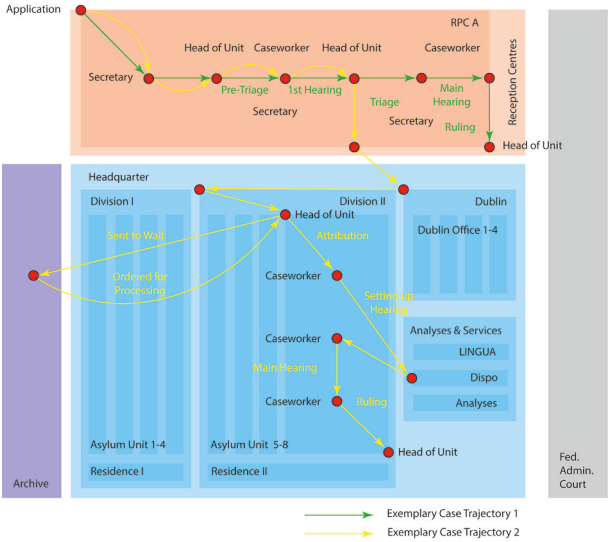
PART II – Enactment

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

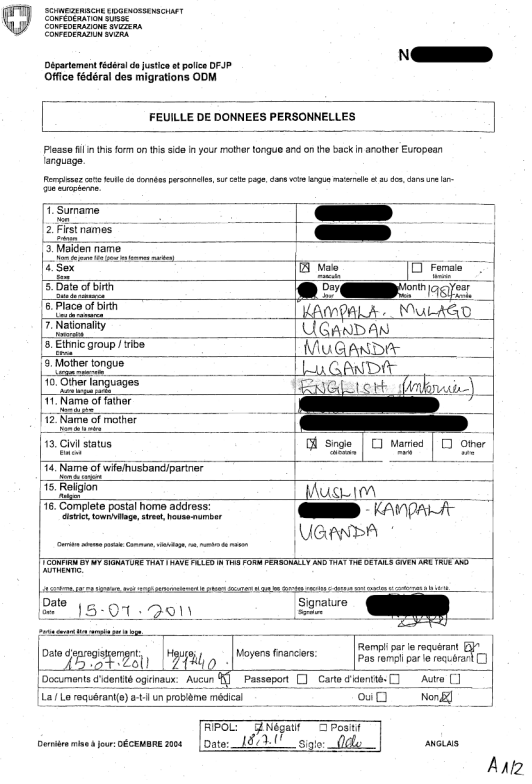
In this subchapter, I trace some of the case-making practices that are concerned with the opening (or, occasionally, non-opening) of a case. Most of the practices of case-making in the asylum office involve case files going forth and back between caseworkers and the secretaries who are in charge of many 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 (informel)
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, ville/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: 15.07.2011 — Signature: [redacted]

Partie devant être remplie par la loge.

Date d'enregistrement: 15.07.2011	Heure: 2140	Moyens financiers:	Rempli par le requérant ☒ Pas rempli par le requérant ☐
Documents d'identité originaux: 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

PCN: [redacted]

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

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 611

(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).

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.

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)

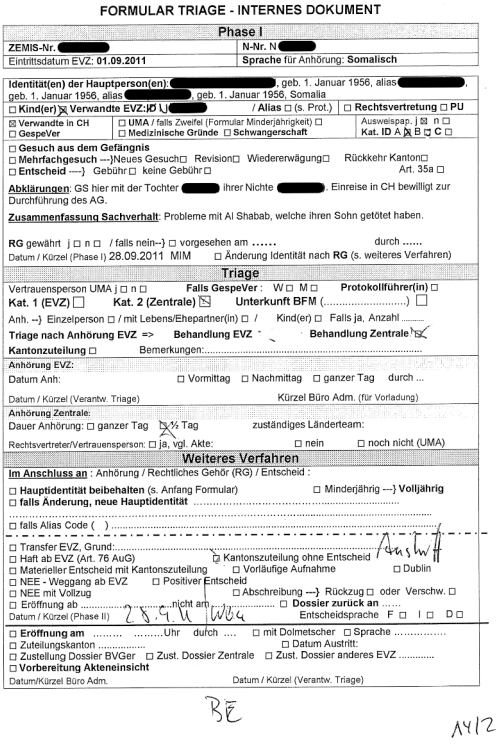
The triage and thus potential reassignment normally happened after the first hearing had been conducted in the reception centre. The categorisation of the case and its potential outcome was suggested in an internal form – the "triage form" – by the caseworker after the first hearing (see Figure 12). 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** [redacted] / **Alias** ☐ (s. Prot.) | ☐ **Rechtsvertretung** ☐ **PU**

☒ **Verwandte in CH** ☐ **GespeVer** | ☐ **UMA** / falls Zweifel (Formular Minderjährigkeit) ☐ ☐ **Medizinische Gründe** ☐ **Schwangerschaft** | Ausweispap. ☒ 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
☐ 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 WMa 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

14/2

(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.

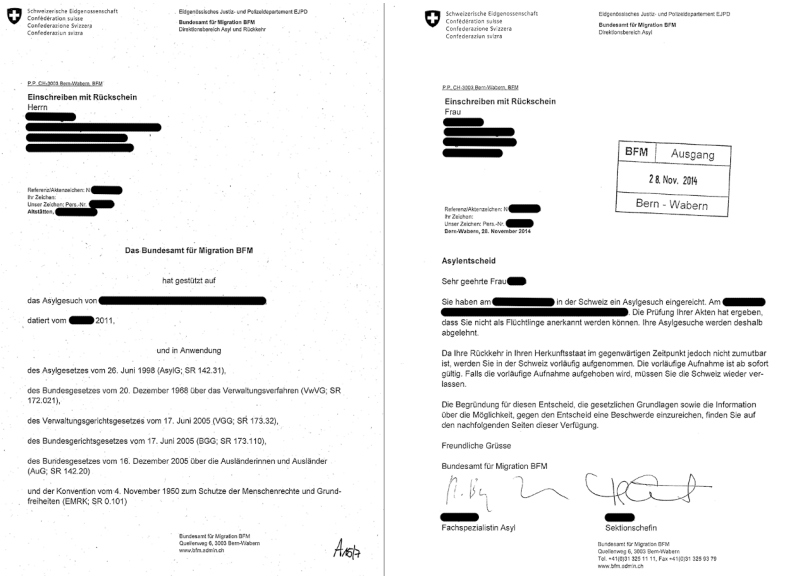
(II) The asylum section of the decision* consists of the considerations* [*Erwägungen*] for the refusal of asylum. These considerations* are (generally) expanded over several syllogisms – a form of logical reasoning, which combines a general statement and a specific statement to arrive at a conclusion. 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
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

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

P.P. CH-3003 Bern-Wabern, BFM

Einschreiben mit Rückschein
Herr
[redacted]

Referenz/Aktenzeichen: [redacted]
Ihr Zeichen:
Unser Zeichen: Pers.-Nr. [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)

Bundesamt für Migration BFM
Quellenweg 6, 3003 Bern-Wabern
www.bfm.admin.ch

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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: [redacted]
Ihr Zeichen:
Unser Zeichen: Pers.-Nr. [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

[redacted]
Sektionschefin

Bundesamt für Migration BFM
Quellenweg 6, 3003 Bern-Wabern
Tel. +41(0)31 325 11 11, Fax +41(0)31 325 93 79
www.bfm.admin.ch

(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:

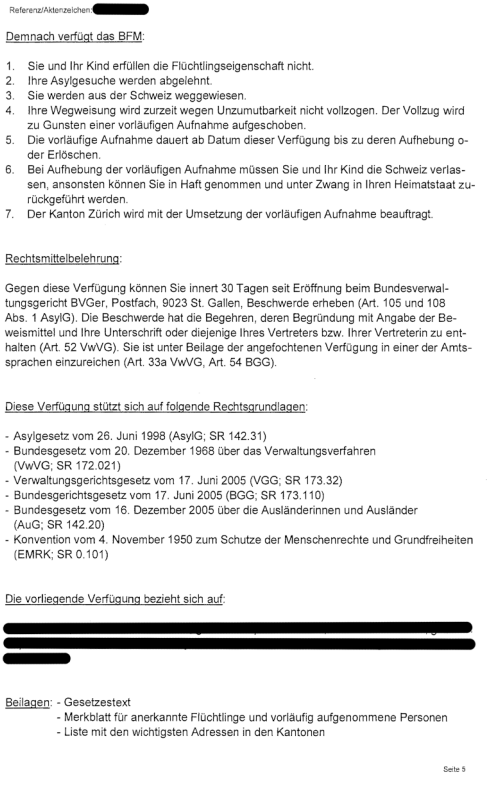
> Moreover, the asylum seeker knows hardly anything about his purported native country Mali. For instance, the regions of the country were unknown to him. He was not able to provide information on celebrities either. Besides, A. declared to know the Senegalese soccer team, but not the one from Mali. 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.

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.