the circumstances of events that led to the flight altogether as "incomprehensible". I was thus surprised in my discussion with Oskar when I realised that he did not question the state's capability (or equally its willingness) to protect its citizens in this case. To be sure, in this particular case, questioning the state's capability to protect would not directly mean granting the applicants asylum, but rather would shift the argumentation from Article 3 to Article 7. And although these two different modes of argumentation make quite distinct statements about the 'outside reality', the decision* for the applicants remains the same: they are rejected asylum. Furthermore, a third facet of argumentation in asylum decisions* is touched in this example: it is quite common that caseworkers cursorily mention their take on the application in light of the *other* Article: the one that the (main) argumentation is not based on. What Oskar did in the example above is more generically used in the sense of: 'it is not necessary to go additionally into Art.3/Art.7, as the statements are clearly not credible/unfounded (as we demonstrated), yet if we did, the relevance would be not given either/the credibility of statements would be doubted as well'. As Oskar told me on another occasion, "here we prefer an argumentation with Article 7 with a short reference to Article 3 in the end: my favourite set phrase is that the assertions are "even with a 'truth assumption' [*Wahrunterstellung*] not tantamount to relevant persecution according to asylum law". He added that amongst the older colleagues they had a consensus to argue for paperless [cases] with a "silent" Article 7 ["*stiller Siebner*"], as he did in the example of the Georgian case above.

It appeared to be generally more common to argue with Article 7 in negative decisions* than with Article 3 (see also Affolter 2017, 56–57). Affolter (2017, 57) related this to a double "protective stance" that caseworkers take in their decision-editing practices: it is more difficult to challenge Article 7 argumentations in appeals and due to its 'subjective quality'. Making mistakes in Article 7 argumentations is considered more acceptable than wrongly assessing the threat of (future) persecution (ibid.). Moreover, arguing with Article 7 instead of 3 shifts the more weighty and general evaluation

of "I do not consider the situation in your native country and/or what you experienced bad enough to count as persecution" to a particular and individual conviction of "I do not believe what you tell you experienced, and therefore I do not consider you someone who has been persecuted". As Affolter (2017, 56) and the example of Oskar suggest, preferring Article 7 argumentations was internally promoted and had become a "consensus". But there seems to be another reason for it, as this quote from a conversation with a caseworker suggests:

> Yes, there are a lot of things that would be at the borderline [if one had to argue with the relevance (Art. 3)]. That's a reason why many people prefer to argue with Article 7, right? Because it is always simpler: you don't have to examine this anymore. And it's almost always easier to argue with Article 7. Even though I don't actually know whether all people argue with Article 7, I have to speak of myself. I argue in case of doubt preferably with Article 7 because it's simpler. You just say "not credible", then it doesn't matter whether it is asylum relevant or not. Otherwise there's a great many stories that would be at the borderline. (Interview with caseworker, autumn 2013)

It appears thus that resolving cases by associating them with Article 7 is often preferred for two main reasons: first, Article 7 is considered a stronger association (compared with Article 3), since it is more difficult to overturn in an appeal; and second, arguing with credibility is considered simpler in practical terms than with asylum relevance (with a lot of borderline stories). This is also reflected in the 'hint' that the senior official teaching the module on Article 3 in the basic training gave the new caseworkers: "The interpretation of Article 3 is often difficult. Evaluate Article 7 first, then the evaluation of Article 3 can become superfluous" (Fieldnotes).

I would add that such a pragmatic shift of emphasis from questions of persecution to questions of credibility has an important effect beyond the pragmatics of case-making and speaks to the politics of asylum: it indirectly sustains or even fuels the discourse of abuse by giving the impression that applicants are actively and knowingly trying to deceive the asylum office in most cases. What has by other authors often been interpreted as a "culture of disbelief" (J. Anderson et al. 2014; Jubany 2017; Souter 2011) or "mistrust" (Griffiths 2012a; Probst 2012) seems thus, on closer examination, related to pragmatic considerations of how to best arrive at closures in case-making. Or,

in other words, it makes pragmatic sense for caseworkers to argue in decisions that they disbelieve asylum seekers, rather than state that they are not persecuted considering the story they tell. Recalling Scheffer (2010, xv–xvi), who pointed out that case-making is not only situated but also *interested*, I consider it crucial to attend to the administrative politics of how asylum is governed (see also Part III). By this I mean more concretely to look how a complicated amalgamation of considerations and material-discursive arrangements contribute "to the loosing [sic] or winning, to punishment or release, to urgencies and right moments" (Scheffer 2010, xv–xvi) in processual events of case-making. Regarding the analysis above, I think it is important to acknowledge that how asylum orders are written and what modes of argumentation are employed has often less to do with the case itself than with pragmatic heuristics of how cases more generally are effectively concluded.

### 6.5.3 Tried and Tested Justifications

Writing negative decisions* never starts from scratch: it consists of compiling textual elements in standard letters. When a negative decision* standard letter is opened in the word-processing software, an interface asks for the applicant's N number and then automatically adds all the necessary personal data of the applicant from ZEMIS (see section 5.2.2). What caseworkers have to write themselves is the summary of the facts of the case* (see section 6.5.2). In the major part with the considerations*, they heavily draw on boilerplates that they can choose from a dropdown menu. A head of section highlighted their centrality for developing modes of argumentation for different types of decisions*:

> Do you have access to the server? – Not yet. – Because then you would see that there are only seven, eight boilerplates for the argumentation with Article 7 [*Siebner-Argumentation*] and likewise for the argumentation with Article 3 [*Dreier-Argumentation*], plus then some country-specific boilerplates. (Fieldnotes, reception centre, spring 2013)

Modes of argumentation are thus partially preassembled in boilerplates that can be easily inserted via a plugin in the word-processing software during decision-editing. To be sure, the modes of argumentation are not limited to these "seven or eight boilerplates" mentioned. Yet, they are in practice employed in the vast majority of asylum decisions* written in the asylum

office. They have to be properly combined and then interwoven with the specific facts of the case* (minor premise of syllogisms, see section 6.5.2) and adaptation of the legal consequence stated in boilerplates to the case. In the section on the enforcement of the removal order, either generic or country-specific boilerplates can be used to justify that (no) obstacles to the enforcement exist in that case. Also these need to be often at least slightly 'personalised', i.e., adapted to the case. Quite commonly, caseworkers moreover draw upon 'model decisions'* of cases of a similar kind – either own exemplars or those of colleagues (the sections usually share 'good examples' via the server). Or they will look for judgements of the appeal court (usually rejections of appeals) that provide them with suitable modes of argumentation. On one occasion, a section head introduced me to his own compendium of 'useful' argumentations which he had aptly entitled "The Egghead" [*Le Schlaumeier*] collection.

### Excursus: The Egghead collection

The section head's personally compiled "Egghead collection" contained excerpts from 'successful' decisions, rulings from the appeal court (FAC) and the former appeal commission (AAC), and clues and heuristics for a wide range of case categories. The head of section had gathered this impressive (250-page) collection of snippets over the years, although, he regretfully told me, he had not had the time to update it recently. Moreover, he warned me that was is not well sorted. For him this was not a problem, he told me, as he worked with key word searches in the digital text document to find fitting snippets to use in a case at hand. He still used it frequently when he had an unclear case. And all the caseworkers in his section had access to it over the intranet. The collection is, I think, an excellent example of decision-editing in three respects. First, it offers tried and tested justifications from exemplars, particularly from case law, that can be adapted to argue with in decisions to be written. Second, it exemplifies the fragmentation of approaches to decision-editing (see also subchapter 8.1). The head of section made the effort to compile this collection to compensate for the absence of a systematic digital collection. He namely questioned the absence of a database with decisions shared across all sections and a systematic evaluation of case law. And third, the title of the collection hints at the skill necessary to successfully argue when writing a decision. Drawing upon tried and tested – and thus authoritative – associations is thus a clever strategy.

All writing practices of processual events of closures are thus heavily mediated by what has already been written – by oneself and by others.[46] Stylistically, I was told about – and saw – different "schools of practice" (see also subchapter 8.2) that were related to the preferences of one's head of section, but also the own introduction to the writing practices, the professional background and taste.

### 6.5.4 Sticky Records as Mediators of Sticky Spaces

The negative asylum decision* in Amadou's case stated:

> Moreover, the asylum seeker knows hardly anything about his purported native country Mali. For instance, the regions of the country were unknown to him. He was not able to provide information on celebrities either. Besides, A. declared to know the Senegalese soccer team, but not the one from Mali. He was not familiar with a single radio station in Mali. (…). Because of the insufficient knowledge and vague information there is grave doubt about the … claimed origin of Mali. Thereby, the assertions that have already been classified as non-credible are deprived of all foundations. Confronted with the aforementioned doubts, A. consequently agreed to be recorded as Senegalese by the authorities.
> (Excerpt from decision*, spring 2013)

This decision* excerpt hints at the intricate associations between the classifications of lives in practices of government and the exclusionary spaces produced in them: Amadou's "insufficient knowledge" and "vague information" about the purported space of origin was used to both dismiss his reasons for asylum and record him as Senegalese against his will. Asylum decisions* render the coding of lives in earlier records in case files operational: they assemble all the records that preceded them and re-cord applicants' lives to the territories of asylum protection and expulsion. Asylum decisions* have multiple audiences and operate both as records in the case file and letters to the applicant: as material-discursive artefacts, they both produce particu-

46 In the best case, caseworkers draw upon 'good' examples. But 'bad' examples also reproduce themselves (e.g. 'wrong' examples in training, 'wrong' legal association in standard letter, see section 5.2.4).

lar attachments and atmospheres (Darling 2014, 490–94) in the hands of the recipients and 'inscribe' a version of applicants' lives in terms of governing asylum. The dispositive* at the end of the decision* makes this inscription particularly visible. It closes the considerations* section of the decision* by concluding, "according to this, the SEM orders [*verfügt*]" and then lists in enumerated sentences the authoritative conclusion: "1. You don't fulfil the criteria of the refugee status; 2. Your asylum application is rejected; 3. You are ordered to leave Switzerland; (...)" (for an example see Figure 15). It moreover lists the legal associations on which this conclusion is based, and links it to the person by declaring "The order at hand refers to" and stating the name(s), alias names, ZEMIS number, birth date, and country of origin.

*Figure 15: Dispositive* of asylum decision* stating its legal consequences*

Referenz/Aktenzeichen: [redacted]

Demnach verfügt das BFM:

1. Sie und Ihr Kind erfüllen die Flüchtlingseigenschaft nicht.
2. Ihre Asylgesuche werden abgelehnt.
3. Sie werden aus der Schweiz weggewiesen.
4. Ihre Wegweisung wird zurzeit wegen Unzumutbarkeit nicht vollzogen. Der Vollzug wird zu Gunsten einer vorläufigen Aufnahme aufgeschoben.
5. Die vorläufige Aufnahme dauert ab Datum dieser Verfügung bis zu deren Aufhebung oder Erlöschen.
6. Bei Aufhebung der vorläufigen Aufnahme müssen Sie und Ihr Kind die Schweiz verlassen, ansonsten können Sie in Haft genommen und unter Zwang in Ihren Heimatstaat zurückgeführt werden.
7. Der Kanton Zürich wird mit der Umsetzung der vorläufigen Aufnahme beauftragt.

Rechtsmittelbelehrung:

Gegen diese Verfügung können Sie innert 30 Tagen seit Eröffnung beim Bundesverwaltungsgericht BVGer, Postfach, 9023 St. Gallen, Beschwerde erheben (Art. 105 und 108 Abs. 1 AsylG). Die Beschwerde hat die Begehren, deren Begründung mit Angabe der Beweismittel und Ihre Unterschrift oder diejenige Ihres Vertreters bzw. Ihrer Vertreterin zu enthalten (Art. 52 VwVG). Sie ist unter Beilage der angefochtenen Verfügung in einer der Amtssprachen einzureichen (Art. 33a VwVG, Art. 54 BGG).

Diese Verfügung stützt sich auf folgende Rechtsgrundlagen:

- Asylgesetz vom 26. Juni 1998 (AsylG; SR 142.31)
- Bundesgesetz vom 20. Dezember 1968 über das Verwaltungsverfahren (VwVG; SR 172.021)
- Verwaltungsgerichtsgesetz vom 17. Juni 2005 (VGG; SR 173.32)
- Bundesgerichtsgesetz vom 17. Juni 2005 (BGG; SR 173.110)
- Bundesgesetz vom 16. Dezember 2005 über die Ausländerinnen und Ausländer (AuG; SR 142.20)
- Konvention vom 4. November 1950 zum Schutze der Menschenrechte und Grundfreiheiten (EMRK; SR 0.101)

Die vorliegende Verfügung bezieht sich auf:

[redacted]

Beilagen: - Gesetzestext
- Merkblatt für anerkannte Flüchtlinge und vorläufig aufgenommene Personen
- Liste mit den wichtigsten Adressen in den Kantonen

Seite 5

(Source: Fieldwork materials, spring 2014)

If such a decision* is not overturned in an appeal and becomes legally binding, it likely captures applicants' lives in the spatiotemporal webs of enforcement and expulsion. But who or what is actually 'captured'? Applicants' bodies through their fingerprints in the EURODAC database? Yes, but not exactly, as Adey (2009, 277) pointed out: "it is not bodies per se which are being captured, but parts of bodies – *dividuals* according to Deleuze". I would suggest it is not only body parts, but also *life story parts* that are captured by asylum decisions*: the stories of the possible, the authorship of one's future mobilities, is in important ways captured in decisions*. In Amadou's case, after his decision* became legally binding, he would be first and foremost Senegalese and encountered accordingly. Another crucial lesson from case-making is: Policies may have changed while Amadou's case was assembled, but everything he says later will be read in light of what is already on his record: records omit and translate, but do not forget. And thus sticky records of asylum case-making become crucial mediators of the "sticky spaces" (Murphy 2012, 170) of the asylum *dispositif*: territories of competence and protection, of persecution and expulsion. Asylum seekers are ultimately confronted with a multiplicity of territories produced in case-making practices that may affect their lives-as-flows. They may become captured in the form of (im) mobilisations and material-discursive confinements or circuits (of namely Dublin). But they may also be granted asylum and their lives thus re-corded in more liberating ways. As Caplan and Torpey (2001, 6–7) have highlighted:

> Although bureaucracies organize this data with scant regard for personal needs, these records also furnish people with the means, together with private papers such as letters or diaries, to "write" themselves into life and history. In this they do not just behave in accordance with the requirements of bureaucratic categories, but create themselves as "legible" subjects of their own lives.

## Coda

At times, cases remain difficult to resolve as attempts for their closure fail (or are evaded by applicants, caseworkers or the court of appeal). Consequently, both cases and applicants' lives remain in a state of uncertainty. The coda tells the story of such a case. During my fieldwork in the headquar-

ters, I asked a caseworker, Christian, whether I could attend his next hearing. It concerned a Tibetan case of a man named Tsering, which Christian introduced to me as a "shitty case", because it was, as he told me, a "very old, unclosed case" that had ended up on his desk. But moreover, because Tsering had – according to files of cantonal law enforcement agencies in the case file – committed some (minor) offences that pressed for a resolution of the case (and his deportation). This sparked my interest in the case even more. Although Christian seemed a bit reluctant at first, he let me attend the hearing. The hearing revolved mostly around Tsering's difficult circumstances of origin. He claimed to be Tibetan with Chinese citizenship, but had never possessed any identity documents. Tsering's father was a Tibetan monk, his mother of Mongolian origin; he was born in Tibet but moved with the family to Mongolia at the age of four, where they lived in different monasteries until he turned eighteen; then they moved back to Tibet. Four years later, he fled Tibet and reached Switzerland via Nepal and France. He arrived in Switzerland in February 2004. Now, more than ten years later, I sat in on his third main hearing. The case file, which I was able to consult later, revealed that the case had never been really about Tsering's motives of flight but about his suspicious origin. And it moreover revealed a procedural history of mishaps – of contradictory linguistic appraisals, of mistakes in administrative decisions*, of expired legislation, of an unruly applicant, of a delayed proceeding, and an indeterminable ending.

Tsering's first hearing in February 2004 already raised the responsible caseworker's suspicion about his real origin. In the identity triage form, he classified Tsering as C (indeterminate origin) and noted: "hardly speaks any Tibetan; Mongolian passively well, actively mediocre; the mother tongue is unknown". A LINGUA analysis was thus commissioned, yet instead of a report two file notes in the case file document the failure to conduct such an analysis: "does not speak *any* Tibetan" and "origin indeterminate", "probably not Mongolia, and least of all Tibet". Tsering was transferred to a canton, where the main hearing was conducted soon after. In the letter accompanying the protocols transmitted to the then Federal Office for Refugees in Bern, the cantonal interviewer stated: "Contrary to the LINGUA proposition, the applicant speaks *and* writes Tibetan relatively well." The caseworker taking over the case in the headquarters thus commissioned a second LINGUA analysis in early 2005. The conclusion of this analysis was: "Tibetan as first language, second language Mongolian not particularly well used. Main space of

socialisation most likely Mongolia." I think it deserves to be mentioned here that this conclusion confirms everything Tsering told about his origin in the two hearings. His persecution story could now have taken centre stage:

> I left Tibet because my father had been arrested and was in prison for a year and two months. He had a very hard time because he only got a glass of water and a piece of bread a day. He lost a lot of weight in prison. My mother turned very sick. She died after a year. When my father was released from prison, he died after a week. With a few friends I wrote on a banner "The Chinese must leave Tibet and give me my parents back!" I tried to fight this Chinese government. A friend of mine lit a Chinese flag. The Chinese saw this and shot him. Then, we realised that the situation was dangerous for us and decided to leave Tibet.
> (Short version of persecution story from protocol of the first hearing, February 2004)

I assume that the caseworkers so far concerned with his case had considered his persecution story to be unfounded and thus were anxious to fix his origin in order to render him "deportable". Moreover, since early 2005, a few copies of cantonal orders of summary punishment started to accumulate in his case file: for unlawful entry in an asylum accommodation and pilferage. Therefore, the 'complicated relations' to his spaces of origin remained the key focus of how his case was evaluated. A second main hearing was scheduled in the headquarters in June 2005. It had to be discontinued because of a misunderstanding: the caseworker had believed the cantonal hearing had been conducted in Tibetan and thus tried to conduct the hearing with a Tibetan interpreter – which did not work. In August 2005, the Federal Office for Refugees had turned into the Federal Office for Migration (FOM) and a hearing was conducted in Mongolian. In September 2005, the caseworker wrote an asylum decision* that argued with Article 52.1a (admission in a third country[47]) and sent it out to Tsering. He appealed against the decision* at the ARC (the asylum appeal commission). The ARC asked the FOM for a consultation [*Vernehmlassung*] on the appeal in October and indicated that the FOM had

47 This article 52 of the Asylum Act states (1) that "a person who resides in Switzerland is normally not granted asylum if: (a) (s)he resided before her or his entry for a while in a third country to which she or he can return".

stated in the dispositive* of the asylum decision* that the refugee status is not fulfilled, but had not grappled with it in the considerations* of the decision*. This forced the responsible caseworker to take up the procedure again because, as it stated in the letter to Tsering, there was a "mistake in the asylum order". The caseworker simply omitted the statement about the refugee status from the dispositive* of the asylum decision* and sent it out again in December 2005. The FOM was again asked for a consultation on the appeal in autumn 2006. No ruling from the appeal body on the case arrived until 2008. In May 2008, the FOM saw itself forced to reopen the procedure because the legal provision on which the decision* had been based – Article 52.1a – had no longer been in force since the beginning of that year. In June 2008, more than four years after his case had been opened, Tsering disappeared – his case was thus written off [*abgeschrieben*]. In October 2010, Tsering reappeared and was sent to a reception centre again. He went through another first hearing that was mainly about his whereabouts since 2008. A month later, his case was reopened and he was sent to the canton again. In April 2011, he wrote to the office about his case still pending and received an "appeasement letter" [*Vertrösterbrief*] expressing the high workload in the office and requesting his patience. In November 2012, the authorities of the canton Tsering resided in ordered his containment [*Eingrenzung*] to the cantonal boundaries for reasons of (as it reads in the ruling) "threats to the public security and order in the canton due to his tortious conduct". He was imprisoned several times for breaching this containment and travelling to another canton in the next two years. In March 2014, I attended his third main hearing in the headquarters. Christian's lengthy negative asylum decision*, including the enforcement of expulsion to Mongolia, was sent to Tsering in June 2014 and then again twice to different addresses at the beginning of July 2014.[48] The Federal Administrative Court received an appeal from Tsering that was timely, but refused to consider the case as his appeal "did not challenge a valid asylum order" – in his appeal, he referred to the first asylum decision* sent out in June 2014 that was replaced by the two following ones and was thus not valid anymore.[49]

48 To send several orders after delivery failed was not the right way to proceed. I recall a senior in the basic training for new caseworkers who said: "There are many cases where people, if the order does not arrive, just send the same thing again. This is not legally correct" (Fieldnotes, basic training for new caseworkers, autumn 2013).

49 In ruling to refuse to consider the case, the judge equally stated "that it is not comprehensible for the Federal Administrative Court from the records why in the case at hand for the

With regards to content, however, these asylum decisions* were identical, and it was not Tsering's fault that the decision* had been sent out three times in a row. It appeared to me as a bizarre ending to an already strange case. Yet, the story seems not quite finished yet: the last records in the case file I saw are related to the Swiss authorities' attempt to receive a "laissez-passer" by the Mongolian embassy of rejected applicants that were purportedly of Mongolian origin. The record of Tsering's hearing with the Mongolian consul states "because neither identity nor nationality of Tsering L. are certain, no laissez-passer can be issued by the Mongolian consul". And it mentions that Tsering stated that he wanted to get a confirmation of his Tibetan origin from a Swiss Tibetan centre. So, instead of being closed, this case might have well ended up on someone's desk in the asylum office again.

This example of a case that resists closure and haunts the office reveals that, while cases come with a need to be resolved, attempts for their resolution remain uncertain and often provisional.

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same asylum application three orders were enacted in short time intervals which vary obviously only regarding delivery address and departure period and all of them could have been opened legally valid" (E-4040/2014, 2). But she did not take this decisive error of the lower instance into account when it came to evaluating the appeal of the applicant.

# Summary PART II

In this Part, I have suggested that cases require various *(dis)associations* to become resolvable (see Latour 1984). I distinguished five key processual events in which cases become assembled on their trajectory through the *dispositif* – openings, encounters, assignments, authentications, and closures. In the first processual event, openings, cases become established as material case files and applicants become bodily associated to them via fingerprinting. Such previous bodily inscriptions may already foreclose potential further chains of assembling and resolution. Or they may lead to the non-opening of cases. In the second processual event – encounters – the caseworkers meet applicants in different types of hearings. In these hearings, applicants' backgrounds and stories of persecution become "entextualised" (Jacquemet 2009) as they are assembled in protocols. Such encounters establish various associations that enable protocols as records of case files to 'speak' on behalf of applicants in the further course of case-making. Yet, what enters these records (and how) is crucially mediated by the pragmatic affordances of these encounters. The third processual event is about case files' assignments to different sites, sections, senior officials, secretaries and caseworkers along their trajectory. It breaks with the narrative of assembling a single case to introduce the pragmatic considerations of their distribution and allocation. It points to the fleeting ownership that caseworkers assembling cases have of case files and their partial assembling. And it hints at a crucial facet of the pragmatics of case-making: that every single case awaiting partial assembling is part of a stack of cases on each caseworkers' desk. In the fourth processual event, authentications, associations established in encounters regarding identity and potential persecution come to matter. They are compared and weighed against authoritative knowledge (partly) assembled in records in case files again. The authenticity of origin and accounts may be

tested in encounters, traced in protocols or material records submitted by the applicant, examined with external reports or internal consultations, or directly 'found' in "reality signs" in the account. Importantly, such authentication work is not necessary to the same extent for all cases. Once associations of records are ready to speak for a decision*, cases move on to the fifth and last processual event of case-making: their closure in legal decisions*. Assembling decisions* varies considerably between positive and negative ones: while the former are "split records" that only internally reveal the considerations*, the latter have to perform these to the outside. The former usually consist of relatively simple forms to fill and a barely adapted standard letter to send out to applicants, the latter require the diligent crafting of text. However, writing negative decisions* also relies on various preassembled "modes of argumentation" and "tried and tested justifications". Written decisions* are sent out as administrative orders that re-cord applicants to a particular reading of their lives – and may become sticky records that capture them in undesirable spatial relations. Yet, closures in asylum decisions* often prove only provisional, as cases may resurface for various reasons and haunt not only applicants but also the office.

Tracing how such (dis)associations are produced across a range of processual events of case-making Scheffer (2007a) has offered a reading of how asylum is governed in mundane, pragmatic terms. I have argued that in these processual events, the *dispositif* becomes enacted: its governmental arrangements, agentic formations, and cases meet up in situated events of case-making and their trajectories of becoming becomes transformed in them (see also Chapter 2). What my account of governing asylum has only touched on so far is the reflective facets or "meta-pragmatics" (Boltanski 2010) crucially entangled in the *dispositif's* continuous (de)stabilisation. I consider these in Part III: on the one hand, the "states of conviction" involved in enacting the *dispositif*: epistemological footings of case-making and its occasional overflows (Chapter 7); on the other hand, the rationalities that sustain enactments of the *dispositif* and highlight the fragmentations, contradictions, and the "ontological politics" (Mol 1999) of governing asylum (Chapter 8).

# PART III – (De)Stabilisations

In this Part, I attend to the reflexivity of those enacting the asylum *dispositif* by tracing the meta-pragmatics of case-making. The notion of meta-pragmatics refers to the sensibilities and sense-making endeavours of officials in light of the complicated, burdensome, and at times contradictory governmental arrangements that impact the pragmatics of their work: their understanding, justifications, rationales, weightings, and critique of casework and its conditions (Boltanski 2010). I agree with Kelly's (2012) suggestion that it is crucial to understand why officials act the way they act:

> If we are to avoid oversimplifying denial as a product of crude political instrumentality, we must explore the epistemological conditions under which it is possible to doubt or deny the claims of others. The point here is not to argue that immigration decision-makers are cynical or confused. Rather it is to examine how otherwise compassionate and rational people can produce results that end up looking mean-spirited. (Kelly 2012, 755)

For this reason, I approach the widespread diagnostic of a "culture of mistrust", of "disbelief" or of "denial" (J. Anderson et al. 2014; Griffiths 2012a; Jubany 2011; 2017) from a somewhat different angle: by examining the convictions and rationalities that favour some approaches to case-making over others. I suggest that the convictions and rationalities are fundamental facets of stabilising the *dispositif*, while their fragmentation, contradictions and occasional overflows have the potential to destabilise and transform it.

Chapter 7 outlines key convictions I encountered of officials regarding 'knowing' truths and writing law. It suggests that occasional overflows of cases reveal the ambiguous epistemological renderings of both truth and law which should thus be considered as related to fragile "states of convic-

tion". Chapter 8 considers the rationalities officials raised in relation to their work. It suggests that the tensions between these rationalities, their uneven weighting and the modes of government they give rise to means that cases become assembled in fragmented "asylums of reason". Some of what I consider to be the central *aporias* of governing asylum through arrangements of stateness, administrations, and law are thus introduced and discussed in Part III. Juxtaposing the challenges of truth-telling and truth-writing of governing asylum in Chapter 7 (States of Conviction) with administrative rationalities and how they affect practices in the Chapter 8 (Asylums of Reason) allows me to attend to crucial facets of (de)stabilisation of the *dispositif*.

# 7. States of Conviction

In this chapter, I approach crucial questions about conviction in relation to case-making. In the welcome address of the basic training for new caseworkers, a senior official of the asylum office pointed out the centrality of this notion: "We apply the law, it's a judicial act. This is to say: it's not about finding out the truth, we cannot do this. It's about convincing us: 'you have not convinced me' – that's the crucial factor" (Fieldnotes, initial training for new caseworkers, autumn 2012). These statements aptly bring together what casework is about: the caseworkers enact the law, and applicants have to convince them about their persecution because they cannot know the truth. Another senior suggested: "Ultimately, you just have to be convinced of one or the other [that a story is true or not]. That's daily business" (Fieldnotes, basic training for new caseworkers, autumn 2012). Caseworkers thus have to arrive at what both in legal and scientific discourse has been called an 'intimate conviction'.[1]

However, to become convinced means for caseworkers in practice often to overcome a considerable indeterminacy inherent to the stories of flight and people's origin they are supposed to assemble or resolve (see also Cabot 2013) – which is, I suggest, a question of "truth-telling"[2] (Foucault 2014a;

1 The notion "intimate conviction" is derived from the French "*intime conviction*". It is a notion codified in the French penal judiciary system and considered to be the "foundation of the act of judgement" (Fayol-Noireterre 2005): it refers to a certitude established from the "innermost conscience" of the person judging and seems also common in asylum procedures in France (Greslier 2007) and Switzerland (Miaz 2017). It is sometimes circumscribed with "gut feeling" or "the fact of being convinced" (Greslier 2007). My analysis in this chapter indicates that the degree of how "intimate" caseworkers' convictions are in the end is unsure.

2 Foucault developed the notion of "truth-telling" [*dire-vrai*] in two of his later lectures "On The Government of the Living" (1979–1980) at the Collège de France (Foucault 2014a; 2014b) and "Wrong-Doing, Truth-Telling: the Function of Avowal in Justice" (1981-1982) at the Catholic

2014b; 2014c). But then there is again another indeterminacy to overcome: of how law relates to what I call "truth-writing". A senior official succinctly referred to the legal indeterminacy of many cases in the basic training I attended by stating: "This is one of the cases in which you can argue in both ways (fear well-founded or not): You will have innumerable such cases. Look what you can live with" (Fieldnotes, training for new caseworkers, autumn 2012).

But what does it take to 'live with' this indeterminacy? This is both a question of the ethics and pragmatics of case-making, which require assembling certain convictions. I argue that two different forms of convictions are to be nurtured in case-making. The first are convictions of caseworkers about how to 'know' and thus 'tell the truth' of a case; and second, convictions about truth-writing, about the scope and meaning of legal associations allowing to resolve a case. I moreover suggest that these convictions may be unevenly affected by overflowing cases of various sorts. The *dispositif* of asylum needs thus be considered as stabilised in provisional epistemologies[3] or "states of conviction".

## 7.1 Convictions of Truth-Telling

Various scholars have highlighted problematic facets of how credibility is approached and assessed in asylum adjudication (Affolter 2017; Bohmer and Shuman 2018; Dahlvik 2014; Good 2004; 2007; Miaz 2017; Noll 2005; Rousseau et al. 2002). Some, for instance, have questioned the use of reports produced by country experts as 'objective evidence' in British courts (Good 2004; 2007) and flawed assumptions about memory in light of traumatic experiences asylum seekers went through (Rousseau et al. 2002) or suggested that both embellishments or omissions in applicants' accounts "may [rather] be

University of Louvain (Foucault 2014c). According to the editors of the latter lectures, Foucault drew on this notion of truth-telling for "analysing the relation between truth games and games of power, where truth is seen as a weapon and discourse as an assembly of polemical and strategic facts" (Foucault 2014c, 3).

3 Epistemology is here used not in a philosophical, but in a pragmatic sense of people's ways of knowing, implying that epistemologies are performative and that "truths are practice-embedded" (Law 2015, [9]).

the result of cultural conventions of truth-telling" (Bohmer and Shuman 2018, 131) than of deceitful intentions.

I would like to amend such crucial contributions by suggesting that one has to be aware that the governing of asylum relies on a fundamental unknowability of 'what applicants really experienced in their home countries'. Credibility assessments have conventionally capitalised on, for instance, contradictions between statements in the (usually) two hearings, accounts being 'unfounded in critical points' or 'contradicting general experiences'. More recently, new techniques for assessing credibility have been derived from forensic psychology (see also section 6.4.4), which were also introduced in the training for new caseworkers I participated in during my fieldwork:

> In the meeting room "Prudence"[4] in the main building of the headquarters, I sit in a round of twelve new caseworkers who participate with me in the basic training. Today's topic, "credibility assessment and hearing technique", is taught by an experienced caseworker from one of the reception centres of the asylum office. After introducing us the to principles of dealing with the crucial question of credibility of applicants' assertions in hearings, she presents to us techniques to "assess the quality of assertions" derived from forensic psychology. She tells us that narratives can be assessed for the occurrence of "reality marks" – if a certain number of them can be found, this is an indication for the validity of applicants' assertions. A participant objected: "There's a massive problem with that: what if liars too know these 'reality marks'?" The caseworker teaching the module responded: "We had, for instance, for a while a lot of Mongolians, who told a long story, very detailed – they had been instructed by the human traffickers to do so. But in these stories various other elements were completely missing, they had no individual bearing at all, they did not express feelings and so on. That someone is as good that he considers all aspects is highly unlikely. If he is able to do so, he's so exceptionally gifted that he deserves asylum as well." – "But how can one know how many of those we really have?" – "We will never know the truth." After this excursus that led her to acknowledge the profound unknowability

4 All meeting rooms in the main building of the headquarters have the names of cardinal virtues.

> of who speaks the truth, she went back to the basics of assessing credibility. (Fieldnotes, basic training for new caseworkers, headquarters, autumn 2012)

This excerpt highlights the stakes that claimants have in re-cording of their lives – at least if they are "exceptionally gifted" in performing according to the expectations of credibility assessments. It also reveals the uncertain outcome of "truth games" (Foucault 2014c) and the "resource of the subject to resist power" (Sarasin, 2015, 5) even though participants of the asylum truth games cannot escape a certain "regime of truth".[5]

While the need to resolve cases – even in the face of such unknowability – requires caseworkers to take a more pragmatic stance, this is arguably significantly informed by their meta-pragmatic standpoint on the conditions and possibilities of truth-telling. Many caseworkers I met are aware of how delicate and decisive credibility assessments are for asylum cases, as this statement exemplifies: "This [credibility assessment] is extremely delicate [whispers], and so much depends on it" (Interview with caseworker, autumn 2013). For an analysis of how asylum is governed, this means to consider not only the pragmatics of authentication or credibility assessments (see Part II), but also the "enduring epistemological and 'technical' questions of truth and validity" (Ajana 2013a, 102).

### 7.1.1 The Alethurgy of Truth-Telling

> In courts of law, as in murder mysteries, looking for the local truth about an event usually involves both participants and spectators in theorizing about general truths, and even about whether truth can ever be found. (Valverde 2003, 63)

In his essay "The Precarious Truth of Asylum", Fassin (2013) emphasised the centrality of evaluating the truth in asylum procedures. He convincingly argued that various theories of truth (objective or subjective correspondence

5 The notion of the "regime of truth" is essential for grasping the *dispositif*. As Foucault (2004a, 39) highlighted in his lectures on governmentality and biopolitics, "the point of all these investigations concerning madness, disease, delinquency, sexuality, and what I am talking about now, is to show how the coupling of a set of practices and a regime of truth form an apparatus (*dispositif*) of knowledge-power that effectively marks out in reality that which does not exist and legitimately submits it to the division between true and false".

theories of truth, and a pragmatist notion of truth) could illuminate some of the facets of the complex – and precarious – relationship of asylum procedures to truth. The objective correspondence theory of truth locates truth in the (mis)match between applicants' account and 'facts', for instance, from COI (ibid., 54). The subjective correspondence theory of truth considers truth to manifest in the perceived coherence between an account and the person giving it (ibid., 56). The pragmatist theory of truth concedes that "truth is at the end of the enquiry" (James 1907 cited in Fassin 2013, 58). The 'truth' applicants 'tell' is thus fatefully entangled with the 'truth' of those who are supposed to 'test' and 'authorise' it (ibid.). But how can we make sense of their entanglement?

Resolving asylum cases, I suggest, involves techniques of truth-telling, what Foucault (2014a; 2014b) called "alethurgy". Alethurgy signifies "the set of possible verbal and non-verbal procedures by which one brings to light what is laid down as true as opposed to false, hidden, inexpressible, unforeseeable, or forgotten" (Foucault 2014b, 7). In short, it refers to the techniques mobilised for true and false to 'manifest'. Both processual events of encounters and authentications that lie at the heart of case-making draw upon such alethurgic techniques. Foucault (2014a; 2014b) developed this notion in one of his later lectures, "On the Government of the Living", by invoking the quest for truth in the story of king Oedipus.[6] He traced what it takes for truth to manifest and realised that the alethurgic procedure takes two halves to combine: a divine part in which the Delphi oracle and the seer Tereisias speak in prophetic manner that Oedipus had killed his father Laios; and another, human part, in which king Oedipus' and his mother Jokaste's memory contest the prophecy. The two parts need to be reconciled by the perspective of two witnesses. The first witness is a messenger who discloses to Oedipus that he was a foundling. The second is the slave who Oedipus had been entrusted with, when his parents – Laios and Jokaste – wanted to kill him. The alethury in the story of Oedipus thus involves gods, kings, and servants to 'tell the

6 According to Sarasin (2015, 5), Foucault develops this notion to provide an alternative reading to Freud's, which emphasised not Oedipus' fateful absence of knowledge, but the procedures and techniques mobilised by Oedipus for truth to manifest. He thus aimed at highlighting the "historicity of truth-games" and the "contingency of the association of truth and subject" (ibid.).

truth', but in the end, a residual of indeterminacy remains (Foucault 2014a, 46–53).

The argument here is that the asylum *dispositif* involves a particular alethurgy: Similarly to the seer who speaks in the name of god, those speaking in the name of the state cannot see the future, but dispose of the "conaturalness" of power to say things and to let them happen (Foucault 2014b, 36). They declare and order at the same time (ibid., 39). In contrast, asylum applicants are, like the servants in Oedipus' story, interrogated: first, to examine whether they are whom they pretend to be, to authenticate their identity; and second, about the story that led to their flight, what happened, what they saw and how they acted.[7] Applicants have to assert their claim in a mixture of oath and witness statements for 'truth to manifest' in their account. The applicants thus find themselves in complicated associations with truth. They are supposed to speak the truth as independent witnesses. Yet they also need to advocate for this truth in the setting of testimonial encounters (see subchapter 6.2). Compared to Oedipus, who threatened the servants with torture and death to make them speak the truth (Foucault 2014a, 60), officials of modern administration appear rather toothless in their arsenal. They can only ask the claimant to reveal their identity and to give a truthful account. Nevertheless, each hearing opening contains not only a reference to the 'duty' to say the truth, but also what sounds like a vague threat: "You have a duty to tell the truth and the duty to collaborate when the facts are gathered for the evaluation of your application. You bear the responsibility for your statements. If you give untrue information, this can have negative consequences for you" (Set phrase, protocol of main hearing, 2013/14).

In the alethurgy of the asylum *dispositif*, 'truth' also requires combining two different halves: the truth of applicants and the truth of caseworkers. Despite the fact that new caseworkers are told that truth should not be sought because what truly happened could not be known, the notion of truth still looms large in practice. But what 'procedures and techniques of truth-telling' are involved in processual events of encounters and authentications?

7 Compared to Fassin's (2013) approach to truth in the asylum procedure, this view encompasses both what he called "truth-telling" and "authentication". I prefer the notion of alethurgy because it highlights how these two facets of truth are intertwined.

### 7.1.2 Procedures and Techniques of Truth-Telling

Applicants are asked to 'tell the truth' and the assessment of persecution stories still revolves around the question whether something 'is true'. A caseworker, introducing me to how she prepares her main hearings, said, "Before hearings I ask myself: What do I have to know for assessing whether it's true?" (Fieldnotes, internal training session, headquarters, spring 2014). But where does the truth manifest according to asylum caseworkers? The short answer is: in a comparison of applicants' account with 'facts', in their performance, and in forms of expertise (see also subchapter 6.4). Importantly, theories or convictions about where the truth manifests change over time:

> When I started to work in the office I paid a lot of attention to the body language. If someone did not look into my eyes, it was clear: he was lying. Of course, this is rubbish! That rather means maybe stress. [Today it is clear that] there is no significant relationship between body language/features and the truth [of accounts]. (Interview with caseworker, autumn 2013)

Asylum caseworkers I met thought the truth manifests not in body language but in various other domains. Importantly, in encounters, truth is not just sought, but rather actively produced:

> Researcher: That's interesting what you said: that some just insist on feelings [*pochen auf Gefühle*] and the others want facts and that you have to find your position somewhere.
> Caseworker: Yes, what shall I tell you about this?
> Researcher: What does it mean to "insist on feelings"?
> Caseworker: Ok, this is then to ask such questions like "How did you feel in doing so?" and "How did you react to this?", etc., etc. Others say maybe rather: "Describe the situation to me", this suits me more. We also learnt this in the basic training – maybe you can remember this [I attended the training with her] – you have to envision it like a movie. And that helps me a lot.
> Researcher: Did Lena [the teacher of the credibility module] say this?
> Caseworker: Yes, exactly. And then, you know, there is a gap somewhere [in the account] and then [you request the person] "describe it again to me" and if then nothing comes in the gap, then at some point it [the account] gets

> destabilised [*schwankt*] … I do a good deal with descriptions. And then always insist on the details [laughs] that if they don't come, you can work with that. (Interview with caseworker, reception centre, autumn 2013)

The technique of 'insisting on details' raised by the caseworker is closely associated with procedures of truth-writing – in which truth becomes inscribed in terms of criteria-based content analysis (CBCA) or the framings of credibility from Article 7 of the Asylum Act (see subchapter 6.5). Particularly in the more 'active' production of truth-indicators in encounters, but also in what caseworkers consider being their 'manifestation' in accounts or other forms of 'evidence', they may be affected by emotions of empathy, pity, admiration, or anger about the applicant. As a caseworker told me after a hearing with an applicant who had been diagnosed with cancer, "You have to write in your study that I am influenced in the way I look at the case, because the applicant is ill. I ask less and probe less" (Fieldnotes, headquarters, spring 2014).

But how is truth considered to manifest otherwise? Certainly in exemplars (see section 4.2.4), but also by comparing applicants' accounts with 'matters of fact' – what Fassin (2013, 54) subsumed under the "objective correspondence theory of truth". Such matters of fact regarding a 'persecution constellation' or a place of origin can be derived from various forms of not case-specific authoritative knowledge such as COI reports or various forms of expertise. These forms of knowledge are considered to convey a truth that may expose the falsehood of applicants' accounts, as the latter posit something that is considered impossible or unlikely in the view of that knowledge.

> Researcher: Can you also commission, for instance, social anthropologists for in-depth reports about a constellation that someone put forward?
> Caseworker: For this we only have our country analysts.
> Researcher: And then you resort to them?
> Caseworker: Yes.
> Researcher: Ok, this is interesting, because I think in England this is different. There you also have social anthropologists commissioned to make external reports.[8]

8 I asked this because I had come across Good's (2007; 2004) work on the role of social anthropologists and their expertise in asylum courts in the UK.

> Caseworker: Yes, and in Norway you have the Landinfo I think, and in England, there is something like that and even in some of the Benelux states. They have whole authorities that are independent from the procedure. And from these you can commission reports that are partially, frankly, used against the applicants. But to take Landinfo; (…) you see 99 per cent of all Nigerians come without any papers. And they say "I never had any passport and ID". And, err, there I found of these Norwegian, probably social anthropologists, who made some scientific country of origin report, for Landinfo, and they said: "does not exist in Nigeria, everyone has a passport or an ID".
> Researcher: Can you say this in such a generalised manner? I find this quite a tricky issue…
> Caseworker: Well, they said maybe not the nomadic population in the North or the destitute farmers in the countryside, but otherwise… governmental everyday life is clearly structured in a way that you can hardly survive a year without being registered somewhere and having papers. And those who come to Europe are rather from this environment. (…). And therefore, this appeared obvious to me, it almost disillusioned me a bit [laughs]. I got the feeling that probably I had been a bit too credulous in the past because I often thought, "this is often well possible that they don't have any papers". And they just found, "it is almost impossible".
> (Interview with caseworker, autumn 2013)

During our encounter, I remained somewhat sceptical about the generalisation, not only because I do not assume social anthropologists to have generated knowledge that lends itself to such generalisations. Neither did my scepticism arise from my reservations about anthropologists' involvement in reports that suggest such conclusions. I mainly was sceptical about how, according to the caseworker, a generalised statement – everybody needs to have papers in Nigeria – serves to denounce a Nigerian's individual experience regarding papers. I thus probed the caseworker a bit more on this:

> Researcher: What remains a problem, I think, is the connection of individual stories of flight with these rather general country assessments.
> Caseworker: Yes exactly, but for example, I once had an Afghan, of the Hazara ethnicity, who said the Taliban had tried to forcibly recruit him. And then, (…) [in] the UK … a country information institute … wrote a relatively long paper about forced recruitment by the Taliban in Afghanistan. And they said:

> there's until now no single case in which a Hazara was forcibly recruited – for the simple reason that they are Shiites, and the Taliban are Sunnites and the inflow is high enough that they would not recruit sort of confessional adversaries to join them.
> Researcher: But are the Taliban so uniform or might they not still be doing this in a certain regional or local context?
> Caseworker: That's possible, yes.
> Researcher: And then the question is: how can you exclude the possibility in your individual case that it was still possible on the basis of your information?
> Caseworker: Sure, that's right.
> Researcher: And then it again comes down to a question of probability, right?
> Caseworker: That's true, but can we exclude that really, can we say with certainty that all humans are mortal? No, because not all of them have died yet [I laugh]. This is inductively deduced, I am sorry, but this is a purely inductive conclusion.
> (Interview with caseworker, autumn 2013)

The caseworker, on the one hand, confirmed my objection that a report about the general recruitment practices and rationalities of the Taliban cannot exclude the possibility that the Hazara claimant told the truth: that he could have been forcibly recruited (against all odds). On the other hand, the caseworker refused my objection, as inductive conclusions can never be certain – there is always the possibility of a single case proving the conclusion wrong. He thereby evaded the thorny issue I had raised: that general assessments become a truth that overrides the applicants' truths about what they experienced. The caseworker turned to the question of responsibility related to this mode of truth-telling:

> Caseworker: [The judge of the appeal court in a training session said] no matter how tough it sounds, it is really possible that someone is not persecuted 'on the balance of probabilities', returns home and walks straight into it [*ins Messer laufen*]. You cannot use that against the decision-maker or the judge.
> Researcher: No, surely not. But the problem is still that the procedure seems somehow to be set out to produce certainties from probabilities for individual people.
> Caseworker: But with the example that humans are mortal you had to say that no single case exists in which you can exclude with a hundred per cent

> probability that he is not still persecuted for some reason. And then you don't have to make a procedure anymore.
> (Interview with caseworker, autumn 2013)

In essence, the discussion about the difficulty associating the truth of individual experience with the truth derived from general report was: they cannot be fully reconciled, and, in case of being conflicted, the individual truth is overruled for the sake of the procedure. By consequence, the procedure rests on the premise that if truth cannot be directly read off applicants' accounts or authenticated pieces of evidence, it is fabricated as probability, likelihood and plausibility from various sources of authoritative generic knowledge about 'how things are in a place'.

The truth may also 'manifest' in case-specific expert reports such as medical examinations submitted by applicants or their legal representative (see Fassin and d'Halluin 2005). Caseworkers 'fear' the truth these medical examinations' declare since they (often) limit the scope of caseworkers' truth-writing (see subchapter 7.2):

> Caseworker: And then there are, for instance, medical reports. These are also experts that wield so much power. If a, well, a Dr med Psychiatrist says, he [the claimant] has a PTSD [posttraumatic stress disorder], then he has a PTSD, you cannot do anything about it.
> Researcher: You cannot question it?
> Caseworker: Even if you think that guy twitted us all and he is perfectly fine, I haven't seen any sign of a posttraumatic stress disorder. I cannot challenge it, I am not a medic. And it's correct like this. We both know how, especially in psychiatry, how extremely delicate diagnoses may be. But then I think, it's still fine. If he says so, it's like this. Then the only thing I can still do is: look whether that is curable in the country of origin. I cannot question the diagnosis.
> (Interview with caseworker, autumn 2013)

As the caseworker emphasised, such medical diagnoses leave no room for doubt. They come with their own authoritative associations that derive from the (scientific) expertise of those who wrote them. In general, 'power-wielding' experts of different sorts are crucial to the alethurgic procedure of asylum: they can be summoned to testify (see also Good 2007). However, doctors are a rare type of expert that can be summoned by the applicants themselves.

The knowledge of claimants about their purported place of origin is another crucial spot where caseworkers consider truth to manifest. Resonating with Valverde's (2003) book entitled *Law's Dream of a Common Knowledge* is the presumption amongst caseworkers that everyone needs to have a minimal amount of knowledge about certain things. This assumed universal common knowledge, or "knowledge we all ought to have" (Valverde 2003, 223), explains the kind of truth-telling sustaining, for instance, country of origin questions (section 6.4.1). An interview with a caseworker suggests still an alternative technique for truth-telling that avoids reference to some generic 'objective truth' altogether:

> Caseworker: For our language questions, it's a bit difficult sometimes: there is little news for certain countries, right? Well, I mean, I can ask for Sudan: "what does the flag look like?", which I can see on Wikipedia. But every Nigerian can look on Wikipedia too [and see] what the Sudanese flag looks like. Often it is more an appraising of how the answers come. Sometimes we pose really dumb questions like "tell me five neighbouring villages", right. And sure enough there are applicants who tell you "Oh, I don't know any" [smiles]. And then you indeed have to say, "how come you don't know your neighbouring villages?" And you maybe get an answer like "well, I always was the whole day the inside", and "I never went outside the village". Then it does not so much matter whether the answer is correct or not, it matters more how it is conveyed. When someone comes and just presents me, easily, five villages, and they, for all I care, lie thirty thousand kilometres away, yet it is conveyed in a convincing way, then I believe him. Thus, it is more like a test question: how is it conveyed? Except you are really lucky and find the village that he indicated on Google Maps and are also able to figure out the neighbouring villages, but otherwise, often it is like: how is it conveyed, how convincing. Or like, distance questions: "tell me how long does it take to the next city". And there are really some who tell you "I don't know" and then you say…
> Researcher: But still, the question remains: what do they have to know? … And the difficult thing about our perspective is that we assume that certain things must be known.
> Caseworker: Exactly! Exactly. And then it is about… I always try to consider: what did I know before I went to school? Like, what was I able to do? What could I have answered with eight years? Well, I don't want to insinuate that …

> But just because I assume, ok, maybe they really have no education. Or, what are things that you just come up in everyday life, right?
> Researcher: If they are an issue…
> Caseworker: Exactly, if they are an issue. And therefore, politics is already difficult, right. I find you can omit that. (…). What you somehow have to know is: you have to know the phone prefix of the country, as you have to call your relatives. I mean, no one can tell me they never called their family at home. Except someone says he has no family anymore. But you just have to know this, you really have to know this. This has nothing to do with education, since you just need this. And again, like, the neighbouring villages you have to know. If someone says he was a farmer there, he needs to know what is to be planted when. There it's again difficult to say whether it's true or not. But you need to know how much you get for a cow, if you are a herdsman. There is like, what is the price for an average cow? And then I don't care if he tells me the right price, but that he tells me like "if the cow is sick then you still get like so much". You know, if any answer comes where I feel, oh, well I can comprehend it, right? And the other thing is definitely a problem and we have often discussed this [amongst caseworkers]. If questions are asked like "what's the name of the national anthem of Gambia?" – Can you really expect a Gambian to know his national anthem? I don't know, right? That's quite difficult… Where I tell the people sometimes, from the case of Ghana [where she did ethnographic fieldwork]: "hey, for a Ghanaian, I wouldn't expect him to know this." (…). So, I always try to think what I feel people in Ghana would be able to know. But then I have again the problem that almost all people I was together with had higher education. You cannot [generalise] from them…
> Researcher: You have a certain bias…
> Caseworker: Sure, and I am aware of this. … But still I find there is everyday knowledge you can expect, right? But it is difficult to tell, which one. That's really difficult.
> (Interview with caseworker, autumn 2013)

In her reflections, the caseworker acknowledges the difficulty of finding a common knowledge one can expect all applicants to know. Yet, she – as most caseworkers I talked to – insists that such a 'common knowledge' exists. Valverde (2003, 21) linked this insistence on a 'common knowledge' in legal procedures to an "epistemology of the 'duty to know'". However, caseworkers cannot only infer a 'duty to know', but they may equally discover the 'truth' in

the performance of the applicant itself – as the caseworker above as well as Fassin's (2013, 56) "subjective correspondence theory of truth" suggest.

Both examples – of relating accounts to 'objective' or their performance to 'subjective' truths – moreover reveal the crucial role of the need to resolve cases despite a remaining indeterminacy in truth-telling procedures (Foucault 2014a, 53). Importantly, the asylum *dispositif's* truth-telling is not about unravelling a sort of 'reality on the ground'. Truth-telling rather refers to the nurturing of a conviction – through the procedures and techniques mentioned above – that is sufficiently strong to know how to resolve the case (in truth-writing, see subchapter 7.2) and thus enact the *dispositif*. This view explains why the practices of caseworkers related to truth-telling appear at times purely tactical and improvised (see also Jeffrey 2013, 35). In a discussion with a caseworker and an interpreter after a hearing in the reception centre, this came quite markedly to the fore:

> After the hearing, the interpreter tells the caseworker that about 160 million people are living in Nigeria. About one million of them have an ID card, the rest do not. The caseworker [who in the hearing pretended not to believe the claimant that he does not have an ID] replies that this is clear. But the thing with the identity papers is something political. One is looking for ways to be able to simply reject people. Europe is sealing off itself. It is resonating in the subtext that one does not want economic refugees. "Many of the questions are, I do not say sneaky, but… One asks them to be able to cover these points." – The interpreter insists on his point: "Many of the caseworkers are maybe unaware of the fact that you will be never controlled in your life in Nigeria, at the most maybe your driving licence once. But who you are, nobody is going to ask you this in Nigeria. (Fieldnotes, reception centre, spring 2013)

The question about the prevalence of identity papers in Nigeria is in this excerpt approached from to different alethurgic perspectives. The caseworker is not interested in the truth about IDs in Nigeria, but in the truth of the asylum procedure: He suggests that it is in fact about 'simply rejecting people' for which the insistence on Nigerians submitting their ID is instrumental. Hence, the alethurgy of the asylum *dispositif* appears limited by the pragmatist rationality of the need to resolve. This concurs with what Fassin (2013, 58) referred to as third, pragmatist alternative: "truth is at the end of the enquiry". The interpreter, however, insists on clarifying that the case-

worker's blanket assertion according to which everyone needs to have an ID in Nigeria does not bear comparison with (what he perceives as) the 'reality on the ground'. He thus calls for a more profound alethurgy that allows for uncovering and acknowledging 'how things really are'. But contrasting alethurgic procedures may yield *different* truths 'at the end of enquiries'. Notably, the 'truth' about the prevalence of IDs in Nigeria has been 'told' in two contradictory ways: there is the truth of Landinfo cited further above ("almost everyone has an ID") and that of the interpreter ("almost no one has an ID"). Hence, the pragmatics of case-making means that the asylum *dispositif* assembles multiple, "local epistemologies" (Valverde 2003, 15) or 'states of conviction'. Such 'states of conviction' mean not only that 'truth' about applicants' lives and origins are considered to manifest in contrasting and at times contradictory ways, but also 'the reality' rendered in 'facts' or 'expertise'.

Many caseworkers seem to have developed relatively strong convictions about the 'right' inductive conclusions to draw in the case constellations they already know well. This is not all too surprising: While at the beginning all case stories appear unique and personal, their reappearance makes them lose any personal touch: and if one was deceived about a story before, one tends to have doubts about any story that bears resemblance to it. Ultimately, one may become a convict of one's own heuristic convictions[9] (see also Tversky and Kahneman 1974, 1124). Another notion of doubt could play a crucial role in this respect, I suggest. In my view, to have doubts about claimants' accounts is not problematic per se, but it becomes so if those 'telling the truth' in a case lose any doubt about their own capacity of truth-telling. In an interview, a caseworker acknowledged his uncertainty and doubt, which he criticised others of having lost: "But from time to time, I have the feeling that I am totally floundering, and I don't see through at all. But I tell myself, all the others are floundering too, but they do not realise anymore that they are floundering" (Interview with caseworker, autumn 2013).

Caseworkers seem to face difficulty in balancing between the escape from the often-frightening impossibility to know the consequences of one's decision* and the preservation of a good portion of self-reflexive doubt.

9 This can also be related to what Granhag, Strömwall, and Hartwig (2005, 47) called "'wicked' learning structures" in asylum procedures for their lack of "feedback on veracity assessments".

What other scholars call a "culture of disbelief" or "mistrust" (J. Anderson et al. 2014; Griffiths 2012a; Jubany 2011; 2017) seems thus to be an effect of a lost balance of doubt: a balance that contrasts the doubt about applicants' truthfulness with caseworker's capability to doubt their own judgement. Currently, it appears all too easy to assemble/accumulate doubt of the first kind while obliterating the second kind of doubt. Restoring this balance means to replace "the attitude of suspicion toward the applicants with the benefit of the doubt" (Kobelinsky 2015b, 87) which involves suspending some of caseworkers' preassembled convictions. They need to be able to sleep well at night – but maybe not too well either. Restoring a sense of the human scope in everyday proceedings appears as an apt remedy against the proliferation of "bureaucratic indifference" (Herzfeld 1992) in the asylum administration. The account of truth-telling I have provided in this subchapter is thus not only about the convictions of how truth manifests, but equally about the *scope* and *locus* of doubt.

## 7.2 Convictions of Truth-Writing

In this subchapter, I am concerned with the epistemological status of law and legal associations in the view of those involved in enacting the *dispositif*. Truth-writing in the asylum decision* both enacts the legal order through the citational practices (see subchapter 6.5) and a certain truth about applicants and their lives. While I have offered a reading about the convictions relating to the 'regime of truth' of the asylum *dispositif*, I now turn to convictions about the law and its crucial 'regime of practices'. While an analysis of what law is and does in the eyes of people (see Valverde 2003) could fill a volume on its own, I limit myself here to two facets of law's epistemology: "juris-diction" (see Richland 2013, 212–14) and inscription. The first concerns the question of the scope of law in pragmatic terms – as literally 'telling the law', and thus of enacting the asylum *dispositif*. The second touches upon the question of the grasp of law – of the translation of lives into law – as a technology and rationality of inscription. To address the first question, I, on the one hand, foreground some of the convictions that caseworkers have about the legal landscape they enact – including its troubled relationship with justice (7.2.1). On the other hand, I provide a reading of the convictions of truth-writing raised in a concrete case I became involved in (7.2.2). For the second question,

I give a reading of an event to establish a new practice* in which the grasp of law is debated in light of an exemplary case. It reveals that for legal associations to become able to grasp and thus re-cord lives, their meaning needs to be translated into, and assembled with, the 'non-legal' (7.2.3).

### 7.2.1 The Legal Scope – A Certain Justice?

> A convict is not a little bit guilty, a couple are not partially divorced, a forced migrant is not half a refugee. Legal processes come down on one side or the other, and have the institutional resources to make this stick. It matters little whether the general public, or even the lawyers and judges involved, are entirely convinced, or have had their doubts eradicated, reasonable or otherwise. What matters is that a decision has been reached. It is for this reason that the law is a particularly powerful technique for the management of doubt. (Kelly 2015, 188)

The law codifies, stipulates, purports and thereby provides a frame to act upon a certain sphere of relationships: legal relationships; this appears to be widespread view of law in the asylum office. In the case of asylum, law concerns relationships between the state and applicants – the sphere of *administrative* law. Applicants are noncitizens who invoke the refugee convention, nationally codified since 1981 in *asylum* law. Questions relating to the enforcement of expulsions and temporary admission emanate from *foreigner* law. These laws are written – and continuously re-written (see section 4.1.2) – by the legislator, the Swiss parliament. The latter thus provides the public administration with 'a basis for action' and may equally remove it: new statutory provisions enter into force; others are altered, or annulled. The legislator is conceived as standing above the administration, acting 'on behalf of the nation' [*in Vertretung des Volkes*]. As law is actively changed by the legislator – reformed, tightened, simplified or tested (related to the latest restructuring of the asylum procedure) – the legislator is attributed an intention, a will: "Take the paperlessness article, there it is evident that the legislator wanted to erect a [legal] bar in order to prevent some applicants from entering the regular procedure" (Interview with caseworker, autumn 2013). As the legal landscape officials encounter is not devoid of flaws, they not only acknowledge that the legislator "has its assumptions", but also criticise that it "runs on a slalom track", "takes missteps" [*macht Fehlgriffe*], or

"builds in contradictions" [*baut Widersprüche ein*] in its law-writing practices. For the latter, a senior jurist of the office provided an example in a discussion:

> There's the case of the applications for revision and re-examination that are not 'sufficiently justified'. There – and not only there – the legislator has built in contradictions: in one passage, it says one does not enter into the substance of such applications. In another passage, a "write off" [*Abschreiber*] is foreseen for such a constellation. The difference is that in the first case, the applicant has legal remedies, in the second not. But we found a legally correct and practicable solution. (Fieldnotes, headquarters, winter 2013/14)

The law written by the legislator thus needs to be specified in legal asylum regulations [*Asylverordnungen*] and translated into 'practical solutions'. The latter enter various binding guidelines (namely the asylum procedure handbook and APPAs), are conveyed in internal training sessions (through so-called *Vademecum* that list the practical consequences of legal revisions)[10] and become inscribed into the writing devices for cases' assembling and resolution (e.g. standard letters and boilerplates). The idea of legislation – law-giving practices – becomes forceful in its ability to postulate the grounds, means and scope for associating things and humans in legal terms. The idea of precedent – of an exemplar unfolding these legal terms in their meaning – is equally important: any relationship to 'reality' that is stabilised through a legal association in the form of a precedent becomes then performative, i.e., open for citational practices across time and space (see also Butler 2011).[11] Most caseworkers I talked to were glad to have a 'second instance' – the Federal Administrative Court – that could, if necessary, overturn their decision*. In the basic training, for instance, one caseworker related it to her mental hygiene: "I have to be able to sleep well. I calm myself by saying: there is still

10 If new legal provisions become effective, the jurists in the management of the office produce a *Vademecum* that offer a translation of the changes in the legal landscape and highlight the consequences for the practice* of the office. These are introduced to the caseworkers and their superiors in internal training events.

11 The legal notion of "subsumption" – cases and their facets subsumed under legal articles – implies a peculiar spatiality: that legal articles open up a semiotic space for cases to be put inside. I argue contra the notion of subsumption that the semiotic space is only produced in the practices of associating a legal notion with cases that write it and thus inscribe it "in the real" (see also Emmenegger 2017).

a higher instance, it can still decide differently. That's good for my mental hygiene" (Fieldnotes, basic training for new caseworkers, autumn 2012).

The scope of re-cording lives in terms of asylum is thus not only dependent on the truth-writing of caseworkers in the asylum office, but crucially mediated by the second instance, the Federal Administrative Court. Both the asylum practice* of the office and the leading decisions of the court are where the legal becomes associated with certain 'constellations' to re-cord lives in its own terms. The asylum practice* stands, moreover, in an ambiguous relationship with the court: the latter may back the former, but it may also close down common avenues for resolving cases. As a caseworker highlighted:

> Ultimately, we delegate a lot of responsibility to the competent court of appeal, and we say they have to quash our decision, take a leading decision. And otherwise, as mentioned, those with the country lead have a very large room for manoeuvre. I mean until, I think as late as 2004, there was hardly any leading decision that endorsed desertion in Eritrea as a reason for asylum, and also deflection did not automatically lead to a temporary admission as a refugee. Until then, one still executed expulsion orders to Eritrea. And then, from one day to another, it was decided in this leading decision that … this is not possible anymore. There, a committee of five people of the Federal Administrative Court[12] changed the lives of a few thousand people, saved them or at least changed their lives considerably. That's remarkable, isn't it? (Interview with caseworker, autumn 2013).

Lawgiving practices, case law, and administrative practice* are thus considered to be intimately connected and together compose an intricate landscape of law (which caseworkers have to learn to navigate, see subchapters 4.3–5).

For caseworkers involved in cases' resolution, the landscape of law is often understood to have a certain encompassment – a scope within which it

12 While a leading decision of today's Federal Administrative Court is taken by a committee of five judges, the leading decisions of the former Asylum Appeal Commission had to be discussed and formally endorsed by the commission assembly (29 persons including the president). The caseworker's statement is thus not entirely correct when it comes to the leading decision taken in the appeal commission regarding Eritrean asylum seekers. Yet, it rightly points to the weight of leading decisions and seems apt for the current constellation at the appeal court.

comes to matter. This means that applicants can, in this view, be completely 'out-of-place' in the legal sphere of asylum:

> Caseworker: Several times I had people who just wanted to finish their university studies here. That's just people who are in the wrong place [in the asylum procedure], right? Then you'd have to apply for a student visa, that's absolutely possible, it just takes a bit longer. But then you'd have to take this way and you'd have a chance to come to Switzerland legally and to build a future here. But you are definitely on the wrong track now. And this you have to tell them, right?
> Researcher: But would that be possible, if you already entered once on the asylum track?
> Caseworker: Then it becomes extremely difficult. Then it probably becomes extremely difficult.
> Researcher: That's the tough thing, right? If you are on the wrong track once …
> Caseworker: Yes, you cannot withdraw then and say "I try it on another track". Then you probably missed your chance. I cannot imagine that you would get another visa [of the Schengen area], if you entered illegally before… There one would say that the risk for abuse is just too high.
> (Interview with caseworker, autumn 2013)

However, being considered outside the legal scope of asylum does not prevent these applicants from being re-corded in terms of asylum as rejected claimants. As this interview excerpt indicates, threading the legal path of asylum may, moreover, close down some (if not all) other legal paths to a residence permit in the Schengen area.

But a consolation for caseworkers regarding the reality-producing side of their work is exactly that beyond the scope of asylum other possibilities and legal avenues exist. Take for instance the bottom line of this story, as a caseworker told me in an interview:

> Various cases, but mainly one, made me aware of the fact that there are many other possibilities to get a residence permit besides asylum. Since one has often the feeling if you begin here: either it is this [asylum track] or nothing. But I had this case – legally a simple case – but appeared to me quite interesting concerning the story. This was a pretty young Senegalese, born in 1986, who came to Switzerland and said, "I am persecuted because I am gay".

And he could, I felt he could tell and describe this very credibly. He didn't say "it happened and then three days later I left the country" – it developed over years. His family, for instance, poured hot liquid on his abdomen and one had the feeling: this somehow fits, they wanted to somehow eradicate that from him, in the literal sense. And he really told these stories, about a foreigner who opened a lodge and with whom he fell in love. And was again and again persecuted and sometime came to Switzerland, right? And then I had the feeling, yes, it probably was like this and then the inner pressure emerged in me: Senegal and positive [decision*], that's a bit of a no go. But then I thought, hey, I don't care, I will write a positive proposal. If they [his superiors] do not authorise this, then I will say to them "[if] you instruct me to break the law because I qualify this on the balance of probabilities as credible, then you have to take this case from me, make a complementary hearing; I will gladly process another case, but I won't do that [write a negative decision]". A few days later, a request for the inspection of records arrived from the register office in [canton]. The same person wanted to marry a Swiss woman. There I thought, well yes, that's possible and he's maybe desperate or what does that mean anyways, sexual orientation these days [laughs]. (…). Well, we started doubting a bit because he had submitted to them [the register office] an original Gambian passport, a certificate of origin, and a single status certificate. The cantonal police had examined the passport, forensic testing: no objective forgery marks. He is eight years older, has another name and then you think: oh, well [we laugh], that guy has been fooling us. And then I just gave him the right to be heard and it turned out that he had been in Italy for five years before. And in that hearing, he tried to correct his story and just said like "yes, I lied, but everything, ceteris paribus, is correct, except I am from Gambia" [we both laugh]. But I had to tell him, that's not possible either because you were for five years in Italy already: so, nothing was true. Until today I cannot exclude that he really maybe was homosexual and had these problems, but too many factors just did not fit. I wrote a decision* of non-admissibility for identity fraud; he appealed, but the appeal was rejected within about seven days. (…). Ultimately, I got a letter from this woman: "we are married now" and he now has a B permit, [and she asked] whether they could have his Gambian passport back. [We laugh.] (…). That was for me such an individual case where you can say: well there are still some other possibilities. (Interview with caseworker, autumn 2013)

This story is interesting in various respects: as a narrative of revelation, as a narrative of the important role of material documents, and as a narrative of a caseworker following her inner conviction and being ready to defend it against the current practice* (according to which a positive decision* for Senegal is practically a "no go"). But I cite it here because it points to the feeling of relief implied in the story which for the caseworker indicated that "still other possibilities" exist for becoming legally re-corded – beyond the sphere of asylum. This conviction on the one hand reinstates applicants' agency. It understands them as agents that actively seek legal associations to the state – beyond asylum. On the other hand, it helps to dissolve the unbearable weight of verdicts as reality-production, which is crucially affecting the lives of those whose cases one is (involved in) resolving.

What often has seemed to spark puzzlement in my conversations in the office was the law's appearance as a crucial moral force – particularly in the 'rule of law' discourse – and its ambivalent relationship with justice. Affolter, Miaz and I (2018) have argued that the idea of the "just decision" significantly influences caseworkers' moral evaluation of their work (see also Fassin and Kobelinsky 2012; Kobelinsky 2015b). Kobelinsky (2015b), who analysed asylum adjudication in the French administration and court, emphasised that "all of the rapporteurs [in the administration] attached great importance to the notion of justice" (ibid., 79) and that justice was a "constituent value of the[ir] professional ethos" (ibid.). She views their notion of justice closely linked to the impression of being "objective" (in contrast to subjective or arbitrary) but also linked to defending the institution of asylum by granting status only to those deserving it. Thus, the rapporteurs' and the judges' notion of justice is quite specific: whether a decision* is consider just is measured "in terms of correctness – the decision* must be appropriate to the situation being judged – and of fairness – the differences between tribunals should be as negligible as possible" (Fassin and Kobelinsky 2012, 470). It is thus not about doing justice to the applicant as a person and her or his story of suffering and flight (ibid.). Rather, it is, on the one hand, about attending to institutional values of equal treatment and the preservation of asylum as a "scarce good" (ibid., 465) and, on the other hand, taking the "appropriate" [*sachgerechte*] decision* in terms of the asylum practice or specific (e.g. LINGUA) or general evidence (e.g. COI). Caseworkers and their superiors also reflect upon the larger frames of their work and denounce injustices of

the 'system'. An excerpt from an interview with a caseworker with a social anthropological background and fieldwork experience in one of the regions where asylum seekers come from exemplifies this:

> Researcher: How does your experience from your fieldwork and this background help you to understand their perspectives?
> Caseworker: For the perspectives: very much. I mean, I understand every Nigerian that sits in front of me, right? That's just in this moment, he's just an applicant and I am an employee of the FOM and I can hide behind the Swiss law, in a way. That means, I act according to the Swiss law and that is fine. I understand the motives of everyone who – actually no, of the Arabs maybe less, but I can imagine that they are similar – but particularly of the [people from the region he did fieldwork in], I understand this totally: that he's here and I also understand the stress they have and the pressure at home and why the maybe do not want to specify [their travel route]. (…). And nevertheless, I have no problem, in a sense, to write a negative decision, because I am still that trusting in the state [*staatsgläubig*], that I can say, "ok, good, it's a system, I somehow work for this system and then I have to"; otherwise, you know, I had to think about this much earlier. Somehow, there is nonetheless the need for a migration policy, in my view. Although it would be nice, if it were more just. But the world is also not just in other respects and one requires some migration policy. That's just our migration policy, yes. But it's clear, … I sometimes think it's inherently extremely unfair.
> (Interview with caseworker, summer 2013)

These statements are interesting in many respects: for instance, for the notion of "hiding behind Swiss law" or the acknowledgement of comprehensible flight grounds beyond asylum. Yet I would like to point out one particular facet: many caseworkers I met seemed to preserve a state of conviction about the sense of 'this system' (or in the caseworker's words above, "trusting in the state"). These statements raise a certain ambivalence I encountered in various shapes: of caseworkers on the one hand justifying 'the system' and protecting it as well as justifying their participation in it (see also Affolter 2017); and of expressing compassion with (some of) those seeking protection and feeling obliged to acknowledge the general injustices of the (greater) 'system' (which are, notably, beyond their scope), on the other. It appears that one has to admit to being part of 'the system'. Consequently, the broader concerns of

justice have to be suspended in order to do this work. As the migration policy is not up for debate, one can lament its injustices in coffee breaks (or in an interview with me), but during casework one has to enact it.

My encounters with the legal in the office thus indicate that it stands in a rather uneasy relationship with justice (see also Douzinas and Warrington 2012). Testimony to this was how the senior official teaching a basic training module framed an answer a caseworker had given to the question, "What is a good decision*?": "Two funny answers at the end: [a decision* is good] if it is just. That's quite a philosophical question, right, when is a decision* just… The second one: [a decision* is good] if I can sleep well thereafter" (Fieldnotes, basic training for new caseworkers, autumn 2012).

At first, I was bewildered about this framing. Why are these answers kept outside the realm of serious possibilities and portrayed as funny by the senior official? I contend because they represent two fields of justification that stand in an awkward relationship with a 'purified' notion of law as a technology of government. The first field of justification – justice – is considered too lofty, beyond the scope of what can be achieved in an administrative procedure. The second field – alluding to one's mental hygiene – is in turn regarded as too personal for a notion of a "good decision*". Thus, although closely associated with a discourse of justice that saturates the legal domain with legitimacy, the legal association that is performed in asylum decisions* is considered to procure only "a certain justice" (see James, 1997).[13] In the case of governing asylum, law's uncertain relationship with justice may explain why one of the most plausible answers to the question of what renders a decision* 'good' in the asylum procedure in legal terms is self-referential again: it was the 'legally correct' decision.

After the applicants and their stories of persecution have been interpreted and associated with various forms of knowing (see 7.1), they become re-corded and resolved through their association with law. Those enacting the *dispositif* of asylum do not only 'tell the truth' but also have a preroga-

13 The murderer reminds Commander Dalgliesh at the end of the brilliant crime book *A Certain Justice* that "It is good for us to be reminded from time to time that our system of law is human and, therefore, fallible and that the most we can hope to achieve is a certain justice" (James, 1997, 481).

tive of truth-writing: making the truth manifest on paper, in records, and as exemplars in policies. This transition from truth-telling to truth-writing, however, closes down interpretation, pondering and deliberation and moves to judgement: the performative enactment of the life of law and legal lives. As Douzinas and Warrington (2012, 213) put it, "there is an imperceptible fall from interpretation to action, an invisible line that both fissures and joins the legal sentence. This trait divides and separates the constative from the performative." According to them, in this trait of the transition from interpretation to judgement lurks justice. In their view, justice is never to be found in the legal 'system' or prescriptions but only in the spatiotemporal conjuncture or 'momentary principle' of their enactment (ibid.). I earlier hinted at the importance of writing devices for inscribing these associations that provide a certain reality to both law and the lives captured in a decision* (see subchapter 5.2). Here, I focus on the convictions of caseworkers and superiors about law and justice – and on the effects for truth-writing these have. One could say that a sense of truth and doubt (Kelly 2015) consorts with a sense of law and justice.

### 7.2.2 From the Rule of Law to the Lure of Law

I suggest that there is a tendency in the asylum office to reduce law to the rationalities and technologies it provides for cases' resolution – usually talked about as "the practice*". As a reminder: it is a mixture of discourses of how to properly approach cases in general or certain case categories (see subchapter 4.2) and the technologies and devices for doing so (such as APPA, forms and standard letters, see subchapter 5.2). In effect, I suggest the "rule of law" risks turning into the "lure of law" if the interpretive space of law is denied and the particular 'approach' or 'reading' of law's notions in the practice* becomes somewhat rigid.

> At lunch, Thomas, a head of section, suggests that I write a decision* for one of Rita's cases. Rita is a decision-maker working in his unit. First, I say no, I cannot do this, but I in the end, I am persuaded. The decision* is for Issa, the applicant from Guinea-Bissau whose main hearing I attended the previous week [see section 6.2.4]. After the hearing, Rita and I discussed the case.
> Back in his office, Thomas prints out the minutes of both the first and the main hearing as well as the triage form and hands them to me. He also gives

> me Rita's and his versions of the decision*, but advises me not to consider them before taking my decision. I thus look at the foundations for a decision* and try to build up my own argumentation. I ultimately end up advocating for the granting of asylum. If granting asylum were not possible, then I would advocate at least for a temporary admission (for reasons of the removal order being 'unreasonable' [*unzumutbar*]). I present my version to Thomas. After I finish he smiles and says: "Exactly like a relief organisation representative". He likes the argumentation and tells me that "it is possible to argue like this". But he also objects that this is, of course, a 'totally different approach' to that of the office, and that his boss would bite his head off if he argued a case this way. Anton, he explains, the 'best' writer of decisions* in his team, had once tried to do so, but did not get away with it. They could, unfortunately, not pursue such a "do-gooder approach" (he instantly withdraws the 'do-gooder'). But this does not mean, he says, that it would not be possible to argue this way. He then goes on to explain: "It is like this in the office: The procedure is set out to reject asylum applications. This means that you look, first, whether the case falls within your scope of responsibility, then whether you can write a DAWES, and, [even] if you go into the substance of the case, there is still the premise that one decides negatively, if not required otherwise. That's just what the premise of the procedure is. And I can live well with such decisions. Even if it is clear that, this way, justice is not really done to all applicants". (Fieldnotes, spring 2013)

An academic peer of mine read this empirical example and disliked it.[14] He commented, "This is not a very useful example; the tensions are too obvious; it does not show the informant's ambiguity; but rather in a simple way that the institution's logic boils down the openness and ambiguity of the law down to a very simple and easy way to process cases. The open deliberation process of the law is reduced to a streamline and flowchart like thinking of the bureaucracy." I agree with him and yet I am puzzled: of course, he is right in pointing out that the example does not capture the ambiguity of law and that which my informant may experience. But in light of my fieldwork experiences, I wonder whether the image my colleague raises of an "open

14 Though, when the colleague commented on the empirical example (in written form), it was presented in another context: as the opening statement of a chapter draft I was writing with Affolter and Miaz at that time (Affolter, Miaz, and Pörtner 2018).

deliberation process of the law" is not closer to academic romanticism than to actual practices of enacting "the legal". Quite tellingly, the same head of section asked me much later, in a different discussion:

> "Do decision* trees exist somewhere in the office? I'd like to know that. Maybe they are stashed with a couple of aces in the FOM. But I could never get hold of a detailed decision* tree yet. If I want to get some information about a subject and read about, for instance, the 'density of justification' [*Begründungsdichte*], I only find a few general nice statements and then exemplary cases that had been quashed (he points at the SFH book)." – I object that, in my view, "case-making does often not work in a simple if-then manner." – He insists "but that would be good!"
> (Discussion with head of section, fieldnotes, spring 2013)

This short excerpt points out that, while we as analysts of legal practice might want to highlight the complexity and ambiguities of law, practitioners in the administration seem often keen to reduce complexities and brush over ambiguities to find a pragmatic pathway through the legal landscape. By telling me as a newcomer, in the first example above, "it is like this in the office", he introduced an authoritative reading – a truth about how the core terms of asylum law, here and now – have to be translated in procedural terms. Law is thus closely associated with the convictions of truth-telling of those invoking it: in the view of the senior official, the purpose of the procedure is not to provide protection but "to reject asylum applications". The interpretive scope of law can thus become narrowed to only allow for a specific 'approach'.

A close adherence to the rationalities laid out ready in practice* limit the scope of interpretation in concrete cases, as the initial example with Rita and Thomas indicates. The story went on:

> I repeat my version of the argumentation for Rita. She tells me: "you are right and I'd like to write a temporary admission, if only my superior agreed". I reply that I don't think he would agree – we smile at him. Thomas rolls his eyes and refers to his superior who would not tolerate it. I repeat the most important points for revising her decision: the threating of Issa with a machete must be added to the facts of the case* because that is a central ground for persecution. Furthermore, I see some of the things that are listed as contradictions in the asylum section not as contradictions: for instance, that I find it plausi-

> ble that Issa fled without his sister because he was threatened, and that the father did not see him dash away from the hut but still chased him with the machete. Thomas, after having consulted the relevant sections of the protocol, agrees with me and draws a small sketch for Rita to illustrate the situation. She consents. He then says that she does not need the weak contradictions in her decision*. The main contradiction would be enough: namely that it is absolutely not comprehensible that the applicant had waited until the decisive day and then chose a not very clever solution: to lock up his sister. I contradict him: this presupposes that everything was planned, but I think it should be rather read as a spontaneous reaction – in the heat of passion – to the imminent circumcision. Thomas has another opinion, but concedes that this version is conceivable. But then the FAC has to simply quash the decision. Rita cries out "no!" But he says "surely!" And if they then will write something about "in the heat of passion", that'd be incredible [*das wäre ja noch schöner*]! [laughs]. (Fieldnotes, spring 2013)

After this exchange I was puzzled and started asking myself whether it was necessary to limit the scope of the possible to keep cases resolvable. It appears that explaining actions as having occurred "in the heat of passion" is a rationality beyond the scope of the possible. Caseworkers I talked to often suggested that the practice* stipulates a lot – and that this was good to avoid diverging and thus arbitrary resolutions of similar cases. And thus, their scope in arriving at a certain conclusion in a case was often marginal. A caseworker, for instance, emphasised:

> Whether the decision* is negative or positive, this is in a great number of cases clear. – Really? – Yes, I think so. Because the scope you have is small according to the law. Since the law prescribes a great deal. – And where do you have a scope? – Well, there are certain situations in which you have to evaluate something that was experienced and whether *this* exactly substantiates a fear of future persecution. And then, depending on the country, you can maybe evaluate this differently. And there you have a minimal scope where you can let something tip.
> (Interview with caseworker, autumn 2013)

This quote reveals a frequent slippage I associated with the 'lure of law' to equate law with the law-in-practice*. What leaves little room for deciding

differently, I insist, is not law itself, but its preassembled and often country-specific interpretations. As another caseworker told me:

> What is extreme is how much depends on this practice*, you know, if a country practice* is that way or another. If you have a Nigerian and only want to argue for a temporary admission, there is a fuss. The head of section comes to you and asks you "well, but have you thought this through really well? Of course, this is a woman with a disabled child, but that's not a problem, there are children's homes" and so on. – Where you'd argue very differently in other places with the same requirements? – Yes, exactly. Like, in Eritrean cases everything is just 'waved through' [*durchgewunken*]. And there I just find it highly questionable how people are anxious to just think themselves and to say once: "well, yes, I examined this case". Since otherwise we don't have to make an individual case examination anymore, if we have a country practice* anyways. Then we could also just say: "sorry, wrong country", right?
> (Interview with caseworker, autumn 2013)

This problematisation of the tendency in the office to simply adhere to country practices* raises two crucial points in my view: first, it highlights the marked disparity between the practice* regarding different countries of origin. This was widely criticised by caseworkers but only occasionally defied in practice. Second, it suggests that caseworkers only very reluctantly trust and defend their own individual examination if its result contradicts the prevailing practice*. Yet, there was some controversy in the office about the scope one had of interpreting the law [*Gesetzesauslegung*]. Some saw it as the task of the appeal court to interpret, while the office would only 'apply'. This confines interpretation of cases to law seen through practice*. Others emphasised that interpretation of the law cannot simply be delegated to the judiciary, but is a crucial task of the executive.

My above-mentioned colleague seems to have moreover expected that the empirical example provides the basis for an ontological statement about what and how law actually *is*. However, I am rather interested in finding out how law becomes fabricated, mended and narrated in certain situations; and how people involved in this make sense of it. I take into account its role as a political technology (Barry 2001). Of course, we may end at a similar point as law's fragmentation, fragility and contestedness may exactly arise from the situatedness and positionality of what and who meet up (Massey 2005)

in the situated processual events of law's enactment. Nevertheless, I am very thankful to my colleague for his frank comment, because it hints at two crucial features of the "making of law" (Latour 2010) through the asylum *dispositif*. First, caseworkers and their superiors seem to seek simple 'rules to apply' to 'types of cases' when it comes to the process Fassin (2013, 57) termed "truth matching" as the evaluation of whether the 'reality' of the case conforms to the grounds* of the refugee definition. Second, caseworkers evaluate their own interpretive room for manoeuvre in "truth matching" according to what the practice* of the office prescribes, since the law is first and foremost needed for creating a 'basis for action' translated into a practice*. From a pragmatic perspective, (preassembled) legal associations of the practice* are what make cases resolvable. In that sense, deliberation or interpretation needs to give way to action, to writing a decision* or judgement (see Douzinas and Warrington 2012).

Overall, I suggest that the rule of law tends to be subverted by a lure of law: a tendency to both *formalistic* and *instrumentalist* approaches to case-making. The former make law tend to see law as an end in itself. They reduce the scope of law in case-making to 'taxonomic' order of cases in terms of practice*. And they tend to become (overtly) ensnared in legal technicalities. The latter tend to reduce law to a means to arrive at a certain end that lies outside law – providing protection to as many applicants as possible (as in the example with Tibetan cases raised above) or rejecting as many as possible. Both approaches defy in the view of many officials the principles of the 'rule of law'.

### 7.2.3 'The Making of Law' Revisited

Occasionally, important doctrinal shifts of practice* occur that have the potential for greater impacts on both the outcomes of cases and the politics of governing asylum. Such doctrinal shifts are negotiated in higher-level meetings. In the case of country practice*, changes involve 'country situation assessment' meetings with senior officials from other Federal Departments, notably that of Foreign Affairs, and senior staff of the UNHCR and the Swiss Refugee Council (SRC). Less far-reaching practice* changes, of thematic practices* for instance, are negotiated in internal meetings (see example of Syria APPA, section 5.2.3). Quite rarely, 'doctrine rapports' are organised so that a number of concrete cases are openly discussed amongst

senior officials to establish a new doctrine – asylum practice* – for a certain category of cases. I had the luck to be able to attend the first doctrine rapport in two years at the time of my field research. It was about the practice* regarding cases of gender-related persecution from various countries. All senior officials of the two asylum divisions of the headquarters had gathered in the meeting room *Prudence* to discuss the doctrine on the basis of seven current asylum cases which were 'ripe for a decision*' [*entscheidreif*]. The caseworkers having the lead in the asylum practice regarding gender-related persecution[15] had prepared the event. The large majority of seniors attending the event did not know the cases presented and had neither encountered the claimants nor the case files. But they received a handout before the meeting that consisted for each case of a short summary of the facts of the case*, (for some of the cases) the situation in the country of origin (sometimes with hyperlinked policy or COI documents), particular problems and questions that the case raised, and a proposition for its legal resolution in the decision*. In the introduction, they were introduced to four possible scenarios (A-D), to which each of the cases should be attributed in the end. They had to discuss for each case the question: "What are the determining criteria for admitting a well-founded fear of persecution upon return knowing that the adoption of discreet behaviour [namely hiding your homosexuality] cannot be required?" The first case they discussed was that of a homosexual claimant from Iraq. According to the summary of the 'facts of the case', the applicant had been in a covert homosexual relationship in his hometown in northern Iraq before fleeing to Switzerland. After a short introduction, the group started to openly discuss the case:

> Senior Official 1: He needs to prove a well-founded fear and intolerable psychological pressure [two criteria stated in the Asylum Act].
> Senior Official 2: I vote for a restrictive version [of the practice* in such cases]. Otherwise, you have to grant every gay Iraqi asylum, no matter whether *he lives it or not*. For me, there has to be a *confrontation, a 'lighting spark'*. You can compare this to the Eritrean conscientious objectors, where the Federal Administrative Court clearly states: [they are] not [considered persecuted] until they are confronted with a marching order or the prospect of military

15 *Federführung GespeVer* (*Geschlechtsspezifische Verfolgung*) in German.

draft, a contact with public authority; thus *a 'lighting spark'* is founding the fear of persecution and leads to recognition in Switzerland.

Senior Official 1: Objective grounds are needed, otherwise we arrive at the point, at which someone is granted asylum, if he merely says "I am an imam" or "I am homosexual". It is the parliament's task to define the law in this respect. But what we discuss here are *not black-and-white alternatives* anyways. According to the records as they stand, I would see this as a case of Article 54 [subjective post-flight grounds].

Senior Official 3: But we still have to ask the question of intolerable psychological pressure, which is given in the case at hand.

Senior Official 4: We don't have to answer this question. It is more about abstractly judging, which *conditions* have to be met that we assume a case to lie in category A to D. I imagine some kind of flow chart, where at each node of the chart you can determine for the single case whether the condition is met or not.

Senior Official 5: The intolerable psychological pressure has always to be considered, but the difficult question remains where to set the threshold for this intolerable psychological pressure.

Senior Official 1: For me, this means that *someone really suffered something, not just hypothetically*. This is crucial. Otherwise, also someone who cannot be politically active in a totalitarian state – that means everyone – is suffering intolerable psychological pressure and had to be recognized [as a refugee].

Senior Official 2: If you compare this with a more familiar political view: a Cuban who is longing for freedom which is not possible to achieve under these (political) conditions, is not granted asylum. It is thus always about *something happening, someone being imminently threatened*. If someone has a full-throated 'coming-out' against the Cuban regime in Switzerland, he would fall under Article 54 as well.

Senior Official 6: [summing up] Key is therefore the distinction of pre- and post-flight grounds…

Senior Official 3: I still would like to come back to the question of the intolerable psychological pressure – you could have this also *if you did not experience anything*. [Senior Official 1 and 5 object]

Senior Official 1: You need objective grounds in any case – objective and subjective ones that can be *reconstructed from the context*.

Senior Official 7: That's the crucial question for all cases!

Senior Official 6: [setting out to conclude] Thus, if the assertions are credible, then he shall be admitted as refugee TA [with temporary admission].
Senior Official 3: But if somebody also here has been *living discretely* like this Iraqi, nobody here knows anything about it and nobody there either, he thus not had an *actual coming-out*, nothing has changed compared to the state in Iraq: is it then correct to speak of post-flight grounds?
Senior Official 1: In my view, this is not a question of relevance here in light of Article 54.
Senior Official 5: The country lead [*Federführung*] also considers this to be *dependent on the situation*: what needs to be taken into account is the consequences in case of return, the behaviour and the individual circumstances of the applicant.
Senior Official 8: [objects] The way we judged the case now would mean, by consequence, that every Iraqi homosexual had to count as refugee, if *what he experienced* (*le vécu*) is credible.
Senior Official 1: That's the same for a Christian pastor in the analogous context – it's up to the parliament to change something, if it does not agree with this.
Senior Official 6: [seconds Senior Official 1] We are here at a doctrine rapport, the pull effect is not our concern here.
Senior Official 2: [as if to pacify those who obviously disagree] This is the same in other European countries, I would not expect a large storm flood.
Senior Official 1: In the end it is about what one is convinced of: if I had an Iraqi in front of me who I *have the feeling* has nothing to fear, then I would refuse him admittance. If, however, I *had the feeling*, he had to seriously fear a persecution, then I would grant him asylum.
Senior Official 5: The first question in my view is: shall we acknowledge the European case law?[16] And then it is clear that we have to train the caseworkers better in order to examine the credibility in such cases.
Senior Official 2: [somewhat oddly referring to the core of new "European case law", namely whether one should be able to openly live one's homosex-

16 She was referring here to a particular judgement of the Court of Justice of the European Union (C-199-12) which overturned a standard assumption in many asylum examinations of homosexual applicants: "When assessing an application for refugee status, the competent authorities cannot reasonably expect, in order to avoid the risk of persecution, the applicant for asylum to conceal his homosexuality in his country of origin or to exercise reserve in the expression of his sexual orientation" (Dispositive, Judgement C-199-12).

> uality] In the core, this is an individual human right. [Addressing Senior Official 8 directly] *K., what would you say if we could live out our heterosexuality only in the private bedroom?*
> Senior Official 6: [determined] I would like to conclude this first case. Can we agree that in this case subjective post-flight grounds exist, that he has a well-founded fear of persecution?[17] [no objections]
> (Fieldnotes, headquarters, winter 2013/14)

What this empirical example offers is an intimate look behind the scenes of law-making in a public administration. It reveals the contested nature of law's categories – their (social) life – if their 'actual meaning' becomes discussed. Legal categories require imagination to work – their interpretation relies on metaphors such as the "lighting spark" one of the participants understands as founding a 'real' and thus relevant fear of persecution that should lead to protection.

As the interpretation of the law's categories is contested, the participants frequently refer to such framings that highlight the grasp of the law. They, for instance, define or deny competences, draw comparisons, introduce thresholds, and assign matters of concern to other authorities or speak in the name of an authority. Participants moreover invoke a sense of reality that, in their view, founds these legal notions. Or they allude to reality effects of interpreting law that way. The participating senior officials had negotiated what the doctrine rapport is all about. Is it about an interpretation of the Swiss law in light of a new type of case (indicated by the early statement of a participant that he is "voting for a restrictive version" of how to examine such a case)? Or is it about a reading of the case in light of new "European case law"? Furthermore, is it about "abstractly judging" which for some participants means to remove the 'intolerable psychological pressure' from view? Or is it about the threshold of such a 'psychological pressure' to become 'intolerable'? Negotiations also entailed whether "intolerable psychological pressure" means "someone really suffered something, not just hypothetically" or whether it can also occur "if you did not experience anything". Hence, whether a 'well-founded persecution' requires "a lighting spark", "a confrontation", as homo-

17 In the end, the conclusion was thus that the claimant has a well-founded fear of persecution, but it is a case of post-flight grounds. In such a case, the claimant is granted temporary admission as a refugee (according to Article 54 of the Asylum Act).

sexuality has to be 'lived' (either there or here) or the behaviour of the applicant does not matter (living discreetly back home and here too). Importantly, these interpretations in that particular case give rise to the question of what the scope of such a notion is if generalized: does that mean that "every Iraqi homosexual had to count as refugee" (if credibility is given) or does it furthermore "depend on the situation" of the applicant in case of return? Ultimately, these contested questions about generalization also raised the question what is within the scope of the doctrine rapport – and its representatives. As the politics of deterrence in the form of the discourse of the 'pull effect' was seeping in, the boundary between what Li (2007, 12) called the "practice of government" – sustaining a technical-legal reading of programs of governing asylum – and the "practice of politics" – introducing a challenge to this framing of governing asylum – became contested. In order to retain the "legal bracketing" (Blomley 2014) in this doctrine rapport, participants made attempts to either remove the politics (of the question "what does this mean if generalized?") from consideration (it is not of concern here) or enter into the politics but offer appeasement (a 'pull effect' is not to be expected). Yet this boundary remained fragile and resurfaced several times during this event of law-making. Significantly, one of the officials involved in organising the meeting asked self-critically in the informal setting after it had ended: "Do we make politics here? Are we political?" (Fieldnotes, headquarters, winter 2013/14)

Such negotiations, I suggest, can be understood as of form of collective re-writing of epistemological frames of asylum practice* (and thereby law). These negotiations are crucial events – for the doctrine as well as for the analyst – as participants raise the distinctions and classifications that they consider possible and legitimate in light of concrete cases. My argument in this respect is twofold: on the one hand, law needs to be associated with the exteriority that lies beyond it in order to be meaningfully invoked. On the other hand, the debate about the meaning of legal notions above reveals quite diverging convictions about these notions.

On the first point regarding exteriority, negotiations highlight how interpreting law requires imagination, and that it needs to be associated with everyday language and discourse outside the legal register to make sense. Here some of the heuristics associated with legal notions appear (see section 4.2.3). But the empirical example reveals that these notions are not settled: the negotiations offer insights in the 'making of law' as the meaning of facets

of legal notions becomes contested, frames of reference multiply and various authorities are invoked. They reveal that law tends to lose some of the purifying self-referentiality Latour (2010, 255–56) saw as characteristic for it, if the meaning of legal notions becomes a matter of debate and thus associated with 'life out there'. Latour (2010, 267) may be right that law is endlessly superficial in its grasp of reality and therefore sheer unlimited in its scope to enrol objects and lives in the course of its formation. Yet, against this slightly totalising grasp of law, due to its need for association-with-not-law and imagination on the part of those enacting it, I agree with Dommann, Espahangizi and Goltermann (2015, 9) that it is still "profoundly open to interpretation, contested, dynamic and fragile".

On the second point, the diverging convictions all 'fitting into law' make perfectly sense if we attend to the 'practical function' of the legal – as a technology of government – and the need to resolve cases with it. I suggest that legal associations make 'collective action' conceivable as what Bowker and Star (1999, 293–94) called "boundary objects" exactly because they suspend these divergences in the moments of their invocation. If legal notions operate as boundary objects, this means that they enable concerted practices across offices in which they are invoked, inscribed, and thus enacted. But they do so without denuding actants of their capacity to make sense of them according to their dispositions and epistemic communities (see section 8.1.2). It appeared to me thus that these notions have a performative core that is reiterated as soon as they are invoked (such as the 'well-founded fear') but that the interpretations about what they mean is never settled. If events such as the doctrine rapport disclose 'wrong' or 'mislead' interpretations of legal notions, they thus enact the forceful assumption about law that a single correct interpretation exists.[18]

18 Even though asylum adjudication may be an extreme example of the divergence of what law's categories mean, because of the bureaucratic-legal character of the work and the non-legal professional background of many caseworkers, I would not limit the idea that such categories operate as boundary objects to the asylum office.

## 7.3 States of Conviction?

In this subchapter, I attempt to account for some of the (de)stabilisations of the asylum *dispositif* related to 'feedback mechanisms' about knowing the truth and law. For this purpose I turn to the notion of "overflows" introduced by Callon (1998; 2007a) in the context of processes of marketization. In my case, it is not market goods that are framed in ways that may overflow but asylum cases. Overflowing refers to "act unpredictably, transgressing the frames set for them and the passivity imposed on them" (Callon 2007a, 144). Generally, as long as no overflows occur, practices of case-making tend to stabilise convictions and governmental arrangements (in heuristics and technological devices, see Chapters 4 and 5). Overflows occur, if what is usually "bracketed out" (see Blomley 2014), externalities of their associations to the world resurface (ibid.). Such overflows lead me to conclude that although convictions stabilise the ways of knowing and doing asylum decisively, they are to be considered fragile "states of conviction" that may be toppled themselves. I introduce two forms of overflow in which the common framings of thought and practice of the *dispositif* become questioned and may give way to matters of concern (see Latour 2004). I distinguish between overflows of truth-writing (section 7.3.1) and of truth-telling (section 7.3.2) and their ambiguous relationship with "states of conviction". Both the stabilisation of convictions and arrangements and their occasional collapse furthermore points out how uncertain cases' closure remains and how their production nurtures and reshapes the *dispositif.*

### 7.3.1 Overflows of Truth-Writing

In overflows of truth-writing, associations in the 'legal' world are at stake: their meaning, grasp, and scope. In some ways, the doctrine rapport introduced above contains small overflows of truth-writing: where quite diverging notions surface about the legal associations potentially resolving the case discussed. Another example I already mentioned is that of a 'wrong' boilerplate that suggested a legal association that did not exist and was accidentally discovered by a caseworker (section 5.2.4). Further such stories of "legal mishaps" circulated at the time of my fieldwork in the office (also in Tsering's story in the Coda in Part II). Another example of 'getting the legal wrong' reveals this short episode a caseworker told me at lunch:

> I was teaching in this basic training module this morning about (…). One of the participants from an asylum section (…) answered on the rather rhetorical question in an exemplary case from (…) whether the refugee definition was fulfilled if applicants' grounds were relating to 'situations of general violence' with "yes". And it got even better: then I told him, "no", in order to fulfil the refugee definition persecution needs to be actually 'targeted'. He was surprised, "ah really, for fulfilling the refugee definition persecution needs to be targeted?" (Fieldnotes, headquarters, spring 2014)

Hence, not only truth-writing devices may overflow considering the way they 'know the law', but also caseworkers and their superiors. 'Wrong' heuristics certainly exist and may be dismantled in events as the one just introduced – or more likely in case the Federal Administrative Court quashes decisions* and discloses legally mistaken arguments, procedures, or connections. But also, the appeal court might occasionally 'get it wrong'. For instance:

> In a section meeting, the head of section mentions a recent judgement of the appeal court. It would not correspond to the hitherto practice* of the court in this kind of question: she calls it a "wrong judgement". And to make clear that this should not affect the current approach of the caseworkers to resolve such cases, she adds: "This is not our new practice!"
> (Fieldnotes, headquarters, winter 2013/14)

While overflows of truth-writing are not very frequent, they still highlight the fragile states of conviction about law and legal associations on which truth-writing is usually based.

### 7.3.2 Overflows of Truth-Telling

Overflows of truth-telling have to be understood in the context of the pervasive unknowability of whether approaches to 'knowing applicants and their stories' are adequate:

> According to a very experienced caseworker, "in the end neither the starry-eyed [*Blauäugige*] nor the rigid [caseworker] knows whether (s)he is right with her or his tenor [*Grundhaltung*]. (…) [Both the caseworker] who "means well" and therefore is called 'starry-eyed' as well as the one who approaches

> the matter with the attitude 'that anyway it's all made up' finally don't know, whether their approach is the right or the better one. (Fieldnotes, headquarters, spring 2014)

While associations to applicants' past usually precariously rest on administratively edited identifications and persecution stories, and thus anticipates their 'well-founded fear of persecution' upon return, applicants' actual future – what happens to them after the procedure – usually remains in the dark. But if it surfaces, it has the potential to turn upside down convictions of truth-telling. Overflows of truth-telling remain constricted to the rare occasions in which caseworkers are (accidently) confronted with 'another truth' about applicants' lives than they were convicted of in case-making. Two forms of overflows appear to be common: first, expert reports or other authoritative forms of knowing that deeply challenge or overthrow convictions about how things are. Second, interpretations about applicants and their histories that are turned on their head through some ways that truth manifests or seeps in from the outside.

Contested convictions about such overflows are to be read in relation to the practice* of the office. I distinguish here between overflows with quite different effects: stories of revelation that shake caseworkers' dear convictions; and stories of deception whose uncovering (re)produces pronounced convictions. A particularly nice example of a story of revelation that challenges dear convictions can be found in Affolter (2017, 70–71):

> Andrea and I are sitting together during a coffee break. She tells me that there's soon going to be a training session on credibility assessment that she recommends me to attend. She tells me that she would really like to go, but that she's not allowed to because only two people from each section can take part. She says she would have really liked to have gone, because she was going through a bit of a crisis at that time because she couldn't really trust her intuition anymore:
>
> "Not so long ago I had this woman from Turkey", she tells me. "She didn't know anything and she barely spoke any Turkish. I was so sure that she wasn't from Turkey. But then I asked for an 'embassy report' and it turned out that it was all true".
>
> Andrea explains that this has really thrown her off balance, because she had been so sure about it not being true. If she hadn't had this possibility for inves-

> tigation she would have said it wasn't credible. She tells me that, because of this, she currently feels so insecure about her assessments that the other day she told a colleague who had wanted her opinion on a 'case' because he thought he might be biased, to go and ask someone else for help (Fieldnotes).

This revelation Andrea experienced in this case of a Turkish applicant unsettled her trust in the heuristics and intuition of truth-telling. Realising that without this report she would have dismissed the application, she lost the crucial conviction in her ability to 'tell the truth' about applicants' accounts. Andrea's revelation let her feel the whole weight of truth-telling and the fragility of her dear convictions.

A senior in the basic training raised a contrasting framing of truth-telling overflows by stating, "Naturally, everyone once makes a mistake. There are a few cases in which I realized: I made a mistake – he was obviously not a refugee; that's part of it" (Fieldnotes, basic training for new caseworkers, autumn 2012). This is the opposite sort of revelation: of being convicted that someone is a refugee and it turns out s/he is not. This has obviously no grave consequences for the applicant and thus is rarely unsettling for the caseworker. Every caseworker in the office knows this type of overflow because it is usually widely shared amongst them: stories of deception – and their uncovering. Such stories were also amongst caseworkers' most memorable cases I sometimes asked about. Take for instance this response:

> Yes, I was a few times astonished about stories of deception. Once I had this Nigerian where I had the feeling he could really very credibly describe how he had been forced to prostitute himself [homosexually]. Had zero education, never went to school, single mother, no siblings. And he had to prostitute himself for that reason. Of course, he thereby violated Islamic law [which is] why he had to endure a forcible amputation of his legs. And then I started researching and realised: there are these Sharia tribunals in the North [of Nigeria] indeed (…) and forcible amputations had also occurred there. – And he had obviously endured that. – No, no. He had been able to escape from detention. And then I really thought, well. But then, out of a clear blue sky, I entered his name in my Facebook account and then the exact same picture appeared: it was obviously him. It said that he had completed his studies in Lagos, worked in a logistics company until two months before his departure –

> well according to his Facebook account. (Interview with caseworker, autumn 2013)

Stories like this did usually not overturn caseworkers' dear convictions either – deception was to some extent anticipated and rather confirmed them in their assumptions. Yet, in this case, the caseworker drew still another conclusion from the accidental revelation about the 'true' background of the applicant on Facebook: that "it's *incredibly* difficult to hide everything" and consequently if you just had enough time to investigate or could even "set a criminologist on the case", truth could be spoken with certitude.[19] Hence, the caseworker's conviction that truth can be found 'out there' – if just the resources were sufficient – was sustained by this revelatory case.

### 7.3.3 Overflows and 'States of Conviction'

In both overflows of truth-telling and truth-telling, associations of the *dispositif* to the 'outside' world may be at stake: the perception of the office, the destiny of the former applicant, the asylum practice*, the legal provisions, and the convictions of those engaged in truth-telling and -writing. They are rare, because usually no feedback about applicants' whereabouts reach the office after decisions* are legally effective. However, if feedback reaches the office, it often produces an overflow, i.e., a serious challenge to the frames of thought and practice. This is well illustrated in a historical case of overflow I encountered during my fieldwork, because a caseworker drew my attention to it. Erwin, a long-term caseworker, told me he had Stanley's case, of whom I had certainly heard before. I said "no", to which he responded:

> Stanley Van Tha,[20] that was likely the most significant case since World War II! It was constantly in the media for a very long time and occupied the office. That was an applicant from Burma. I processed the case at that time and wrote a negative decision. I didn't buy into his story and regarded his papers

19 According to Good (2007, 260), this is exactly the modernist presumption that social scientists have been calling into question as a consequence of their turn to reflexivity.

20 The case of Stanley Van Tha became indeed famous beyond Switzerland. A Swiss film-maker made a documentary about his story (Irene Marty, 2005, *Ausgeschafft – die unglaubliche Geschichte von Stanley Van Tha*) and there is even a Wikipedia entry about it (https://de.wikipedia.org/wiki/Stanley_Van_Tha).

> as forged. The asylum appeal commission [AAC, the appeal body at that time] backed my decision. Then he was deported, with an airplane to Thailand first. But the Burmese policemen were already prepared. In Rangun, he was received by them and sentenced as "traitor to the nation" to 17 years. He disappeared for four years in an infamous prison there. That was obviously a catastrophe. The media prominently reported about the case and if the AAC had not backed my decision, I would have certainly been dismissed. At some point, his wife and their kid entered Switzerland and were of course immediately granted asylum. And the FDFA [Federal Department of Foreign Affairs] took pains to get Stanley released in Burma. When he was finally released after four years, he was flown to Switzerland and granted asylum. The then-head of the asylum office had been sitting on the 'red chair' for quite some time and had to answer inconvenient questions [to his superiors and the public] about this case. For me, it wasn't easy either. Many were hostile to me, to some extent also in the office. (Fieldnotes, discussion with caseworker, spring 2014)

Erwin later ordered the two-volume case file of Stanley's case for me from the archive. I had never seen such a voluminous case before (about 520 pages altogether). The case turned out to be interesting rather for the effect the enforcement of the expulsion sparked in terms of media and public attention than for the actual asylum case. The asylum decision* appeared inconspicuous and did not foreshadow any of the later events. Erwin also later emphasised that the asylum decision* was ordinary and according to the practice of the office at that time – the more contested part was that Stanley was the first of rejected applicants to be actually deported to Burma. Most records in the case file concerned internal and external communications that occurred after Van Tha's imprisonment in Burma. Several reports in the Swiss national television and newspaper had sparked letters of indignation by private persons and institutions throughout the country that were filed and answered by the asylum office. One interesting record concerns the request of a journalist who asked what impact the arrest of Van Tha had on the practice of the asylum office concerning Burma. The record documents email correspondence between officials in the asylum office and provides an English translation of the general practice* (two years after Van Tha's imprisonment):

> When in June 2004 it become [sic] known that Mr Stanley Van Tha had been arrested, all executions of removal to Myanmar were stopped. In the meantime, the Swiss Federal Office for Migration (FOM) has resumed the processing of asylum applications filed by Burmese nationals. (Record from case file)

In this abbreviated statement, two elements of the crisis or 'suspension management' of the office are indicated: a marked a change in the practice of the enforcement of expulsions (moratorium of enforcement) and asylum practice* (moratorium of decisions*) until after a while the situation in the country is assessed, the asylum and enforcement practice* were adapted, and the processing of asylum applications (and depending on the assessment enforcements) ultimately resumed.

A similar example of an overflow was caused by two 'disastrous cases' (see section 4.2.4) of Tamil applicants widely reported in the media. These interrupted the enforcement of removal orders to Sri Lanka as well as the processing of cases during the time of my fieldwork in 2013/2014. The applicants had been rejected asylum and deported to Colombo, where they were interrogated by the authorities, detained and tortured. Consequently, an independent commission led by the UNHCR was established to look into the practice* of the asylum office and provide recommendations to avoid similar harm in the future. Consequently, the appeal body wrote off* [*schrieb ab*] all Sri Lankan appeals (several hundred at that time) and sent them back to the asylum office for re-examination. Several officials of the asylum office went on a field mission to shed light on the circumstances of the arrests and re-evaluate the situation in Sri Lanka. In one of the two cases, according to the insights of the investigation, the applicant had not told all the relevant facts. He had omitted about half a year in his narrative, exactly the time for which he was accused by the Sri Lankan secret service to have been particularly active for the communications division of the LTTE (Liberation Tigers of Tamil Eelam, a secessionist movement and militia of Tamils in Northern Sri Lanka). A caseworker I was discussing this incident with told me that this would probably happen quite often: applicants would omit parts in their story which could potentially lead to an exclusion from asylum (see section 4.1.2) or which were secret for another reason, but which made the basis for the evaluation of their removal order incomplete (Fieldnotes, headquarters, winter 2013/14).

The two cases lead to a heated debate within the asylum office about whether the assessment of the human rights situation in Sri Lanka before the incidents had been appropriate – and thus whether it should be considered an overflow of truth-telling practices at all. The suspension of enforced removals was considered by some premature. It could have just occurred by misfortune – unlikely events happen as well – and they would see it tantamount to an admission of guilt. Others perceived the two shocking incidents over a short period as an indicator for an overly optimistic assessment of the human rights situation – the suspension of enforced removals was the logic consequence of this view.

Two broad camps thus emerged: the first portrayed it as inevitable because of the indeterminacy of the procedure in which an element of "risk always remains". A caseworker, for instance, suggested, "you can never really exclude these cases [in which bad things happen after rejected asylum seekers return]. And it also depends on what was the reason: if it was a case of non-credibility and they just did not tell us what had actually happened, then we cannot decide differently. We cannot save them from things we don't know about" (Interview with caseworker, autumn 2013). The other camp, in contrast, saw the events as "something that must not happen" (Fieldnotes), and implied that either the practice* or case-making in these particular cases must have been flawed (but in other cases is not). Both camps acknowledged the *exceptionality* of such cases in that they either saw it as a rare policy flaw or individual mistake in decision-making *or* as rare anomaly of the unpredictable happening that is implicated in correct decision-making. I argue that it is partly in such a reading of overflows in terms of exceptionalism that law's operation as an associating force for case-making is *normalised*. In other words, the modus operandi is stabilised by defining the overflows as exception. Yet, as such exceptional overflows provoke outcry and debate, they are also moments in which some of the foundational limits and the inherent contradictions – the *aporia* – of the *dispositif* of governing asylum surface and matters of concern raised (Callon 2007a, 144). Overflows thus spark some momentum for the transformation the arrangements of the *dispositif*. They recover the political in a seemingly technical matter – the disinterested implementation of law by means of case-making – and make space for substantial critique within and outside the administration.

Such transformations of the practice* in light of overflows are often profound. In the example of the practice* regarding cases from Sri Lanka, it

took a complete reversal after the disastrous cases surfaced. An encounter with a caseworker in the headquarters illustrates this:

> The caseworker shows me a printed mail from last August, which stated the practice* before the events led to its reversal: every decision* that was not negative [positive or temporary admission] was controlled in the section having the lead on the country practice*. Today he says, it's exactly the opposite: every negative decision* with enforcement of removal has to pass the desk of this unit's head. (Fieldnotes, headquarters, spring 2014)

Another caseworker mocked this striking reversal from "quite strict to very lax" and suggested that "one has to almost expect a pull effect again" (Fieldnotes, headquarters, winter 2013/14). It appeared that, despite the diverging internal reading of such events of overflowing, the caseworker called for a strong and visible reaction, a performative gesture of having things under control and to remain 'credible'. As a different caseworker emphasised, "We now have to properly clarify what exactly went wrong in the two cases. That was quite shortly in succession. And yes, it is awful if something like this happens. It makes us lose all our credibility. (…). You know, we have also to stand up to a credibility assessment ourselves" (Interview with caseworker, autumn 2013). Showing that one 'takes these events extremely serious', as she moreover said, resulted in the overturning of the practice*. For some people in the office, however, such a reaction sent out the "wrong signal". To them, the "exaggerated" reaction and discontinuous practice* was the *actual* overflow, because it implied that the former practice* had been completely wrong.

One crucial outcome of the investigation on these cases was that truth-writing cannot be disentangled from the consequences which caseworkers anticipate their decisions* to have. In other words, caseworkers adopt a (slightly) different yardstick between negative decisions* for which they know that they likely result in the deportation of applicants and negative decisions* that become suspended with a temporary admission. The latter form of decision* arguably feels like an intermediate decision* between a positive and a negative one: it takes a lower 'density of justification' [*Begründungsdichte*] to be written. It is a type of decision* that leaves caseworkers a back door in cases of doubt. Moreover, there are countries for which over a certain period no negative decisions* with enforcement of removal can be

written for countries in civil war, like Sri Lanka was for some time (as applicants' removal was 'unreasonable'). For again other countries, negative decisions* with enforcement of removal can be written, but caseworkers know that removal is in practice not enforceable. Such decisions* may cause an overflow once the temporary admissions are lifted or the removal becomes enforceable. I witnessed in a coffee break a short encounter of Samuel, a vice-head of an asylum section with Thomas, the head of one of the return sections which highlights this:

> Samuel tells me he met Thomas when queuing for coffee in the cafeteria of the headquarters. Thomas had asked him to check all the decisions* of case files from [country] again. The enforcement of removals to [that country] would be now again possible, somehow. But one was afraid after the Sri Lanka cases that the decisions* might likely turn out more negatively if they had been taken under the premise that the enforcement of the removal was not possible rather than if one expected the enforcement of removal. This should of course not be the case, Samuel emphasised: "that's not correct, a decision* has to withhold that". But in practice it is imaginable that people sometimes decide like this, Samuel admitted, if "only in borderline cases". (Fieldnotes, headquarters, spring 2014)

My impression was, however, that this effect was not limited to "borderline cases", not least since the positive decision* and the negative decision* with temporary admission both meant, for the time being, that the person could remain in Switzerland. Additionally, caseworkers knew well that the 'temporariness' of a temporary admission was in many cases a rather long-term state – that could ultimately lead to a more permanent admission as well. In effect, writing a negative decision* with temporary admission was considered psychologically much easier than writing a negative decision* without – and at the same time in light of restrictive practices* much simpler than a positive decision. Consequently, truth-writing* must be considered fundamentally shaped by the associations between the options perceived to exist and the consequences anticipated. What such overflows more generally reveal is that enacting the *dispositif* of asylum in practices of governing is not a purely technical matter, but involves *reflexive* and *affective* humans (see also Gill 2016; Graham 2002) which makes the spaces that are the effect of these practices even more intricate and unpredictable.

Truth-telling and truth-writing appear to rest on fragile grounds due to the dissociation of practices of case-making from the 'consequences' of case resolutions. This is why convictions flourish and need to be sustained in order to retain caseworkers' capacity for truth-telling. Overflowing cases can either shatter or amplify such convictions. Asylum procedures are certainly a very particular setting for "giving an account of oneself" (Butler 2005). Yet I consider Butler to be right in pointing to the potential for the unsettling of governmental "schemes of intelligibility" by all "speaking beings". She suggested that "when we do act and speak, we not only disclose ourselves but act on the schemes of intelligibility that govern who will be a speaking being, subjecting them to rupture or revision, consolidating their norms, or contesting their hegemony" (Butler 2005, 132). This means that the encounters of asylum procedures, in which applicants are asked to give an account of themselves can have both stabilising and destabilising effects on the schemes of intelligibility of the asylum *dispositif*.

What I have tried to illuminate in this Chapter 7 is that case-making and its associative practices (like law-making, see Latour 2010) have their own peculiar referentiality. Truth-telling and truth-writing involve "truth games" (Foucault, 2014) that belong to the realm of – and are mediated by – different "regimes of truth": the first to a regime of truth rooted in expertise (and relatedly in scientific ways of knowing such as medical or linguistic ones); the second to one rooted in law. My analysis of convictions in these different regimes of truth can thus be read in terms of Foucault's notion of "regimes of truth". As Lorenzini (2015, 2) suggested, "according to Foucault, under every argument, every reasoning and every 'evidence', there is always a certain assertion that does not belong to the logical realm, but is rather a sort of commitment". And he continues to state that participants in a regime of truth submit to this (often implicit) commitment, which I consider in terms of the notion of conviction. Regimes of truth can thus be seen as related to certain states of conviction. These states of conviction can reveal themselves in the meta-pragmatics of those involved in enacting the regime – in debates amongst each other or with a researcher like me. On occasions of overflows – of another 'truth' revealing itself – they may become, somewhat paradoxically, both revised and stabilised.

# 8. Asylums of Reason

A caseworker with whom I regularly exchanged was joking one day that he hoped I was not going to write an account of the office similar to that of "The Ship of Fools" [*Das Narrenschiff*], in which a former employee of a reception centre (located on a ship in Basel) denounced the practices of the office in the late 1980s (Graf 1990). I promised I would not – and I keep that promise. Obviously, as my account should make clear, the asylum office is neither well-captured by depicting it as a 'ship of fools' nor by considering it the 'last refuge of reason' (as ideals of bureaucratic administration as based on rational reason might suggest, see Weber 2009, 29). While I concur with insights from the anthropology of organisations that "bureaucratic rationality is 'bounded,' limited and flawed in its information, facing considerable unpredictability, and guided by past trial and error, lessons, and entrenched patterns" (Jiménez 2007, 493), I consider it important to go beyond this diagnostic statement and trace how considerations of officials are situated and composed of multiple rationalities.

In this chapter, I attend to the rationalities of caseworkers and their superiors for doing things the way they are done in the asylum office. By highlighting the diverging rationalities that sustain practices of case-making, I offer a reading of a *dispositif* whose enactment is fractured across different places and positionalities of accounting with ambiguous response-abilities (8.1). It moreover assembles divergent objects of government that affect cases' trajectories and resolutions in crucial ways (8.2). The spatiotemporal fragmentation of practices of case-making, the sometimes contradictory rationalities paired with experimentality, and a governmental regime entailing the creative searching for ever-new resolutions for all sorts of problems all lead to what I call "asylums of reason": patchy sanctuaries in which 'a certain reason' endures while other reasons are exteriorised (8.3).

## 8.1 Fragmented Reason

I suggest that in order to understand both the composite reality of the asylum office and the many diverging forces, we need to be attentive to the material-discursive *means of association* that are able to compose perspectives and practice and to the material-discursive *means of dissociation* that set elements and perspectives apart. While the first line of enquiry highlights some of the possibilities and "plug ins" (Latour 2005, 207) of personal authorship (what difference can 'I' make?) this involves, the second line of enquiry traces positionalities of officials that appear in their accounts of bureaucratic Others. Certain differences of approaching processual events of case-making could be explained not only by officials' professional habitus (Affolter 2017, 2) – the internalised dispositions of how to do things developed on the job – but their habitus more generally (Bourdieu 1977). However, few people will be surprised that officials' personal biographies impact how they see and do things – that they have a "second body" beyond that institutionally prescribed (Miaz 2017, 360–61). Yet, to understand what impact such a "second body" has on perceptions and practices in the office remains a task worthwhile. Miaz (2017, 371–81), for instance, suggested a sociological differentiation of individual caseworkers in the Swiss asylum office that allows positioning them between the (emic) poles of *rigid* ("hardliners") and *credulous* ("softies"), and between *output-oriented* and *meticulous*. He moreover emphasised that most people tend to situate themselves somewhere in between these poles (as the extremes are somewhat stigmatised). Complementing such an analysis, I suggest that some of the differences in case-making, however, are associated with how caseworkers deal with the burdens and elations of casework (8.1.1) and with the fragmentation of ways of knowing and doing asylum as (de)stabilisations of the *dispositif* (8.1.2).

### 8.1.1 Elations and Burdens of Caseworkers

> We just have to be a bit jurist and pastor and both in one at the hearings. (Interview with caseworker, autumn 2013)

In this section, I offer some threads of explanation for how caseworkers see their role and scope of making a difference concerning the cases they encounter. These threads could be read as related to a "professional habitus"

(Affolter 2017, 2) that caseworkers develop and that allow them to understand the stakes of asylum case-making and their role in it.[1] However, I am more interested here in the "bodily excitations and sensualities, powerful identifications, and unconscious desires of state officials" (Aretxaga 2003, 395) – how they feel about their work as asylum office collaborators and state representatives. Such feelings are arguably particularly marked in the asylum office since the matter of granting or rejecting of asylum is both highly politicised and fraught with moral burden (e.g. Fassin and Kobelinsky 2012). A wide range of feelings appeared in my observations of case-making: anger about "being lied to all the time", indifference about those "who just try it [to get asylum]", pity or impotence in cases applicants deserved help that is however considered beyond scope, thrill about both the unpredictability of encounters and the investigation to resolve the case, and respect for those who "perform well". Caseworkers may also have some degree of sympathy or contempt for those who do not deserve protection at all, excitement about seeing into others' lives, voyeurism in probing into their stories, gratitude for being born on the right side of the fence, elation for providing protection, making a difference as well as "compassion, admiration and esteem" (Kobelinsky 2015a, 173–79). I suggest that such feelings of officials can be read as an associative force that makes personal authorship possible. I consider personal authorship to be related to the feelings that caseworkers have about the difference they make in case-making. I thus limit myself for the purpose of this subchapter to feelings related to how caseworkers see their scope of authorship.

A first feeling that officials recurrently raised in my encounters with them concerns the associations with the outside. Many people in the office considered the outside view of the office as excessively negative and in need for revision. A statement of a senior official from the services division of the migration office in the basic training for novice caseworkers conveys this well:

> The FOM is in the political line of fire like no other office; people think we are either too nice or too lazy or too strict – but we do a good job. There is barely

1 For such an analysis that elaborates what it means to be a 'good' decision-maker in the eyes of asylum office caseworkers and seniors, I point readers to Chapter 4 of Affolter's (2017) dissertation.

> an office in which you will find so many good and motivated people. Don't let yourself be buffaloed! (Fieldnotes, basic training for new caseworker, autumn 2012)

Since new caseworkers usually enter the asylum office 'from the outside', the senior official above reassured them that people on 'the outside' could not appreciate the "good job" they do. The discrepancy between the outside view of the office and 'actual reality' was a recurring issue in conversations with caseworkers. A caseworker whom I asked about her view of the office, for instance, told me about the surprise she felt that it was all better when seen from the inside:

> I was actually positively surprised. I wasn't sure at the beginning how it would be. I couldn't really imagine something. And the FOM has to some extent a very bad reputation, a restrictive reputation. That's why I asked myself a little, who is working up there[2] [laughs]. (Interview with caseworker, September 2013)

But there is more to the negative outside view of the asylum office that is revised once you've entered it. Another caseworker who had formerly worked as a legal representative said:

> You know, when I said, I go to work in the FOM, everyone was like "hooooh, what, you're going to be one of those?" And I got the image myself, those are actually the bad guys. But in fact, everyone I met in the FOM is, yes, they're all very open. And you could say, you know, there are really good people among them who also want to help. And nobody is actually like "well, we have to deport them" or something. (Interview with caseworker, September 2013)

What these statements reveal is that caseworkers grapple with outside perspectives of the office that are, as the senior official above said, either "too nice" or "too strict". The office thus appears different, less black and white

2 This appears like a startling reference to the image of the state and those embodying it standing above society (Ferguson and Gupta 2002; Mitchell 2006) This hints at a second feeling: sentiments related to verticality (Ferguson and Gupta 2002), that is, associations of super- and subordination.

from the inside, and those embodying the state a less homogenous mass than ascriptions from outside usually imply.[3]

Equally interesting is the idea that caseworkers want to help, which indicates a certain ethical impetus of persons working in the asylum office. The caseworker quoted above qualified this ethical impetus as follows:

> As most people [working in the office] talk, you don't have the feeling that anyone has the intention to deport as many as possible or write as many negative decisions as possible, but just really make their work thoroughly and are also glad, glad if they once can write a positive [decision]. Just everyone who once started in the FOM actually rather comes from the side "I want to help", even if it maybe gets lost sometime, [laughs] after a while. (Interview with caseworker, autumn 2013)

She told me that she would "try to acquaint herself as well as possible" in the office. I was wondering what she considered the variations of how caseworkers (she knew) see their role. She said:

> There are maybe people who do not care that much [about the ethics of casework], you know. Yet, I have to come to the defence of those who maybe are in situation, also personally, in which this does not matter so much. But they certainly do nothing wrong, but simply, lack of motivation, is maybe the proper word for it. (Interview with caseworker, autumn 2013)

There are, according to these statements, people working in the office that "want to help" and those who do not care too much.[4] The perception that working in the office usually entailed some disillusionment seems moreover quite common. Caseworkers and superiors told me that working in the

3 As Gill (2010a) pointed out, it also matters for asylum activists' approaches to how they "imagine the state" – either as a homogeneous opponent or as a field of heterogeneous people with potential allies.

4 If you, in turn, talk to proponents of those "who do not care too much" in the view of the former, they will tell you that wanting to help creates more evil than good as it involves to "bend the rules" in individual cases and thus creates unequal treatment. For a more detailed discussion about the controversies of who is a "good decision-maker", see Affolter (2017, 81–106). For a typology of decision-makers in the asylum office, see Miaz (2017, 71–81).

office transforms you and some of the sentiments you carried at the beginning wither, that you may start out with the aim "to help" and end up with a "lack of motivation". Yet, many of those I encountered pointed out that it was gratifying for them to know they were "able to make a difference". This ability to make a difference endows the 'I' with meaning:

> Caseworker: And of course, it's nice and makes this work meaningful, if your realise, it was due to me in this case, like this…
> Researcher: And I think it is something where you can make sort of a difference, right?
> Caseworker: Yes, exactly.
> (Interview with caseworker, summer 2013)

To be able to make a difference can, however, not be taken for granted. While both the right scope of associating practices with the 'I' and the possibilities for personal authorship remain deeply contested amongst caseworkers and seniors, their positionings could also change over time-space (with their career, with new posts).

Asked how they see their role in the whole procedure, caseworkers often told me variations of being "just a small cog in the works" (Interview with caseworker, autumn 2013). In her study of asylum officers in the UK, Jubany (2017, 74–75) witnessed a similar feeling amongst them of having no personal bearing. Unlike the officers in the UK, however, the caseworkers in the Swiss asylum office found this to be reassuring rather than frustrating, as they viewed it less as an expression of powerlessness than about sharing the burden of decision-making. But what to do about this seeming contradiction between caseworkers' appreciation of making a difference contrasted with making no difference? Does it express what Goethe's Faust poetically framed: "two souls, alas, are housed within my breast, and each will wrestle for the mastery there"? Indeed, I sensed "two souls were housed in the breast" of most caseworkers I met. The feeling of personally making a difference accords meaning to their work (which seems to be lacking in many other forms of bureaucratic work; see Graeber 2014). In contrast, seeing themselves as *not* making a difference discharges then from the moral weight of their work: if anyone else could have done it instead of them, they did not have to account for why they did it that way. In the most extreme versions I encountered, caseworkers negated having any 'real discretion' in their work,

such as this caseworker in the reception centre who told me about his current cases and, at some point, himself broached the topic of discretion:

> I don't have a bad conscience because I do not have real discretion anyways. If you take the paperlessness article, there it's clear that the legislator wanted to set a legal bar that certain applicants cannot enter the normal procedure and there I don't have any leeway. Sure, I could ask here and there a bit less [in the hearings]. (Fieldnotes, reception centre, spring 2013)

This statement echoes a senior official who taught the module on DAWES or non-admissibility decisions in the basic training I attended: "Non-admissibility decisions [DAWES] do not have a 'may'-wording [*Kann-Formulierung*] [in the Asylum Act]: this means if a committed act [*Tatbestand*] falls within their terms, a non-admissibility decision* must be taken" (Fieldnotes, basic training, 2012). Admittedly, the scope *is* largest with legal provisions that have a "may"-wording, yet I would still object here that to figure out whether "a committed act" falls within non-admissibility terms *still always* requires interpretation.[5]

Yet, the caseworker in the quote above moreover directly relates not having 'real discretion' to not having "a bad conscience", thus indicating that caseworkers fear 'real discretion' for the moral conflicts associated with it that become personal ones, if one feels able to make a difference. A common solution, it appeared to me, is therefore to acknowledge that one can occasionally make a difference by granting protection against institutional odds while usually clinging to "what you have to do" (see also Affolter 2017).

Not having to account for a case as an author was thus usually associated with a state of relief. But not always: it can also be negatively associated with a feeling of impotence, if it relates to the absence or lack of authorship that one would like to have in a particular case.

5 Moreover, as I tried to demonstrate in Part II, it also requires the necessary material-discursive associations to authenticate the claim (such as trusted assertions, documentary or bodily 'evidence', case law or reports), to *argue with* in a decision* (such as boilerplates and tick boxes) and an 'intimate conviction' about the merit of mobilising such associations (see also subchapter 7.1).

> Researcher: Is there a case you can remember well from this first year of working in the office?
> Caseworker: Well, one case was that of a minor [female]. And with a child, yes, she had the child already. And she was in Belgium first. They have quite a good system for minors there, particularly for minor mothers. However, she has been threatened there by the father of the child. And I really believed this. But then, she had a fingerprint hit and all. Nevertheless, I tried with the Dublin office, back and forth, whether there was no possibility of self-admission [*Selbsteintritt*], for such a young mother, right? There should be a possibility… No chance! And this is what, I think, stresses me most. If you have to send people back, particularly to Italy… And if you know, it's actually against your own principle.
> (Interview with caseworker, autumn 2013)

Caseworkers curiously appeared to care more in cases people were sent back into what they considered difficult or unbearable conditions in Dublin states than to the (often worse) conditions in their home countries. Does the latter involve an impossible imaginative leap? Maybe, but rather I think they are not feeling responsible for those conditions far away. Besides, people lived under these conditions before they fled. In contrast, the Dublin system was considered unfair in general and somehow 'our' system. Thus, enacting it makes many caseworkers feel complicit in reproducing this unfairness.

Interestingly, the management of the asylum office did nothing to resolve this ambivalence. Already in the basic training for new caseworkers, the module teacher (a senior official) told my co-participants and me, "You are responsible [for the decision], you signed it." Later on, he called this again in question by saying: "the responsibility is with you: I told you before and nobody objected. Well, but the superior signs it [the decision] too" (Fieldnotes, basic training for new caseworkers, autumn 2012). But he did not explicate what this means for caseworkers' responsibility. Far from removing the ambivalence about one's scope in case-making, I suggest that statements like this rather accentuated it.

Overall, the discursive framings of work in the asylum *dispositif* often seem to be limiting the associations for which one is able – or willing – to take personal authorship: the 'I' is thus not only assembled with various devices for "collective authorship" (see Chapter 5) that limit its scope for personal authorship. It is equally – and relatedly – the limit personal agency

caseworker attribute to themselves. While collective authorship thus prevails, the cases in which caseworkers have a sense of their personal authorship are nevertheless crucial for giving meaning to their work.

### 8.1.2 Schools of Practice – Reasons of 'Style'?

In this section, I suggest that the asylum office is not only heterogeneous in its composition, but that it tends to multiply in time and in space: its subdivisions develop 'insular' practices with their temporal scope. While a certain insularity in perspective and practice is not so surprising for the reception centres that are spatially dispersed, I would have expected it to be less marked in the headquarters of the office in Bern. The peak of dissociation between parts of the headquarters of the asylum office was arguably at the time that country teams existed (see section 4.1.3).

People in the office often referred to different "schools of practice" as well as "styles of decision-making". New caseworkers were already "warned" in the basic training I attended that different practices may exist in the sections, that superiors each have "their own style". But the senior official teaching the training session was quick to specify that the differences in practice concerned only matters of discretion, typically foreseen by the legislator in "may"-regulations. Yet, as I have suggested in Chapter 7, pronounced and sometimes diverging convictions exist about much more than "may"-regulations – basically about any central notion and technique on which a procedure is based.

In a piece written together with Affolter and Miaz (2018), we discuss the fragmentation of the office and its consequences for what 'just' decision-making means for different "communities of interpretation".[6] We suggest that such "communities of interpretation evolve along the fissures between sections, divisions, professions, experience, and hierarchy" (ibid., 276). Without reiterating the discussion here, I briefly indicate some of these fissures in order to support my argument that dissociations in seeing and enacting the *dispositif* exist. The initial quote has suggested that developing

6 This term "communities of interpretation" emphasises the convergence of interpretations of approaches to decision-making, one's role, and notions of justice in subsections of the office. Conceptually, it relates to both Wenger's (2003) notion of "communities of practice" and Yanow's (2003a) "communities of meaning".

one's own style is a feature of the past. While differences in 'style' maybe have been even more marked in the past, they are still very prevalent, according to what I heard and saw in the office. They become visible in accounts of officials' accounts of bureaucratic Others (see Said 2009). And they contribute to fragmented practices and positionalities – each cultivating their own rationalities about governing asylum.

What I suggest here is that differences in case-making arise from distinct ways of knowing and doing things and are explained with certain rationalities in different sites of the office. For instance, heads of sections in the headquarters are advocates of different modes of assigning cases to 'their' caseworkers, as this quote of a caseworker indicates:

> I make a personal attribution of cases [to caseworkers] – but very different opinions about this prevail in the office. I am rather an advocate of specialisation, which means that caseworkers are specialists for certain topics and countries. Others regard a generalist approach [*Generalistentum*] to be superior: if everyone does everything. That's been like this since I have been here – since 1994. At times the former come out on top, at times the latter. (Fieldnotes, headquarters, spring 2014)

Thus, over time, either the generalist approach or the specialist approach becomes the 'normal' one, and the other requires justification to be upheld. How cases are assigned to caseworkers (see subchapter 6.3) thus not only is dependent on the practical knowledge seniors acquire, but also on the 'school of practice' a certain head of section belongs to. The two sections in the headquarters in which I did field research belonged to different schools concerning how they introduced novice caseworkers to their work. One section was a so-called "tourist section" in which "everyone has to first learn the law and then gets a case file to go through". In the other section, the principle is "everyone does everything", and people jump in to learn casework by doing (Fieldnotes, headquarters, spring 2014).

Many organisational features of case-making appeared to be locally established – and may be justified with rationales contradicting the ways in which things were done in other places. A good example of this is how first and second hearings are organised in the reception centres. In the centre where I had done my fieldwork, it was clear that, if possible, the same person would conduct both hearings, as that person would already know the case. I

was thus quite surprised when I learned that in another reception centre, the opposite was standard. A caseworker from the latter centre told me, "We look that never the same person conducts the first and the main hearing, because this is very unpleasant. If you have to talk to this same person twice and they look at you with large eyes and say, 'but I have told you everything about it before'" (Interview with caseworker, autumn 2013). 'Good' reasons for different approaches exist – yet only the one I had become familiar with in the reception centre I had been 'socialised' in made *sense* to me. Some of these differences between 'standard approaches' are well known – and are even sometimes jokingly raised by caseworkers. Others seemed to be little known.

For caseworkers, certain approaches require justification, as they represent a deviation from the 'normal' solution. A caseworker, for instance, told me about the shift in what approach to credibility was considered standard between his former and his current team (after the reorganisation):

> In my old section, there were mainly older, experienced caseworkers who assessed everything as 'not credible'. The context makes an extreme difference: now I am in a section where I have to justify myself rather if I make a negative one [decision]. [Others ask:] 'Are you sure that this is 'not credible'?' Formerly, [it was] the same for the positive ones. (Fieldnotes, headquarters, winter 2013/14)

What this quote indicates is that, for caseworkers, employing certain associations to resolve cases appears normal – but what is common for them might not be considered normal in other sections of the office and in different times. Interestingly, as the office went through a series of reorganisations and caseworkers had to apply to 'new' sections where only the heads of sections had been appointed, they usually chose a head of section with a similar notion of 'normalcy'. This led to a certain convergence of 'views' inside the sections and arguably increased the divergence between the sections. I do not want to imply that sections became homogeneous; only that a certain tendency towards homogenisation seems to have accompanied the reorganisation I witnessed.[7] A caseworker from a reception centre told me:

7 This observation mainly concerns the sections in the headquarters. I do not know whether it also occurred in the larger reception centres where the leadership span was reduced and thus new sections emerged.

> We now have two teams [since the reorganisation]: a young and an old one. Everyone had to newly apply in the course of the reorganisation, and one of the heads is not very popular. Those who indicated in the motivation letter – between the lines – that they do not want to be with her, are now in the young team. Who didn't care or indicate any preference is now in the 'residual team'. (Interview with caseworker, reception centre, autumn 2013)

Some caseworkers regretted that the office's 'social fabric' had been shattered by the recurrent (and as most people thought) not well-devised reorganisations. An interpreter whom I accidently met on the train home from the reception centre told me:

> I was in Wabern [the headquarters] yesterday. There I talked to a caseworker who is a long-term employee and a positive person. He was really annoyed about the [current] reorganisation: they would slash everything with it in the headquarters in Bern, the whole social structure was destroyed. He said that this had started under [Federal Councilor] Blocher and continued under Widmer-Schlumpf. The latter for instance sacked the vice-head of the office to hire him again the next day. There's again a huge chaos in the office and nobody knows exactly what and where. (Fieldnotes, on the train, spring 2013)

Similarly, a long-term caseworker I met in the reception centre told me that she had largely withdrawn from the "institutional facets" in the office and now just did her job: "One tends to withdraw from these whole institutional facets if one has experienced such radical changes too often. It is difficult to see how co-workers with whom you have built a social relationship are laid off from one day to the next, as this has been the case here" (Fieldnotes, reception centre, spring 2013). But while such reorganisations tend to destroy the 'social fabric' of the office and are seen very critical by most of those who went through more than one, they also offer opportunities for some. I met a few relatively young and recent employees who were promoted in the course of these marked institutional transformations. One caseworker with whom I had attended the basic training for new caseworkers told me when we met about a year later for an interview outside the office, "I was already promoted. In the course of the reorganisation, I could take over the post of a specialist section vice-head" (Interview, former caseworker, autumn 2013). And he was not the only example for such quick advancement in the admin-

istration. But such recurrent re-compositions of teams and reshuffling of hierarchies were an additional source for the fragmentation of practices and the development of dissociated 'styles' of case-making. It is important to note that even though reorganisations may have caused "huge chaos in the office", it is exactly the many associations of case-making stabilised in the material-discursive arrangement of the *dispositif* that were not touched by the reorganisation (see Chapters 4–5) and secured its further operation (despite apparent chaos and staff turnover).

The heterogeneity of practices and perspectives seemed to trouble the caseworkers themselves and they often related it to a notion of inconsistency. The 'pre-set value' of credibility assessments, for example, was often associated with the duration of working in the institution (the longer inside the less people tend to believe the stories), or ethical-political stances of protecting asylum seekers versus protecting the nation (see also Affolter 2017). New caseworkers are usually more closely monitored in their work, whereas oversight decreases with experience and "independent work" begins, as a caseworker after her first year in the office contentedly stated on my question whether she liked to work in there:

> Yes, now the independent work begins, that's quite nice. – That you are less dependent on others? – Yes, and that you don't always have to ask. And maybe you are also more courageous. You simply try things. If it's not correct, someone is probably going to tell you at some point." (Interview with caseworker, reception centre, autumn 2013)

Doing things more independently was often equated in the office with developing one's own style. Even though there seems to be an obvious tension between independence and consistency, both rationalities were highly valued.

What moreover contributes to the development of different 'styles' of organising and approaching things is that *knowing* in the office appears to be severely fragmented. A recurrent criticism from caseworkers and their superiors directed at the management concerned the *sharing of know-how* or *transfer of knowledge:* between the sections doing the same work (the different reception centres and the sections of the headquarters) as well as between the different locales of case-making. One caseworker, for instance, said: "The knowledge transfer works really very bad in the office. Maybe [it is] because

they [the management] always reorganise everything. Many things need to be written down in this process, pile up, and get lost" (Interview with caseworker, reception centre, autumn 2013).

Since the management seems inclined to "always reorganise everything", knowing the current state of affairs in all domains becomes almost impossible. This quote indicates the crucial role of coordination devices – and their absence making coherent practices difficult. What caseworkers and heads of sections mentioned often to be missing was a database for the exchange of written decisions* beyond sections. The sections each had their file repositories on the server. But even though in the headquarters, one could access the repositories of other sections, they were organised and handled differently. And from the reception centres, these repositories were not accessible at all. The head of the centre said, "The knowledge management in the FOM is a catastrophe. Provincial thinking prevails: everyone files the documents nicely for themselves. There is no common database" (Fieldnotes, reception centre, spring 2013). Yet, nobody seemed to know why no proper database for sharing decisions* existed. One might also ask the reverse question: what does a certain provincialism or fragmentation in knowing and sharing know-how offer in the view of those in the higher echelons of the office, who could introduce such a database?

### 8.1.3 The 'Dark Forces' are the Others

> I sometimes have the feeling that there are some dark forces in the headquarters which want to produce negative decisions no matter whether the arguments for this exist or not. (Fieldnotes, reception centre, spring 2013)

The asylum *dispositif*, on closer inspection, appears fissured – in all of its locales lurk forceful Others that threaten one's work or even 'the system'. The 'dark forces' are always these somewhat opaque Others – which are thus constitutive of the identification with a particular 'community' in the office (see Said 2009). For those in the reception centres: it is the headquarters; for those in the headquarters: the reception centres; for the newcomers: the long-term employees; for the long-term employees: the newcomers; and for the subordinates: the superiors, the management; and so on. While these internal fissures are not very surprising, they are important for the development of positionalities inside the office – everyone has associations with

some parts of it, and dissociations from other parts. Of course, these are very generalised fissures and nobody I talked to would draw them all too firmly. Caseworkers and superiors develop their positionalities in relation to more than one 'community' and these are not static either. Most know people from other 'communities' they respect or even admire. However, these fissures still matter to the extent that they indicate the limits of certain "communities of interpretation" (Affolter, Miaz, and Pörtner 2018) of case-making. And through their enactment on many occasions – in meetings, discussions, interviews with me – they become relevant associations for trajectories and outcomes of cases-in-the-making, which makes them worth tracing. A simple explanation for the frequent reference made to these fissures would be to take them as an effect of 'leaving someone else holding the baby' [*jemandem den Schwarzen Peter zuschieben*] in case things go awry. However, at a second look, they are better understood as an effect of divergent positionalities in case-making that shape the vantage point on cases' assembling and resolution. The reactions a delegation from the headquarters sparked in the reception centre exemplify this.

> I attended an info meeting of a delegation from the headquarters that presented a new 48-hour procedure for Ukrainian cases and additionally provided country of origin information on Ukraine. After the meeting everyone leaves the room quite quickly. Nobody seems to seek the dialogue with the people from Bern [the headquarters]. The latter have to continue their journey to Vallorbe where they have the same presentation this afternoon. A senior official is already standing outside the building, smoking with a caseworker. I join them. She says "this is again a hasty reaction from Bern [the headquarters] with the 48-hour procedure for Ukraine, not thought out. If three reception centres – [names] – cannot enforce [removals], then this does not solve any problems. But in Bern … this is the favourite recipe: since it has worked so well with the Roma,[8] one wants to do the same with more and more others too. But this is comparing apples to oranges. Besides, I don't like if Bern decides on our capacities here: with the 48-hour procedure and pre-drawing them at the BSM (border sanitary measures), this takes time

8 Such 48-hour procedures were first introduced for Roma from European "safe countries" such as Bosnia-Herzegovina, Serbia, or Hungary (see also SEM 2012).

> and effort for assignment and hampers optimal utilisation of resources". (Fieldnotes, reception centre, spring 2013)

In the view of the senior official, the new procedure in this case 'does not solve any problems'. From her perspective, people in the headquarters lack an understanding of how things relate in case-making for them here. Furthermore, she does not like the headquarters threatening the independence of the centre in organising processual events of case-making according to its own rationalities. In turn, between the lines, the protest about this new procedure to be introduced is also an expression of their dependence on arrangements being remade in the headquarters. In the headquarters, in turn, reception centres were sometimes considered as somewhat obstinate and capricious in their approach to case-making.

A specific case of a homosexual man from Uganda illustrates this well, as I encountered it both in the reception centre and later in a section in the headquarters. A reading of this case-in-the-making I encountered in these two different localities on three occasions illustrates how the vantage point on cases and rationalities concerning their reading occasionally differs between the reception centres and the headquarters. In the reception centre, the case had a specific history with several layers: a first and a second application that were accompanied by several encounters with the applicant. The caseworker in charge of the case and his superior were convinced that the applicant's grounds were a fraud. Besides the fact that the applicant had introduced homosexuality as a ground for persecution only in the second application, the caseworker and his superior felt it was not that clear that he would really be threatened upon return – and questioned whether this was actually applicable in the country of origin information indicated. For them, this case appeared to be an exemplar of abusive second applications that they frequently encounter (much more often than the headquarters). Since they considered the claim not credible, it did not matter to them so much what the office's practice* of gender-related persecution was or what COI stated about the "situation of homosexuals" in Uganda (see Figure 7, section 5.2.2). They were determined to write another decision* of non-admission (DAWES) and see how the court would evaluate it.

I came across the case in the headquarters about nine months later. Here it had, in contrast, no history. But the section of the senior official who encountered the case in passing had developed a new practice* on gen-

der-related persecution (see section 7.2.3) according to which the case which he felt "was clearly positive". Yet, people in headquarters could not force the reception centre to pass the case on to them for resolution. They were just occasionally reminded of its existence, when new submissions arrived at the office concerning the case. And they could mock the reception centre for an overly personal involvement in cases ('having a score to settle') and shirtsleeved or "rush rush"-approach to case-making (see also Affolter 2017; Affolter, Miaz, and Pörtner 2018). Thus, the different perspectives on this case reveal that previous associations of case-making matter for how it is viewed; and that both 'sides' – the reception centre as well as the headquarters – are suspicious of the case's evaluation by the internal Other.

But such fissures also exist between the different reception centres and between the divisions and the sections in the headquarters. For instance, one reception centre is well-known in the whole office to be "the most rigid reception centre"; and in the headquarters, one division with four sections was more markedly affected by the 'government by number approach' than the other division (see section 8.2.2). Hence, it appears that – as in the frictions between the headquarters and reception centre – the strong association and reliance on each other fosters antagonism at time. But on the other hand, one also respects the Other and knows that one fundamentally depends on each other in the wider division of labour across processual events of case-making.

As I suggested in this chapter, we end up with *heterogeneous* assemblies that are enacting the asylum *dispositif* across different interfaces of case-making. While they are associated through a range of rationalities and technologies, they are also dissociated in crucial ways: for those working in the office, the resulting fragmentation of the office explains some of the differences in case-making (beyond "individual differences"). The different ways of doing and seeing things stand moreover in tension with each other and the contestations around the 'right' approach keep the *dispositif* in motion.

### 8.1.4 Response-Abilities?

> It is a fact that the work process [in the asylum office] characterised by a marked division of labour and hierarchy fragments the individual moral responsibility of FOM collaborators for their actions and thereby undermines

> it. Adding to this, the hierarchical principle leads in the FOM – as it is typical for administrations – to the tendency to delegate the responsibility for delicate decisions upwards and thus hedge one's own actions through superiors.[9] (Parak 2009, 4)

Administrations appear to have a troubled relationship with the humans populating them. Officials are becoming equipped to "speak in the name of the state" (Gupta, 1995, see also subchapter 5.1) but are supposed to personally fade for the administrative practice to appear disinterested, consistent and objective (Weber 2009). Excess in the fading of the human face and ethics of administrations, however, is viewed as problematic since it leads to "indifferent" bureaucrats (Herzfeld 1992) and the inhuman treatment of people encountering them (Lipsky 2010). In turn, bureaucratic organisations also have a problem with (overly) interested and engaged officials as their practices are considered to move into the realm of politics and thus subvert administrations' "neutrality" (see du Gay 2009). However, debates about the *ethos* of officials also touch on discretion and responsibility in a diagnostic manner that I consider rather unpromising. They often revolve around the question of degree: how much discretion and thus responsibility do bureaucrats have? Or they may even take a binary form to ask: are bureaucrats acting responsibly and/or held responsible or not? In contrast to such accounts, I suggest to attend to the sense-making endeavours of officials and engage with their own reflections and critique.

I suggest to go beyond the image that responsibility in organisations is simply delegated to superiors, as Parak (2009), the quality manager of the SEM, suggested in the quote above; or that it is worn away beyond recognition since it is endlessly distributed, moved up and down, as Eule (2013) argues in the case of German migration offices. What often seems the problem with responsibility is that no distinction is made between the *discourse of responsibility*, or 'attributable responsibility', and *practices of responsibility* or what I call 'response-ability'. The former is indeed delegated and may circulate and lurk in the dark to resurrect and hit someone unexpectedly, or it might be altogether fleeting (Eule 2013). It appears momentarily at particular events of overflowing in which the discourse of responsibility is raised and attribution asked for (see for instance the case of Van Tha, section 7.3.1).

9 Own translation from German.

This is the common, normative form of responsibility usually invoked. The latter, pragmatic form of responsibility evolves in everyday practices that are considered part of a collective undertaking. It does not need to be uttered – it rather takes the self-reflexive form of bringing own ethical considerations in tune with expectations of others (what Wenger 2003, 79, called "alignment" in communities of practice) but also with those of oneself. It is about (silently) answering questions such as: does this letter satisfy the expectations of my superior? Is the subsequent caseworker able to write a decision* based on the hearing protocol I produced? Do I do justice to the applicant with this kind of decision? It is thus multi-layered and open-ended in the weighting of the different questions. It is closer to a situated *account*ability – again as the ability to give an account of something or someone in a particular encounter – than the abstract, generic responsibility. I suggest to rather ask: whom or what are caseworkers and senior officials responsible for; and what account would they give to explain their action – what are their *pragmatic* instead of abstract virtues (MacIntyre 1984)?[10] I thus suggest a shift in perspective to avert simple conclusions such as that ethics in bureaucratic settings are defective or that bureaucrats are indifferent.[11] Attending to officials' reflections about their work can reveal how particular governmental arrangements and occupational roles crucially impact the answer of officials to the question: "of what story or stories do I find myself a part?" (MacIntyre 1984, 216). It can reveal the rationalities and convictions of officials emerging from the need to cope with stress, contradictory requirements and moral burdens related to their job – and their at times problematic effects.

This raises a question about the accountability of those scripting applicants' accounts and those writing the account that comes to matter, the asylum decision*, who are writing themselves vastly out of this account and can "hide behind the law", as a caseworker in an interview aptly said (see section 7.2.1): Whom are the officials in the asylum office actually representing, who

10 This could also shift the discourse in the literature on the state and bureaucracies away from the notion of "corruption" (particularly in the global South; see, for instance, Chatterjee 2011). Corruption implies that bureaucrats are irresponsible, unaccountable in their work without asking about their pragmatic virtues. That's also the reason why corruption arguably only exists at a diagnostic distance – it only works as a *condemnation*, not as an *explanation*.

11 For instance, the indifference of Greek bureaucrats regarding citizens' concerns that Herzfeld (1992) noticed.

do they speak and write for, if not for themselves? Importantly, the "structure of address" (Butler 2005, 39) in which caseworker give an account of themselves does not foreground the applicants, but the seniors who authorise their accounts and take some of their weight but also evaluate their numerical output. In these accounts, considerations may include their own unwarranted labour relations: the bulk of newly hired caseworkers receive only temporary contracts during the first three years in the asylum office. The addressees of the accounts they write most often – decisions* – are not primarily applicants either. To be sure, applicants have to be notified about the decision*, but the account has not to withstand their judgement but that of the appeal court. Hence, the *dispositif* of governing asylum encompasses an administrative politics that entails a whole bundle of dissociations from applicants in practices of case-making. What stands between applicants and caseworkers are in effect two highly uneven spheres of account-ability. Claimants' accounts about themselves are heavily mediated by the rationalities and technologies of recording and inscription (see subchapters 5.2 and 6.2). Caseworkers in turn are polyphonic in their accounts – they speak (at least) in 'voices' of the law, the truth, and the numbers. Becker (2001, 197) argued that officials "disinterested engagement and intimate distance" have been crucial for their double role of speaking to applicants in the name of the state and of its citizenry: "Intimacy and engagement were part of their role in protecting the commonweal and its citizens, and, as officials, they were exclusively engaged in the case and in the efforts that were necessary for its solution" (Becker 2001, 197–98). Such a reading acknowledges that caseworkers have multiple positionalities to enact and ambiguities to embody. It can thus account for some of the seemingly paradoxical stances caseworkers display towards the people they encounter and whose cases they have to resolve.

## 8.2 The Government of What?

One of the surprises of my field research was the insight that governing asylum is about much more than resolving individual cases. At a closer look, I started to realise that the objects of government *multiply* and take efforts in the asylum office into different directions. The first and most obvious object of government is certainly cases to be resolved: as applications to be processed and decided as instances of the *legal*. But the asylum *disposi-*

*tif* has at least two other crucial objects of government: the second is *number* – quantities of (certain categories of) cases as backlogs to be reduced, quantitative counting of (parts of) case-making related to output goals and personal benchmarks to be reached. The third object of government is cases' anticipated *effect*: each case seems to be considered as involved in producing an effect. Cases in which asylum is granted are, for instance, considered to produce a so-called "pull effect". This means more applications of the same category are to be expected in the future. These three different objects of government are each (mainly) associated with a specific rationality: a legal rationality (of the rule of law and examining an individuals' eligibility to protection), an administrative rationality (efficiency and 'non-bureaucratic' processing), and a nation-state rationality (of security and biopolitics). As I have already traced various appearances of the legal rationality – which is pervasive in processual events of case-making (Part II) – and discussed convictions related to law as both a technology and rationality of government (Chapter 7), I will focus here on the 'non-legal' rationalities crucially affecting case-making: productivity (8.2.2) and deterrence (8.2.3). Both of them are crucially related to "centres of calculation" (Latour 2005, 178), which I will outline first (8.2.1).

### 8.2.1 Centres of Calculation: Measuring and Forecasting

> In fact, from inside the system, the algorithms and mathematical formulae by which the world becomes to be assessed become, ultimately, not just measures of value, but the source of value itself. (Graeber 2014, 41)

The management board of the asylum office has an almost impossible task: it has to get the numbers right. But the number of asylum applications is volatile like no other type of application. And the administrative workforce cannot be rapidly adapted to different input numbers.[12] The management board therefore faces the risk of both quickly increasing backlogs of cases

12 It cannot simply be increased because (in times of widespread budget cuts in the Federal Administration) the parliament has to approve the budget for staff increase. And if it is increased, new caseworkers have to be trained and it takes – as senior officials estimated – four to six months to become able to work productively and one to two years for them to become "fully productive" and capable of processing complex cases. This already indicates why staff decrease is an equally difficult and potentially momentous move.

and idle personnel, if the ratio between 'input' and 'output' is out of balance. Against this backdrop, nobody will be surprised that statistics appear to be the management's preferred perspective for formatting the work performed in the asylum office. They have instated "centres of calculation" (Latour 2005, 178) to account for the organisational performance in numerical terms and to forecast future applications and thus workload. I confine myself in this section to the "metrological regime" (Barry 2002, 273; see also Latour 2005) of rendering case-making countable in numerical terms and therefore calculable. This has arguably crucial effects on case-making: as Barry (2002, 277) pointed out, "metrology puts new objects into circulation" and has both "performative and regulative consequences". I trace these objects and consequences in the case of the asylum *dispositif*.

In "centres of calculation" (Latour 2005, 178–81), sophisticated statistics of *indicators* on various levels of aggregation are produced, which provide those in the executive floors, but also the individual caseworker with a partial yet powerful re-presentation of the work expected, on-going and accomplished, of the composition of applications and their resolutions. Crucial for the equation is obviously the ratio between inputs and outputs: the management has developed for both inputs and outputs technologies and devices to measure and forecast them – but also to influence them in numerical terms.

## Measuring and Forecasting Applications: Input

The measurement of asylum applications appears quite straightforward: it consists of the counting of numbers of applications in receptions centres (and the airports) and indicating the type of application. In one of the sections where I did my fieldwork, an excel file with the weekly applications filed was forwarded to all staff by the head of section. For the headquarters, these numbers allowed for an immediate update of both caseload and the more difficult predictions of future applications. Such foresight and planning were highly relevant for heads of sections and caseworkers. For instance, case files have to be sent to the SAM – the service division of the asylum office organising the hearings – usually three weeks in advance to hearings. Case files of some categories and 'critical' countries of origin need to be referred to the Federal Intelligence Service (FIS) for a check ideally before the main hearing, certainly before the decision. This evaluation can also take some days or sometimes weeks.

In a monthly updated series available on the intranet entitled "Management Cockpit" [*Führungscockpit*], both the latest developments of asylum applications in Switzerland and European countries were gathered and compared in numbers and graphs, was well as predictions on the numbers and distribution of future applications. Such predictions can be surprisingly accurate for reasons outside the scope Swiss administration and politics, but more often fail for the very same reasons: too many unknowns play into the equation. The factors range from shifts in geopolitical constellations (e.g. the instability of Libya after the fall of Gadhafi's regime or the outbreak and fuelling of an increasingly internationalised civil war in Syria) to changes in escape routes of those seeking refuge and asylum policies of other countries. Together, such factors can lead to sometimes dramatic and relatively short-term changes in the numbers of asylum applications in a single country. Nonetheless, forecasting seems to be so deeply entwined with government that the absence of forecasts would probably raise more concern than attempts to forecast something as unpredictable as future asylum applications. What appears important is to maintain a privileged position in relation to the 'production facilities of knowledge' vis-à-vis the public, which is offered asylum statistics in monthly and national aggregates already 'digested' by the public administration.

## Measuring and Forecasting Productivity: Output

Much more predictable are the numbers at the other end: regarding output. New Public Management (NPM) reforms, which emphasise "efficiency" and "effectiveness" as key foci in the management of public authorities, have been introduced in the Swiss Federal Administration since the early 2000s. In the wake of organisational reformation, NPM principles also entered the Federal Office for Migration (FOM) and led to a considerable shift in orientations. Probst (2012) observed a similar development in the asylum administrations in France (OFPRA) and Germany (BAMF), and Dahlvik (2014) in Austria (FAO). While productivity targets have become widespread, the NPM concept of "client-orientation" seems largely absent from asylum administrations (Probst 2012, 219). As Shore and Wright (2011, 3) noted, "the introduction of the principles and techniques of New Public Management (NPM) into local authorities, government ministries, hospitals, schools and universities has profoundly modified the behaviour and self-understandings of these organisations and their staff." Characteristic of the introduction of NPM in

the asylum office was the rebranding of the completion of certain jobs/tasks at the "street level" (Lipsky 2010) as "products". Consonant with management by objective approaches, these products have since then been counted as "output".[13] The management focuses at increasing the output:

> A senior official of the asylum office addresses a meeting of asylum caseworkers and seniors in the last week of January 2014. The atmosphere among the more than a hundred people gathered in a large meeting room of the office's headquarter appears a little tense. The motto for the year is projected on a slide in bold letters: Nous produisons / Wir produzieren (we produce). After announcing this motto amid murmurs in the assembly, the head of the directorate appeases his subordinates: "Of course, this does not mean that the production stands above everything." The ambitious yet realistic production target for the year, he states, is to reduce the applications pending from 18,000 to 5000.[14] He continues: "By the way, in January … we have already almost accomplished this target with about 2300 completions." But this seems only a cold comfort to the increasingly troubled personnel. (Fieldnotes, participation in event, early 2014)

The counting of "products" accomplished in a certain time period thus serves to measure "productivity". As a head of section stated: "Productive in this context means to attain with as few resources as possible as much production as possible" (Interview with head of section, autumn 2013). In consequence, the situation in the Swiss asylum office resembles that of the British asylum system, where Gill (2016, 88) observed "constantly 'increasing targets' and managerial tendency to demand 'more for less'" fuelling the turnover in staff. In French and German asylum administrations, the preoccupation with productivity also seems to proliferate as Probst (2012, 217) stated: "besides revising decisions produced by the caseworkers, the principal role of the superiors is to pay careful attention that the employees 'produce their

13 According to officials, output statistics already existed earlier. But with the introduction of NPM principles, the orientation of management towards output numbers has been accentuated.

14 At the time of this event, there was still a considerable backlog of files, after a peak of about 19,000 first-instance decisions pending by the end of 2012 (SEM 2015c).

numbers'."[15] Most caseworkers I met felt that output numbers had become increasingly and often excessively emphasised by the management (see also Miaz 2017, 344–48). One of the most prominent concerns amongst caseworkers was therefore what they usually called "productivity pressure" (see also Fresia, Bozzini, and Sala 2013, 54–55). But where do these numbers come from?

I was told about the existence of a "strategic agenda", a two-year old document which had been co-written by diverse members of the executive board of the (then) Federal Office for Migration and which provides guidance to the steering committee of the asylum directorate (PILAR). How numerical productivity goals for the whole asylum office were actually calculated remained unclear to me, as probably for most caseworkers as well. It only seemed apparent to the caseworkers who talked regularly about output numbers that the goals of the management were lofty and hardly achievable (if not considered completely unrealistic). But this might relate to conjunctures beyond my gaze. In a discussion with two senior officials, they told me:

> This year [2013] the targets have been clearly missed, but now actions are called which produce tangible results after the resources [the personnel] has been increased. We already wrote in an internal document to the director that one should 'liberate oneself' from purely quantitative targets, the simple counting of completions. This has not been well received, it came back with three exclamation marks. (Fieldnotes, headquarters, winter 2013/14)

This vehement reaction of the director could be interpreted, I suggested, due to a feeling that he is being forced to sell 'his' office's accomplishments to his superior – the Federal Councillor – and to the parliament with numbers and

15 Own translation from French.

statistics. One of the officials laughed and confirmed my conjecture that it is not possible to sell them the *quality*[16] of a hearing instead.[17]

The management board defines certain "output targets" for the whole directorate, which are then broken down to the divisions, to the sections and ultimately to every single caseworker. In agreements on objectives, individual targets of caseworkers are defined, and these depend on their experience, their additional competences, and their working time regulation. One head of section disclosed the targets he had received (which consisted also of 'soft' goals though) at the weekly meeting of the unit: "My executive goal states 1600 completions in the next six months; this makes about 170 completions, thereof 35 hearings, per month" (Fieldnotes, headquarters, spring 2014). This can be read as a textbook implementation of management by objective theory: according to the new public management literature (e.g. Schedler and Proeller 2011), knowing to have a share supposedly increases the motivation of employees at all levels and makes them feel their co-responsibility for reaching the overall goals of an organisation. This "decentralisation of responsibilities" aims at fostering their allegiance (ibid., 250–261). In agreements on objectives, individual targets of caseworkers are defined, and these depend on their experience, their additional competences, and their workload. It is important to note that not every job completion at the street level counts equally. For instance, asylum decisions and deletions of asylum applications counted as 'products' at the time of fieldwork. Hearings, instructions of applicants, treatment of applications for re-examination, applications

16 One measure for the quality of decisions*, however, was sometimes employed: the cassation quota of first-instance decisions* for formal reasons at the Federal Administrative Court (FAC). The general cassation quota cannot be taken as a measure, as it is not only influenced by the quality of decisions* but also by evolving practices after revisions of the asylum act: new practices* lead to higher cassation quotas until they are "evened out" [*eingependelt*]. Consequently, only the cassation quota for formal errors (e.g. incomplete facts of the case or violation of the right to be heard) was an indicator for the legal quality of decisions* and could be actively reduced (Fieldnotes, headquarters, winter 2013/14).

17 The asylum directorate also had a quality manager, Stephan Parak (until mid-2018), who analysed the quality of asylum casework and made suggestions for improving the quality of administrative tools and processes, hearings, and decisions. He initiated many improvements in this regard, but the administrative resources available to improve quantity are still higher than those directed at the quality of casework. However, he did this work for about 500 officials in the asylum office alone.

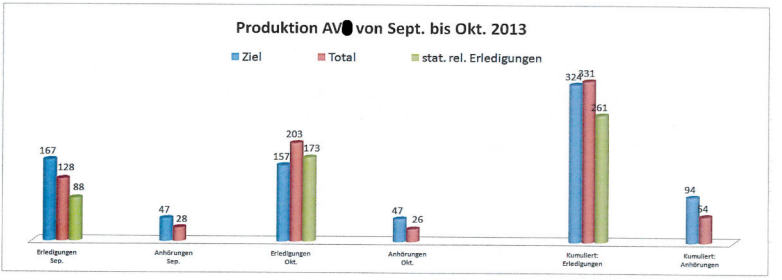
filed abroad, and other tasks did not count as 'products'.[18] And beyond this, the expenditure of time for a completion can vary a lot; main hearings can take from an hour to a day (without preparation time), while decisions can be written in half an hour or take several hours or days, depending on the complexity of the case. In administrative statistics, cases with 'further investigations' are distinguished from those without; but even this distinction does not reflect the fact that efforts for investigations can vary tremendously. When I asked a caseworker about these productivity targets, she stated:

> I mean I understand that the office makes productivity targets, but I don't find them well devised. Because simply to say, some three decisions per week, this does not well represent our work. There are decisions, which you have written in half an hour, I can produce a lot of those, but then you also have decisions, which take you more than a day, and with investigations even considerably more. Then you really have to argue and to deliberate, and I just find there you compare apples and oranges, and this is not that fair. (Interview with caseworker, autumn 2013)

The uneven accounting for different tasks can be interpreted as an incentive to do more of what counts and less of other tasks (see also Brodkin 2006). However, it would be wrong to conclude that the management always anticipates such incentives. On the one hand, many parts of work are related, since often tasks that do not count as 'products' have to be accomplished as preliminary work for the 'products' that count. On the other hand, the representation and comparison of various types of work in numbers has its practical limitations.

18 Lately, more of the things that caseworkers do count statistically.

*Figure 16: "Production" of section counting statistically relevant completions*




(Source: Fieldwork materials, winter 2013/14)

Indicators and forecasts compose metrological networks of governing asylum, universals which render work countable and the objects of work traceable (see Latour 2005, 227–29). Sections' good output numbers are celebrated in meetings, bad ones justified (see Figure 16). The results of quarterly counts were moreover compared to other sections, as this the statement of a head of section at a section meeting shows:

> Concerning the production in our unit: it is comparable to that of other sections of the division two. The range lies between 380 and 400 statistically relevant national applications settled. Our section is in a good position with 391 completions. Nevertheless, the targets, which are ambitious (as is known), have not been met. (Fieldnotes, headquarters, winter 2013/14)

Caseworkers conduct their own calculations on how to achieve the numbers of their objective agreement. They were asked to make sure all their products were correctly attributed to their monthly production statistic. Therefore, many of them kept books of their (statistically relevant) work. I once heard a story about a more experienced caseworker taking advantage of an unknowing new employee, to whom he delegated non-counting tasks and took over the statistically counting ones (see section 8.3.1). While this is certainly a rather exceptional extreme case, it points to the dubious effects rewarding caseworkers for mere output can yield for those concerned (see Deming 1986,

101–2). But to what extent does the emphasis on productivity affect the trajectories of cases and their outcomes? [19]

### 8.2.2 Productivity Pressure: Reshuffling Encounters

The NPM imperative to focus on 'output' statistics has led to a number of adaptations inside the public administration. During my fieldwork, I became familiar with a range of strategies related to NPM, which shape the spatio-temporal trajectories and associations (including outcomes) of cases-in-the-making and are reshaped in practices of assembling cases. They varied in their scope, from more explicit arrangements to increase output adopted across all sections for a certain period to more implicit (but not necessarily informal) arrangements to deal with the output requirements, which may also be limited to a few sections or a single section, and consist of ad hoc measures adopted by only a few caseworkers or a single caseworker to reach their targets. During fieldwork, I learnt that in some divisions and sections, the superiors generally put more pressure on their subordinates to reach output targets while in others they shielded them from pressure they themselves experienced 'from above'. In the following, I will outline first some of the strategies and arrangements to influence the time, duration, and order of encounters with cases and then tactics with a limited scope that reflect particular motives.

#### Concerted strategies and arrangements to increase productivity

Various rather stable and pervasive strategies existed to deal with increased productivity targets at the time of my fieldwork. Some of these strategies directly altered the trajectories of case files, while others influenced the terms of processual events. I will only exemplarily mention two strategies developed to reduce the *complexity* of a task.

A strategy temporarily in place for applications from certain countries of origin with a high rate of acceptance was to change the internal positive proposal, a writing device. The internal sheet for the case-specific substantiation of a positive decision* was replaced by a simplified form on which caseworkers could tick off the grounds from a list with given criteria (see section 6.5.1). This generic approach obscured the case-specific consider-

19 Parts of sections 8.2.3 and 8.2.4 have already been published (see Pörtner 2017).

ations leading to the positive decision.[20] A similar yet more contested and less stable strategy to increase productivity was limited to a very specific set of cases: Eritrean cases from 2010 to 2012. It allowed for the complete omission of the main hearing if on the basis of the first short hearing the grounds for asylum had been considered as established. This was documented with a few simple ticks and a signature on a form that stated the conditions for this type of decision* (internally therefore referred to as "tick-decisions"). This re-arrangement allowed for omitting core components of case-making – the encounter of the main hearing, and the protocol as its materialisation in the case file – and had thus profound implications. The often very short statement about the grounds for asylum generated in the first hearing had to suffice to judge the claimant's 'well-founded fear' of persecution. In these cases, their association with their country of origin mattered. Senior officials considered this a "petty evil" because, following a leading decision by the appeal body, basically all claimants from this country had to be granted either asylum or humanitarian protection (temporary protection). Yet, in the eyes of caseworkers I talked to, the superficial associations sufficient for granting asylum in this country category stood in marked contrast to the meticulous associations required in other case categories.

### Tactics to increase productivity with limited scope

Besides such arrangements to increase productivity with a larger spatiotemporal scope, I also observed a range of local and ad hoc strategies of officials and sections to improve the numbers. Consistent with NPM doctrine, organizational subdivisions are not only assigned shares of cases and targets for their processing (see subchapter 6.3), but also put in competition with each other. Individual caseworkers are not just 'benchmarked' against their output targets, but also against the performance of their colleagues. While the aim here is not to point to the detrimental consequences of such competition, the – at times unforeseeable – turns and twists of cases trajectories throughout the organization could not be adequately grasped without taking its effects into consideration. Following the path of 'productivity' on this avenue brings to the fore a number of moves adopted more or less officially and which serve to improve or maintain the competitiveness of sections and individuals in the organisation. We learn that there are more and less *valu-*

20 This practice has been revised since my fieldwork.

*able stages* of files, attractive *inexpensive completions*, and files that offer *quick gratification*.

An example of a valuable stage of case files is that of so-called "liquid files". Liquid files are those ready to be decided – i.e., those with the main hearing conducted and (and no 'further clarifications' to be conducted). But why are they more valuable than files of claimants ready to be heard? Arguably, the main reason for this is that decisions are a more secure metric for manoeuvre in the play of numbers than hearings: hearings are to be organized by a separate unit and usually require a lead time of three to four weeks (in the headquarters; shorter in the reception centres). There is also considerable uncertainty when estimating the duration of hearings – they will be planned for either half a day or a whole day, but things can always turn out differently, starting with one of the participants not showing up. As long as files are assigned to caseworkers of a section and physically on their shelves, they are safe. But as soon as they are sent to the archive, they can be potentially ordered by a reception centre with a (temporary) low workload. Obviously, such a 'hoarding' of files can in turn result in a poor utilisation of resources (see section 6.3.2), which the management board attempted to avoid by controlling (since 2012) "capacity utilisation" monthly. But cases in 'valuable stages' are only passed on if necessary, because this decreases the relative output share of the respective section or caseworker.

Moreover, officials also are in varied employment positions – some have worked for a long time in the administration and are sure of their posts; others only started to work in the administration recently or await promotion and feel (not without good reason) the renewal of their temporary contract or advancement to be dependent on their output performance. Amongst the heads of divisions and sections, this is reflected in variable degrees of submission to output targets. According to one caseworker, "We have a good and sensitive head of section, who is a bit submissive to authority and does not question such output targets, but feels under pressure and wants to reach the hundred completions, no matter what the cost are" (Interview with caseworker, autumn 2013). Others, however, question both the sense and necessity of ever-higher productivity targets and attempt to shield their subordinates from the pressure, for instance, by taking the responsibility for (potentially) not meeting targets. Yet others "do everything for their people", but have only their sections in mind, as another caseworker expressed about a head of section: "Then he does things, which are going too far, like drawing

a list of all disappeared with open application and order them, although the files are not in his competence, and that way polishes his statistics" (Fieldnotes, conversation with caseworker, spring 2014). Another official acknowledged that "some people just care for their numbers" and they would not care about the consequences of their moves.

A last move adopted to improve the numbers (at least in the short term) that can be mentioned here, is to "excavate" files that offer 'quick gratification'. This is how an official told the – recurring – story:

> What do we do now? We just have to increase the output and we have hired so many new people, now it has to go up. (…). Then a head of section came with the astute idea: "now, let's just take all the Afghan and Tamil families of five and seven [cases which comprise of seven family members] out of the basement, because then every decision* yields [five or] seven completions ['tallies']". And then somehow another one came, who thought even a step ahead, and threw in: "yes, but what are we going to do then in the third quarter [of the year], if there's no families of seven anymore in the basement and the same output targets are expected of us?" Yet it was said: "until then we are confirmed in our posts". (Interview with caseworker, autumn 2013)

Hence, the strong focus on numbers and the 'inevitable' necessity to reach output goals can foster inventions with rather doubtful effects. But they can be explained by the partly precarious positions of employees or their endeavour for promotion.

*Figure 17: Newspaper article on productivity pressure: "In the Asylum Factory"*

Datum: 26.07.2015

SonntagsZeitung

SonntagsZeitung
8021 Zürich
044/ 248 40 40
www.sonntagszeitung.ch

Medienart: Print
Medientyp: Tages- und Wochenpresse
Auflage: 201738
Erscheinungsweise: wöchentlich

Themen-Nr.: 999.209
Abo-Nr.: 1095889
Seite: 4
Fläche: 65392 mm²

Flüchtling in Chiasso: Hohe Anerkennungsquote
Foto: Keystone

# In der Asylfabrik

Dominik Balmer und Daniel Glaus

**Die Migrationsbehörde erhöht den Druck auf ihre Beamten, Pendenzen rasch abzubauen – «für eine sorgfältige Prüfung bleibt schlicht zu wenig Zeit», sagen diese**

**Bern** In den Büros der Migrationsbehörde in Wabern stapeln sich die Dossiers. Sachbearbeiter, die Asylgesuche beurteilen, machen Überstunden, verzichten auf Ferien, um Akten zu wälzen und Entscheide zu schreiben. Es ist ein Fliessbandbetrieb, der Asylentscheide ausspuckt. Intern spricht man von «produzieren».

Und diese Asylfabrik fordert immer mehr Output von ihren Angestellten. Mit «Beschleunigungsmassnahmen» soll der Pendenzenberg bei den Asylgesuchen abgebaut werden. Dabei kommen Sachbearbeiter an ihre Grenzen. «Der Druck ist omnipräsent», heisst es. Mehrere Mitarbeiter sind krankgeschrieben. Auch wegen der Arbeit: Die Beamten in Bern entscheiden über das Schicksal von Menschen. Werden die Anträge gutgeheissen, dürfen die Asylbewerber bleiben. Bei einem Nein droht ihnen die Ausreise.

Angestellte der Migrationsbehörde schildern in vertraulichen Gesprächen die Zustände in ihrer Behörde. Der Tenor ist deutlich, das Grundübel sei das Anreizsystem, das Fallzahlen vorschreibt, sogenannte Erledigungen. Fällt ein Sachbearbeiter einen Asylentscheid, der eine Person betrifft, gilt dies als eine Erledigung. Dafür gibt es einen Strich auf der «Strichli-Liste». Wer besonders eifrig zu Werke geht, erhält in Ausnahmefällen gar eine Prämie «wegen hoher Produktionsergebnisse».

Das System existiert seit den 90er-Jahren, doch es ist nahezu unbekannt. Nicht einmal die Schweizerische Flüchtlingshilfe weiss dazu Konkretes.

**Wahrscheinlichkeit für einen positiven Entscheid steigt**

Dabei ist klar: Die Zahlen pro Sachbearbeiter nehmen zu. Und zwar

(Source: Fieldwork materials, 2015)

What these examples reveal is that the new strategies and tactics related to New Public Management principles govern the office and at the same time alter the spatiotemporal trajectories of cases in considerable yet at times unforeseeable ways (see also Painter 2006, 761). The examples also show that cases are now encountered as a means to increase productivity, and their trajectories are altered accordingly. This insight resonates with Gill's (2009) notion of "presentational state power", which refers to the influence on decision-making of the institutionalised timing and spacing of encounters between asylum sector workers and asylum seekers. In a more recent piece, Gill (2016, 51–52) has pointed out various institutional rationales at work in the governing of asylum in the UK that entail a dilution of *ethical encounters* with asylum seekers in the administration. Abstract objectives such as out-

put numbers mediate case-making in crucial ways by changing the governmental arrangements officials are working in. It does not mean that caseworkers do not care about asylum seekers in encounters with them. Rather, as Gill (2016, 136) pointed out, "moral indifference in bureaucracies often arises as a result of an emotionally conflicted state wherein empathetic compassion is overridden by a variety of other concerns" (see also Fuglerud 2004, 29). Additionally, the NPM discourse of productivity ties the officials to the common goal of increasing the quantity (particularly) of rulings, which tends to stand above all other concerns and to become an unquestioned mantra. A media overflow about such practices occurred in 2015, when a feature article in a major Swiss-German newspaper cited "internal sources" of the SEM to highlight some of the problematic facets of the management's emphasis on productivity (see Figure 17).[21] Overall, changes in the material-discursive assemblage such as those related to the introduction of NPM can significantly change the arrangement in which asylum seekers and their cases are encountered.

### 8.2.3 Politics of Deterrence: Speeding up and Shelving Cases

The trajectories of cases-in-the-making, however, are influenced by another powerful rationality: that of minimising the 'input' in the office's equation – new applications. Of course, there is more to this: Avoiding asylum applications is related to the governing of migration according to economic principles by attracting 'wanted' migration and deterring 'unwanted' migration (see section 4.1.1). As by and large falling into the category of 'irregular' and thus 'unwanted' migration, asylum seekers become subject to a *politics of deterrence* that also leaves its imprints in case-making (see also Hardy 2003). The number of asylum applications in Switzerland depends on various factors, many of which are beyond the scope of its institutions' influence. Yet, there seems to be a political consensus in the parliament and public administration that the *setup* of the asylum procedure is key. Particularly the timing of treatment and the outcome of applications are considered key factors

21 The feature article appeared in one of the three major Swiss-German Sunday newspapers, the *Sonntagszeitung*. The lead reads "The migration authorities increase the pressure on their officials to reduce the numbers of cases pending – 'for a careful examination simply not enough time remains' the latter say" (Balmer and Glaus 2015).

having a substantial influence on the relative 'attractiveness' of Switzerland as a destination for asylum seekers. The core rationale I heard reiterated in many versions during my fieldwork goes like this: "if we are too generous in the granting of asylum (and humanitarian protection) compared to other countries, we generate a pull effect, i.e., we will attract many asylum seekers of this sort. Therefore, we have to mould the procedure in a way that deters potential asylum seekers and minimise the entitlements" (Fieldnotes; see also Holzer and Schneider 2002). This rationality seems widespread in Europe as Fuglerud (2004) highlighted in the case of Norway:

> Care is always taken that these principles [guiding the handling of asylum applications] should not be more 'liberal' than those found in nearby countries. The assumption is that if such care is not taken, the news will spread and applicants may choose to go to Norway instead of some other country. (Fuglerud 2004, 33)

This discursive framing resonates with the highly politicised public debate on immigration and so-called 'bogus' asylum seekers in Switzerland and elsewhere (Zimmermann 2011). Such a politics of deterrence is not an official policy but a powerful discourse permeating and thus mediating enactments of the asylum *dispositif*. Accordingly, a lot of legislative and organisational activism has been devoted to what the head of the asylum directorate termed *gatekeeping*: measures to limit the number of people filing an application in Switzerland[22] (see also Nevins 2002). According to Holzer and Schneider (2002, 38), countries generally have two possibilities to reduce their attractiveness as destinations for asylum seekers. They can either attempt to reduce the incentives for asylum seekers to file an application on their territories or adopt measures to restrict who is eligible for asylum. Legal and organisational arrangements play a crucial role concerning for such gatekeeping. They reshuffle the timing and spacing of cases' trajectories with the aim to limit the overall number of applications. On the one hand, they consist of measures to influence the order, timing, duration of the procedure for a

22 While the official rhetoric implies that gatekeeping is solely about "minimising the number of manifestly unfounded asylum requests" (communication from senior official), the internal rhetoric I witnessed in the office suggests that gatekeeping is also about limiting the number of potentially well-founded asylum requests.

certain category of applications. On the other hand, they stipulate a range of locations for their assembling.

## Prioritising 'likely unfounded applications'

According to a member of the management board, a simple strategy lies behind a series of organisational arrangements for gatekeeping: the *rapid* processing of "likely unfounded" applications that is contrasted by a "first in–first out"[23] order for all other applications. Thereby, the order and duration for the processing of applications is changed by speeding up some cases – and so slowing down all the others, who have to wait longer in the archive to be processed. When examined more closely, arrangements and moves for gatekeeping appear more differentiated and complex. Very early in the process, cases are classified according to three priority levels (1–3), which reflect various considerations: types of decisions* (positive, negative, non-admission), various ease of deportation to countries of origin (enforcement categories 1–3), and workloads estimated with or without further clarifications. Moreover, high priority is attributed to claims from certain countries in order to 'decrease the attractiveness for probably unfounded applications' and in cases of delinquency or cantonal requests. Positive decisions* are considered to have a 'pull effect', which is why they have been only of second or third priority.[24]

Admission rates may vary significantly over time. However, they are not considered very representative, because of their aggregation to the year of completion of an application, whose timing and spacing varies for all the reasons mentioned above. But what can be said is that older cases usually have a higher rate of admission. As one official said: "with time comes admission, that's just how it often is" (Fieldnotes, conversation with caseworker, spring 2014). This is a logical consequence of the suspension of cases with a probably

23 This simply means they are processed in the order of entry.

24 Priority levels and categories change over time: the three levels mentioned have been reduced to two that are now publicly outlined at the website of the migration office (SEM 2016b): "likely unfounded applications" have the highest priority and are rapidly processed; for all other cases which tend to involve some form of protection, the oldest cases are processed first. While these general principles are publicly declared – which can be itself read as performative enactment of the politics of deterrence – more detailed and confidential principles regarding the priorities of cases (namely regarding the enforceability of expulsions) still exist.

positive outcome in the prioritisation, but another reason for this emanates from the ethical considerations of caseworkers. Most of them would agree that it takes more to reject the claims of asylum seekers who have had to wait for 'too long' for their decision* due to a low priority, delays in the organisation, or case backlogs (see Gibney and Hansen 2003).

But what does the reshuffling of cases for gatekeeping mean for case-making? How are case files' trajectories influenced by this prioritisation? The attribution of files to the caseworkers is a task of the heads of sections. But it is not until they are deemed "ripe" (Latour 2010) for further processing that they are effectively attributed. The heads of section and the caseworker consider the right timing for the next processual event when receiving a case file according to its category in the priority levels. Depending on their assessment, the case file is put on a caseworker's desk with a note "urgent" or "to be treated", placed with another pile of case files on the shelf, or put on the cart to be sent to the archive. In ZEMIS, the case then has to be reassigned to the newly responsible caseworker.

## Inventing new procedural arrangements

As a response to a rise in 'likely unfounded' applications from certain countries, whose claimants were suspected to profit from longer waiting times, the management invented both the so-called "48-hour procedure" and the "fast track" that became arrangements to deter asylum seekers. A prime example for the necessity to introduce the former was the 'phenomenon' of "Roma [from Hungary and Bulgaria] who come to Switzerland in autumn and file an application to overwinter in the reception centres, because they know they will not get their negative decision* until spring" (Fieldnotes, reception centre, spring 2013). After proving a 'great success' in this case, namely a significant drop in applications of this type, the arrangement was taken as a blueprint by the management and its scope extended to further categories of countries of origin. Cases falling into these categories had highest priority and their claimants were not transferred to the cantons; their decisions were (almost) exclusively taken in the reception centres. Although those processing case files on this track in the reception centre I talked to acknowledged that its branding as a 48-hour procedure did not mean that decisions were really taken within such a short time span, it is still faster than earlier and fulfils the performative goal of deterrence. At the other end of the spectrum, claimants whose cases are of low priority and processed according to the

"first in–first out" principle may have to wait for their decisions for quite a while. This can be related to the asymmetrical relation of speeding up and slowing down of cases. What Adey (2006, 89–90) highlighted in example of airport passengers – that their mobilities and moorings are intimately related – is thus also true for asylum cases.

## Suspending tenuous case categories

In times of political turmoil in countries of origin, the management board may draw on a technology to *suspend* the treatment of cases until further notice – the so-called 'suspension management' with three stages of suspending case-making. This is supposed to give them time to look at how other European countries deal with the new situation and regulate the admission of new, tenuous categories of asylum seekers. Again, a major motive for this guarded course of action seems to be the fear of becoming too attractive as a destination country by being overly generous compared to other countries. Before the suspension of case-processing for a country of origin is lifted again, a field mission will visit the region and assess the security situation. After a meeting involving representatives of other ministries and the UNHCR, the suspension may be lifted. Officially declaring conflict as civil war in a country of origin means that applicants who do not acquire asylum status will still receive temporary protection. A head of section involved in the lifting of suspension of case treatment for a country in turmoil expressed her opinion at a small practice reform meeting of a working group counselling the management board:

> I will have to make clear to the management board that it will not have a 'pull effect'; that we lie rather in the European average with it. And I will argue that it is better to adapt the internal practice in this direction than to wait for a public and visible cassation by the Federal Administrative Court. (Fieldnotes, practice reform meeting, headquarters, spring 2014)

This quote points to a facet of the politics of governing asylum: making things public is often considered to have unwanted effects such as negative media coverage or 'pull effects' (see also Mountz 2010). The change of practice may also take the opposite direction; if the situation is expected to significantly improve in a country of origin, cases may be shelved until the enforcement of expulsions is considered reasonable again (which is usually to be sanctioned

by the appeal body). In both cases, suspension adds waiting time for applicants and potentially alters the terms of encounters with applicants and their case files in the administration as other legal and managerial arrangements of the asylum *dispositif* evolve. Their files may collect dust in the archive for years until they become due in sequence or even urgent as "old cases" [*Altfälle*].

> [The asylum office] just let[s] [claimants] wait for a very long time and then suddenly [their cases] are processed. Sometimes I find it steep: then you get one of these cases, for instance of [a claimant] from Sri Lanka, who really has no grounds [for asylum]. I just had this recently … after three and a half years, one fine day, you get this letter, ok, within 56 days you must leave [Switzerland]. And I don't consider this acceptable anymore. (Interview with caseworker, autumn 2013)

Caseworkers seemed to be often quite critical about the effects of such a "suspension management". While the suspension management is generally a reaction to changes in countries of origin, the form it takes in practice appears also related to the managements' fear of generating a 'pull effect' for applicants from such countries (which is particularly marked in 'turbulent times').

Overall, the politics of deterrence produce geographies of asylum in Europe that turn 'location marketing' upside down. Switzerland is considered to be in competition with other European countries to become the least attractive (or at least a *relatively* unattractive) destination for asylum seekers. Despite paying lip service to a harmonisation of the European asylum system, countries still pursue what Wood (1989, 191–93) termed "beggar thy neighbour" asylum policies to decrease their relative share of asylum applications. This includes more restrictive asylum legislations and higher hurdles to labour and social welfare (Holzer and Schneider 2002). Yet, it also involves, as I have shown, sophisticated spatiotemporal arrangements of case-making in the asylum administrations that work by prioritising cases according to their anticipated outcome. Analogous to the different time regimes that rejected refugees experience (Griffiths 2014), asylum cases-in-the-making can go through pathways of "frenzied time" and "sticky" or even "suspended time" (ibid., 1994) – they can be accelerated and hastily settled or sent to the archive for long periods of time. This example reveals how the

political discourse of deterrence, which is central in many parliamentarian debates and informs the circuit of legal reformism of the Asylum Act, fosters the development of arrangements in the public administration to impact encounters with case files in highly divergent ways. This can have tangible consequences for the outcomes of individual cases as well. As the moment of decision* rather than of claim-making is decisive for the evaluation of a well-founded fear of persecution, claimants' eligibility may expire in the course of institutional suspension. Moreover, the suspension of likely positive decisions runs counter to claimants' potential integration as it keeps them in the limbo of asylum seeker status – a material-discursive borderscape (Rajaram and Grundy-Warr 2007) – that impedes socio-economic participation.

Together, these three rationalities – of law, productivity and deterrence – crucially shape practices of case-making. They are leading to what I call the "case multiple" (similarly to Mol's, 2002 "body multiple") – a case having different 'realities' depending on the governmental rationalities according to which it is encountered and assembled: namely, as cases to be resolved in legal decisions*; as backlogs to be reduced and means to reach productivity goals; and as mediators of the amounts of future applications. The rationalities are moreover interrelated in significant ways. For instance, the legal is seen to be made more rigid by the legislator for reasons of deterrence. Legal articles are seen to be simplified or abandoned altogether for reasons of efficiency – or because they were too leniently applied and thus not conducive of a politics of deterrence.[25] The interpretation of law may be delegated to the judiciary for reasons of efficiency. The rationality of efficiency may lead to the establishment of (too) pragmatic approaches to case-making and resolutions that run counter rationalities of law (e.g. hurrying through cases, reshuffling them; acting without a legal basis) or of deterrence (e.g. quick positive decisions). In turn, rationalities of deterrence can contradict efficiency (e.g. excessive search for means to reject; inefficient reshuffling of cases) or law (bending or suspending the legal, e.g. with a 'waiting period' until cases' official registration). Thus, the material-discursive arrangements of the asylum *disposi-*

25 A senior official suggested this to be the case with Article 52.2 of the Asylum Act that had allowed for a reunification of people with refugee status in Switzerland beyond the core family (as defined in Article 51.1) under certain conditions.

*tif* become even more intricate, if these different and at times contradictory rationalities of government are considered.

## 8.3 Asylums of Reason?

This subchapter attempts to grasp some of the conjunctures in which the asylum *dispositif* needs to be thought – its relations to the 'outside world' – and indicate some of their effects. As indicated at the very outset of this book, the *dispositif* has emerged in a particular historical conjuncture of the formalisation and constant revision of asylum law, the rise of populist parties and the politicisation of asylum seeking in and beyond Switzerland (see subchapter 4.1). Consequently, case-making is affected not only by "epistemic anxieties" (Stoler 2009) of unknowability and related modes of truth-telling (as discussed in Chapter 7), but also personal anxieties related to the 'political' consequences of practices. The atmosphere surrounding case-making may thus – again depending on one's location – be variously influenced by anxiety (section 8.3.1). Both the unpredictability of application numbers and kinds and constantly changing legislation and case law require constant improvisation of caseworkers in their everyday practices (Jeffrey 2013). However, I suggest that the need to resolve driving practices of case-making also sparks more anticipatory, experimental modes of government and of the *dispositif's* enactment. Different forms of experiments with various scopes speak for a sort of 'experimentality' of the *dispositif* (section 8.3.2). Ultimately, I point to the fact that asylum *dispositif* exteriorises a host of associations in case-making: it operates as if there was no history and geography of producing difference (namely of colonialism, of uneven resource extraction, of the destruction of livelihoods and of imperialist wars.). This, I suggest, is not only necessary for its enactment but also productive of certain relations of difference. I provide a reading of the *dispositif* that considers itself as a feature of reconstituting a certain coloniality of power. I moreover suggest that it is not only nurtured by its own overflowings (see subchapter 7.3), but partly also by removing associations of capitalist modes of production from scope (section 8.3.3).

### 8.3.1 Atmos-Fears

> It's really a political Sword of Damocles you have over your head. (Interview with caseworker, autumn 2013)

I was surprised to find that *anxiety* is a crucial facet of both stabilising arrangements of the *dispositif* or transforming them. Yet, the anxiety I encountered was usually not about potentially fatal consequences a wrong decision* could have on applicants and their lives. The anxieties of people in the office rather seemed to concern the media, the nation, and politics – in ways I will briefly outline here. Such anxieties not only haunt officials in the Swiss asylum office. Gill (2016, 16), for instance, stated in the case of UK asylum officials that anxiety "nagged almost every functionary I came across". While it may be less surprising that those who are waiting for asylum decision* are prone to anxious atmospheres (see Darling 2014) or have a "well-founded fear of justice" (Douzinas and Warrington 2012), it seems crucial to acknowledge that also (some of) those involved in producing these decisions* may experience states of anxiety.

One caseworker had the following explanation for such an atmosphere of anxiety in the office:

> And it is especially about the atmosphere of the nation: the minaret initiative,[26] the deportation initiative[27] and so on. There you always realize, all the people of the senior management, particularly our Federal Councillor [Sommaruga] who is from the Social Democrats have to pay extreme attention that the right does not accuse them of being too lax – and there is just an extreme pressure. And then it's also about money, right? It costs a lot of money once the people are here, it is like that, and one has to admit this in fairness, usually live from social welfare for years. Well, that is expensive, right? (Interview with caseworker, autumn 2013)

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26 The caseworker referred to the popular initiative "Against the construction of minarets" for which 57.5 per cent of the Swiss voted in favour on 29 November 2009 (Schweizerische Bundeskanzlei 2009).

27 Another popular initiative, "For the deportation of criminal foreigners (Deportation initiative)", was supported by 52.3 per cent of the Swiss voters on 28 November 2010 (Schweizerische Bundeskanzlei 2010).

It appears that those in charge of the management are seen to anticipate how the practice* of the office is read from the outside – and because a Councillor from the left is head of the Federal Department of Police and Justice – they particularly fear accusations from the right of 'being too lax'. In a coffee break I spoke with two long-term caseworkers who work for more than twenty years in the office, since Federal Councillor Koller [who was head of the Federal Department of Police and Justice from 1989 - 1999]. One of them told me:

> Since Koller['s time in office], you have to be afraid with all Councillors to do something wrong. All of them produce pressure and the strain in the office is therefore much higher. This is certainly true for Blocher and Widmer-Schlumpf, but also for the current Councillor [Sommaruga], even though she is personally much more likeable. She applies a lot of pressure via her director [of the office, Gattiker]. Probably she herself stands under an enormous pressure. (Fieldnotes, headquarters, spring 2014)

The caseworker explained thus the pressure and the tenseness in the office – that find expression particularly in the productivity pressure but also to some extent in the politics of deterrence – with the atmosphere under a certain Federal Councillor. Together the two quotes provide an emic explanation for what caseworkers often perceive as an excessive emphasis of productivity by the management and the fear of a 'pull effect'. The example of the Dublin practice* concerning Greece was for several caseworkers an 'exemplary case' for the anxieties of the management (and beyond). One of them told me:

> It just appeared exemplary to me with the Dublin practice*: there I would say (…) about from 2009 one realised that the Dublin enforcement to Greece was actually not reasonable anymore. But one continued to do it because the FOM was afraid to stand there with an egg on its face in front of the SVP [Swiss People's Party] and the political pressure and the public opinion if one suddenly says: essentially, we have the Dublin system, but nevertheless we do not enforce [removals] anymore to a Dublin state which was technically competent. Well, and there were numerous people who would have been forced to go back to Greece, who had to appeal against the [Dublin] decisions* within these five days – the appeal period is very short – and who did so. Afterwards the FAC, the Federal Administrative Court was afraid – in light

> of this political pressure – just to say: that's not possible anymore, there are untenable conditions in Greece, human rights are violated there, no more removals will be enforced. And then, what did the FAC do? On the one hand it feared to decide cases against this political pressure, on the other hand it was also afraid to send people into their death [calamity]. Therefore, one said: fine, let's make a Greece archive and every Afghan who makes an appeal against a Dublin decision* ends in this archive for the time being. But those who did not appeal, they just flew, they were flown to Athens and maybe tried again… And the others [who had appealed], they stayed and one waited for one and a half years and said: against this political pressure we just need a backing that we can eventually write a leading decision. And they waited until the European Court of Human Rights finally made a ruling in the case of an Afghan, contra Belgium I think. Then ultimately, after this ruling the FAC could say 'well if Europe says this, we simply have to' and the FOM said 'well if the FAC says, we simply have to' [laughs]. But before nobody had dared to just stand up and say: this is not tenable anymore in our view. (Interview with caseworker, autumn 2013)

The fear of the precedence appeared to be particularly widespread amongst the management who had in case of a major change of asylum practice* to be appeased that there will be no pull effect.[28] Caseworkers could dissolve some of the pressure and anxieties about the momentous resolutions regarding others' lives by pointing to the practice* that prescribes them 'a lot' or their superiors (see Parak 2009). A further strategy of both caseworkers and superiors consisted in delegating responsibility to the appeal instance.

And, relatedly, caseworkers and superiors alike seemed to fear about their future in the office. All the newly hired caseworkers only received temporary contracts that had to be annually confirmed by the senior management. They therefore particularly struggled to meet the increasing productivity targets. Also, those who sought promotion were eagerly pushing themselves (and if already leading a team: their subordinates) to excel concerning output numbers. This partially explains, for instance, attempts to

28 For instance, in the case of a Syria practice* change, I attended a meeting of the team having the practice* lead: a key issue of this meeting was how they could ensure the management that the change would not result in what the management saw in their eyes as the "Eritrea horror case" (Fieldnotes).

reshuffle cases (according to their 'yield') in order to achieve benchmarks or excel in the competition for high output (as indicated in section 8.2.2). Here's an example of Catherine, a caseworker, who told me about how she was suffering under the productivity pressure. She told me, seeming very upset, that she has severe backaches, but still has to work because she still has to accomplish so many hearings and decisions:

> This month, they did not account for half of my hearings and decisions. Like this I of course never reach my productivity targets. … Now I have to prove that I did them which is simple for the hearings because of the invitation and DOPO [hearing management database], but not for the decisions. I just pass them to Thomas [the head of section] for the signature, then I have no further trace of them. I don't know either how these statistics are produced. But I never experienced something like that, this is only possible in the FOM. But I was naïve at the beginning too. Once you know how it works you can also play the game. In the old section, I made the hearings for an office colleague for some month and thought: well, it doesn't matter who writes the decision* and accounts for them, this surely counts for the unit. But then I was told at some point that my productivity was insufficient. In the end it's only the tally marks that count. (Fieldnotes, headquarters, winter 2013/14)

Catherine was obviously not happy at all with the work in the office and soon after that conversation quit. It is thus not only an anxiety related to the political effects at work, but also an economic one: even if the portrayal of the caseworkers that "only tally marks count" may be somewhat exaggerated, output numbers loomed large in the office. They were a reason why (particularly) conscientious caseworkers I met felt impelled to work long hours.

A further anxiety I encountered in the office related to the political and/or economic pressures was the fear to lose one's face. One caseworker told me about his superior whose fear of losing his face manifested in the way he assessed the decisions* of his subordinates:

> And we have a head of section who has himself never written an asylum decision*, not a single one. He has travelled around the world and is a nice person … But he just has zero confidence, has a huge fear in front of the other head of asylum sections of the office that he could make a mistake. Therefore, he wants that we make preferably no positive decisions* at all. – Ah,

> really? Are those the decisions* that are questioned? – Yes, because always if we want to make a positive decision*, we hear 'uh, are you sure? Don't you have to make further clarifications?' I mean we make innumerable negative decisions* without further clarifications (…). In our section, there is a quite strong pressure to make no positive decisions* if possible. (…). And I think this is also the case in a part of the other sections: depending on what kind of head of section you have. (Interview with caseworker, autumn 2013)

This example in my eyes indicates that anxieties of key personalities such as heads of sections can have consequences quite detrimental to the way cases are resolved in their sections. And it moreover hints at one potential root of such anxieties: the lack of experience that makes it hard to build upon sound heuristics and thereby appreciate and defend a certain scope for interpreting the practice* (as well as output targets).

It seems that different anxieties affect case-making. Some officials fear for their job or promotion for getting the numbers wrong, others are afraid to produce a 'pull effect' precedence and the disgrace inside the office or publicly associated with it. Of course, such anxieties do not affect everyone in the office. Many of the well-established senior officials and caseworkers I met seemed hardly affected by them or at least did not become swayed by them. Yet, for all of those captured by such anxieties, the considerations of case-making seem to have subtly but significantly shifted. Cases may become resolved considering not only their legal stakes but also these anxieties of (political or personal) overflows.

### 8.3.2 Experimentality

A facet of case-making is the surprising flexibility of the office in finding resolutions to problems arising from the exigencies of the various rationalities introduced above. One could say that the governmentality that pervades the *dispositif*, the need to resolve not only generates its own problems that again require resolutions (see subchapter 8.2), but seems to be paired with what I call an *experimentality*[29] – a regime of governing that is characterised by a

29 The notion of 'experimentality' as a regime of governing was originally coined in health-related research: in the context of clinical trials in low-income countries (Petryna 2007) and, for instance, applied to the case of HIV treatment programmes in Africa

proliferation of experiments: not experiments 'with' asylum seekers, but the legal and administrative arrangements of processing their cases. Practices of experimentation, of trying new things, adapting, anticipating and mobilising new tools, can be found from the caseworkers to the management. Experimentality refers to a regime of governing that is about testing and shifting the scope of the legal and the possible. It is less a government-by-exception than trial-and-error mode of government, in which experimental stages are normalized or overturned. The experimentality of the *dispositif* can be understood as an important force for its constant transformation. I will provide a few examples of the practice of experimentation with different scope and visibility.

An example of everyday experimentation in the asylum sections is the practice of producing "test" or "decision balloons"[30] for writing decisions that test a new country practice* of the office or the scope of (new or ambiguous) legal provisions at the court of appeal. If such decisions are not challenged by the court, they extend the scope of terms or technologies (e.g. LINGUA tests, COI, fingerprints) and provide a legal basis for a new practice* – or they open new avenues for argumentation of what counts as a legitimate decision* under these conditions. And if they are challenged, they offer new case law that details the scope of terms or technologies. Such experimentation with the scope of law supports the emergence of new or better heuristics around cases of doubt (see section 4.2.3).

## Back- and front-stage experimentation

Whereas test balloons are about actively testing the *scope of law*, other experiments test the *scope of the possible*. While in the first form of experiments the legal is sought for maintaining a new practice, in the second the legal becomes suspended in order to pursue new pathways to resolve cases or problems. The second form can be considered back stage experimentation as it often involves testing the dissociation of practice from legality (see also Heyman and Smart 1999).

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(Nguyen 2009). But in these examples, the notion of the experiment relates to practices of the medical sciences, not public administrations.

30 Such "test balloons" are not only reserved to members of the asylum office, but seem to be also a 'technique' used by legal representatives of applicants in cases of appeal.

Ways of enacting the politics of deterrence introduced above involve such experimentation: in the competition between countries of the Dublin agreement, authorities experiment with the *spacing* and *timing* of leaving 'traces' of competence in the international database to 'produce' the least competences possible for applications of asylum seekers (see Pörtner 2017):

> A senior official told me that France had for a long time a forerun phase [in its asylum procedure], a sort of 'reflection period', until the actual procedure started and the fingerprints were taken to avoid producing 'unnecessary' competences. For a few weeks, he said, Switzerland tried to do the same: they did not take the fingerprints on the first day yet. If somebody disappeared forthwith, one did not 'create competences' this way. But, he added, this practice had to be ceased already after few weeks because it violated law and was thus illegal. [For example] with the Roma we once had here – they told us that they had been in France before. They got the run-around for weeks. Time and again the authorities got rid of them if they wanted to file an asylum application on the grounds that they did not have interpreters at their disposal. – "Attrition tactics?" I ask. – "Yes, exactly." – "Probably all states in the current system develop their tactics not to be competent, right?" – He does not contradict. (Fieldnotes, spring 2013)

In my experience, such practices may, however, be internally contested and spark protest and even resistance from those having to enact them. Or they may be stopped by the management. And applicants have found their own 'tactics' to contest becoming simply captured in terms of Dublin against their will – for instance by using these suspensions of registration for simple overnight stays in reception centres on their further journey to another asylum destination.

The re-cording of claimants' lives in terms of Dublin is thus not self-evident but contested by tactics of both states and those seeking refuge. State agents' 'experimentality' regarding the timing of fingerprinting asylum applicants resonates with the insight that in governmentalised states the use of law appears largely tactical but is exactly sustained in sovereign moments that are shifting the scope of legality (Erlenbusch, 2013). But backstage experimentation not only involves suppressing or dilating legality in ways detrimental to applicants; it may also happen in ways that are to their advantage. For instance, in an experimental move to simplify positive decisions in

Syrian cases (and, of course, boost productivity numbers), a simple form with a few tick boxes replaced main hearings and written internal proposals in the headquarters for a while. Many caseworkers and superiors who considered the selective lenience with Syrians a gross violation of equality before the law, however, opposed this practice. But there is also 'front stage' experimentation at work: the so-called *Testbetrieb* (pilot operations) was invented in the office to test the procedural effects of the latest restructuring intentions.[31] It was approved by the parliament and made operational in Zurich as a laboratory of the future asylum procedure. It has been considered a successful experiment showing that changes in the parameters of the procedure affect the outcomes in the intended ways (see SEM 2016a).

Experimentality is, I suggest, a key feature of the formation of governmental arrangements, at least in the case of highly volatile and uncertain issues such as asylum. From the perspective of street-level officials, reforms of law and practice* resolve some problems but at the same time generate new ones (see also Li 2007). However, problematisations of law and practice* (by postulating and foregrounding problems or unintended effects) nevertheless ask for resolutions *within* the frames of government – usually quick fixes – and hence foster experimentality.

The legislative attempt for gatekeeping found, for instance, expression in the addition to the central Article 3 of the Asylum Act, the refugee definition, in a recent revision. The new paragraph states that desertion is not recognized as a reason for being granted asylum.[32] It has explicitly been directed towards Eritrean asylum seekers, who are persecuted after desertion from the national service and represent a large share of asylum applications in Switzerland (Haefliger 2013). Everyone in the office I talked to about it found it completely pointless, because it only makes common practice* explicit: desertion alone had never been the reason for granting Eritreans asylum (or equally Syrians, see BVGE 2015/3). The grave and disproportionate consequences of desertion amounted to persecution, according to case law

31 The most important argument for the restructuration of the asylum procedure is "acceleration" (SEM 2018a).

32 Article 3.3 of the asylum act now states: "Persons who are subject to serious disadvantages or have a well-founded fear of being exposed to such disadvantages because they have refused to perform military service or have deserted are not refugees. The provisions of the Convention of 28 July 1951 relating to the Status of Refugees are reserved."

(EMARK 2006/3). However, one head of section stated after the parliament had decided to adopt this clause in the Asylum Act: "When they [the parliament] change the law that way, they implicitly expect that we won't recognize Eritreans as refugees anymore. I don't know how the Federal Office for Migration will get out of that tight spot!" (Fieldnotes, headquarters, autumn 2013). Thus, this senior official saw in the change a message to the office beyond the mere legal text: to change its Eritrea practice. Accordingly, the office had to find a way to resolve this tension between what they considered to be the expectations of the legislator and the need to protect Eritreans fleeing severe punishment for deserting from the national service.[33]

In times of new public management getting the numbers right is often enough – as indicated above. This has also involved testing the limits of what is possible or bearable for the staff in terms of output targets, as this statement of a caseworker indicates:

> But now, they [the management] are blowing it with the pressure to increase productivity out of all proportions. They ask for absurd performance improvement, from 60 to 100 completions per asylum division [four sections] in a month, and this is just the beginning – in the long term, the director wants 160 completions per division. (Fieldnotes, Asylum caseworker, Nov. 2013)

In turn, people in the asylum divisions of the bureaucracy always have felt forced to become inventive in finding new ways to increase numbers of completions.

Overall, I argue that experimentality and its techno-normative and often ad hoc resolutions must be understood in the context of a particular governmentality permeating the *dispositif* and producing particular practices. This trial-and-error mode of government I call 'experimentality' contributes to the flexibility of adapting arrangements of the *dispositif* in light of internal or external exigencies. In turn, it may render pathways for cases' resolution short-lived and constitutionally questionable at times. Notably, such experi-

33 As it happens, the Eritrea practice* has taken a marked turn in recent years despite little evidence for changes in the country. Temporary admissions are to be re-examined, and the enforcement of removal orders to Eritrea seems not sacrosanct anymore, either (see for example Jikhareva 2018).

ments are occasionally actively resisted or evaded in certain 'communities of interpretation' across the office. This means in effect that reasons for doing things in certain ways are not only fragmented between schools of practice but also between domains unevenly affected by experimental modes of government. Furthermore, it often means that material-discursive arrangements related to case-making are rather discontinuous over time.

### 8.3.3 Geographical and Historical Exteriorities

> The fundamental point of anchorage of the relationships, even if they are embodied and crystallized in an institution, is to be found outside the institution. (Foucault 1982, 791–92)

The need to resolve tends to exteriorise from the scope of case-making much of the differences and (dis)associations that are produced as an effect. I will only hint at some of these exteriorities (outsides) – and alterities (Others) – of governing asylum here: reflections upon two crucial undersides of asylum, namely relations of economy and coloniality. These reflections highlight the implication of the asylum *dispositif* in the (re)production of essential "moral geographies" (Smith 2000).

A first fundamental underside of governing asylum is that economic relations are omitted as exterior to the question of asylum eligibility, as a caseworker pointed out:

> But what I recently thought about is that Article 3 [the refugee definition] is just a bit erroneously constructed: because I am absolutely convinced, you can come from any African country and be as gay as you want: if you are a millionaire you have no problem, zero problems. (Interview with caseworker, autumn 2013)

As this caseworker contends that intersectional overlaps arguably have an impact on persecution, yet applicants' relations to pecuniary matters are of little interest in the procedure and are moreover easy to conceal by the applicants themselves. However, there is more to this:

> After the hearing, Chris, an experienced caseworker, noted that only in very few instances, refugees have to come to Europe because they would not be

> safe in the neighbouring countries either. Kwame, an interpreter of West-African descent, agreed and mentioned the example of Togolese refugees having sought and found protection in Ghana. Chris concluded that if refugees travelled so far and came to Europe, there was always an economic component to it. (Fieldnotes, reception centre, spring 2013)

This second meta-pragmatic statement implies that applicants who travel farther for protection than explainable with from what they are fleeing and thus have additional, economic motives: they 'cross space' to reposition them in the history of capitalist relations – what a reversal in the "meeting-up of histories" (Massey 2005)![34] It is hard to completely dismiss this argument that most stories of asylum seeking are not only about fleeing 'from somewhere' but also seeking a place for a more secure future in different respects. However, this needs, on the one hand, to be connected with the argument that (im)mobilities of people are governed to the benefit of those already 'here' (subchapter 4.1; see also Feldman 2012, 82); and, on the other hand, there are histories and geographies connecting the spaces of flight and asylum seeking. Thus, I suggest that there are at least two stories to be told that are usually omitted with regards to asylum: a story of hidden "accumulation by dispossession" (Harvey 2003); and a story of spatial imaginations productive of a particular "moral geography" (Smith 2000).

First, the governing of asylum is considered as *exterior* to the relations of capitalist accumulation by dispossession (Harvey 2003) that have generated spatiotemporally highly unequal relations of wealth. And this exteriority constitutes arguably a crucial "anchorage of the relationships" (Foucault 1982, 791–92) of governing asylum. It is well illustrated by quote a former Federal Counsellor, Kaspar Villiger, who wrote a column titled "Migration – boon or bane?" in a large Swiss newspaper, "Economically successful states dispose of a combination of suitable economic, political, and social institutions as well as of a suitable culture of social norms and behaviours" (Villiger 2016). In his terms, the difference in wealth between countries (the main driver for migration to and the wealth of "economically successful states" such as Switzerland) is supposed to be explainable by institutions and culture alone.

34 It is ironically the same spatial imagination which allowed ancient colonialists to laud voyages of discovery that is informing alarmist discourses about 'voyages of flight' today (see Massey 2005, 4).

Such a view denies any external relationship preceding the asylum procedures, but particularly the existence of a relationship between "our success" and "their failure" (see also Blomley 2011, 206). It negates historical relations of colonialism and imperialism as well as the "coloniality" (Grosfoguel 2008) of current global relations of accumulation and dispossession[35] (Glassman 2006; Harvey 2003) and knowledge production[36] (Santos 2014). It is on this exteriority that the asylum *dispositif*, its regime of access and case-making is based: It displaces structural violence as a cause for dislocation as being exterior to the claim (Barsky 1994, 146; Fassin 2011a). And it twists vulnerability in securitisation discourse as being located in the receiving societies vulnerable to foreigners' influx (Garelli and Tazzioli 2013, 1008–9).

Second, the governing of asylum ironically tends to reproduce the moral geographies by drawing upon a Western spatial imagination that not only removes structural violence from view but also locates political violence elsewhere. If structural violence is removed from consideration in applicants asylum claims, their subjection to political violence[37] is what they need to account for in order to receive protection: "the body bears the truth of violence that the state looks for in order to grant them the status of refugee" (Fassin 2011a, 284). However, also political violence is displaced in the procedure, I suggest, as something of another place and concerning the Other, the "abject subject" (Butler 2011, xiii). In order to make their case as being persecuted 'at home', applicants are induced to denounce their societies (or nation-states) as defective, war-ridden, underdeveloped and corrupted. As spokespersons of the places they left behind, they (re)produce an image of disorder and failure 'elsewhere' which makes it possible to *localise* alterity

35 Switzerland, even though it never had colonies itself, was part and parcel of the colonialist circuits of accumulation and the cultural politics associated with colonialism (Purtschert, Lüthi, and Falk 2012). At present, it still is a crucial node in the worldwide trade in commodities (Erklärung von Bern 2011). Switzerland has moreover been successful in channelling huge flows of capital through its economy as a haven for tax evasion making it the infamous leader of the "financial secrecy index" (Tax Justice Network (TJN) 2016).

36 I acknowledge that my own knowledge production can be itself accused of furthering this coloniality – my own positionality in the coloniality of knowledge production has allowed me to do this laborious research and my theoretical and methodological approaches do not challenge "Eurocentric epistemologies" (Grosfoguel 2008, 20) but rather enact them.

37 To be sure, the bordering between structural and political violence is itself artificial and difficult to maintain as the two forms of violence are often intimately connected (Fassin 2011a, 294).

abroad and sustain a moral geography of Western superiority (see also Smith 2000). Moreover, in assessments of applicants' credibility, experiences and ways of acting are regularly denounced as irrational or implausible by measuring them against our universalised Western standards and rendering them "abyssal knowledge and experiences" (Santos 2007). The displacement of political violence from the 'here and now' figures as a powerful alterity of the *dispositif* of governing asylum that needs to be acknowledged for its effects.

# Summary PART III

In this Part, I have attended to crucial convictions of knowing and writing truth (Chapter 7) and key reasons or rationalities for doing things the way they are done in the asylum office (Chapter 8). Chapter 7 introduced the considerations of caseworkers regarding their often-precarious foundations for resolving cases in what I have called 'truth-telling' and 'truth-writing'. Caseworkers cannot know what is true but need to give an authoritative account in asylum decisions* – and need to conclude cases with legal arguments that may 'do justice' neither to the lives behind case files nor to the intricacies of law. I have suggested that this leads to more or less strong and stable *convictions* about how to pragmatically arrive at a sufficiently reliable mode of knowing and doing. But as occasional overflowing of both truth-telling and truth-writing may occur, these convictions remain unstable – mere 'states of conviction'.

Chapter 8 exposed how caseworkers' positionalities regarding their work are ambiguous and fractured between different 'communities of interpretation' in which the *dispositif* becomes enacted. These fractured positionalities are crucial for how cases are encountered. This I have suggested is related to the response-abilities, i.e., officials' ability to respond or account for a case. Fractured views often mean fading response-abilities. By consequence, the vantage points and cases tend to become fragmented and unaccounted for. I have, moreover, shown case-making to be crucially affected by the rationalities of doing things pervading the *dispositif*. Cases change their appearance when encountered to achieve multiple ends: not only to resolve them as cases legally, but also of an economy of output to be produced and further applications to be anticipated and 'manifestly unfounded' claims to be avoided. By highlighting what reasons exist in the view of officials and for what, I have offered a reading of the *dispositif* as fragmented and having

divergent objects of government. Furthermore, anxieties of officials relating to the politics of their work, anticipatory and experimental modes of governing and the exteriorisation of key associations of asylum seeking contribute to what I call "asylums of reason". This means that things are usually done for 'good reasons'. But as enactments of the *dispositif* are fragmented and at times contradictory, reason multiplies and seeks its own places and moments of sanctuary.

# 9. Conclusion

The core argument of this book is that the lives of applicants become decisively re-corded in practices of governing asylum. The term 're-cording' both hints at the *records* of asylum case-making crucial for inscribing asylum and the bodily, material, and discursive associations or *cords* with which their lives become entangled in such practices. These powerful yet heterogeneous associations, I have suggested, compose a *dispositif* (Foucault 1980, 194–95). Such a *dispositif* is both constitutive of practices of re-cording and itself constituted in them. This is why it has been called "a kind of arrangement that is, paradoxically, constituted by its own effects" (Pottage 2011, 164). The *dispositif* enables and mediates asylum encounters through its associations. It has developed in response to a problematisation, to address the "urgent situation" (Foucault 1980, 195) asylum seeking has posed to government and has stabilised through the 'strategic imperative' (ibid.) of both resolving such claims and addressing the 'problem' of claim-making. Both those applying for asylum and those involved in resolving such claims enact it by drawing on its rationalities and technologies for the re-association or, in my terms, re-cording of lives. And to come full circle: it is in such associations or cords that power resides (Latour 1984).

It is important to point out that becoming enrolled in the asylum *dispositif* as claimant is both subjugating and empowering. While I have mainly emphasised the subjugating effects of its associations so far – the re-cording of lives in terms of exclusion and expulsion that loom large in asylum case-making – the often equally likely more inclusionary re-cording of lives in terms of asylum or subsidiary protection tend to be overlooked. The asylum *dispositif* is empowering in the sense of Latour (2005) as it offers a host of associations people with otherwise little rights can assemble to make their claim heard – and this is arguably why asylum governance has put so much emphasis on externalisation and preventing people (of a certain kind) from

claim-making. Because once a claim has been made, there is the need for a *legal* resolution of the claim: and this offers claimants a range of legal remedies to draw on; and discourses of human rights and the rule of law; and a chance to make their plea heard and convince a caseworker of their plight. Of course, some of the subjugating facets that come with claim-making and re-cording lives in terms of asylum need to be reiterated here too: the excessive scrutiny of applicants' lives in encounters that contrasts with the superficial grasp of life stories and their rendering in decisions*; the uneven stakes of applicants and caseworkers in defining what counts as knowledge and truth – and what is on the record; and the changing terms – and at times reversals – of practice* while the records remain immutable. Ultimately, the ways of knowing and inscribing asylum in enactments of the *dispositif* re-cord applicants' lives in decisive ways and become mediators of potentially "sticky spaces" (Murphy 2013) – the territories of asylum.

My study has addressed a number of research questions. The key question, how asylum is governed in administrative practice, has been addressed by looking into the forms of knowledge and technologies for case-making (in Part I), processual events of case-making (in Part II), and the (de)stabilisation of practices in key convictions and political rationalities (in Part III). I point out the key empirical insights of my reading of governing asylum below (9.1). Conceptually, I have provided a novel reading of asylum governance by decentring common entry points such as the 'state', 'law', or 'bureaucracy'. I have drawn on the notion of governmentality to illuminate how asylum officials are themselves governed in their work and on the notion of the *dispositif* to consider not only the discursive practices but also material technologies and non-discursive practices required for 'making cases' and their relationality. I will review here the key merits of such a perspective (9.2). All these conceptual 'suggestions' should be read as mediators of the book's aim to link studies of mobilities and studies of asylum administrations. This has been achieved by providing a reading of mobilities and borders not as merely the context but constitutive of asylum cases and their assembling – through the notion of re-cording (9.3). While I have been able to follow some threads in this book, others await closure or retain open endings and point towards avenues to be pursued in the future (9.4).

## 9.1 Governing Asylum

Empirically, I have offered in this book an answer to the questions what it means to "*realise* that people really manifestly need protection" and what it takes to actually "*grant* them protection"' (as when speaking with Jonas, the caseworker cited in the introduction). This has involved considering preassembled conditions of knowing and making cases, the pragmatics of case-making, and the stabilising and transformative potentials arising from caseworkers' sense-making and coping related to the need to resolve permeating the *dispositif*.

### Formatting Lives in Terms of Asylum

Two notions have allowed me to grasp practical and internalised forms of knowing necessary for case-making: heuristics and exemplars. Heuristics refer to the often-tacit rules of thumb about how to resolve cases in legal terms that evolve in practical experiences of case-making (see also Gigerenzer 2013). Senior officials and experienced caseworkers, however, convey such heuristics to facilitate new caseworkers their start. Exemplars are cases that make abstract legal notions operational and memorable (see also Kuhn 1967) as well as give them texture and grasp of the 'real'. Their scope and effects vary, but they can both reiterate and transform the conceptual landscapes of caseworkers. The notions of heuristics and exemplars, I argue, account for the dynamic and fragmented conceptual landscapes of the *dispositif*.

### Agentic Formations for Case-Making

In order to do casework, humans enacting the *dispositif* not only have to know how to navigate cases, but need some fundamental 'equipment' to act as caseworkers. They are equipped with devices for accessing the physical as well as virtual spaces of case-making (badges and smartcards). They are moreover enrolled in collectives of case-making that are enacted in meetings and forms of super-vision. In order to do casework, caseworkers need to be equipped with devices that enable case resolution. I have introduced recording devices such as case files and their directories as mediators of the visibility of records; inscription devices such as linguistic tests that inscribe the origin of applicants through associating them with spaces of language and cultural socialisation; coordination devices such as the guidelines

(called APPA) that coordinate hearing questions and decisions* for countries of origin by suggesting common persecution scenarios and their legal consequences; and writing devices such as boilerplates that offer prewritten sentences for arguing with legal notions in asylum decisions*. All these devices operate as crucial mediators of case-making, which becomes particularly visible if they fail (Latour 2005).

## Assembling Associations to Resolve Cases

Five "processual events" (Scheffer 2007a) are fundamental for practices of asylum case-making: openings, encounters, assignments, authentications, and closures. What all of these processual events have in common is that they are about generating fundamental (dis)associations required for cases' assembling and potential resolution. In the first kind of processual event, *openings*, cases' trajectories are crucially moulded as applicants become bodily recorded in terms of asylum. The performance of biometric borders (Amoore 2006) through fingerprinting associates the applicant with spaces of Dublin competence and may result in the rapid closure of the case. Under specific circumstances, cases may not become officially opened at all and their preliminary material records dropped.

In the second processual event, *encounters*, applicants' identity and persecution stories become associated with their cases in significant ways. Applicants and caseworkers encounter each other in two different hearings in which the so-called 'facts of the case' become inscribed in protocols. These encounters need to be considered as strongly mediated by interpreters, but also by forms and the techniques of caseworkers related to their need for 'utilisable statements'. Such techniques encompass modulating on- and off-the-record statements and formatting narratives with particular forms of questioning, for instance to test their spatiotemporal anchoring and ordering.

The third processual event concerns cases' *assignments*. Such assignments associate a case and its material case file for a certain time (and for the accomplishment of one or several other processual events) with a caseworker, a secretary, or a superior. Without a case being assigned to someone in the office, it cannot be forcefully acted upon and no records can be assembled in the case file. However, the administrative division of labour renders assignments limited in (spatiotemporal) scope and turns the 'passing on' of cases very common. This results in a fleeting ownership and limited account-abil-

ity of caseworkers concerning cases. Both assigned and non-assigned case files can moreover be sent to the 'archive', where they not only passively await further assembling but may also be reassembled. Case files become in a crucial sense enrolled in the archive's topological ordering through their "gathering together".

In *authentications*, the fourth kind of processual events, various forms of associations speaking the 'truth' are 'summoned to testify' for or against the applicants' case. Authentications may be part of encounters if country of origin questions are used to compare applicants' knowledge about their home country with 'facts'. They may consist of laborious investigations in applicants' places of origin in the example of embassy enquiries. The applicants themselves may also submit them in the form of material evidence ('proof' of identity, such as a passport; or indications of a certain form of persecution, such as with a marching order). And caseworkers may grasp 'reality signs' in applicants' (protocolled) accounts generated in encounters.

In the fifth and last processual event, *closures*, decisions* are written. I have highlighted that positive and negative decisions* are quite different in terms of writing practice and audience. The writing of the more common and laborious negative decisions* is facilitated by partially preassembled modes of argumentation and compendia of tried and tested justifications. Closures associate (former) applicants with either spaces of asylum or potential expulsion.

## Excursus: Open/ended stories

A few cases became rather prominent in this monograph and their resolutions deserve to be briefly raised here: Yassir's case has been finally resolved at the European Court of Human Rights. The court rejected his appeal against the (negative) ruling of the Federal Administrative Court in 2017, more than four years after I had encountered him in the reception centre. This has meant that his removal to Sudan will become enforceable.[1] Issa, to my surprise, revoked his application while I was still doing research in the administration: he signed a declaration of withdrawal and returned with IOM-assistance to Guinea-Bissau. Amadou received a paperless decision* (DAWES) which became legally effective – whether he has been deported, and to Mali or Senegal, or disappeared, I could not find out.

1 See ECHR Affaire N.A. c. SUISSE, 2017.

## Steadying Convictions and Exceptional Overflowing

Reflexive, meta-pragmatic facets of the asylum *dispositif* are traceable in caseworkers' notions of truth and law. I have teased out such convictions by which the *dispositif* becomes steadied. The crucial associations of cases with 'reality' are produced in practices of "truth-telling" (Foucault 2014a; 2014c). These practices rely on caseworkers' convictions about where truth can be found and what associations have to be mobilised for it to be spoken.

Caseworkers' convictions about truth-telling tend to shift the scope and location of doubt unduly away from their own work towards applicants. In order to produce an effect in the 'real', governing asylum involves the truth to be (re)written in legal terms. Truth is thus inscribed in two essential ways: in law's terms of associating lives and in associating law with life. The first concerns law's superficial and generic and thus forceful grasp of lives. Its relationship to justice is ambiguous both for its circularity and uncertain scope and grasp of the world 'outside law'. The latter finds expression in the 'lure of law', which means either to deny the interpretative scope of law (and reduce it to the practice*) or to unduly dilate its interpretative scope as a means to maximise or minimise protection. I have suggested that it can therefore only produce a certain justice.

The second means that law's abstract language for governing lives needs to be grounded in non-legal notions for its invocations to become meaningful. While case-making usually remains dissociated from the consequences of its resolutions, cases may still have an 'afterlife': they may become revelatory or disastrous cases for caseworkers or the whole office. Such an "overflowing" (Callon 2007b) of cases may overturn or reinforce certain convictions and modes of inscribing truths. Cases' overflows are thus conjunctures that transform ways of knowing and doing asylum – at times profoundly. But the way they are interpreted may also sustain convictions and thus contribute to the *dispositif's* stabilisation. Overall, these different states of conviction are crucial for understanding the "world-making functions" (Mezzadra and Neilson 2012, 59) of case resolutions.

## Reasonable Grounds, Ambiguous Reasons

Different rationalities are crucial for caseworkers and their superiors to make sense of their work. Caseworkers often display ambiguous positionalities regarding the scope of personal authorship they have. They have 'good reasons' for their approaches and strategies of case-making. Yet, such 'good

reasons' appear fragmented along various lines of practice, most obviously between the headquarters of the office and reception centres or between the management and the productive sections, and nurture different 'styles' of resolving cases. This fragmentation of 'reasonable grounds' to act upon cases has consequences for the response-ability of everyone involved as it tends to undermine ownership. Furthermore, crucial rationalities of governing asylum beyond law sustain the *dispositif*: productivity and deterrence. By consequence, each case is not only encountered as a case to be assembled and resolved, but also as a means to increase the productivity of the office and to deter potential future applicants. Central for governing asylum in terms of productivity are centres of calculation as they aggregate cases in 'backlogs', input and 'output' measurements and targets, and forecasts. Cases-in-the-making need thus to be considered in a more or less animated relationship with cases in co-formation, cases preceding them, but also with (imagined) successive ones. These different rationalities not only shift considerations of encounters with cases but also crucially affect cases' trajectory, the "timing and spacing" (Gill 2009) of processual events and their potential outcome. These 'non-legal' and at times contradictory rationalities of governing have an impact on the atmosphere in the office: the spark anxieties in terms of reaching output goals or generating an unwanted 'pull effect'. Moreover, the rationalities implicate an anticipatory and experimental mode of government that I have called experimentality. It involves testing the limits of legality, of output pressure, and deterrence (see also Heyman and Smart 1999). Finally, certain 'unreasonable associations' are exteriorised from the *dispositif* and removed from view: it seems that only a certain historical and geographical myopia allows for the *dispositif*'s smooth enactment. Hence, while people involved in the governing of asylum have 'good reasons' for acting the way they do, such reasons are fragmented, contradictory, or become exteriorised. In effect, the *dispositif* of governing asylum is not characterised by coherent reason but rather by what I metaphorically call patchy asylums of reason.

## 9.2 The Need to Resolve

> As theory interprets the world, it fabricates that world (…); as it names desire, it gives reason and voice to desire and thus fashions a new order of desire; as it codifies meaning, it composes meaning. (Brown 2002, 574)

My conceptual perspective on asylum governance and its entanglement in a "relational politics of (im)mobilities" (Adey 2006) has entailed an analytical move from state to government, from agency to reside solely in humans to reside in the associations of a *dispositif*, and from decision- to case-making. I will here not reiterate the justification for these moves (see Introduction and Chapter 2) but rather briefly outline their consequences – or in Brown's (2002, 574) terms, what "world it fabricates".

My account of asylum governance has not only considered relations of knowing asylum, but also relations of power – and how the two are intertwined. It has done so by drawing on Foucault's (2006) notion of governmentality. As Rose (1999, 149) suggested, those involved in asylum case-making are themselves crucially governed through the technologies and rationalities of their work practices. Practices in the asylum administration are infused by a governmentality I have called the "need to resolve". It is related to the key rationalities informing the governing of asylum in the administration – a legal rationality that foregrounds the need to resolve individual applications; a bureaucratic rationality that foregrounds the need to resolve backlogs and sort case quantities for reasons of efficiency; and a political rationality that foregrounds the need to resolve 'pull effects' and lower Switzerland's attractiveness as a destination for future applicants. The need to resolve can account to some extent for the crafting of ever-new (techno-normative) solutions to 'problems' arising in these different 'domains' of governing asylum. This notion of the need to resolve is inspired by Li's (2007) *Will to Improve* developed in her study on development practices in Indonesia. Like Li's notion, the need to resolve points to a *rationale* of resolution pervading the asylum administration and at the same time to "the inevitable gap between what is attempted and what is accomplished" (ibid., 1). Analogous to the *Will to Improve* shaping the practices of experts around the government of development interventions, I consider the need to resolve a crucial driver for the establishment and transformations of governmental arrangements of the asylum *dispositif*. While the need to resolve is persistent, what the problems

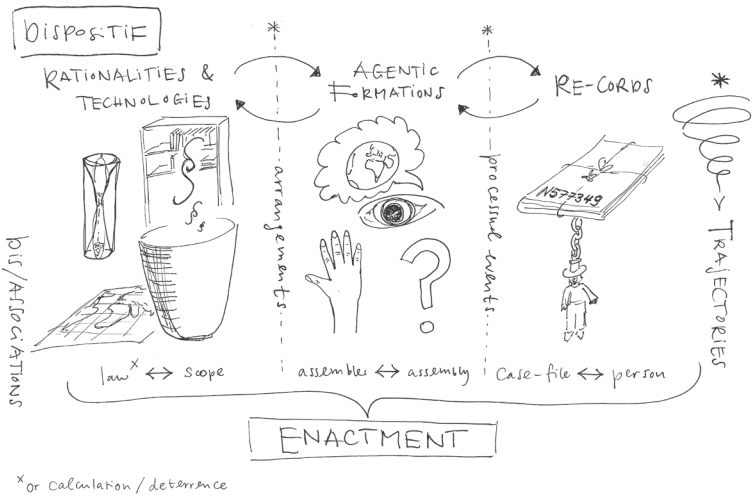
and resolutions are remains contested. What it can moreover highlight, as Li (2007) suggested, is that governmental arrangements have a "parasitic relationship to … [their] own shortcomings and failures" (ibid.): attempts for the resolution of one problem often produce new problems and thus novel 'needs for resolution'. The governmentality of the need to resolve thus offers an avenue to make sense of why certain things in the governing of asylum remain stable while others are constantly negotiated and changing. It moreover points to some of the "ontological politics" (Mol 2002) of governing asylum: the different rationalities and related technologies of government form all their own version of asylum and their 'vision' of cases. While cases are encountered in the evident sense – as cases to be further assembled towards their legal resolution in decisions* (i.e., material-discursive asylum orders) – in all cases reside other 'realities' too: they are associated with the output numbers they are a means to achieve, and associated with the pull effect to be avoided. These other realities fundamentally shift the 'signs' under which cases become assembled and resolved.

The *dispositif* of asylum has been reassembled in this book – but what does it look like? I offer two depictions of the *dispositif* that provide a partial view on it: a sketch and a list. The sketch allows one to grasp some of the relationality of the *dispositif's* enactment in practices of case-making that I have proposed (see Figure 18). The list gives an overview of the associations I traced while composing the *dispositif* of asylum:

- associations that tie practices of governing asylum to migration policy in particular ways
- legal associations for "juris-diction" (Richland 2013) – to speak the law and forcefully inscribe it: for instance, concerning relationships between the state and claimant subjects (administrative law), or between the state and noncitizen claimants asking for refuge (asylum law)
- administrative associations that allow for assembling people to speak to other people "in the name of the state" (Gupta 1995) under certain conditions – and by drawing upon certain equipment
- case associations that hold them together and allow for their smooth assembling across various places, namely case files themselves, but also file registers or database entries and assignments

- associations for telling the truth and knowing the scope and grasp writing the law that are partly preassembled in COI reports or APPA, but lie also in more fleeting convictions of heuristics and exemplars
- associations to tie applicants and their lives to cases such as forms, fingerprints, protocols, pieces of evidence, and decisions*
- associations of calculation and forecasting that tie cases and staff resources together in ways that they speak of backlogs, targets and productivity
- associations of deterrence that anticipate the effect of current case resolutions for future applications (pull effect) and mobilise technologies for the suspension of tenuous case categories (e.g. suspension management in case of changes in the situation of countries of origin)

*Figure 18: Sketch of how things relate in the asylum dispositif's enactment*




(Own drawing)

Importantly, both the sketch and the list of associations composing the *dispositif* should be read quite in the sense Law and Mol (2002) suggested: as open-ended and neither coherent nor extensive. It is merely an attempt to provide a synopsis of what I have encountered in certain variants and guises on my own trajectory with the *dispositif*. But one key argument is this: power lies in these associations – they render case-making possible and allow for

the re-cording of applicants' lives in terms of asylum. It is the enactment of these associations in case-making which produces "the complex geographies of connection and disconnection … through which asylum … governance is achieved" (Gill 2010b, 638) – or perpetuated and transformed. Notably, the representation of the *dispositif* is not only limited in its scope but it is also artificial in a crucial sense: I have assembled some of its associations in the three parts of this monograph, each providing a certain analytical outline of the *dispositif* – its agentic formations, enactment, and (de)stabilisations – which are in practice closely linked and cannot be dissociated.

## 9.3 Re-Cording Lives: Sovereignty, Territory, and Exteriority

I suggest abandoning the notions of the decision and decision-making central to most of the literature on asylum administrations as analytical terms.[2] The alternative I propose is to combine the perspective of case-making, as the prosaic practices of assembling cases, with the notion of the *dispositif*. The *dispositif* allows us to grasp the involvement of governmental practices of case-making in the reassembling of both 'inside worlds' (governmentality of knowing and doing asylum) and 'outside worlds' (re-imagined geographies and re-corded lives). This alternative perspective on asylum governance considers the relationality of space and power and has thus important consequences for the view of sovereignty, territory, and exteriority.

The shift from decision- to case-making has consequences for questions of sovereignty. I follow Hansen and Stepputat (2006, 297) in this respect who have advocated focusing not on sovereignty grounded in "formal ideologies of rule and legality" (ibid., 296), but on de facto sovereignty as "the ability to kill, punish, and discipline with impunity wherever it is found and practice" (ibid.). Sovereignty in their view needs to be considered "a tentative and always emergent form of authority grounded in violence that is performed and designed to generate loyalty, fear, and legitimacy from the neighbourhood to the summit of the state" (ibid., 296–297). In light of this notion, I have grappled with what I consider a slightly totalising gesture of sovereignty arguments in the literature related to exceptionalism, bare life, and

2 To be sure, the decision* remains crucial in many accounts – but for empirical not analytical reasons: as a material-discursive device of asylum case-making.

biopolitics which draws on Agamben (1998). Such arguments often presume the 'ability to kill, punish, and discipline with impunity' instead of considering it a fragile and laborious achievement. I suggest instead that in sovereign performances, law is not simply suspended, but opens up for interpretive and reflexive re-associations. It multiplies and becomes stabilised in 'states of conviction' of those enacting it. In effect, the "sovereign ban" (Bigo 2002) that renders people deportable cannot be simply uttered, but has to be meticulously assembled – at least in governmental arrangements of "liberal democracies" (see Ellermann 2010). We do not find the "raw decisional power exercised by the sovereign" (Salter 2012, 740) at the thresholds of admittance or rejection as Agamben posited, but fragile attempts of authentication and painstakingly written decisions* as exercises in sovereignty. In asylum procedures, sovereign performances, I have suggested, consist of juris-diction – practices of telling the truth and writing the law – both with a certain scope and grasp. Such governmental juris-diction enrols lives and space and inscribes – re-cords – them in asylum cases. Such inscription practices are stabilised in a *dispositif*. Yet, sovereign performances as inscriptions remain tentative and contingent in their outcome.

Focusing on the *dispositif* renders what is often considered to be the mere 'context' of asylum governance constitutive of it. It reveals administrative practices of granting and rejecting asylum to be crucially entangled with the governmentality of immigration (Fassin, 2011) more widely and involved in enacting a "relational politics of (im)mobilities" (Adey 2006). The notion of the *dispositif* offers an analytical avenue to attended to the material-discursive arrangements and governmental practices through which (im)mobilities are produced (Lin et al. 2017, 169) The asylum *dispositif* can be considered a particular form of "migration infrastructure" (Xiang and Lindquist 2014). Its conceptualisation overlaps with the latter, since it considers (im)mobilities not only to be mediated by but also crucially produced in the networked material-discursive arrangements of their governance. Furthermore, both infrastructures and *dispositifs* can be fruitfully combined with perspectives from actor-network theory (ANT) and science and technology studies (STS), for instance the tracing of associations or the notion of "translation" (see Larkin 2013, 330–31). Nevertheless, the *dispositif* provides an alternative way of conceptualising such material-discursive arrangements of governing (im) mobilities: first, through its closer association with the Foucauldian notion of governmentality, it does not only foreground the importance of technol-

ogies, but also of rationalities of government; second, as it is closely related to problematisations and emerges and become stabilised in relation to an "urgent need" (Foucault 1980, 195) or crisis – it both enables and limits 'ways of thinking' in response to these problematisations, but also crucially 'ways of doing'; and third, its enactment is not only producing (im)mobilities of sorts, but importantly subjects and spaces as well.

The analytical moves of this study build on a certain ontological premise: of lives as inherently mobile – lives-as-flows; but also, of everything else – things, social correlates, and governmental arrangements – to be mobile. In this view, durability and immobility are always only relative (in light of less durable and more mobile things) moorings (Adey 2006). Consequently, this means also to consider space as relational (Massey 2005), as the evolving heterogeneous "set of relations" in which we live (Foucault 1986, 23). Combining these perspectives with the notion of the *dispositif* means to consider space as both relational and material-discursively reassembled in practices of governing. Such spaces of governing are not abstract and empty, but produced in, and at the same time limited by, the practices that associate things and people with it. Material-discursive webs of relations (dis)associate objects from living things in powerful ways – which is a relational notion of territory (Painter 2010; Raffestin 1980). The governmental technologies and devices thus form territorial associations that re-cord applicants geographically and may furthermore capture them (at least provisionally) in certain territories (Painter 2010, 1114). But in accordance with the notion of sovereign performances, such territories are to be considered multiple, overlapping, fragile and contingent. Furthermore, I consider them to be *mobile territories*, as the socio-material (dis)associations they are composed of have their own trajectory of becoming. The mobile territories of governing asylum are an effect of knowledge practices (telling the truth) and legal practices (writing the truth): these practices evoke and inscribe particular geographical and historical (dis)associations which not only re-cord the lives of those seeking protection, but at the same time rework geographical distance and proximity as well as insides and outsides.

This reworking of geography needs some further explanation. It relates to truth-telling and imaginative geographies. Gregory (2004, 17) considered imaginative geographies to be fabrications which are both fictional and real: as "imaginations given substance". I consider such imaginative geographies crucial for many of the knowledge practices in asylum case-making:

for instance, for identification practices via country of origin questions or the spatiotemporal ordering of applicants' accounts in encounters to 'know' their truthfulness. But imaginative geographies are equally at work when certain parts of situated life stories are removed from view as 'irrelevant' and thus rendering particular histories and geographies, namely those of "accumulation by dispossession" (Glassman 2006; Harvey 2003) and structural violence exterior to asylum (see also Fassin 2011a). Moreover, for their claims to become relevant, applicants are induced to denounce their societies (or nation-states) as defective, war-ridden, underdeveloped and corrupted. They thereby (re)produce an image of disorder and failure 'elsewhere' which makes it possible to *localise* alterity abroad and sustain a moral geography of Western superiority (Smith 2000). Governing asylum has thus to be read as being implied in a larger coloniality of governing (Walters 2015, 13) which is not to a small extent about erasing or suppressing the histories of other places through the powerful imagination of conquering of space (Massey 2005). Reading encounters with the asylum *dispositif* as a productive "meeting-up of histories" (Massey 2005) thus in turn requires to ask how encounters are mediated by particular (dis)associations: what geographies and histories are enacted in them? Yet, asylum seeking practices can be considered an ironic reversal in this "meeting-up of histories": they 'cross space' to reposition them in the (singularised) history of capitalist relations. Therefore, applicants are not merely passively subjected to such imaginative geographies but actively producing them – in encounters, but also through their (im)mobilities and "irreversible presence" (de Genova 2010b).

## 9.4 Closures and Open Endings

I started this research with a puzzle in mind: how can a human decide on such a weighty and difficult question as that about the granting or rejecting of asylum? I have learnt that a very short answer is that that person needs to become assembled as a caseworker in the asylum office: i.e. to become an agentic formation with the knowledge, equipment, and authority required to work on asylum claims. A caseworker does not 'take decisions', but rather assembles cases towards their resolution, record after record – none of which is only of one's making. A caseworker then sees what decision* can be 'edited' based on legal 'modes of argumentation' (partly readymade in

boilerplates) in light of asylum practice* that 'prescribes' a pre-set resolution for each country, and in light of highly limited time resources and expected outputs.

## Theory, Critique, and 'Changing the Real World'

> A minimal goal of the academic world it is to inspire. A realistic aspiration, in my view, is to initiate a concrete change in one or two fields of the real world. (Email, key person, asylum office, 2018)

My research has evolved in close association with 'practitioners' of the asylum office: the different 'acts' of my fieldwork have required me to seek different engagements (see Introduction) and have involved a conversation with officials that is still on-going and to be continued in the future. In response to what one of my key persons in the asylum administration wrote me in an email (quoted above), I would sketch my position on the questions of how theory relates to practice and critique, and what avenues it offers for 'changing the real world'. Brown (2002) has highlighted in her essay "At the Edge" the irresolvable tension between what she considers theory to be about and the calls for theory to be 'utilisable' in practical terms:

> Theory's most important political offering is this opening of a breathing space between the world of common meanings and the world of alternative ones, a space of potential renewal for thought, desire, and action. And it is this that we sacrifice in capitulating to the demand that theory reveal truth, deliver applications, or solve each of the problems it defines. (Brown 2002, 574)

It is exactly such a "breathing space between common and alternative meanings" I aspired for in this book. It is in this sense that my reading of the asylum *dispositif* is inherently 'critical' in having highlighted for asylum procedures "on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest" (Foucault 1988a, 154–55). In other words, the first political opening of my account lies in what could be equally considered its nuisance – the (at times) painstaking ways it dissociates and exposes relations otherwise taken for granted. It does not provide straightforward answers or policy suggestions but raises

questions to rethink arrangements and practices of governing asylum: what counts as knowledge? What counts as legal? How are governmental technologies implicated in case-making, and with what consequences? What problematisations shape practices of case-making, and with what effects? How are the different perspectives on asylum cases weighted, and contradictory effects addressed?

A second avenue of engagement and potential change lies in this study's own association with the asylum *dispositif*: through my engagement with and through the written account. My encounters in the asylum office during and after my fieldwork affected or "worked the field" (Katz 1994, 69–71): my positionality as a strange inside-outsider enabled me to challenge people I talked to on their assumptions. This unusual exchange with caseworkers and superiors has arguably fostered a reflexive practice in the office in the sense of an ethics of virtues (see also Korf 2004, 220–23). Furthermore, in an important sense, the written account at hand does not merely provide a certain reading of the asylum *dispositif*, but *becomes* itself a form in which the *dispositif* (de)stabilises. Of course, this also means I have to consider my own 'response-ability' in such potential (de)stabilisations. I provide a new form of problematisation of practices and thus aim directly at the way it is taken up and turned into resolutions. This seems of eminent relevance as the *dispositif* continues to evolve – in light of ever-new crises – and is going to become crucially reassembled in the years to come.

## The 'New Procedure'

A new, restructured asylum procedure has become operational in 2019. It aims at the acceleration of the procedure – which has been justified with an interesting discursive coalition between discourses of humanitarianism ("it's good for the asylum seekers not to wait too long for their decision*"), administrative rationality ("it's more efficient and cheaper") and protecting the nation ("it will deter those who do not deserve protection"). The restructured procedure was successfully tested in the pilot in Zurich and has then been scaled up. Switzerland is now divided into six 'asylum regions' in which new and larger federal centres [*Bundeszentren*] have been built or – more often – installed in former reception centres or other governmental buildings. In these federal centres, similarly to the former Reception and Processing Centres, new asylum applicants are hosted and their cases being processed. The acceleration of the procedure is achieved through optimising case assign-

ments and fixed rhythms for the key processual events (namely encounters of hearings and decisions*): separating cases conducive for rapid assembling early, such as Dublin and 'simple' cases, from those requiring 'further clarifications' that simply take longer. The latter exit the 'accelerated procedure' of federal centres and are still processed in the headquarters. A further crucial change is the incorporation of legal counsels in the procedure who are free of charge for applicants: they accompany applicants from the filing of the application until the cases' resolution in a decision* – including a potential appeal – and are officially considered a "remedy" for the quicker procedure and the shorter standard period of appeal (ten instead of thirty days).[3] Another crucial trend that affects practices of case-making in the asylum office is its increasing digitisation: for instance, e-case files were tested in the pilot and have been introduced in the whole office with the new procedure. According to internal voices of the asylum office, they have added another layer of concern for the daily practices of case-making as the digital filing of records has been unduly laborious. Overall, the reforms recently introduced appear to leave only a few stones untouched in the asylum office – new assemblies have emerged, new technologies and mediators introduced, and cases take different trajectories. How exactly the *dispositif* of governing asylum in Switzerland has shifted due to the latest reforms remains an open question for future empirical investigations. Yet, the governmental arrangements of the *dispositif* presented in this book remain nevertheless highly significant for practices of case-making in the new setup: the heuristics and exemplars for knowing asylum, the agentic formations and devices necessary for assembling cases, the processual events in which cases become assembled, and the convictions and rationalities sustained by and sustaining the need to resolve.

## Contributions and Open Questions

This book intervenes in various fields of studies: first, it challenges mobilities studies to account for infrastructural power through the notion of the *dispositif*; second, it questions biopolitical narratives common in studies of asylum governance (and beyond) by introducing a practice-based notion of sovereignty; third, it contributes to border studies by suggesting to draw upon a relational conception of territoriality to grasp the effects of reassem-

3 For more information about the aims and considerations of the restructuring of the procedure see SEM (2018a).

bling lives and spaces through bordering practices; and, fourth, it complicates studies of administrations by suggesting an unusual take on agency, power, and materiality.

This study connects well with studies that focus on the interconnections of mobilities and the material-discursive infrastructures of governing them: it extends the notion of "migration infrastructures" (Lin et al. 2017; Xiang and Lindquist 2014) to the case of asylum. And it offers an account of how to read them as part of a Foucauldian *dispositif* of governing (im)mobile lives. It does so by combining the analysis of everyday practices of governing lives with their underlying rationalities and technologies. Such a combination could be promising in various other fields concerned with the production and politics of (im)mobilities, such as coercive measures related to illegalised populations but also in very different fields such as tourist mobilities. The focus on specific *dispositifs* of (im)mobility forces us to ask: how are certain forms of (im)mobility both mediated by governmental infrastructures and (re)produced by the practices within them? What problematisations sustain the *dispositif* in practice and what rationalities and technologies of government (de)stabilise it? What reality effects does the *dispositif*'s enactment produce for whom? Or, in other words, how are mobile lives re-wired or re-corded by it and with what consequences? For future studies, research on contemporary practices of governing (im)mobilities could moreover be fruitfully complemented by tracing the genealogical emergence, transformation and stabilisation of governmental practices (see Walters, 2012).

My perspective on asylum governance has complicated common narratives of biopolitics in which sovereignty is always already there and those seeking asylum become reduced to their "bare life" (Agamben 1998): I have considered sovereignty to be more tentative and practice-related – an always provisional "de facto sovereignty" (Hansen and Stepputat 2006). I thus look at sovereignty's fragile and ambiguous enactment and its temporary stabilisation in actual governmental encounters. Future research could thus ask: how do such little everyday 'acts of sovereignty' play out in other fields of governing the living, for instance, in the related fields of deportation (de Genova 2010a) and detention (Mountz et al. 2013), but also related to the medicalisation of lives (Wacquant 2009), the bureaucratisation of ever more spheres of lives (Graeber 2014), or transhumanist attempts of transcending 'defective' human biology with technology (Harari 2016)? Such a perspective on sovereignty could effectively revise all-too-powerful Leviathan fictions

of sovereignty common in political discourse and reveal the meticulous and contestable biopolitical (or necropolitical, see Mbembe 2003) practices required to produce time-spaces of "de facto sovereignty" (Hansen and Stepputat 2006).

The notion of mobile territories this book has introduced resonates well with current debates in and beyond geography about the "liquidity" of borders (Bigo 2014, 213), which emphasises borders' flexibility and mobility. It relates to suggestions in border studies to see borders as process (Johnson et al. 2011) and both borders and law in their relationality (Brambilla 2015; Nedelsky 1990; 2011). In contrast to the "liquid borders" metaphor, mobile territories shift the focus from the effect – the border(s) – to the practices of territorial fabrications (Klauser 2010a; Lussault 2007), which allows us to consider the interrelatedness of borderings and legal juris-dictions. Mobile territories emphasise the 'how' of the relationality of bordering lives, of reassembling the socio-spatial landscapes through particular governmental practices that enrol people in their categorisations. They enable us to consider the territorial effects of mundane governmental attempts of inscribing socio-spatial difference into people's lives. If the notion of mobile territories is combined with an understanding of territoriality as the socio-spatial relationality of governing lives in broad terms (see dell'Agnese 2013; Klauser 2010b; Raffestin 2012), the potential of such a notion has yet to be harnessed. One could, for instance, ask what (exclusionary) mobile territories the increasing digitalisation of socio-spatial relationships produces. And how a digital territoriality emerges from the ways in which lives become digitally governed.

For studies of administrative procedures, this study has three main implications: the first is to understand how power unfolds in such procedures, it might not suffice to merely focus on street-level bureaucrats' dilemmas and discretion (Lipsky 2010). This is the case because, as this research has pointed out, agency is not simply a matter of people becoming agentic as government officials. It is rather complex and emerging agentic formations – part human, part equipment – which are required to assemble cases. Of course, such a view complicates questions of responsibility. Yet, it balances accounts emphasising the considerable leeway officials have in administrative practices by considering the socio-technical arrangements that are both enabling and restricting practices. Acknowledging such technological facets of situated agency at the same time de-naturalises them and returns them to the sphere of the political, which renders them contestable.

The second implication of this study is that many administrative procedures are likely to be pervaded by a governmental need to resolve problems or crises related to their objects of government. Some of the resolutions invented and pursued may be contradictory and many of them will give rise to new problems (see Li 2007). An analytic of government with its focus on problematisations is thus particularly well suited to reveal some of the core stakes and trade-offs of governmental practices (see Gottweis 2003; Li 2007). This does not imply that a focus on the thought work (Heyman 1995) of officials who "put policy into practice" is not important. But it suggests that it is not enough. An analysis of people's convictions about governing and their ways of knowing needs to be complemented with an analysis of the rationalities underlying and sustaining certain modes of doing things.

Third, studies of administrative procedures need to find a way of accounting for the people and lives behind the claims made legible in records and resolvable in (legal) orders. In other words, it appears critical to find an analytic to see how the "government of paper" (Hull 2012b) is implicated in the 'government of lives'. The notion of re-cording lives I have introduced offers a fruitful avenue for grasping such implications.

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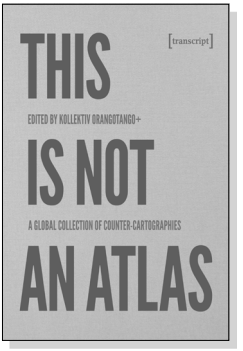


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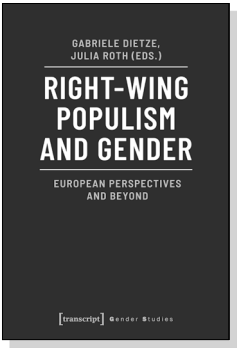


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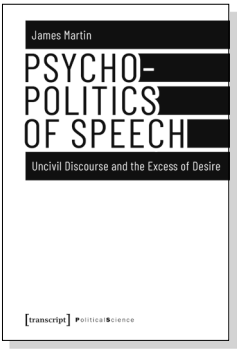


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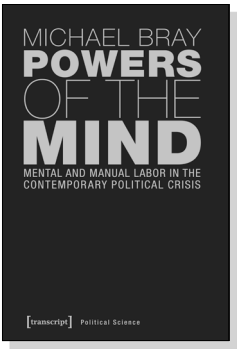


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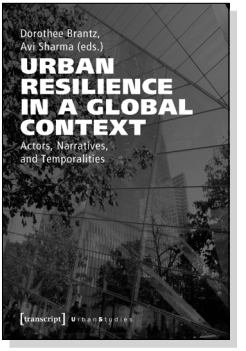


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