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**The Referendum of the Revised Swiss Asylum
Law in 2016**
An Application of the Advocacy Coalition Framework

Working paper de l'IDHEAP 7/2017

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An Application of the Advocacy Coalition Framework

Master Thesis

Master of Arts in Public Management and Policy
Faculty DCA/IDHEAP
University of Lausanne

January 2017

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Working paper 7/2017

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Executive Summary

The following paper deals with the idea of a possible policy change of actors in political coalitions due to an external event or policy-oriented learning. Therefore, the requested referendum of the revised Swiss asylum law revision in 2016 has been analyzed according to the Advocacy Coalition Framework theory. In order to get information about the position of the *SVP*, a qualitative content analysis of the four debates in Swiss parliament about the revision of the asylum law was performed. The idea was to find out if the European migrant crisis and the corresponding media coverage had an impact on the position of the *SVP* towards the new asylum law, which would provide a faster and more constitutional asylum procedure. In a second analysis the paper tried to find out the impact the evaluation testing operation of the asylum law in Zurich had on the position of the *SVP*. Overall the paper tries to determine the reasons of the requested referendum of the *SVP*. The paper drew two main conclusions. The European migrant crisis as an external shock had no significant impact on the position of the *SVP*. According to the ACF theory an external shock can lead to a change in the policy core beliefs of a coalition. The paper deducted that the impact of the waves of refugees towards Europe was not sufficient to change the *SVP*'s policy core beliefs. Therefore, they requested the referendum and held on their position in asylum policy matters. Probably observed time span of a bit more than one and half year was a too short period for having a real impact on the *SVP* policy core programme. Likewise, the testing phase in Zurich with the corresponding evaluation reports could not influence the position. Here a confrontation of new findings collided with the policy core belief of the *SVP*. A consequent refusal of the new finding of the testing phase by the *SVP*-faction occurred. This observation fits with the ACF theory, which indicates that policy-oriented learning with quantitative indicators of success is more likely to be successful when it concerns secondary beliefs of a coalition, rather than the policy core beliefs. The theory of policy-oriented learning could be confirmed with the position of the *FDP* in the debate about the asylum law revision. First being against the free legal assistance, they changed their mind after being convinced by the results in the testing phase in Zurich. For the *FDP* as a traditionally market liberal political party, a restrictive and severe asylum policy is not a part of their policy core beliefs. Therefore, they changed the coalition and voted in favour of the asylum law revision. The paper ascertained four arguments for the requested referendum which are the following ones: the free legal assistance to the asylum seekers, the malfunctioning and the poor execution of the Dublin regulation, the wish to reduce the attractiveness of Switzerland as a target country and the planning permit procedures.

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List of Abbreviations

ACF	Advocacy coalition framework
CHF	Swiss francs
CoS	Council of states
EFTA	European free trade association
<i>e.g</i>	For example
EDA	Federal department of foreign affairs
EJPD	Federal departement of justice and police
ed.	edition
<i>et al.</i>	And others
<i>et seq.</i>	Following page
<i>et seqq.</i>	Following pages
EU	European Union
EURODAC	European Dactyloscopy
FAC	Federal administrative court
FDP	"Freisinnig Demokratische Partei"
FSC	Federal supreme court
Ibid.	In the same place
NC	National council
SEM	State secretary for migration
SFC	Swiss federal council
SKMR	Schweizerisches Kompetenzzentrum für Menschenrechte
SVP	"Schweizerische Volks Partei"
SWPC	Swiss welcoming and procedure centres

I. Introduction

In times of massive refugee waves towards Europe,¹ the Swiss people accepted a new asylum law which accelerated and improved the whole procedure for granting the right of asylum.

On September 3rd, 2014, the Swiss federal council (SFC) announced its message about the revision of Swiss asylum law. The official message of the SFC stated that the revision's main goal was the acceleration of procedures for granting the right of asylum.² After a long debate and negotiations between the upper and the lower House, the Swiss parliament accepted the revised law on September 25th, 2015. However, before the revised law could enter into force, the "*Schweizerische Volkspartei*" (*SVP*)³ requested a referendum. The *SVP* protested mainly against the parts of the new law providing free lawyers for asylum seekers and against the possibility of expropriations of municipality or private housing/grounds taking place in order to construct new asylum centres, which could happen if the municipalities did not voluntarily provide such housing grounds. For the *SVP*, the revised asylum law would make Switzerland even more attractive for asylum seekers which, in their opinion, would turn the situation in Switzerland into the so called *Asylchaos*⁴, an expression often used by the *SVP* during the debates.⁵ Finally, on June 5th, 2016, the Swiss people accepted the new asylum law and rejected the *SVP's* referendum.

The path leading to this final acceptance by the Swiss people was accompanied by a long debate in the SFC, in parliament and finally among the Swiss population. This paper aims to find out why the *SVP* requested a referendum against the law which had already been accepted in parliament. To facilitate our understanding of the revision of the asylum law, we will provide an overlook of the Swiss asylum policy as a whole. Several points, *e.g.* the revision of asylum law in 2013, asylum law revision 10.052⁶ or the Schengen/Dublin treaties⁷ are of an extraordinary importance for this topic and need to be discussed. The Asylum law revision of 2016, asylum law revision 14.063 and the testing phase in Zurich will be explained in detail.

¹ BBC, Migrant crisis: Migration to Europe explained in seven charts, BBC Online March 4th, 2016, <<http://www.bbc.com/news/world-europe-34131911>> (last visited on January 10th, 2017).

² SFC 2014: Modification of the Asylum Law, p. 7992.

³ Swiss People's Party is one of the main four political parties in Switzerland.

⁴ "Asylchaos", German expression for an asylum disorder used in a populist way by the *SVP*.

⁵ SVP, SVP ergreift Referendum gegen das revidierte Asylgesetz – Nein zu Gratisanwälten für alle Asylbewerber, October 6th, 2015 <<https://www.svp.ch/aktuell/medienmitteilungen/svp-ergreift-referendum-gegen-das-revidierte-asylgesetz-nein-zu-gratisanwaelten-fuer-alle-asylbewerber/>> (last visited on January 10th, 2017).

⁶ SFC 2010: Revision of the Asylum Law, p. 4456.

⁷ EJPD and EDA/EVD Integration Office, Schengen/Dublin kurz erklärt, 2nd edition, May 2011, <https://www.eda.admin.ch/dam/eda/de/documents/publications/EuropaeischeAngelegenheiten/Schengen_de.pdf> (last visited on January 10th, 2017).

The primary goal of this paper is to ascertain why the *SVP* requested a referendum after the law revision was accepted by the Swiss parliament. In order to answer this question, the Advocacy Coalition Framework (ACF) will be put to use. The ACF suggests that actors in a political subsystem form coalitions because of common policy core beliefs. In general, policy core beliefs are perceptions and beliefs with regards to a certain political field and are seen as relatively stable. On the other hand, we have the secondary aspects in the ACF which are the specific beliefs and attitudes towards political instruments. Those secondary aspects, contrarily to the policy core beliefs, can be different for actors in the same coalition and are more easily changed.⁸

To identify the reason of the referendum, interventions by deputies of the two chambers in Swiss parliament during the autumn and summer session of 2015 will be analysed by method of a qualitative content analysis. The main focus for this analysis will be the position of the *SVP*.

1. Research Question and Hypothesis

The asylum law revision 14.063, which was of major importance to the Swiss asylum policy agenda for a long period, is the main focus of this thesis. More precisely, I am focusing on the decision of the *SVP* to request a referendum against the revised law. Dealing with a referendum always means having a coalition which is in favour and a coalition which is against the referendum. In the case of the referendum against the revision of the asylum law, the coalition in favour of the referendum (and thus against the law) consisted only of the *SVP*, while all other major parties formed the coalition against the referendum (and thus in favour of the law). Therefore, the research question of this paper can be defined as follows:

Why did the SVP request a referendum against the revision of the asylum law?

Our interest is to find out why the coalition in favour of the referendum did not want to accept the revised law and why it requested the referendum. Two events regarding a possible policy change are of central interest in this paper. First, the actual global migration situation during the debate in parliament, which is summarized under the name European migrant crisis; second, the testing phase in Zurich.

Two hypotheses based on the ACF-theory serve as an initial position and as an orientation point for this paper. The ACF approach assumes that essential changes external to the subsystem in

⁸ SABATIER/JENKINS-SMITH, LEARNING, p. 30.

question, such as changes in socio-economic conditions, changes in the public opinion, changes in results of other subsystems or changes in government-coalitions are a necessary, but not a sufficient condition for changes of the core political programme of a coalition or of a coalition's member.⁹ The paper starts from the fact that during the debate in parliament, thousands of people tried to find their way towards Europe and cruel images of refugees in the Mediterranean Sea were published in different media outlets. The interest of the paper is to examine why such a strong external event, which had an impact on the socio-economic conditions as well as the public opinion, did not lead to a policy change of the *SVP*. A possible explanation could consist of the fact that a strict asylum policy is a part of the deep core beliefs of *SVP*. Consequently, the following hypothesis can be established:

Despite the actual "refugee waves" and the corresponding images published in different media outlets, showing refugees' cruel destinies, the SVP did not change their political core beliefs in asylum policy and requested a referendum against the revised law.

To have a larger range of evidence, a second hypothesis will be established. The ACF also assumes that policy-oriented learning can lead to policy change. The policy oriented learning is a process internal to the political subsystem. The ACF theory presumes that policy-oriented learning is more likely to be successful with problems for which accepted, quantitative indicators of success are available than with problems for which the indicators of success are more likely qualitative and of subjective character. The theory also says that policy-oriented learning is more successful when it concerns secondary aspects of a coalition's own belief system and secondary aspects or core beliefs of the other coalition's belief system.¹⁰

In January 2014, the operation in the testing centre in Zurich started in order to test the new asylum procedures over two years. This paper assumes that the testing phase in Zurich can be seen as an example out of which policy-oriented learning can arise. This testing phase has been evaluated quantitatively and qualitatively in February 2015 by the State secretary for migration (SEM) and four private companies. Quantitative indicators of success have been available.¹¹ This paper is interested in why a policy-oriented learning effect based upon the testing phase could not be observed regarding the *SVP*. The paper assumes that having quantitative indicators

⁹ SABATIER/WEIBLE, p. 198.

¹⁰ SABATIER, ROLE, p. 134.

¹¹ SEM: Evaluation Testing Operation, Summary of the Results, February 2015, <<https://www.sem.admin.ch/dam/data/sem/asyl/beschleunigung/testbetrieb/ber-sem-ergebnisse-eval-testbetrieb-d.pdf>> (last visited on January 10th, 2017).

is not sufficient in order to influence a deep core belief of a coalition, in our case the *SVP*. In accordance with this theoretical background, our second hypothesis can be established as follows:

Notwithstanding a scientifically approved change in the procedure of granting the right of asylum, such as the positive results in the testing phase in Zurich from 2014 to 2015, the SVP was not willing to change its political position on asylum policy and requested a referendum against the revised law.

The first hypothesis is based on the change of socio-economic conditions and the public opinion, thus on an external event. The second hypothesis is based on the policy-oriented learning of the testing phase in Zurich, thus on a process internal to the political subsystem. These two hypotheses imply that a political change in the asylum policy of the *SVP* is not really probable in the future as there is no change of values or core political beliefs in the political programme of the *SVP*.

2. Theoretical and Societal Relevance

The research question of this paper is of theoretical as well as of societal relevance. Even if the ACF theory is used more frequently in other political fields than in the asylum policy, the theoretical concept of the ACF is also adequate to find out the reason of the referendum initiated by the *SVP*. Especially the policy-oriented learning and the external events approach for policy changes are of great interest to our research question.

Two fundamental paths for policy change were identified by the ACF originally.¹² One path is the policy-oriented learning, which is internal to the policy subsystem and the other path is influenced by external events that have effects on the coalition or the political subsystem. The deepness of policy change that the two paths permit differentiates them from each other. While the policy-oriented learning results only in small-scale, incremental changes, external perturbations to the political subsystem can lead to radical changes. Therefore, both paths seem to be adequate for finding out reasons or hints why the *SVP* requested a referendum.¹³

The topic of this paper is also relevant from a societal perspective. Asylum policy is of great importance in the political agenda of all states in the European Union (EU) and also of Switzerland. Due to a probable revision of the Schengen/Dublin treaty and the so-called burden-

¹² SABATIER/WEIBLE, p. 198.

¹³ SABATIER, KNOWLEDGE, pp. 671 *et seqq.*

sharing, Switzerland is willing to accept more refugees. Switzerland already accepted 1,500 Syrian refugees due to a first redistribution programme in September 2015 and is willing to accept even more under several conditions.¹⁴ The EU is searching for a fair distribution key based on population, unemployment rate and the number of refugees in need of protection already received.¹⁵ A fast and fair treatment of asylum applications is very important for authorities as well as for asylum seekers. The current global situation with wars in Syria and Yemen, with conflicts and human right violations in countries such as Eritrea, Iran or Afghanistan shows that refugee waves will not be stopping so fast. A satisfactory resolution for all involved parties should be the goal of policy makers. The acceptance of the asylum law revision in June 2016 by the Swiss people and the resulting faster process for asylum applications was a first step towards a humanitarian and satisfactory solution for refugees in Switzerland. The asylum law revision was also a sign towards other countries in the EU, such as Germany.¹⁶ A shorter but fairer procedure for the right of granting asylum should be in the interest of all involved parties. Therefore, it is even more interesting to learn why the *SVP* requested a referendum against the revised law.

3. Structure of the Paper

The paper is divided in three main sections. First, an overview of the ACF theory will be given. There, the emergence and the main goals of the theory will be emphasised. In another step, the central elements and the theory's assumptions will be clarified. Furthermore, probable policy changes due to the ACF theory will be explained. In a last step, some criticism of the ACF system will be discussed.

The second part treats the asylum policy of Switzerland as our main topic. This section starts with a chronological and summarized list of the events in the Swiss asylum policy before the revision 14.063. The asylum law revision 14.063, being the main topic of the paper, will be explained in detail.

In the third section, the methodology and the data analysis will be explained. This paper works with a selected quantitative content analysis. Therefore, accurate data will be selected and analysed according to a category system. This category system will also be explained in this

¹⁴ PHILIPP HUFSCHEID, Schweiz übernimmt 1500 Flüchtlinge, Berner Zeitung September 19th, 2015 <<http://www.bernerzeitung.ch/schweiz/standard/schweiz-uebernimmt-1500-fluechtlinge/story/10438691>> (last visited on January 10th, 2010).

¹⁵ STATISTA, Verteilungsschlüssel von Flüchtlingen auf die Mitgliedsländer der Europäischen Union, Statista September 2015 <<https://de.statista.com/statistik/daten/studie/462899/umfrage/verteilungsschlüssel-von-fluechtlingen-auf-die-mitgliedslaender-der-europaeischen-union/>> (last visited on January 10th, 2010).

¹⁶ WOLFRAM GÖLL, Schnelle Asylverfahren: Vorbild Schweiz?, Bayernkurier August 31st, 2015 <<https://www.bayernkurier.de/inland/5237-vorbild-schweiz>> (last visited on January 10th, 2010).

section. The data analysed in this paper will be listed and explained by categories. It will consist of interventions by *SVP*-faction deputies of both chambers during the autumn and summer session 2015 in the Swiss parliament. It needs to be mentioned that there is a special interest on the position of the *SVP* as the initiator of the referendum.

After the methodological section is finished, the results will be presented and applied to our hypotheses established in the beginning of the paper and a conclusion will be drawn. In the last section, I will discuss the findings and give an outlook how the situation could be evolved in the future. The discussion will take into account current events and possible future changes in asylum policy.

II. Theoretical Frame - Advocacy Coalition Framework

In the following part of the paper, the ACF as our theoretical frame will be explained in detail. Therefore, we will look into to the emergence of the concept. Furthermore, I will explain the main goal of the ACF. In the second part, the different elements of the theory will be explained, such as a political subsystem, the belief-system, policy brokers and advocacy coalitions. Furthermore, the different reasons for probable policy change will be listed. This chapter concludes with an overview of some criticism of the ACF.

The theoretical foundation for this paper is the ACF, which has been developed by Paul Sabatier and Hank Jenkins-Smith in 1993. Since then, the theory experiences permanent development.¹⁷

The ACF is an approach rooted in Political Sciences, which tends to analytically capture long-term political change in a subsystem and explain it. According to Weible,¹⁸ the ACF is one of the most adequate approaches for analysing policy-processes.

The general analytic frame of the ACF allows for an application in various political fields and policy changes. Since the asylum policy is currently one of the most important issues in the whole EU, and Switzerland as well faces several new obstacles. Switzerland needs to decide on its asylum policy. As in every political field, the asylum policy field contains several actors with different perceptions and convictions. The ACF allows us to adequately take into account all nuances.

1. Emergence and Goal of the ACF

„The goal of a policy field analysis is to explain casual correlation between the actors, resources, constitutional rules and policy outputs.”¹⁹

¹⁷ SABATIER/JENKINS-SMITH, LEARNING; SABATIER, RELEVANCE; SABATIER/WEIBLE.

¹⁸ WEIBLE, p. 461.

¹⁹ SCHNEIDER/JANNING, p. 109.

The ACF is a useful conceptual framework for explaining the stability and change of policies. The main focus of the ACF lies on coalitions. A set of normative and casual beliefs are shared within coalitions, which leads to coalitions oftentimes acting in concert. Thus, stable policies emerge. Furthermore, the ACF helps to understand policy changes. The ACF helps us understand policy changes as consequences of competing ways to translate ideas into official actions within coalitions.²⁰

The ACF is a theory of the policy field analysis which tends to analyse the policy-process. The ACF emerged out of the conflict between top-down and bottom-up policy process theories.²¹ At the end of the 1980's, Sabatier first started to elaborate approaches and theories about how political change takes place. Those theories were meant help make policy-processes more clear.²² Out of those theories, Sabatier together with Jenkins-Smith developed the ACF, which deals with complex political problems and tries to analyse them.²³ In doing so, not only sustainable conflicts of objectives and important technical problems will be included, but a multitude of different actors of different government levels as well.²⁴ Due to this fact, the ACF delivers a general analytic frame which can be applied to different political fields and political changes.²⁵ The ACF is one of the most promising approaches in order to analyse policy-processes.²⁶

The aim of the ACF is to explain an essential political change within a political subsystem. For Sabatier and Jenkins-Smith, political change is a product of the competition between several Advocacy Coalitions.²⁷ The Framework delivers a theoretical frame for the verification and falsification of hypotheses based on learning-processes in political subsystems and on political change. The ACF is a critical alternative to the phase heuristic, which divides political process into functional and temporal subprocesses.²⁸ Contrary to traditional institutional approaches, the phase models consider the dynamic of political procedure and questions about the political implementation.²⁹ The conceptual strength of the phase models lead to a great acceptance in the field of political science. In spite of everything, Sabatier and Jenkins-Smith pointed out a basic weakness for the analysis of policy-processes in phase models. A theoretical model of causality

²⁰ SATO, p. 41.

²¹ WEIBLE ET AL, VARIATIONS, p. 122.

²² WEIBLE ET AL, SPECIAL, p. 349.

²³ SABATIER/JENKINS-SMITH, ASSESMENT; SABATIER, ROLE; SABATIER/WEIBLE.

²⁴ SABATIER/WEIBLE, p. 189.

²⁵ BANDELOW, VERGLEICH, p. 331.

²⁶ WEIBLE, p. 461.

²⁷ SABATIER/JENKINS-SMITH, p. 6.

²⁸ EASTON; LASWELL.

²⁹ JEGEN, p. 27.

is missing and therefore, the phase model is not an explicit base for the verification of empiric hypotheses. The view on the policy-process of the phase heuristic was adopted by Sabatier and Jenkins. At the same time, they tried to fill the empirical and logical gaps of the phase heuristic through the formulation of hypotheses.³⁰

2. Central Elements and Presumptions of the ACF

2.1. Political Subsystems

According to Sabatier and Jenkins-Smith, a political subsystem, which is characterised by a spatial dimension and a content dimension, is the appropriate unit to analyse policy-process and policy change.³¹ The asylum policy (content dimension) in Switzerland (spatial dimension) can be listed as an example for such a political subsystem explained above. In addition, Sabatier and Jenkins-Smith define that a political subsystem is the amount of all actors and institutions dealing with a political problem or topic and trying actively to influence it.³² Political actors are next to governmental organisations, associations, citizen initiatives, scientists or journalists. Political elites of every type will be considered.³³ Potential actors, which can be activated through appropriate information and can amplify the political subsystem, have to be considered as well.³⁴ Potential or latent actors could for example be a citizens' movement which can temporarily influence the political subsystem through its demonstrations in favour of or against some political issue.

The process of the policy change can only be considered within a timespan of a decade. The time frame of one decade allows judging the success of a political programme over a certain period of time. It allows covering one entire policy-formulation-, implementation- and reform cycle.³⁵

2.2. Role of the Belief System

The ACF supposes that political programmes reflect the convictions, perceptions and attitudes of dominant actors and therefore governmental policy can be captured in a belief system.³⁶ The belief systems of political actors are built up hierarchically.³⁷ The beliefs systems contain the basic view of life, assumptions on causal correlations and perceptions on problems including

³⁰ SABATIER/JENKINS-SMITH, ASSESMENT, p. 3.

³¹ SABATIER/WEIBLE, p. 192.

³² SABATIER, RELEVANCE, p. 99.

³³ BANDELOW, VERÄNDERUNGEN, p. 317.

³⁴ SABATIER/JENKINS-SMITH, ASSESMENT, p. 24.

³⁵ IBID., p. 16.

³⁶ BANDELOW, WANDEL, p. 49.

³⁷ SABATIER/JENKINS-SMITH, ASSESMENT, p. 30.

the accurate solution possibilities. The belief system is a type of glasses through which the world will be experienced. Therefore, belief systems are the cognitive basis for establishing political programs. Further, the belief system is responsible for the consistency and the relative stability of perceptions.³⁸ Submitted initiatives of parties and other organizations give an accurate example of the type of glasses that informs an actor's view on things. In those initiatives, completely different perceptions can be expressed. According to the ACF, there exist three different levels of belief. Bandelow described them as the following ones:³⁹

- Deep core beliefs include basic normative convictions and axioms which are valid even outside the political subsystem. They determine the general political philosophies of an actor in different policy fields.⁴⁰ Deep core beliefs are mostly results of the childhood socialisation of a member of the political party, for example, and therefore, they are very difficult to change.⁴¹ One example of a deep core belief is the priority of values such as freedom or power.
- Policy core beliefs contain the political positions of actors. In other words, they are an application of the deep core beliefs. They span over a complete political subsystem.⁴² Policy core beliefs are the transformation of deep core beliefs into a concrete policy field. This is why they are very stable, but not as stable as the deep core beliefs. The preference of the regulation degree of the political subsystem can be seen as an example for a policy core belief.
- Secondary aspects incorporate closer and subsystem-specific convictions. They are described as the instrumental deeds or as the strategies of actors. The necessary instrumental decisions and information search for the implementation of the policy core belief belong to this category.⁴³

³⁸ JEGEN, p. 34.

³⁹ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 30.

⁴⁰ IBID., p. 30.

⁴¹ SABATIER/WEIBLE, p. 192.

⁴² IBID., p. 194.

⁴³ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 30.

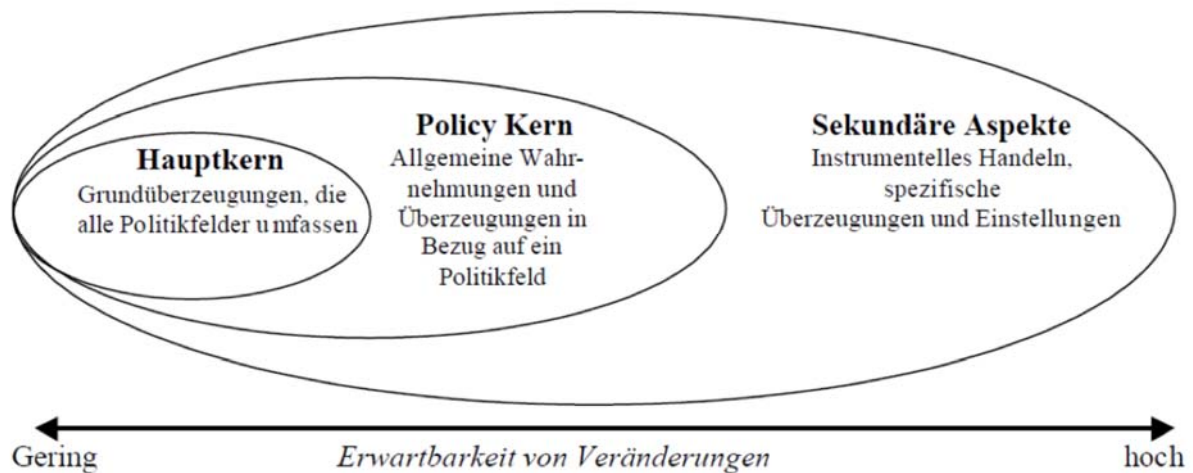


Figure 1 - Composition of the hierarchical belief system of the ACF according to Bangelow⁴⁴

The ACF-approach assumes that changes in the secondary aspects are the most probable ones. The policy core on the other hand is more abstract, as mentioned above, and therefore more resistant to changes. The three categories are arranged in the manner that they have decreasing resistance towards a policy change.⁴⁵ Notwithstanding their stability, deep core beliefs are not completely unchangeable – a nuance which will be of some importance at a later stage of this paper.

According to the ACF, the central ideal of a policy field is listed on the level of the policy core beliefs. According to Sabatier and Jenkins-Smith, policy core beliefs are decisive for the solidarity within a coalition.⁴⁶ It should be mentioned that actors of the same coalition do not necessarily have exactly the same policy core beliefs. Similarity in policy core beliefs can be reason enough for being in the same coalition.⁴⁷ Further, the deep core beliefs are normally congruent with the policy core beliefs according to the ACF. As a result, the internal belief system is consistent.⁴⁸ On the contrary, the secondary aspects of the individual actors of a coalition can differ from one actor to the next.⁴⁹

Policy core beliefs are seen as very resistant against changes and therefore, in the absence of external shocks, coalitions stay stable over time and the coalition partners are seen as reliable in the middle term. The central mechanism of the ACF is the resistance of the deep core belief and the policy core beliefs which can explain the stability in a political subsystem over a longer period of time. In summary, the ACF sees the belief system as the reason for political stability

⁴⁴ BANDELOW, VERÄNDERUNGEN, p. 317.

⁴⁵ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 31.

⁴⁶ SABATIER, RELEVANCE, p. 103.

⁴⁷ SABATIER/WEIBLE, p. 196.

⁴⁸ JEGEN, p. 36.

⁴⁹ BANDELOW, WANDEL, p. 57.

or change and therefore, the ACF searches findings about the belief system of an elite participating in a subsystem.

2.3. Advocacy Coalition and Policy Broker

In a political subsystem a lot of different actors are active and try to influence the policy field. The ACF assumes that a participant in those political processes tries to implement components of his belief system in his political programme. This implementation should happen before the competitors succeed to do it.⁵⁰ In order to increase the perspectives of a successful implementation, actors build up alliances and bundle their resources. According to the ACF, the fusion of actors in a political subsystem is named Advocacy Coalition. Within an Advocacy Coalition, actors share the same common, normative and causal ideals, the so called beliefs. Furthermore, they coordinate their actions over a certain period of time and on relevant matters within the coalition.⁵¹ It is necessary that actors of the same Advocacy Coalition share the same ideals, but it is possible that there will be an adjustment of beliefs. In general, actors of the same coalition tend to harmonize their position in order to be seen as consistent from the outside.⁵² Normally, a subsystem consists of two or four Advocacy Coalitions. There is also the option of a static subsystem with only one coalition.⁵³

Next to the actors in an Advocacy Coalition, there are actors participating in the subsystem without being part of a coalition. In the ACF-theory, those actors are called policy brokers. According to Sabatier and Jenkins-Smith, the main aim of a policy broker is to find an accurate compromise between the contrary aims of the Advocacy Coalitions.⁵⁴ The head of the government, courts or certain scientific observers could be mentioned as examples for a policy broker. Those policy brokers have their own preferences and therefore, they will influence the political process as well.

3. Political Change according to the ACF

In the following section of this paper, the political change according to the ACF will be explained. This section is the theoretical core of this paper. It will be divided into two main parts. Mirroring our hypotheses, the first part examines political change due to external shocks on the political subsystem and the second part deals with the approach of policy-oriented

⁵⁰ SABATIER/WEIBLE, p. 196.

⁵¹ SABATIER, RELEVANCE, p. 103.

⁵² BANDELOW, WANDEL, pp. 57 *et seq.*

⁵³ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 26.

⁵⁴ *IBID.*, p. 27.

learning within the coalitions. Finally, some other paths for a policy-change according to the ACF will be shown in order to have a complete overview of the theory.

According to the highlighting of the belief systems, Sabatier and Jenkins-Smith are convinced that actors in political subsystems are not driven by short-term interests and that therefore, coalitions stay together over a longer time of period. Thus, the political stability in a subsystem can be explained as the result of the structure of the belief systems as well as the fusion of certain actors with similar policy core beliefs into an Advocacy Coalition.

Fundamentally, Sabatier and Jenkins-Smith had two different triggers for a policy change. They refer to Hecló (1974)⁵⁵, who saw policy change as a product of considerable social, economic and political change. In other words, he identified the cause of a change as an external shock to the political subsystem. In addition, interaction between actors of the political community can also lead to a policy change. Sabatier recaps this second aspect under the term of policy-oriented learning.⁵⁶ With the help of policy-oriented learning, the perception of the external dynamic and the knowledge about the condition of the parameters of the subsystem and the factors which influence the systems will be improved through individual efforts.⁵⁷

3.1. External Shocks

According to the ACF, external perturbations are a necessary but not sufficient condition for major policy change within a subsystem.⁵⁸ Troubles external to the subsystem can be a source for policy change. External troubles can be attributed for example to considerable changes in socioeconomic conditions, changes in the regime or changes in the output of other subsystems.⁵⁹ Within the ACF, a division between relatively stable parameters and dynamic factors within the external factors is made.⁶⁰ Cognitive and non-cognitive factors can affect the behaviours of coalitions and of policy brokers.⁶¹ Cultural values or the distribution of natural resources could be an example for relatively stable parameters, whereas the socio-economic framework-requirement and decisions in other political subsystems are examples for dynamic external factors.⁶² According to Sabatier and Jenkins-Smith, dynamic external factors are seen

⁵⁵ HECLÓ HUGH, *Modern Social Politics in Britain and Sweden: From Relief to Income Maintenance*, New Haven/London 1974.

⁵⁶ SABATIER, *RELEVANCE*, p. 104.

⁵⁷ SABATIER/JENKINS-SMITH, *ASSESSMENT*, p. 19.

⁵⁸ SABATIER/WEIBLE, p. 198.

⁵⁹ *IBID.*, p. 198.

⁶⁰ SABATIER/JENKINS-SMITH, *ASSESSMENT*; SABATIER/WEIBLE.

⁶¹ SABATIER, *RELEVANCE*, p. 102.

⁶² See Figure 2 on page 13.

as the key elements for a policy-change.⁶³ Changes within the dynamic external factors have an impact on the deep core and policy core beliefs of actors. As a result, general changes in belief system are attributed to external events. Such changes can lead to the dissolution of an Advocacy Coalition which will be replaced by a new Advocacy Coalition afterwards.⁶⁴ Rapid changes in the structure of the subsystem and in the individual policy core beliefs could be possible consequences of external perturbations.⁶⁵

3.2. *Policy-oriented Learning*

According to Sabatier and Jenkins-Smith, the ACF defines policy-oriented learning as "relatively enduring alternations of thought or behavioral intentions that result from experience and/or new information and that are concerned with the attainment or revision of policy objectives".⁶⁶ Policy-oriented learning takes usually place within the coalition and can, for example, lead to a strategy change. The significance of far-reaching political change remains, although it is relatively small.⁶⁷ The capacity of policy-oriented learning to bring about belief and policy change depends on the level of the ACF's belief system.⁶⁸ On these grounds, policy-oriented learning influences only secondary aspects in the short and middle term. Information will probably be rejected by the actors as soon as their deep core and policy core beliefs seem to be in danger.⁶⁹ Deep core beliefs are very resistant to new information. The individual effort and the policy-oriented learning will be shown in figure 2 in the internal feedback-loops within the political subsystem.⁷⁰

⁶³ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 20.

⁶⁴ BANDELOW, WANDEL, p. 63.

⁶⁵ SABATIER/WEIBLE, p. 198.

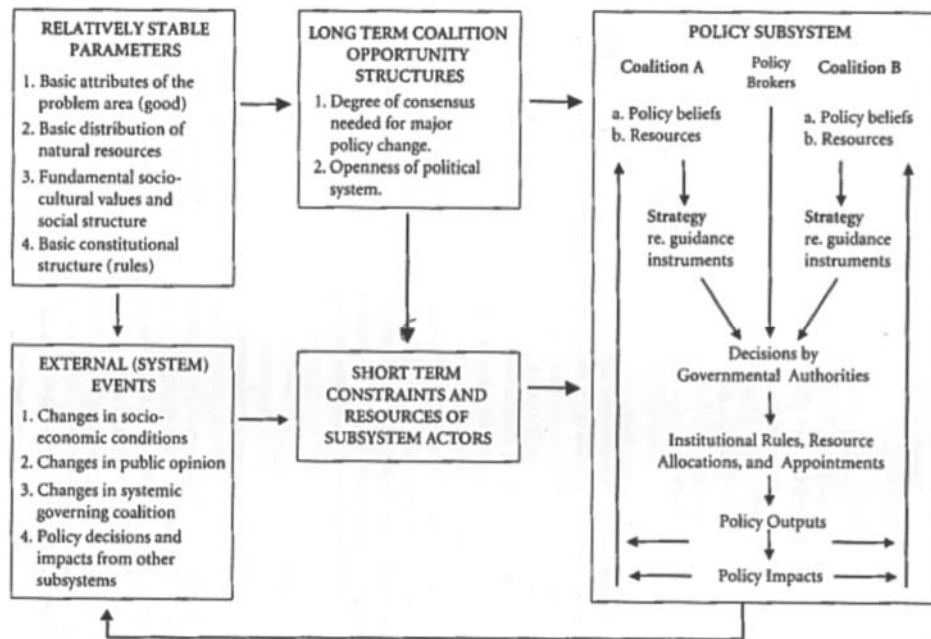
⁶⁶ SABATIER/JENKINS-SMITH, LEARNING, p. 123.

⁶⁷ BANDELOW, VERÄNDERUNGEN, p. 317.

⁶⁸ SABATIER/WEIBLE, p. 199.

⁶⁹ BANDELOW, WANDEL, p. 62.

⁷⁰ See figure 2 below.

Figure 2 - Advocacy Coalition Framework⁷¹

3.3. Other Aspects Regarding Policy-Change

The ACF-theory added two other aspects about how policy-change in a political subsystem can happen.⁷² The first additional source for a change in the political landscape is an internal shock. Catastrophes happening inside the political subsystem in consideration could be an example for an internal shock. According to Sabatier and Weible, an internal shock can cause two different consequences to a political subsystem. An internal shock can raise the public interest for a problem inside the political subsystem. A redistribution of resources of the coalition will be the consequence, which can lead to a change of the balance of powers in coalitions. An external shock has the same effect, which can lead to basic changes inside a political subsystem. Therefore, internal shocks cannot only influence the redistribution of resources of the coalitions but they can also directly affect the policy core beliefs of the actors. Sabatier and Weible assume that an internal shocks will improve the position of small coalitions, whereas for the dominant coalition in the political subsystem, an internal shocks leads to a questioning of their policy core beliefs and they will call the efficiency of their policy into question.⁷³

According to Sabatier and Weible, an additional source of changes in a political subsystem consists of agreements. Here, neither internal nor external shocks are responsible for a political change. Rather, competing coalitions come to agreements, which lead to a change in the policy core beliefs of the actors in question and to a substantial political change.⁷⁴ The effort of NGOs

⁷¹ SABATIER/WEIBLE, p. 202.

⁷² SABATIER/WEIBLE, p. 204.

⁷³ IBID., pp. 204 *et seq.*

⁷⁴ IBID., p. 205.

which try to establish a specific theme in the political agenda over many years can be used as example for the agreement path of policy-change.

For this paper, only the two first original paths for policy change of the ACF are of essential interest. According to our hypotheses, this paper concentrates on external perturbations or shocks and the policy oriented learning within the ACF. The two other paths for a policy change were only mentioned in order to have a complete understanding of the ACF.

4. Criticism of the ACF

In order to have a complete idea of the ACF, I will explore some criticism of the ACF as well. The small degree of differentiation of the structure of the belief systems can be mentioned as the main point of criticism. The ACF does not furnish an explanation for why the belief systems are structured top-down rather than bottom-up. The top-down structure implies that abstract elements of the belief systems determine the concrete elements and not the other way around.⁷⁵ Additionally, Sabatier and Jenkins-Smith assume that the belief systems of political elites are structured in the same way as those of non-elites. Research of other scientists (Converse 1964⁷⁶, Peffley/Hurwitz 1985⁷⁷) showed that belief systems of political elites and those of normal citizens can differ from each other. Such controversies are not mentioned in the ACF. The replicability of findings achieved by using the ACF is restricted because most of the time, the ACF is applied to qualitative case studies. However, Sabatier mentioned that the qualitative content analysis of government documentation or publications of interest groups is the best method in order to empirically and systematically examine changes in the belief systems.⁷⁸ Some authors indicate the difficulty to distinguish between beliefs and interests and to allocate every individual statement to the right belief-level of the model.⁷⁹ This is the reason why it makes it more complicated to do a qualitative content analysis. Furthermore, the fact that the ACF was originally made for the political system of the United States of America raised doubts about the ability to use the model for Europe.⁸⁰ Sabatier and Weible assumed the existence only of weak political parties when they designed the ACF, which is absolutely not the case for

⁷⁵ JEGEN, p. 36.

⁷⁶ CONVERSE, P.E., The nature of Belief Systems in Mass Publics, in: Alpler D.(ed.), *Ideology and Discontent*, New York 1964, pp. 206-261.

⁷⁷ PEFFLEY, M.A. & HURWITZ, J., A Hierarchical Model of Attitude Constraint, in: *American Journal of Political Science* 29 (1985), pp. 871-890.

⁷⁸ SABATIER/JENKINS-SMITH, ASSESSMENT, p. 33.

⁷⁹ SABATIER/JENKINS-SMITH, ASSESSMENT, pp. 223 *et seq.*

⁸⁰ SABATIER/WEIBLE, p. 190.

Europe.⁸¹ Some European political scientists (e.g. Lijphart 1999⁸², Kübler 2001⁸³) made the framework more adaptable for Europe by enlarging the ACF with two additional variables: the openness of the political system and the extent of the required consensus.⁸⁴

At the outset of AFC-driven research, the institutional context of the subsystem had not been taken into consideration. Listening to his critics, Sabatier added an adjustment in his publication in 1998, providing that a change in the ruling coalition be seen as an external event in order to be more adequate to the frame conditions.⁸⁵

The abstraction away from the phases of policy-cycles⁸⁶ and the influence of the public opinion on the public order⁸⁷ is another point of criticism on the ACF, already stated by some scientists. According to Schlager, the not addressing of collective problems is another problem of the ACF. The same author is complaining as well about the fact that the ACF does not explain the mechanisms through which newly learned beliefs are translated into policy.⁸⁸

In a nutshell, the ACF is an approach in the political sciences tending to explain sustainable policy change in a political subsystem. The ACF uses political subsystems as evolution units. In those units actors ally themselves to Advocacy Coalitions, due to common beliefs and in order to implement their values with political instruments in the policy.⁸⁹

The policy core beliefs and the linked coalitions are seen as very stable. That is why sustainable policy change in a subsystem rarely occurs.

External or internal shocks, as well as negotiated agreements can be triggers of a policy change in a political subsystem according to the ACF.

III. The Asylum Law Revision 14.063

This section will give a short overview about the different happenings and political decision before the asylum law revision 14.063. Afterwards the testing phase and the asylum law revision itself will be explained in detail.

⁸¹ SABATIER/WEIBLE, p. 199.

⁸² LIJPHART AREND, *Patterns of democracy*, New Haven 1999.

⁸³ KÜBLER D., *Understanding Policy Change with the Advocacy Coalition Framework: An Application to Swiss Drug Policy*, in: *Journal of European Public Policy* 8/4 (2001), pp. 623-641.

⁸⁴ See figure 2, two pages above.

⁸⁵ SABATIER, *RELEVANCE*, p. 102.

⁸⁶ OLSON/OLSON/GAWRONSKI.

⁸⁷ JORDAN/GREENAWAY.

⁸⁸ SCHLAGER, p. 246.

⁸⁹ *IBID.*, p. 245.

1. Previous Events in the Asylum Policy

In 2011, the Swiss parliament instructed the SFC to elaborate a new draft concerning the accelerating measures for the procedure for granting the right of asylum proposed by the *Federal department of justice and police* (EJPD).⁹⁰ Due to this, the EJPD created a working group consisting of representatives of the Swiss Federation and the cantons. This working group presented its final report in November 2012 and a concept called "restructuring of asylum policy" was published as well. On the occasion of the asylum conference on January 23rd, 2013⁹¹, the cantons and the associations of cities and municipalities accepted this final report and the corresponding parameters of the "restructuring of asylum policy" concept.⁹² A second asylum conference took place on March 28th, 2014.⁹³

The asylum law revision 10.052 which took place in 2013 was an additional part of the whole restructuring of the asylum field. The revision 10.052 can be seen as an intensification of the asylum law. The revision makes the access to asylum more difficult for asylum seekers.⁹⁴ At the same time, the revision 10.052 already includes the first elements of the concept "restructuring of the asylum policy" and therefore the first hints to an acceleration of the procedure of granting the right of asylum. The revision allowed the federal administration to use its own buildings as refugee centres on the ground of municipalities for a duration of maximum 3 years without permission of cantons or municipalities and gave the federal administration the possibility to build special centres for intractable asylum seekers.⁹⁵ What is of interest for this paper is that already in the revision of 2013 the permission to test new process flows in a testing centre (testing centre Zurich with 500 persons) was given.⁹⁶

The goal of the restructuring of the asylum policy is to centralize the whole asylum procedure under one roof and to accelerate the procedure. First steps towards the goal have already been made previous to the asylum law revision in 2016. The *SVP* accepted the asylum law revision

⁹⁰ SEM: Evaluation Testing Operation p. 3.

⁹¹ SEM, Common Declaration of the Asylum Conference of January 21th 2013, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2013/2013-01-21/erklarung-d.pdf>> (last visited on January 10th, 2010).

⁹² SEM, Parameters of the Restructuration of Asylum Policy Concept, November 21th 2012 <<https://www.sem.admin.ch/dam/data/migration/rechtsgrundlagen/gesetzgebung/asylg-aug/ersatz-nee/eckwerte-neustruktur-asyl-d.pdf>> (last visited on January 10th, 2010).

⁹³ SEM, Common Declaration of the Asylum Conference of March 28th 2014, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2014/2014-03-28/erklarung-d.pdf>> (last visited on January 10th, 2010).

⁹⁴ CHRISTIAN BRÖNNIMANN, Die wichtigsten Fragen und Antworten zur Asylgesetz-Revision, Tagesanzeiger April 16th, 2015 <<http://www.tagesanzeiger.ch/schweiz/standard/Die-wichtigsten-Fragen-und-Antworten-zur-AsylgesetzRevision/story/14305261>> (last visited on January 10th, 2010).

⁹⁵ SFC 2014: Modification of the Asylum Law, p. 8002 et seqq.

⁹⁶ TAGESANZEIGER: Die wichtigsten Fragen und Antworten.

of 2013 and did not request a referendum. These points can be interesting for our research question.

2. Testing Phase in Zurich

In the following section, the testing phase in Zurich will be explained in a first step. In a second step, the evaluation of the testing phase will be analysed in order to have solid background information for the ensuing content analysis of the debate in parliament.

2.1. Information on the Testing Phase

On January 6th, 2014, the test operation of the restructuring could be started in Zurich. The testing phase was thought to help evaluating if the goals of the restructuring in the asylum procedure and execution could be reached. An accompanying evaluation helped to identify probable weaknesses and showed room for improvement.⁹⁷ The testing phase was a request of the asylum conference of January 21st, 2013.⁹⁸ Due to a decree of September 4th, 2013, the SEM and the EJPD are responsible for the execution of the testing phase concerning the accelerating measure in the asylum field.⁹⁹ In the light of the implementation of the restructuring of the asylum field, the idea was to find out about probable effects of the accelerated asylum procedure and the extensive legal protection. The evaluation was to include the asylum procedure as well as aspects of business-management, subvention and asylum law, the cooperation between the different actors and the impact on the Federal administrative court (FAC) and expulsion execution.¹⁰⁰ Due to the complexity of this endeavour and due to the different requirements, four mandates were assigned in total. The first mandate was a quantitative analysis of the testing operation, the second was a formative evolution and a process optimization, the third mandate was a qualitative evaluation of the testing operation and the last one was a consultation and a legal representation.¹⁰¹ Every year between 1,300 and 1,400 asylum seekers should be treated in the testing operation in Zurich. The corresponding asylum centre Juch offers space for 300 to 400 asylum seekers. 30 employees of the SEM were working in the testing operation.¹⁰²

2.2. Evaluation of the Testing Phase in Zurich

In the following part of the paper, we will examine the findings about the testing phase in Zurich. Our analysis will only include reports published until September 2015. All reports

⁹⁷ SEM, Evaluation Testing Operation, p. 3.

⁹⁸ SFC 2014: Modification of the Asylum Law, p. 8002 et seqq.

⁹⁹ SEM: Evaluation Testing Operation p. 4.

¹⁰⁰ SEM, Evaluation Testing Operation, p. 4.

¹⁰¹ IBID., p. 5.

¹⁰² IBID., p. 6.

published afterwards cannot be used as arguments for debate in parliament. The reports published after September 2015 did not have any influence on the debate in parliament and more precisely on the requested referendum of the *SVP*. For this reason, a paper called "evaluation testing operation - summary of intermediate results" published by the SEM in February 2015 will be used as the main source for this part. The intermediate reports of the four external evaluations of the operation in the testing centre in Zurich will be used as secondary sources.

2.2.1. General Findings

From January 1st, 2014, until October 31st, 2014, 1,7941 applications for asylum were turned in Swiss welcoming and procedure centres (SWPZ). 1,256 cases of these entered into the testing phase in Zurich. 66% of these have been fully concluded. The 427 cases which have not been concluded during the testing operation were still pending during the testing phase. Almost 50% of the 427 unfinished cases were cases handled in the extended procedure and therefore they were sent to the centre in Bern-Wabern and were placed in the cantons. Of the 829 applications that have been concluded, 130 were write-offs.¹⁰³ Write-offs happen when asylum seekers are not willing to collaborate with the authority for clarifications without any reason. If an asylum seekers is not available to the authority for longer than 20 days, the application for asylum will be written off. Unfounded applications and multiplied same founded applications will be written off formless as well.¹⁰⁴ For 119 asylum seekers the result of the application was positive. 334 cases entered into the category "Dublin-Nichteintretensentscheid" and 246 were denied applications, including preliminary acceptance and the remaining were "Nichteintretensentscheide." Asylum seekers with a "Nichteintretensentscheid" have to leave Switzerland directly and no investigations about the refugee status will be made. A "Nichteintretensentscheid" will be pronounced as soon as asylum seekers only plead economical or medical reasons for their applications, if the asylum seeker can leave Switzerland to a third country (member of Schengen-Dublin) which is responsible for the asylum procedure in question or if the asylum seeking person can return to a secure third country. A "Nichteintretensentscheid" means that the SEM is not going to treat the application for asylum with regards to the content. Against 580 decision a complaint would have been possible, but only 15.2% of asylum seekers used this option.¹⁰⁵

¹⁰³ SFC 2014: Modification of the Asylum Law, p. 8005 et seqq.

¹⁰⁴ SCHWEIZERISCHE FLÜCHTLINGSHILFE, Das Asylverfahren, <<https://www.fluechtlingshilfe.ch/asylrecht/das-asylverfahren.html>> (last visited on January 10th, 2010).

¹⁰⁵ SEM, Evaluation Testing Operation, p. 4.

The duration of proceedings was accelerated enormously. According to the message of the SFC on September 3rd, 2014, the year 2011/2012 is used as the basis for comparison. The testing operation compared to the regular operation is 36 days faster for Dublin-procedures until legal effect and 269 days faster for accelerate procedures until legal effect.¹⁰⁶ Due to a high number of collaborators needing to be coordinated and an insufficient computer science technical support, the internal resource allocation was pointed out as a weakness for the testing phase and showed potential for a possible improvement. A suboptimal internal resource allocation is responsible for a delay in the execution of the initial surveys. Generally, the summary of intermediate results came to the conclusion that the quality of procedures and the results have not suffered under the pressure of time. Rather, the presence of legal representatives at every single stage of the procedure led to a quality improvement.¹⁰⁷ Ultimately, the report highlighted that the spatial proximity of involved actors is a good condition for the guarantee of qualitatively good procedures; distances between the involved actors are smaller, all actors know each other and can have some informal exchange of information. Now the whole process is more centralized, more transparent and clearer for all the participants.¹⁰⁸

2.2.2. Legal Protection

Another point to evaluate is the legal protection. In the testing operation in Zurich, all asylum seekers received a legal representative for free who accompanied them through every step of the asylum procedure. The idea of a free legal assistance is to guarantee a fair and constitutional asylum procedure. The free legal representative can be seen as a by-product of the measure. In the intermediate results of external evaluations, the selected legal protection model was approved as a central element of the testing operation. The fact that all asylum seekers have a claim to free legal protection and legal consultation results in the asylum seekers in the testing operation being better informed than asylum seekers in regular procedures. Thus, the asylum seekers have information about the course of procedure and the chances of the application for asylum.¹⁰⁹ It is very helpful that the information is coming from a source external to the public authorities. The information provided by consultants and the legal protection led to a higher rate

¹⁰⁶ MCKINSEY&COMPANY, Evaluation Testing Operation: Mandate 1, December 2014 <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber1-d.pdf>> p. 12-14 (last visited on January 10th, 2010).

¹⁰⁷ EGGER, DREHER & PARTNER, Evaluation Testing Operation (Short Version): Mandate 2, 11thDecember 2014, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber2-d.pdf>> p. 9 (last visited on January 10th, 2010).

¹⁰⁸ SFC 2014: Modification of the Asylum Law, p. 8005 et seqq.

¹⁰⁹ SCHWEIZERISCHES KOMPETENZENTRUM FÜR MENSCHENRECHTE (SMRK), Evaluation Testing Operation: Mandate 4, February 2015 <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber4-d.pdf>> p. 9 (last visited on January 10th, 2010).

of acceptance of the decision in the asylum procedure. Despite a few exceptions, the asylum seekers welcomed the legal protection. Thanks to the legal protection, they did not have to live in uncertainty about their asylum application and they were informed about their chances. Another important element for the acceptance of the decision is the fact that asylum seekers have the possibility to express personally their position in a statement about the decision draft.¹¹⁰ The assigned legal representative in the testing operation also increases the legal protection. In the regular procedure, legal protection is highly depending on the circumstances, if the asylum seeker is informed about the possibility of legal protection and on the initiative of asylum seekers themselves. On the contrary, with the legal protection model every asylum seeker receives a legal representative. Furthermore, the legal protection system has a positive influence on the obligation of cooperation of asylum seekers. Thus, the legal representatives could help asylum seekers to search documentary evidence, and observations confirmed the fact that legal representatives informed asylum seekers in the initial survey that they have to tell the truth.¹¹¹ There were also several hints that the legal protection system helps to register a complaint. It also helped to positively influence the unification and quality of the decision-making practice of the SEM. In the testing operation, legal representatives have a much better overview of the decision and therefore, the legal representative would also observe if equal cases received a different decision or would be motivated differently. Finally, the legal representative model reduces the burden for some interpreters and allows everybody to focus completely on their role, even if friction between interpreters and legal representatives is possible.¹¹²

In total, 580 asylum seekers received a decision which was contestable, but only 88 of them requested an administrative appeal. Therefore, the proportion of complaints in the testing operation is around 15.2%, which is lower than the 20.3% in the regular operation. This can be seen as evidence that asylum decisions of the SEM receive generally more acceptance and that the additional legal representative stimulates this tendency.¹¹³

The FAC treated a total of 64 administrative appeals and only three of them were approved. Due to the fact that only 88 asylum seekers requested an administrative appeal until February 2015 in the testing operation, the conclusions that can be drawn regarding administrative appeals are of limited explanatory power. The low proportion of complaints and the relative

¹¹⁰ *IBID.*, p. 12.

¹¹¹ *IBID.*, p. 14.

¹¹² SFC 2014: Modification of the Asylum Law . p. 8023.

¹¹³ SEM, Evaluation Testing Operation, p. 10-11.

success of them could be a sign for more thought-out administrative appeals, which in turn again is a merit of the additional legal protection during the procedure in the testing operation.¹¹⁴

2.2.3. Return Advice and Return Aid

Return advice and return aid is another service in testing centre in Zurich. In the testing phase in Zurich asylum seekers were being informed betimes and extensively about the return aid offer.¹¹⁵ A total of 169 asylum seekers entered in contact with the return advice post within the testing centre in Zurich and had at least one conversation.¹¹⁶ 107 persons left the country with the return aid. The proportion of asylum seekers who left the country effectively with return aid is 9%. In the regular operation this number is only 4%. Here, it is also really interesting to mention that 72% of the 107 asylum seekers who left the country with return aid left the country already in the preparation phase. For the testing operation and the regularly operation there are two different systems of return aid in place. The testing operation uses a digressive return aid, which starts with 2,000 Swiss francs (CHF) at the preparation phase and which offers lesser amounts of money in following phases, whereas in the regular operation merely 500 CHF were offered for return aid in every phase of the procedure.¹¹⁷

2.2.4. Effects on the Workforce in the Testing Phase

Last but not least the effect on staff of the SEM needs to be evaluated. The operative work with the quantitative instruction leads to a challenging and hard task for the staff. All the employees of the testing operation including the external ones were exposed to a high working cadence. The leadership of the testing operation reacted to this fact. From that period on collaborators who were working in the preparing phase could also execute hearings or compose decisions in order to reduce the burden of other colleagues and in order to make the work more diversified for employees in the preparation phase.¹¹⁸

Finally, the external evaluation of the previous intermediate results arrives at the conclusion that the testing operation works according to the plan. The testing operation led to process acceleration, as far as measurable, even though in a less significant way than expected. The evaluation of the testing operation shows, that with the restructuring of the asylum field a process acceleration can be reached. A significant acceleration presumes that all asylum procedures can be operated with all actors united under one roof and no transferral of asylum seekers to the cantons is necessary. Those asylum procedures, where all actors involved are

¹¹⁴ IBID., p. 14.

¹¹⁵ SFC 2014: Modification of the Asylum Law . p. 8057 et seqq.

¹¹⁶ MCKINSEY&PARTNER: Evaluation Testing Report, p. 15-16.

¹¹⁷ SEM, Evaluation Testing Operation, p. 17.

¹¹⁸ IBID., p. 17 18.

sitting under one roof, will increase in the future due to the restructuring in the asylum field and the resulting higher capacities of accommodation on the federal level. Additionally, the internal rhythm and order of the procedure is an essential factor which leads to an acceleration of asylum procedures.¹¹⁹

In the testing operation asylum seekers leave the procedure during the execution more often than in the regular operation, controlled or uncontrolled. The long-term consequences of the high percentage of persons who leave the centre uncontrolled, the so called submerged, cannot be evaluated yet.

The new introduced legal protection leads to higher constitutional legality, efficiency, acceptance and credibility of the asylum procedure in the testing operation. The acceleration of the asylum procedure has not caused sustainable effects on the quality of the asylum decisions. Furthermore, a lower administrative appeal quote has been observed in the testing operation, and the return aid offer has been used more often.

But the internal resource allocation needs to be optimized, as well as the medical clarifications of asylum seekers. In addition, a change in the human resources strategy of the testing operation needs to be made in order to offer an attractive job profile in all processing phases. Concerning the legal protection, a clarification about the practice for unaccompanied minors has to be made. The tasks, qualifications and compensation of the legal protection for unaccompanied minors, which works as a chaperon, still need to be defined exactly. Another idea is to limit the legal protection in initial survey to cases where a possible added value can be expected. Such an assessment would necessitate further examination.

Finally, the SEM pointed out that the final evaluation was to be done at end of 2015, in order to have a complete overview of the testing operation. At this stage it was still too early for a final evaluation of the restructuring of the asylum field, because the processes in the testing operation were not perfectly well-rehearsed and just a limited number of cases could have been evaluated.¹²⁰

Even if a final evaluation of the testing phase in Zurich was published after the debate in parliament, the evaluation of the intermediate results in February 2015 and the four external evaluations are a scientific and path-breaking source for the debate in parliament. The explanation and evaluation of the testing phase in Zurich is of essential importance for this paper. According to the second hypothesis of this paper, the testing phase in Zurich will be one

¹¹⁹ Egger, Dreher & Partner: Evaluation Testing Operation, p. 5.

¹²⁰ SEM, Evaluation Testing Operation, p. 17 18.

of the criteria for the quantitative content analysis. Therefore, it was important to give an overview of the function and especially of the evaluation of the testing phase in Zurich.

3. Asylum Law Revision 14.063

In this section of the paper, I will explain the asylum law revision 14.063. In the message of the SFC about the asylum revision already the subheading "restructuring of the asylum field" lets us know that the revision of the asylum law 14.063 is a part of a whole targeted restructuring which already started with the revision 10.502 in 2012. The SFC wants to operate the asylum procedure faster and fairer, and desires a complete restructuring of the asylum field. After cantons, cities and municipalities accepted this intention in two asylum conferences, the SFC proposed the corresponding amendment in the beginning of September 2014.

3.1. Changes Resulting from the Asylum Law Revision

Concretely, with the amendment a majority of the applications for asylum should have been decided and executed lawfully within 140 days. In order to guarantee the legal quality of the procedures and decisions, the legal protection of the asylum seekers will be strengthened. With the new asylum law the majority of asylum seekers, for whom further clarifications are not necessary, will be treated in an accelerated procedure with extended legal protection. The asylum seekers will newly reside in regional centres of the Swiss federation for the whole duration of the procedure until their probable expulsion. The procedure lasts at longest 140 days. If other clarifications for the application of asylum need to be made, the asylum seekers will be allocated to the cantons in the context of an extended procedure. That procedure should be finished lawfully within one year and asylum seekers with a negative decision must leave Switzerland within this time period. The execution of a probable expulsion is under the responsibility of the cantons as before.¹²¹

3.1.1. Free Legal Assistance

One of the main changes of the revision concerns the legal protection and consultation. Those two services will be extended heavily. The new accelerated procedures need to satisfy the constitutional claims. In order to guarantee this, a gratuitous consultation about the asylum procedure and legal protection will be provided. With this measure, not only will faster asylum procedure be guaranteed, but the fairness will still be assured. Furthermore, asylum seekers should be informed about the existing return aid offer extensively and betimes. The access to

¹²¹ SFC 2014: Modification of the Asylum Law, p. 8012 et seqq.

the return consultation and a voluntary leave with return aid should be possible in every phase of the procedure.¹²²

3.1.2. New Asylum Centres and Planning Permit Procedures

Another important point of the asylum law revision is the question about the accommodation of the refugees. Therefore, the Federation, Cantons and cities agreed collectively to implement the restructuration. All of them signed a declaration with the parameters of the overall planning and the compensation model for the payments to the cantons which have a welcoming and proceeding centre in March 2014. Accordingly, six regions were formed with several centres of the federation in each of the regions. In September 2014, the federation disposed of 1,400 place of accommodation in five welcoming and proceeding centres. At that time, September 2014, the restructuration of the asylum field needed around 5,000 places of accommodation for asylum seekers, including 20% buffer places.¹²³ In doing so, even with increasing applications for asylum, no asylum seeker needs to be distributed to the cantons. Until now and until the law enters into force, for constructions which will be used as a permanent accommodation for asylum seekers or which will be built newly for this purpose, an ordinary construction permit procedure needs to be undertaken. For a fast implementation of the restructuration of the asylum field, this tedious procedure should be replaced through a planning permit procedure. The asylum law revision 14.063 provides for these faster planning permit procedures.¹²⁴

In the medium term, the restructuration of the asylum field will lead to an economization up to 170 million Swiss francs in comparison to the system in force before the revision. An investment of up to 580 million needs to be done initially for the resourcing of the accommodations and the workplaces.¹²⁵

3.2. Legal Procedure

The parliament accepted the revision of the asylum law just with small changes compared to the original draft of the SFC. The concrete result of votes was 35 votes against 3 in the council of states and 138 votes against 55 in the national council. The revised law includes all the new features explained above. The votes against the asylum law revision came only from the *SVP*-faction.

¹²² *IBID.* p. 8051 et seqq.

¹²³ *IBID.* p. 8047 et seqq.

¹²⁴ *IBID.*, p. 8021.

¹²⁵ *IBID.*, p. 8106-12.

On October 6th, 2015, the central committee of the *SVP* decided with 47 against 1 vote to request the referendum against the asylum law revision.¹²⁶ They needed to collect 50,000 signatures until January 16th, 2016, according to the official deadlines. On June 5th, 2016, the Swiss people accepted the revised asylum law with a majority of 66.8% of the votes. The result of the canton of Zurich sticks out as extremely favourable, with a percentage of 79% in favour of the revised asylum law.¹²⁷ Surprisingly, the *SVP* decided not to campaign for the popular vote in the public paid area, in order to save money for the upcoming votes about the EU.¹²⁸

IV. Methodology and Results

Since the data of this paper is based on the protocol of debates in the Swiss parliament,¹²⁹ I will undertake a *qualitative content analysis*. The debate in Swiss parliament can be seen as a group discussion where every deputy can speak. The qualitative content analysis is not interested in numerical correlations. On the contrary, its interest lies with the description of qualitative material, such as the interventions by parliamentarians. The qualitative content analysis will be made in the light of our research question; therefore, all relevant elements for answering our research question have to be allocated to categories. Subcategories will help to specify what the single units of the material represent compared to the main categories. The goal of the qualitative content analysis is to analyse communication systematically, regulated and theory-driven.¹³⁰ The final goal is to draw conclusion out of the communication. The qualitative content analysis can be divided into three basic forms: the summarized, the explicated and structured content analysis. For this paper the structured content analysis will be used. The main focus of a structured content analysis is to filter some specified aspects out of the material.

1. Selecting Material

Before starting with the qualitative content analysis, the appropriate data for our research question needs to be chosen. The fact that this paper is based on the analysis of a debate in parliament leads us to the protocol of the concerning debate as our adequate data. In such a debate in parliament, a lot of politicians from different political parties express their opinion

¹²⁶ *SVP*: Nein zu Gratisanwälten.

¹²⁷ SIMON GEMPERLI, Asylgesetzrevision: Ein bizarres Referendum, *Neue Züricher Zeitung* June 6th, 2015 <<http://www.nzz.ch/schweiz/abstimmungen/asylgesetzrevision-ein-bizarres-referendum-ld.86922>> (last visited on January 10th, 2010).

¹²⁸ LORENZ HONEGGER, Verzichtet die SVP wegen der Milchkuh-Initiative auf eine Asylgesetz-Kampagne?, *Aargauer Zeitung* April 6th, 2015 <<http://www.aargauerzeitung.ch/schweiz/verzichtet-die-svp-wegen-der-milchkuh-initiative-auf-eine-asylgesetz-kampagne-130180901>> (last visited on January 10th, 2010).

¹²⁹ Official Bulletin of the Federal Assembly, 14.063, Asylum Law, Restructuration of the Asylum Field, CoS: June 15th, 2015, p. 534-564. NS: September 9th, 2015, p. 1382-1448. CoS, September 22th, 2015, p. 941-943. NS: September 25th, 2015, p. 1911-1913.

¹³⁰ MAYRING, pp. 12 *et seq.*

about the law revision, ask questions, or propose changes of certain paragraphs of the law. Not all interventions are relevant regarding our research question. Our research question is focused on the position of the *SVP* and on why they requested a referendum against the revised law accepted by both chambers in Swiss parliament. During the debate in parliament only the faction of the *SVP* voted against the adoption of the law and tried to abolish or modify several paragraphs of the law. Therefore, the interventions by the politicians which are members of the *SVP*-faction will be our data units for the analysis. After an overall analysis of the whole debate in the council of states and in the national council, all interventions of the *SVP* have been selected in a first step. One intervention by a politician of the *SVP*-faction will thus be considered as a single unit of analysis.

2. System of Categories

A theory-driven category system builds the centre of a qualitative content analysis.¹³¹ In order to do a structured qualitative content analysis of the debate in Swiss parliament about the asylum law revision, several categories and subcategories need to be established. In the following paragraph, the reasons of selection of those categories will be explained, as well as the categories themselves.

The theory about qualitative content analysis proposes two types of categories. The first type includes categories which were created deductively from the theory, in our case the *ACF*, and which are significant for the testing of the hypothesis. With regard to our hypotheses, the deductive categories will be the European migrant crisis and the testing phase in Zurich. The second type contains categories which are data-driven. Data-driven categories need to be built during the lecture of the data. In our case, after a first profound analysis of the whole debate and a second analysis according to the deductive categories, three additional data-driven categories could be developed. Those additional categories constitute the most-mentioned arguments against the asylum law revision 14.063 by the *SVP* which in turn represent the main arguments for the requested referendum.

Our system of categories thus consists of six overall categories, two of which contain two subcategories each. With those six categories this paper tries to explore the concrete reasons of the *SVP*'s referendum and why a policy change in the *SVP*'s asylum policy did not occur.

2.1. Deductive Categories

According to the theory of the *ACF* (see chapter II.) the **European migrant crisis** can be seen as an external event which can influence the public opinion, which in turn can have an effect

¹³¹ MAYRING, p. 49.

on politicians' opinions, which can lead to a change in the coalitions and therefore bring about a policy-change. Additionally, in order to test our first hypothesis, a careful analysis about the impact of the European migrant crisis on the argumentation of the *SVP*'s parliamentarians has to be done.

With the expression "European migrant crisis" this paper refers to the period starting from the beginning of 2015.¹³² At that time, a rising number of unauthorized foreign migrants arrived in the European Union (EU).¹³³ In the following graphic, an increase of asylum applicants can be observed in 2015. The peak of the curve for the year 2015 was in September.

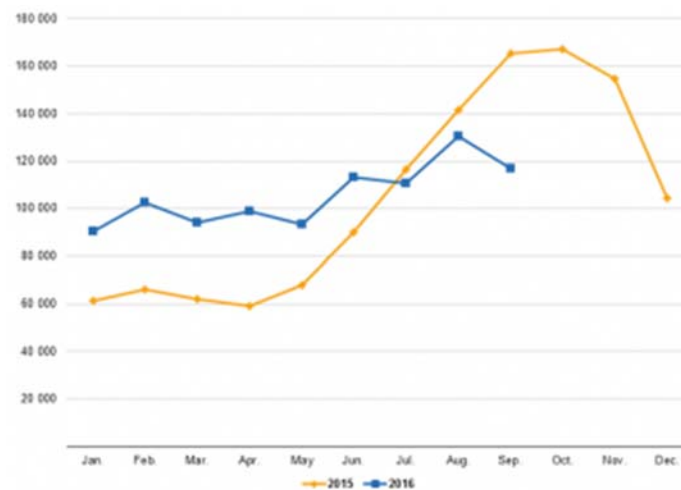


Figure 3: First time asylum applicants, EU-28, January 2015 – September 2016¹³⁴

The **testing phase in Zurich** represents the second deductive category of our system. A complete summary and explanation of the testing operation has been offered in chapter III.,2. The testing phase in Zurich is a central element of this paper and a crucial point for our research question. According to the theory of the ACF, the testing phase in Zurich fulfils the criteria for being an example of policy-oriented-learning. One aspect of the paper is to examine if the testing phase in Zurich had an impact on the political view of the parliamentarians of the *SVP*. Put differently, did the *SVP* learn from the positive results of the testing phase and change its opinion towards the asylum policy?

In order to get better findings out of our data, two subcategories have been established for the deductive categories. The extracts of the interventions which took reference to the European Migration Crisis or the testing phase in Zurich will be assigned to the subcategories "**positive**" or "**negative**". Positive means that the reference to one of the two deductive categories

¹³² BBC: Migrant Crisis.

¹³³ ADRIAN EDWARDS, UNHCR viewpoint: 'Refugee' or 'migrant' – Which is right?, UNHCR online July 11th, 2016, <<http://www.unhcr.org/55df0e556.html>>, (last visited on January 8th, 2017).

¹³⁴ EUROSTAT, Asylum Quarterly Report <http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report> (last visited on January 8th, 2017).

encouraged the asylum law revision and negative means that the reference was used for a counter-argument against the asylum law revision. It is essential for this paper to know the context in which the extracts allocated to the two deductive categories have been uttered during the four debates in parliament.

2.2. *Data-driven Categories*

The **gratuitous legal protection and consultation** (see chapter III.,2.2.2. and III.,3.1.1.) is the first data-driven category in our category system. The high amount of parliamentarians of the *SVP* complaining about this offer did not leave any doubt about the importance of this category for finding answers to our research question. The minority proposition of Deputy Brand (member of the *SVP*-faction in the national council (NC)) to abolish article 6a of the revised asylum law¹³⁵ (the gratuitous legal protection and consultation) emphasises this selection.

The **Schengen/Dublin** treaty is our second data-driven category. The European legislation in asylum policy is as well of central interest for this paper. Switzerland participates operatively in the Schengen and the Dublin treaty since December 2008.¹³⁶ With the Schengen agreement the border controls between Schengen-States have basically been abolished. At the same time, measures improving the internal security have been established.¹³⁷ The Dublin regulation concerns the cooperation which regulates the competence for the treatment of asylum applications. The Dublin regulation prevents that an asylum seeker can make an application in more than one European country.¹³⁸ There is only one state responsible for the examination of an asylum application. If asylum seekers who have already applied for asylum in one country apply for asylum in another country, those asylum seekers need to repatriate to the state of the initial registration.¹³⁹

Our third data-driven category is called "**Switzerland's Asylum Attractiveness**" and can be seen as an abstract collective term for all statements concerning the attractiveness (or not) of Switzerland as an asylum country. This has been another frequent talking point during the debates in parliament.

Our final data-driven category is the **planning permit procedure**, which has been explained under chapter III., 3.1.2. Here again, a significant number of parliamentarians of the *SVP*-

¹³⁵ Asylum Law with modification of September 25th 2015, article 6a.

¹³⁶ SEM, Schengen/Dublin, 5th June 2015, <<https://www.sem.admin.ch/sem/de/home/internationales/international-zusarbeit/europa-migropolitik/schengen-dublin.html>> (last visited on January 8th, 2017).

¹³⁷ INTEGRATION OFFICE: Schengen/Dublin kurz erklärt, p. 49.

¹³⁸ *IBID.*

¹³⁹ SEM: Schengen/Dublin.

faction argued against this planning permit procedure. Therefore, the selection of the planning permit procedure could lead to possible answers to our research question.

3. Results

The analysis of the four debates in parliament will be made one category after another. Following the analysis of all seven categories, the main findings will be listed again in order to provide some answers to our research question.

3.1. Evaluation by Categories

All categories will be analysed in the light of the interventions of every single deputy of the *SVP*. In a second step, conclusions will be drawn from the arguments of the deputies for every category.

3.1.1. European Migrant Crisis

The analysis is starting with the deductive categories which are of high importance for our hypothesis and our theoretical frame. Our first deductive category of the qualitative content analysis is the European Migrant Crisis. The analysis of the selected material found seven interventions made by five parliamentarians of the *SVP*-faction which mentioned the European Migrant Crisis.

Deputy Minder started his initial speech in the Council of States (CoS) with a remark about the actual geopolitical situation and about the situation in the migration policy.¹⁴⁰

Deputy Fehr was talking about dramatic incidents, which would not leave anyone cold. The choice of the words indicates that deputy Fehr is talking about concrete incidents with refugees, published and illustrated in the media days before the first debate in the national council.¹⁴¹

Deputy Brand mentioned the tragic happenings two times. Brand also indicated a temporal context when mentioning that he was talking about the concrete incidents of the last days. Knowing that Brand is a member of the national council and that the first debate took place on September 9th, 2015, the possibility that he as well referred to the young Syrian boy found dead at the beach near Bodrum in Turkey, is very high.¹⁴² The same deputy also used the word “drama” for the actual global situation of refugees.¹⁴³ In his last intervention during the first debate of the national council, deputy Brand again highlighted the tragedy of the actual situation

¹⁴⁰ Category 1, Intervention 1.

¹⁴¹ Category 1, Intervention 2.

¹⁴² Category 1, Intervention 3.

¹⁴³ Category 1, Intervention 4.

and this time talked about the crucial destinies of the refugees in order to underline the extent of the actual tragedy in even stronger words.¹⁴⁴

The French speaking **deputy Graber** used the word "drama" in the first debate of the National Council (NC) as well.¹⁴⁵

The Italian speaking **deputy Pantani** talked about the actual migration flows towards Europe and about the tragic incidents of the last days.¹⁴⁶

All five parliamentarians were conscious of the ongoing situation in Europe and they knew that there were thousands of refugees on their way to Europe.

In a second step, the references to the European Migrant Crisis will be put in the context of the asylum law revision 14.063 in order to gauge if parliamentarians used the references for encouraging the asylum law revision or as counterarguments. My observation is that all seven deputies used the references to the European Migrant Crisis and the related migrations flows towards Europe as an argument against the asylum law revision. For example, parliamentarian **Minder** concluded that in view of the actual refugee crisis, the asylum law revision is not the long-searched-for easy solution for a problem of high complexity. He used the metaphor the "Egg of Columbus" in order to underline that the proposed revision of the SFC is actually not the egg of Columbus and that a solution is not as simple as it might seem. Minder finished his argumentation with the hint to new realities which the asylum field would be facing soon.¹⁴⁷

Deputy Fehr from the NC underlined the importance of taking the right measures for solving the problems in times of dramatic incidents. But on the other hand, he regretted to inform the audience that the restructuration of the asylum field is not the right solution. According to his argumentation, the restructuration will lead to a deterioration of the actual situation and will have counterproductive effects as well.¹⁴⁸

Deputy Heinz equally underlined that despite of all intentions of generosity and humanitarian spirit, the small country of Switzerland could not fulfil the hopes and wishes of all the people who try to find a better life in this country.¹⁴⁹ Such an assumption would be strictly unrealistic, deputy Heinz explained. Nevertheless, he argued for a rethink in the asylum policy. For him, the actual admission policy concerning the occurring mass migration towards Europe enriches in the first place the illegal traffickers and sets wrong incentives and awakes false hopes.

¹⁴⁴ Category 1, Intervention 7.

¹⁴⁵ Category 1, Intervention 5.

¹⁴⁶ Category 1, Intervention 6.

¹⁴⁷ Category 1, Intervention 1.

¹⁴⁸ Category 1, Intervention 2.

¹⁴⁹ Category 1, Intervention 3.

According to his opinion, the more people are coming to Europe by means of traffickers, the more will follow on this route. An unlimited admission policy would fuel the actual situation even more, instead of ending the ongoing drama.¹⁵⁰

Deputy Pantani also argued for a rethink in the asylum policy, triggered by the tragic incidents of the last weeks and made a reference to Austria and Germany. Switzerland should be prepared to have the same conditions as these two countries. Some countries in the EU want to abolish the Schengen treaty, some want to reintroduce controls at the border, explained Pantani.¹⁵¹ In the same way as deputy **Heinz, Pantani** pointed out that not all people coming to Europe were refugees who need protection. Therefore, it would be important to distinguish between refugees according to the Geneva Convention and economic refugees.¹⁵²

In a short conclusion, it can be stated that the European migrant crisis had no impact on the argumentation of the *SVP*-faction. They recognized the horrible situation in the world and in several countries of Europe, but this did not lead to a change in their political position. Even the fact that the European migrant crisis had an impact on the public opinion through the media did not influence the political position of the *SVP*.

3.1.2. Testing Phase in Zurich

Another deductive category of the qualitative content analysis is the testing phase in Zurich, explained in chapter III., 2..The analysis of the selected material found eight interventions with ten references to the testing phase in Zurich made by five parliamentarians of the *SVP*-faction. **Deputy Minder** started his intervention in the CoS with the remark that the testing operation in Zurich missed the major objective of the restoration, which is the centralization of all spatial structures. Minder argued that the asylum seekers need to take a shuttle bus for the way from the accommodation to the procedure centre. For deputy Minder, this fact was not comprehensible.¹⁵³ The same deputy urged the other parliamentarians not to believe the positive numbers from the evaluations of the testing phase. He argued that only the fact that asylum seekers get 2000 CHF return aid instead of 500 was responsible for increased returns in the testing phase.¹⁵⁴ In another intervention, deputy Minder argued that the tight schedule in the testing centre in Zurich could not be maintained because of the fact that not enough Eritrean interpreters were available.¹⁵⁵

¹⁵⁰ Category 1, Intervention 5.

¹⁵¹ Category 1, Intervention 6.

¹⁵² Category 1, Intervention 5 and 7.

¹⁵³ Category 2, Intervention 1.1.

¹⁵⁴ Category 2, Intervention 1.2.

¹⁵⁵ Category 2, Intervention 3.

Deputy Föhn accepted the experiences which had already been made in the testing centre in Zurich, but at the same time he mentioned that when a result is wanted, this result could be very well influenced during such a testing phase. He doubted that these positive results would last.¹⁵⁶ In another intervention, he again underlined that numbers can easily be bent into shape. He accused the supporters of the revision and the evaluators to just compare the numbers of the evaluation reports which were favourable to their cause. He was also asking how the numbers would look like in the future.¹⁵⁷

Deputy Hösli mentioned in his intervention that he visited the testing operation in Zurich with the subcommission 4 of the commission of Finances of the CoS in February 2015. He informed the Parliament that the testing centre was not a "Larifari-Betrieb", not an operation without any sense of seriousness. He mentioned that the procedures were accelerated while legal security and corresponding trust in the procedure was maintained. The fact that the legal representative could weigh in on the draft of a negative decision made the first-instance procedure very transparent and asylum friendly. That is also why the first-instance decision had a high degree of acceptance and was much substantiated in terms of legal requirements.¹⁵⁸ However, deputy Hösli was really concerned about the fact that the Confederation pays a legal representative to those who want to appeal against the decision of the Confederation. In his eyes, this practice was illogical and unacceptable. He argued that the Federal supreme court (FSC) was against this practice as well as it was afraid of receiving appeals against more than 90% of the decisions of the SEM as was the case in the Netherlands. According to deputy Hösli, this fact was not yet proven by the Testing phase in Zurich. He remarked that the testing operation in Zurich was a limited testing operation, and that the experiences of testing phases were just momentary.¹⁵⁹

Deputy Brand also visited the testing centre in Zurich, which he admitted after a question of deputy Doris Fiala from the "*Freisinnig Demokratische Partei*" (FDP)- faction¹⁶⁰. She asked him if he did not notice that due to the gratuitous legal representative the procedure could be handled faster and that the overall costs were diminished. In his answer, deputy Brand did not make a reference to the testing phase in Zurich. He only argued that he thinks that a gratuitous legal representative is not necessary at all.¹⁶¹

In the second intervention, he used the testing centre in Zurich in order to argue against the planning permit procedure. Deputy Heinz said that the testing centre in Zurich was proof that a

¹⁵⁶ Category 2, Intervention 2.

¹⁵⁷ Category 2, Intervention 5.

¹⁵⁸ Category 2, Intervention 4.1.

¹⁵⁹ Category 2, Intervention 4.2.

¹⁶⁰ The FDP is also one of the four main political parties in Switzerland.

¹⁶¹ Category 2, Intervention 7.

planning permit procedure was not necessary and should not be a part of the law. He argued that the centre in Zurich was built without a planning permit procedure.¹⁶²

Deputy Fehr visited the Testing centre in Zurich as well. He was also suspicious about the evaluation report and he underlined that the asylum seekers now received double the previous amount of money as return aid. Therefore, he was not surprised that the numbers in the evaluation report were looking better. Spending more money for the return aid was however not the solution, in deputy Fehr's opinion.¹⁶³

In light of the quantitative content analysis, several conclusions can be drawn. First, the members of the *SVP*-faction used the Testing phase in Zurich as a rhetorical element of their interventions during the different sessions in Parliament. The parliamentarians Hösli, Föhn, and Brand visited the testing operation in Zurich themselves. This observation leads us to the conclusion that the *SVP*-faction followed the testing operation and was interested in its results.

Secondly, the analysis showed that only deputy **Hösli** used the testing phase in Zurich in a positive context. He admitted that the testing centre in Zurich was a serious operation and he admitted that the asylum procedure could thus be accelerated. He recognized as well that legal security could be guaranteed and that the confidence in the procedure could be maintained. After this positive argument, he switched directly to the negative aspect of the testing phase. He was concerned about the fact that asylum seekers can appeal against decisions of the Swiss administration with money from the Swiss government.

Thirdly, all other four deputies, as well the second half of the intervention by deputy Hösli used the testing phase in Zurich as an argument against the asylum law revision. First of all, a constant suspiciousness against the evaluation reports of the testing phase in Zurich could be observed. The parliamentarians did not trust those reports, and even more so they implied that the authorities could have influenced the numbers in their favour.

The parliamentarians also used the testing centre in Zurich for arguing against the free lawyers and the planning permit procedure, as well as against the quadrupled return aid help. The argument of deputy **Minder**, relying on the fact that the testing operation in Zurich was not fulfilling the goal of centralizing the whole procedure, can be seen as a well-grounded argument against the asylum law revision based on the testing centre in Zurich. This shows that the expression of centralization should probably have been clarified in the declaration of the restructuring of the asylum field. In the testing phase in Zurich the asylum procedure is now centralized in one specific area of Switzerland.

¹⁶² Category 2, Intervention 8.

¹⁶³ Category 2, Intervention 6.

The analysis of the reports of the sessions in parliament showed that the results of the testing centre in Zurich, seen as a result of another subsystem, did not have any influence on the argumentation or even the policy of the *SVP*-faction members in the sense that the positive results of the testing centre would lead to a change in the *SVP*-policy in the direction of acceptance of the revised law. The opposite happened: they even used the results of this subsystem, namely the different evaluation reports, as a rhetorical part of their speeches in Parliament against the revision. They also used the testing phase to underline and confirm their arguments against the revision. These arguments will be treated in further sections. Even the visit of the testing centre by the parliamentarians themselves did not lead to a change in the political position of the *SVP*.

3.1.3. Gratuitous Legal Consultation and Protection

In the following part, the same qualitative content analysis will be made with four data-driven categories, which have been defined. The categories are in the order of their information volume, going from the most mentioned to the least-mentioned category.

The qualitative content analysis of the selected material found nine interventions with twenty-one references to the free legal consultation and protection made by nine parliamentarians of the *SVP*-faction.

For **deputy Föhn**, the gratuitous legal consultation and protection is the main point in the whole debate about the asylum law revision. Deputy Föhn started with a personal quote. He said that he would not receive an assistance paid for by the Federation if he would be having issues or if he would be feeling bad. He expressed that he did not understand, why the asylum seekers should receive a free legal assistance from the first day on. At the end of his intervention, he made a direct link to the results of the testing, which he said could be easily influenced. (See the point III.2.1.2. Testing phase in Zurich).¹⁶⁴

In his second intervention, he worried about the fact that all asylum seekers receive a legal assistance unless they explicitly renounce it.¹⁶⁵ In his opinion, the same rules should equally apply to asylum seekers and Swiss citizens. Therefore, he wanted to restrict free legal assistance to the asylum seekers for whom the appeal has a real chance of success, similar to what is demanded for any applicant asking for gratuitous legal assistance before a Swiss court.¹⁶⁶

Similarly, **deputy Hösli** expressed that the free legal assistance and the free legal recourse possibilities were not acceptable to him. In his interventions he made a long excursion to a

¹⁶⁴ Category 3, Intervention 1.

¹⁶⁵ Category 3, Intervention 3.1.

¹⁶⁶ Category 3, Intervention 3.2 and 3.3.

comparative example with which he tried to show the absurdity of this part of the law. He referred to the construction procedure for private persons. In his opinion the free legal assistance for asylum seekers would be the same as private persons needing to pay the legal representative for the objecting party after receiving their construction permit. He made a similar argument using tenancy law. In his opinion this procedure is completely useless. Finally, he used the arguments of the FSC to underline his opinion. The FSC was suspicious of this practice as well and feared a 90% share of appeals as was the case in the Netherlands.¹⁶⁷

Like deputy Föhn, deputy Hösli could not understand why all asylum seekers should receive legal assistance without filling out a request. This practice, deputy Hösli said, was completely contrary to Swiss standards. In Switzerland, you need to file the relevant applications for everything, expect for one's birth and death. Deputy Hösli further insisted on the fact that asylum seekers have better rights than Swiss citizens under this revision and that this was not acceptable in his mind.¹⁶⁸

Deputy Minder only mentioned that this asylum revision was one of the biggest in the last years and that all parliamentarians should think about the costs of 548 millions as well as the free legal assistance.¹⁶⁹

Deputy Fehr was concerned about the message to the traffickers that Switzerland is sending with this revision. He thought that the message Switzerland was sending with this revision would consist of the 6,000 or more new places for asylum seekers, the free lawyer for all asylum seekers, and that all of the asylum seekers can stay for a long time or forever in Switzerland. In short, deputy Fehr was of the opinion that the revision would paint Switzerland as too welcoming regarding asylum seekers.¹⁷⁰

Furthermore, deputy Fehr used the 90% share of appeals in the Netherlands as a counterargument to the institution of free lawyers. He also made an allusion to the fact that the supporters of the revision were using the words “legal assistance”, “legal consultation” or “legal representative” instead of “free lawyers”. In his opinion, what was at stake were lawyers paid for by the Confederation for the asylum seekers and nothing else.¹⁷¹

Also **deputy Brand** referred to the Netherlands and their 90% share of appeals and emphasised the risks of such a practice. According to him, a free legal assistance for all asylum seekers would be equal to a proof of mistrust towards the SEM. He mentioned that he has a deep feeling of trust towards the SEM which had been doing a good job for years. A free legal assistance

¹⁶⁷ Category 3, Intervention 2.1.

¹⁶⁸ Category 3, Intervention 2.2.

¹⁶⁹ Category 3, Intervention 4.

¹⁷⁰ Category 3, Intervention 5.1.

¹⁷¹ Category 3, Intervention 5.2.

would not prevent wrong decisions from being made.¹⁷² Further, deputy Brand was concerned about the fact that asylum seekers would receive more rights than Swiss citizens. According to Brand, the practice of a free legal assistance would create a precedent which could be used in other legal areas. He also underlined the novelty of this practice in Swiss law. In general, deputy Brand regarded the free legal assistance as an unnecessary offer.¹⁷³

Deputy Amaudruz doubted the fact that a free legal assistance would accelerate the asylum procedure. She was convinced that advocates generally do anything in order to extend the whole legal procedure. She also mentioned the delay of five years after which a denied asylum seeker can pass from the status of illegality to the Permis B (The Permis B refers to the permission to reside for EU or EFTA (European free trade association) foreigners who stay in Switzerland long-termed for a certain reasons, with or without working permission. The permission is valid for five years.¹⁷⁴) These five years could be reached easily with the free legal assistance which is producing longer asylum procedures. She proposed to abandon the project of free legal assistance.¹⁷⁵

Deputy Rutz regarded the free unconditional legal assistance as a novelty in the Swiss jurisdiction. At the beginning of his interventions, he explained the long tradition of more than 130 years of the gratuitous free legal assistance in Switzerland.¹⁷⁶ He also made reference to article 6 of the European Convention of Human Rights which guarantees gratuitous legal assistance.¹⁷⁷ Every Swiss citizen needs to fulfil three conditions in order to get the free legal assistance. First, there has to be a need, secondly, the procedure is not allowed to be practically hopeless and finally, there has to be a requirement for legal assistance. With the asylum law revision every asylum seeker receives free legal assistance without fulfilling these three conditions¹⁷⁸. According to Rutz, this creates inequality because not all asylum seekers have the same financial background.¹⁷⁹ Deputy Rutz was further arguing in favour of Swiss citizens in a situation of need, who are not receiving free legal assistance for their lawsuits, for example proceedings with the child or adult protection agency. This inequality was a great issue.¹⁸⁰ Additionally, deputy Rutz attacked the-faction of the *FDP*. He reproached them a consultation

¹⁷² Category 3, Intervention 6.1.

¹⁷³ Category 3, Intervention 6.2.

¹⁷⁴ SEM, Permit B (EU/EFTA), Januar 1st, 2017 <https://www.sem.admin.ch/sem/de/home/themen/aufenthalt/eu_efta/ausweis_b_eu_efta.html> (last visited on January 10th, 2017).

¹⁷⁵ Category 3, Intervention 7.

¹⁷⁶ Category 3, Intervention 8.1.

¹⁷⁷ Category 3, Intervention 8.5.

¹⁷⁸ Category 3, Intervention 8.2.

¹⁷⁹ Category 3, Intervention 8.7.

¹⁸⁰ Category 3, Intervention 8.3.

answer made in 2013, in which they took a stand against the unconditional free legal assistance. He regretted this change of mind by the *FDP*-faction.¹⁸¹

For **deputy Amstutz**, the free lawyers would be a new stimulus for choosing Switzerland as the final destination for asylum seekers. He expected an increase of appeals and higher costs. For him, this new practice represented another step in the organised irresponsibility in the field of asylum.¹⁸²

A stringent opinion can be observed in terms of the gratuitous legal consultation and protection. All nine parliamentarians were absolutely against this service for the asylum seekers. All members of the *SVP*-faction were concerned that asylum seekers would be treated better than Swiss citizens in the same situation. Furthermore, several parliamentarians declared the free legal assistance as another argument for choosing Switzerland as the final destination for refugees. This point is closely related to the category of Swiss asylum attractiveness. Within this category the politicians did not use the existing results about the testing phase for their argumentation. The same line of action as for the testing phase in Zurich could be observed in the reasoning of their argumentations.

One strong argument of the *SVP* was the inequality between the treatment of asylum seekers and Swiss citizens in a lawsuit. This argument was used several times and they stated their lack of understanding for that practice. Finally, we can say that the argument of the free legal assistance was the most-mentioned argument against the revision and that the results published in the reports of the testing phase had no positive impact in favour of the free legal assistance, as well the complete revision itself.

3.1.4. Schengen/Dublin Treaty

The qualitative content analysis of the selected material found nine interventions with reference to Schengen/Dublin treaty made by seven parliamentarians of the *SVP*-faction.

Deputy Minder stated that the duration of asylum proceeding increased overall in the last years. Even "Nichteintretensfälle" according to Dublin require on average 67 days, although the computer system EURODAC (European Dactyloscopy) should recognize if an asylum seekers already made an asylum application in another country within seconds.¹⁸³

¹⁸¹ Category 3, Intervention 8.4.

¹⁸² Category 3, Intervention 9.

¹⁸³ Category 4, Intervention 1.1.

Furthermore, he mentioned that refugees from safe countries and the Dublin cases are responsible for 60% of all asylum applications in Switzerland. For these applications, a decision can be made quickly and therefore no federal asylum centres need to be built.¹⁸⁴

Deputy Föhn talked about the deadlines of the first-instance proceedings. He is very pleased about the fact that the SFC fixed the deadline to transmit decisions of Dublin-proceedings within three days to the asylum seeker. The majority was for five days, deputy Föhn was for four days and now the SFC fixed three days.¹⁸⁵

According to **deputy Fehr**, the Dublin system is almost dead. In 2015, Switzerland should have sent back 15,000 people while in the end only 2.600 could be sent back and Switzerland even received 4,000 counter-applications.¹⁸⁶ Deputy Fehr also complained about the deadlines for first-instance proceedings, which are regulated in paragraph 1 for Dublin-proceedings. His concern is about paragraph 3 of the same articles, which provides for a possible extension of the deadline due to solid reasons. In his opinion, this will lead to a prolongation of the proceedings because solid reasons can always be found.¹⁸⁷ According to him, Dublin-proceedings and accelerated proceedings are regulated clearly for the first-instance decision, so there should be no need for creating exceptions with those "solid reasons".¹⁸⁸

Deputy Brand complained about the Dublin III regulation, which makes the enforcement situation of the cantons even more difficult. The Dublin III¹⁸⁹ regulation is working against the national effort to improve the general enforcement situation, as well as against the actual law revision.¹⁹⁰ He also pointed out that the 40% of Dublin cases mentioned in the message of SFC will decrease because of the collapse of the Schengen/Dublin treaty. This collapse had already been admitted by other countries, explained deputy Brand. Therefore, the Dublin cases are only of marginal importance and the consequence is an increase of beds needed, which have to be provided by the cantons.¹⁹¹

According to **Deputy Graber**, the geographical situation makes the Dublin Treaty inapplicable. Concerning future projects of the EU with a system of quotas according to which refugees should be distributed to different countries, he is of the opinion that Switzerland is already in possession of such an instrument (article 55 of the asylum law). Due to this article, in times of

¹⁸⁴ Category 4, Intervention 1.2.

¹⁸⁵ Category 4, Intervention 2.

¹⁸⁶ Category 4, Intervention 3.

¹⁸⁷ Category 4, Intervention 9.1.

¹⁸⁸ Category 4, Intervention 9.2.

¹⁸⁹ SEM, Asylum Field: New Dublin III Agreement become effective temporary on January 1st, December 18th 2013 <<http://www.ejpd.admin.ch/ejpd/de/home/aktuell/news/2013/2013-12-180.html>> (last visited on January 10th, 2017).

¹⁹⁰ Category 4, Intervention 4.2.

¹⁹¹ Category 4, Intervention 5.

unusual waves of refugees, Switzerland has the right to harden the conditions under which it grants the right of asylum.¹⁹²

Deputy Pantani was not satisfied with the Dublin treaty either. Especially the repatriations are not working in his opinion. The cantons are responsible for the repatriation of the Dublin cases.¹⁹³

Also for deputy **Rutz** the Dublin treaty is not working because several countries of the EU were not doing their homework. Many countries did not register asylum seekers, deputy Rutz explained, and he called for action regarding the implementation of the Dublin treaty in all participating countries.¹⁹⁴

Schengen/Dublin was also a category, which was often mentioned by the *SVP*-faction. None of the *SVP*-parliamentarians were satisfied with the treaty and several of them declared it as being dead. Due to the impossibility of repatriation enforcement under the Schengen/Dublin treaty, the *SVP* requested a revision. According to them, a revision of the national asylum law is useless as long as the European law is not working completely. That is why a stronger enforcement policy of repatriation is requested, especially for Dublin cases. However, the Schengen/Dublin treaty is not a concrete argument against the asylum revision and does not represent the reason behind the referendum against the revision. This category helps to understand the belief system of the *SVP*. The *SVP* especially advocates for a stricter legislation in asylum matters and a stricter enforcement of the repatriation of rejected asylum seekers. Furthermore, they are not convinced by European legislation and by the functioning of the Schengen/Dublin treaty.

3.1.5. Switzerland's Asylum Attractiveness

The qualitative content analysis of the selected material found eight interventions with ten references to Switzerland's asylum attractiveness made by six parliamentarians of the *SVP*-faction.

Deputy Minder is sure that in the future the number of asylum seekers in Switzerland will not diminish, because Switzerland is too attractive as a country. He underlined this statement with the fact that the number of asylum seekers and the involved costs have not declined. Rather, they almost exploded and would still increase.

¹⁹² Category 4, Intervention 6.

¹⁹³ Category 4, Intervention 7.

¹⁹⁴ Category 4, Intervention 8.

He also talked about the pull-factor that successful asylum seekers represent for their relatives in their home countries. He assumes that asylum seekers normally go to a country where they already have some compatriots.¹⁹⁵

Deputy Föhn found even clearer words about Switzerland's asylum attractiveness. The attractiveness of Switzerland as a destination country should be diminished.¹⁹⁶ He even made a plea to the audience not to upgrade the attractiveness of Switzerland further.¹⁹⁷ In his opinion this is where the authorities should start, in order to get a grip on the political asylum system in Switzerland. He also requested to perform the obligations of the Dublin-Agreement completely and to fight traffickers sustainably. He noted as well that the discussed asylum revision does not capture these points.¹⁹⁸

Deputy Fehr is worried about the message given to externals. The revision sounds like an invitation for asylum seekers in his opinion. That is why Switzerland will be even more attractive as an asylum country for refugees who are not refugees in reality.¹⁹⁹

He is also concerned about the enforcement of asylum decisions. If the enforcement of asylum decisions will not work, an acceleration of the procedure will not bring any additional value. On the contrary, it would make an application for asylum even more attractive.²⁰⁰

Deputy Brand requested to complement the submission of the revision with determinations about the abatement of traffickers and the reduction of attractiveness of Switzerland for all illegal migrants.²⁰¹ According to him, the deficits in the enforcement are responsible for the rise of Switzerland's attractiveness.²⁰²

Deputy Pantani emphasized that neither the goal of accelerating the procedure nor the goal to reduce Switzerland's asylum attractiveness have been accomplished with the submission of the revision.²⁰³

Deputy Rutz called to mind the original goal of the acceleration of the asylum procedure, which was not to increase capacities for asylum seekers, but to get back the control over the asylum field.²⁰⁴

Deputy Amaudruz requested to make closed installations out of the federal asylum centres. Asylum seekers would thus always need to justify their excursions and could only leave the

¹⁹⁵ Category 5, Intervention 1.

¹⁹⁶ Category 5, Intervention 2.

¹⁹⁷ Category 5, Intervention 3.

¹⁹⁸ Category 5, Intervention 2.

¹⁹⁹ Category 5, Intervention 4.1.

²⁰⁰ Category 5, Intervention 4.2.

²⁰¹ Category 5, Intervention 5.1.

²⁰² Category 5, Intervention 5.2.

²⁰³ Category 5, Intervention 6.

²⁰⁴ Category 5, Intervention 7.

centre with permission. This practice would lead to a reduction of the attractiveness of Switzerland as an asylum country and would guarantee the security of the municipalities.²⁰⁵

The analysis of this category revealed a serious doubt about Switzerland's asylum attractiveness by the member of *SVP*-faction. The planned revision of the asylum law was seen as increasing this attractiveness even further. Illegal migration is one of the main complaints by the *SVP*. They emphasized several times that asylum seekers which are threatened by life need to get asylum and economic migrants need to leave Switzerland directly. The members of the *SVP*-faction require a strict distinction between refugees and economic migrants and a limitation of incentives for choosing Switzerland as the target country for asylum seekers.

The argument of the asylum attractiveness of Switzerland is one of the key arguments to catch the attention of the voters and of colleagues in parliament. With faster asylum procedures, unjustified asylum applications can be recognized faster and these asylum seekers will need to leave Switzerland faster. Here, the parliamentarians of the *SVP* are not making a link to the topic of the ongoing debate in parliament. Their main focus of attention lies on the enforcement of asylum decisions and not on the acceleration of the procedures. The reduction of the attractiveness of Switzerland can be seen as a possible solution envisaged by the *SVP* to solve all problems in the asylum field.

3.1.6. Planning Permit Procedure

The qualitative content analysis of the selected material found five interventions with seven references to the planning permit procedure made by four parliamentarians of the *SVP*-faction. **Deputy Fehr** called the planning permit procedure an "expropriation procedure". The authority should not be able to expropriate municipalities and privates for building asylum centers, explained Fehr. The authorities could explain the requests to the people, but they should not be able to expropriate them.²⁰⁶

For **deputy Brand**, the planning permit procedure is a restriction of the property right and a restriction of democratic rights. Deputy Brand requested the deletion of article 6a of the asylum law, which contains the planning permit procedure. According to him, a planning permit procedure is a declaration of bankruptcy and a capitulation regarding the asylum problem.²⁰⁷ A planning permit procedure is so far provided for important areas and for the pursuit of superior, political goals of the state (*e.g.* construction of national streets, or the energy supply), said deputy

²⁰⁵ Category 5, Intervention 8.

²⁰⁶ Category 6, Intervention 1.

²⁰⁷ Category 6, Intervention 2.

Brand. The asylum field is not a part of these areas or goals.²⁰⁸ Furthermore, for deputy Brand a planning permit procedure is an intervention into the property right of private persons and municipalities as well as a sign of misunderstanding between the partners. The testing phase in Zurich was the proof that a planning permit procedure is not necessary.²⁰⁹ He mentioned that people were already suspicious about the use of military accommodation for asylum matters, which was the theme of asylum law revision 10.052. According to this experience, deputy Brand is expecting high tension among the population concerning the planning permit procedures. Deputy Brand is as well concerned about the reaction of the people concerning the planning permit procedure.²¹⁰

Deputy Rutz wants to have fair and transparent procedures in the asylum field in order to satisfy the Swiss asylum tradition and to get the full support of the people. He is against the planning permit procedure and expropriation measures. According to deputy Rutz, a high level of transparency, co-determination and cooperation of the municipality and the citizens are of central interest. A planning permit procedure would menace these interests. Therefore, he supports the proposal of the minority Brand concerning the deletion of article 6a of the asylum law.²¹¹

According to **Deputy Amstutz**, citizens, municipalities and cantons will be oppressed by the planning permit procedure and the expropriation possibilities. He gave an example of a possible planning permit procedure and highlighted that in every step of the procedure the EJPD is responsible for the decision. Therefore, the legitimacy is not granted. That is how totalitarian states function, but not Switzerland, explained deputy Amstutz. As the president of the *SVP*-faction he also announced in this last session of the NC before the final vote that the *SVP* is going to request the referendum against the revision.²¹²

For the planning permit procedure, a clear conclusion can be made. All parliamentarians of the *SVP* were completely against the planning permit procedure. They feared a restriction of the property rights and mistrust of the population regarding the asylum policy. Deputy Amstutz was talking about practices of totalitarian states in order to underline his discontent about the planning permit procedure. After a rough criticism of the planning permit procedure, deputy

²⁰⁸ Category 6, Intervention 3.1.

²⁰⁹ Category 6, Intervention 3.2.

²¹⁰ Category 6, Intervention 3.3.

²¹¹ Category 6, Intervention 4.

²¹² Category 6, Intervention 5.

Amstutz announced in the final debate of the national council the referendum of the *SVP* against the revision, even before the official vote.²¹³

3.2. Overall Evaluation

After the detailed analysis of the different categories, the results will be considered in the light of our theory and the corresponding hypotheses. According to our first hypothesis, an external event such as the European migrant crisis could not lead to a policy change of the *SVP*. The *SVP* insisted on their political position in the asylum field as well as in the question about Europe. The members of the *SVP* faction noticed the ongoing media coverage about the asylum situation in Europe during the time of the debate and before. Nevertheless, they did not change the opinion about the asylum law revision. Therefore, our first hypothesis is being confirmed by our analysis. The theory of the ACF said that an external event can lead to a change in the coalition. An external event is a necessary but not a sufficient condition for such an occurrence. The ACF explained as well that a policy change due to an external event can even affect a policy core belief of a coalition. A radical change in the socio-economic conditions or in the public opinion can lead to a change in a policy core belief of a coalition. Our analysis stated that this was not the case with *SVP*'s position towards the asylum law revision and the European Migrant crisis. Therefore, the hypothesis of the ACF was not confirmed in our case. In any case the ACF said that an external shock is a necessary, but not a sufficient condition for a policy change. Probably the effect of the European migrant crisis was not heavy enough to achieve a change in a policy core belief of an actor in the subsystem. Another possible explanation is the proposed time span of ten years by the ACF. The ACF proposes ten years of observation for a probable policy change. In our case only a bit more than one and a half years have been observed from the beginning of the European migrant crisis until the end of the debate in the Swiss parliament. It might be possible that an ongoing media coverage about the crucial destiny of asylum seekers could lead to a policy change of the *SVP* after a longer period. This could be a topic of further research.

Our second hypothesis concerned the policy-oriented learning due to the *ACF*. The *ACF* theory presumes that policy-oriented learning is more likely to be successful with problems for which accepted quantitative indicators of success are available than with problems for which the indicators of success are more likely qualitative and of subjective character. In our example of the testing phase in Zurich, five evaluation reports were available and quantitative indicators as well. The members of the *SVP* were not interested in those quantitative indicators of the

²¹³ IBID.

evaluation reports of the testing phase. They did not accept the scientific results and even said that numbers could easily be manipulated. The theory says as well that policy-oriented learning is more successful when it concerns secondary aspects of a coalition's own belief system and secondary aspects or core beliefs of the other coalition's belief system. As we have already established above, the strict position about the asylum policy is a deep core belief of the *SVP*'s belief system. Therefore, a change into the contra referendum coalition by the *SVP*, meaning an acceptance of the revised law, did not happen. The external event and the policy-oriented learning were not strong enough to influence the deep core belief of the *SVP*. The behaviour of the *SVP*-faction was according to the ACF theory. In the moment when policy-oriented learning is confronted with deep core beliefs or policy core beliefs, it is very possible that actors of the coalition will reject the new information on the policy in question. For our case the new information were the evaluation reports of the testing centre in Zurich. The behaviour of *SVP*'s parliamentarians was exactly according to the policy-oriented learning theory. They rejected quantitative indicators of success completely, because a clash between their policy core beliefs happened. In order to protect their belief system they rejected every new information coming from the evaluation reports. Even the members of the *SVP*-faction who visited the testing centre were not convinced about the operation in Zurich. They still did not believe the numbers of the reports. Here I have to mention, that at the moment of the debate in parliament only intermediate evaluation reports of the testing phase were available. The final reports have been published in November and December 2015. Maybe the position of the *SVP* would have been changed with final reports about the testing phase Zurich. I am assuming that this would not have been the case. The collision with *SVP*'s policy core belief was anyway too heavy.

This paper found four arguments for the requested referendum of the *SVP*. The free legal assistance to the asylum seekers, the malfunctioning and the poor execution of the Dublin regulation, the wish to reduce the attractiveness of Switzerland as a target country and the planning permit procedures. The attractiveness point is closely joined with the free legal assistance. Also they argued for a more severe execution of the expropriations. After all, I am assuming that *SVP* wanted to strengthen their position in the asylum policy and therefore they requested the referendum, all this having in mind the several arguments against the asylum revision. Despite all the facts in favour of the accelerated asylum procedure the *SVP* wanted to defend their policy core beliefs and did not allow a policy change in the asylum field.

V. Discussion and Outlook

The question about how political parties take into account the existence of scientifically proven findings is more actual than ever. It will be a major challenge for the political landscape in upcoming political votes and elections all over world. The so called phenomena of post-truth politics is more present than ever. Feelings count more than facts and statistics. Factual rebuttals in such political debates are almost impossible.²¹⁴ The behaviour of the *SVP* members towards the results and evaluation reports of the testing phase in Zurich could be seen as an example of post-truth politics. The case of the *FDP* showed that a policy change through policy-oriented learning is nevertheless possible. It was not the aim of this paper to know the reasons why the *FDP* supported the asylum law revision, but it was interesting to see that they changed their mind about the free legal assistance practice²¹⁵ because of the results of the testing phase. Knowing that a free market with just a needed minimum of state intervention is a core policy belief of the *FDP*'s programme, it is quite surprising that they accepted free legal assistance. A free legal assistance for every asylum seeker regardless of their economic status is not corresponding with their policy core belief of a free market. On the other hand, the policy in question is not a part of the policy core belief of the *FDP*. Therefore, their change of mind concerning the asylum law revision is corresponding with the ACF theory. Secondary aspects are more easily influenced by policy-oriented learning. The exact reasons for the *FDP*'s position in the asylum law revision should be the topic of a further research paper. However, I suggest to continue with the practice of testing phases for new laws or law revisions. Although I suggest to finish the testing phases always before the debates in parliament in order to have final reports instead of intermediate reports available. The weight of the arguments will increase once again and can lead probably to a change in a policy core belief of a coalition.

The impact of the European migrant crisis on the policy core belief system of the *SVP* should be observed in the coming years. Having in mind the time span of 10 years of observation proposed by the ACF theory, a change of mind might happen when the ongoing media coverage continues the same way.

It was also interesting to see that the *SVP*-faction decided not to launch an electoral campaign for the referendum. They renounced to pay for election posters in the public paid space. They explained their behaviour that they want to save the money for the upcoming election

²¹⁴ KARL-HEINZ OTT, "Post-faktisch" - Die Erklärung eines Schimpfwortes, December 9th 2016, Neue Zürcher Zeitung <<http://www.nzz.ch/feuilleton/postfaktische-zeiten-der-tanz-um-die-fakten-ld.133642>> (last visited on January 10th, 2017).

²¹⁵ Category 3, Intervention 8.4.

campaigns about the EU question.²¹⁶ This could be further evidence for the assumption made under chapter IV., 3.2. that the *SVP* requested the referendum just in order to strengthen their position in the asylum field, thus to push them in the focus of the media. 2016 was an election year in several cantons and municipalities in different parts of Switzerland, therefore the requested referendum and connected media presence might have been considered useful for the election battle of the *SVP*. In times of nonstop political campaigning on Twitter and Facebook, this might be just another example of the seemingly contemporary credo: there is no such thing as bad publicity.

²¹⁶ *SVP*: Verzicht auf Wahlkampf.

Bibliography

Way of citation:

In the absence of any other indication, the following references will be cited with the family name of the author(s) as well as the page number. If necessary (e.g. two different books of the same author), a distinguishing keyword is added.

- BANDELOW NIELS C. Politisches Lernen: Begriffe und Ansätze im Vergleich, in: Schubert Klaus/Bandelow Niels C. (ed.), *Lehrbuch der Politikfeldanalyse 2.0.*, Munich 2009, pp. 313-346 (cited as: BANDELOW, VERGLEICH, p. ...)
- BANDELOW NIELS C. Policy Lernen und politische Veränderungen, in: Schubert Klaus/Bandelow Niels C. (ed.), *Lehrbuch der Politikfeldanalyse*, Munich 2003, pp. 289-331 (cited as: BANDELOW, VERÄNDERUNGEN, p. ...)
- BANDELOW NIELS C. Lernende Politik: Advocacy-Koalitionen und politischer Wandel am Beispiel der Gentechnologiepolitik, Berlin 1999 (cited as: BANDELOW, WANDEL, p. ...)
- EASTON DAVID A System Analysis of Political Life, New York 1965
- JEGEN MAYA Energiepolitische Vernetzung in der Schweiz : Analyse der Kooperationsnetzwerke und Ideensysteme der energiepolitischen Entscheidungsträger, Basel 2003
- JORDAN ANDREW/GREENAWAY JOHN Shifting Agendas, Changing Regulatory Structures and the ‘New’ Politics of Environmental Pollution: British Coastal Water Policy, 1955–1995, in: *Public administration* 76/4 (1998), pp. 669-694

- LASSWELL HAROLD D. The Policy Orientation, in: Lasswell Harold D./Lerner Daniel, *The Policy Sciences*, Stanford 1951, pp. 13-14
- MAYRING PHILIPP Qualitative Inhaltsanalyse: Grundlagen und Techniken, 11th edition, Weinheim 2010
- OLSON RICHARD STUART/OLSON ROBERT A./GAWRONSKI VINCENT T. Some Buildings Just Can't Dance : Politics, Life Safety, and Disaster, Greenwich (Connecticut) 1999
- SABATIER PAUL A. The Advocacy Coalition Framework: Revisions and Relevance for Europe, in: *Journal of European Public Policy* 5/1 (1998), pp. 98-130 (cited as: SABATIER, RELEVANCE, p. ...)
- SABATIER PAUL A. An Advocacy Coalition Framework of Policy Change and the Role of Policy-Oriented Learning Therein, in: *Policy sciences* 21/2-3 (1988), pp. 129-168 (cited as: SABATIER, ROLE, p. ...)
- SABATIER PAUL A. Knowledge, Policy-Oriented Learning, and Policy Change, in: *Science communications* 8/4 (1987), pp. 649-672 (cited as: SABATIER, KNOWLEDGE, p. ...)
- SABATIER PAUL A./JENKINS-SMITH HANK C. The Advocacy Coalition Framework: An Assessment, in: Sabatier Paul A. (ed.), *Theories of the Policy Process*, Boulder (Colorado) 1999, pp. 188 *et seqq.* (cited as: SABATIER/JENKINS-SMITH, ASSESSMENT, p. ...)
- SABATIER PAUL A./JENKINS-SMITH HANK C. (ED.) Policy Change and Learning: An Advocacy Coalition Approach, Boulder (Colorado) 1993 (cited as: SABATIER/JENKINS-SMITH, LEARNING, p. ...)

- SABATIER PAUL A./WEIBLE CHRISTOPHER M. The Advocacy Coalition Framework: Innovations and Clarifications, in: Sabatier Paul A. (ed.): *Theories of the Policy Process*, 2nd edition, Boulder (Colorado) 2007, pp. 189-220
- SATO HAJIME The Advocacy Coalition Framework and the Policy Process Analysis: The Case of Smoking Control in Japan, in: *Policy Studies Journal* 27/1 (1999), pp. 28-44
- SCHLAGER EDELLA Policy Making and Collective Action: Defining Coalitions Within the Advocacy Coalition Framework, in: *Policy Sciences* 28 (1995), pp. 243–70
- SCHNEIDER VOLKER/JANNING FRANK Politikfeldanalyse: Akteure, Diskurse und Netzwerke in der öffentlichen Politik, Wiesbaden 2006
- WEIBLE CHRISTOPHER M. Beliefs and Perceived Influence in a Natural Resource Conflict: An Advocacy Coalition Approach to Policy Networks, in: *Political Research Quarterly* 58/3 (2005), pp. 461-475
- WEIBLE CHRISTOPHER M./SABATIER PAUL A./JENKINS-SMITH HANK C./NOHRSTEDT DANIEL/HENRY ADAM DOUGLAS/DE LEON PETER A Quarter Century of the Advocacy Coalition Framework: An Introduction to the Special Issue, in: *Policy Studies Journal* 39/3 (2011), pp. 349-360 (cited as: WEIBLE ET AL., SPECIAL, p. ...)
- WEIBLE CHRISTOPHER M./SABATIER PAUL A./MCQUEEN KELLY Themes and Variations: Taking Stock of the Advocacy Coalition Framework, in: *Policy Studies Journal* 37/1 (2009), pp. 121-140 (cited as: WEIBLE ET AL., VARIATIONS, p. ...)

Materials

Asylum Law (AL) with modifications of September 25th 2015.

Message of the Swiss Federal Council on the modification of the asylum law (restructuration of the asylum field) of September 3rd, 2014, BBl 2014 7991 *et seqq.* (cited: SFC 2014: Modification of the Asylum Law, p.).

Message of the Swiss Federal Council on the revision of the asylum law of May 26th, BBl 2010 4445 *et seqq.* (cited: SFC 2010: Revision of the Asylum Law, p. ...).

Official Bulletin of the Federal Assembly, 14.063, Asylum Law, Restructuration of the Asylum Field, CoS: June 15th, 2015, p. 534-564. NS: September 9th 2015, p. 1382-1448. CoS, September 22th, 2015, p. 941-943. NS: September 25th, 2015, p. 1911-1913.

Internet Sources

BBC, Migrant Crisis: Migration to Europe explained in seven charts, BBC Online March 4th, 2016, <<http://www.bbc.com/news/world-europe-34131911>> (last visited on January 10th, 2017). (cited: BBC: Migrant Crisis)

CHRISTIAN BRÖNNIMANN, Die wichtigsten Fragen und Antworten zur Asylgesetz-Revision, Tagesanzeiger April 16th, 2015 <<http://www.tagesanzeiger.ch/schweiz/standard/Die-wichtigsten-Fragen-und-Antworten-zur-AsylgesetzRevision/story/14305261>> (last visited January 10th, 2017). (cited: Tagesanzeiger: Die wichtigsten Fragen und Antworten)

EGGER, DREHER & PARTNER, Evaluation Testing Operation (Short Version): Mandate 2, 11th December 2014, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber2-d.pdf>> (last visited on January 10th, 2017). (Egger, Dreher & Partner: Evaluation Testing Operation, p. ...)

EJPD AND EDA/EVD Integration Office, Schengen/Dublin kurz erklärt, second edition, May 2011, <https://www.eda.admin.ch/dam/eda/de/documents/publications/EuropaeischeAngelegenheiten/Schengen_de.pdf> (last visited on January 10th, 2017). (cited: Integration Office: Schengen Dublin kurz erklärt, p. ...)

EUROSTAT, Asylum Quarterly Report <http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_quarterly_report> (last visited on January 8th, 2017).

KARL-HEINZ OTT, "Post-faktisch" - Die Erklärung eines Schimpfwortes, December 9th 2016, Neue Zürcher Zeitung <<http://www.nzz.ch/feuilleton/postfaktische-zeiten-der-tanz-um-die-fakten-ld.133642>> (last visited on January 10th, 2017).

LORENZ HONEGGER, Verzichtet die SVP wegen der Milchkuh-Initiative auf eine Asylgesetz-Kampagne?, Aargauer Zeitung April 6th, 2015 <<http://www.aargauerzeitung.ch/schweiz/verzichtet-die-svp-wegen-der-milchkuh-initiative-auf-eine-asylgesetz-kampagne-130180901>> (last visited on January 10th, 2010). (cited: SVP: Verzicht auf Wahlkampf)

MCKINSEY&COMPANY, Evaluation Testing Operation: Mandate 1, February 2015 <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber1d.pdf>> (last visited on January 10th, 2010) (cited: McKinsey&Company: Evaluation Testing Operation p. ...).

PHILIPP HUFSCHMID, Schweiz übernimmt 1500 Flüchtlinge, Berner Zeitung September 19th, 2015 <<http://www.bernerzeitung.ch/schweiz/standard/schweiz-uebernimmt-1500-fluechtlinge/story/10438691>> (last visited on January 10th, 2010).

SCHWEIZERISCHE FLÜCHTLINGSHILFE, Das Asylverfahren, <<https://www.fluechtlingshilfe.ch/asylrecht/das-asylverfahren.html>> (last visited on January 10th, 2010).

SCHWEIZERISCHES KOMPETENZTENTRUM FÜR MENSCHENRECHTE (SKMR), Evaluation Testing Operation: Mandate 4, December 2014 <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2015/2015-02-16/eval-zwber4-d.pdf>> (last visited on January 10th, 2010). (cited: SKMR: Evaluation Testing Operation p. ...).

SEM, Common Declaration of the Asylum Conference of January 21th 2013, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2013/2013-01-21/erklaerung-d.pdf>> (last visited on January 10th, 2010). (cited: SEM: Asylum Conference 2013).

SEM, Common Declaration of the Asylum Conference of March 28th 2014, <<https://www.sem.admin.ch/dam/data/sem/aktuell/news/2014/2014-03-28/erklaerung-d.pdf>> (last visited on January 10th, 2010). (cited: SEM: Asylum Conference 2014).

SEM, Evaluation Testing Operation, Summary of the Results, February, 2015, <<https://www.sem.admin.ch/dam/data/sem/asyl/beschleunigung/testbetrieb/ber-sem->

ergebnisse-eval-testbetrieb-d.pdf> (last visited on January 10th, 2017). (cited: SEM: Evaluation Testing Operation, p. ...).

SEM, Parameters of the Restructuration of Asylum Policy Concept, November 21th 2012 <<https://www.sem.admin.ch/dam/data/migration/rechtsgrundlagen/gesetzgebung/asylg-aug/ersatz-nee/eckwerte-neustruktur-asyl-d.pdf>> (last visited on January 10th, 2010). (cited: SEM: Parameters of the Restructuration of Asylum Policy Concept p. ...).

SEM, Permit B (EU/EFTA), Januar 1th 2017 <https://www.sem.admin.ch/sem/de/home/themen/aufenthalt/eu_efta/ausweis_b_eu_efta.html> (last visited on January 10th, 2017).

SEM, Schengen/Dublin, 5th June 2015, <<https://www.sem.admin.ch/sem/de/home/internationales/internat-zusarbeit/europa-migpolitik/schengen-dublin.html>> (last visited on January 8th, 2017). (cited: SEM: Schengen/Dublin, p. ...).

SIMON GEMPERLI, Asylgesetzrevision: Ein bizarres Referendum, Neue Züricher Zeitung June 6th, 2015 <<http://www.nzz.ch/schweiz/abstimmungen/asylgesetzrevision-ein-bizarres-referendum-ld.86922>> (last visited on January 10th, 2010).

STATISTA, Verteilungsschlüssel von Flüchtlingen auf die Mitgliedsländer der Europäischen Union, Statista September 2015 <<https://de.statista.com/statistik/daten/studie/462899/umfrage/verteilungsschluessel-von-fluechtlingen-auf-die-mitgliedslaender-der-europaeischen-union/>> (last visited on January 10th, 2010).

SVP, SVP ergreift Referendum gegen das revidierte Asylgesetz – Nein zu Gratisanwälten für alle Asylbewerber, October 6th, 2015 <<https://www.svp.ch/aktuell/medienmitteilungen/svp-ergreift-referendum-gegen-das-revidierte-asylgesetz-nein-zu-gratisanwaelten-fuer-alle-asylbewerber/>> (last visited on January 10th, 2017). (cited: SVP - Nein zu Gratisanwälten).

WOLFRAM GÖLL, Schnelle Asylverfahren: Vorbild Schweiz?, Bayernkurier August 31st, 2015 <<https://www.bayernkurier.de/inland/5237-vorbild-schweiz>> (last visited on January 10th, 2010).

Appendix

Category System

Category 1: European Migration Crisis

Parliamentarian, Council, Page	Text
1. Minder Thomas, CoS - June 15 2015, 941	Mit Blick auf die <i>geo- und migrationspolitische Lage</i> befürchte ich also, dass wir mit dieser Asylgesetzrevision noch nicht das Ei des Kolumbus gefunden haben, obwohl sie so angekündigt wurde, und dass diese Revision schon bald von neuen Realitäten überrollt wird.
2. Fehr Hans, NC - Septembre 9 2015, 1384	Sie alle sind zeugen von <i>dramatischen Ereignissen</i> in letzter Zeit, in den letzten Tagen, und das <i>geht an niemandem spurlos vorbei</i> . Aber ich glaube, es geht gerade in einer solchen Zeit darum, die richtigen Massnahmen zu treffen und Lösungen zu finden. Und es tut mir leid: Diese Neustrukturierung des Asylbereichs ist keine Lösung, sie wird die Situation sogar verschlechtern, sie wird sogar eine kontraproduktive Wirkung haben.
3. Brand Heinz, NC - Septembre 9 2015, 1384	<i>Die Ereignisse</i> dieses Jahres, namentlich aber der letzten Monate und Wochen, zeigen mit aller Deutlichkeit, dass <i>bisher noch nie dagewesene Menschenströme in Richtung Europa unterwegs sind</i> . Bei aller Grosszügigkeit, bei aller Menschlichkeit ist es für die kleine Schweiz unrealistisch, alle Hoffnungen und Wünsche der Menschen, die hier in unserem Land ein besseres Leben suchen, zu erfüllen.
4. Brand Heinz, NC - Septembre 9 2015, 1388	<i>Die aktuellen Flüchtlingsströme</i> , verbunden mit all den <i>tragischen Ereignissen</i> der letzten Wochen und Monaten, müssen uns in der Asylpolitik zu einem Umdenken bringen. Die Aufnahmepolitik betreffend die zurzeit stattfindende Völkerwanderung nach Europa, in erster Linie die Schlepper bereichert, setzt eindeutig falsche Anreize und weckt falsche Hoffnungen. Je mehr Personen mittels Schleppern nach Europa kommen, desto mehr

Parliamentarian, Council, Page	Text
	werden folgen. <i>Die Dramen</i> werden mit einer grenzenlosen Aufnahmepolitik nicht aufhören, vielmehr wird sie die Situation erst recht anheizen. In der aktuellen Diskussion ist deshalb so wichtiger, dass klar unterschieden wird zwischen an Leib und Leben verfolgten Flüchtlingen nach der Genfer Konvention, Kriegsflüchtlingen und eben Wirtschaftsmigranten.
5. Graber Jean-Pierre, NC - Septembre 9 2015, 1396	Les conflits catastrophiques en Syrie et ailleurs provoquent de <i>grands flux migratoires</i> en direction de l'Europe. <i>De centaines de migrants, extorqués par des passeurs sans scrupules, sont morts</i> en tenant de rejoindre les rivages du nord de la Méditerranée. <i>Les drames</i> qui accompagnent <i>la poussée migratoire</i> vers notre continent suscitent de fortes émotions.
6. Pantani Roberta, NC - Septembre 9 2015, 1400	<i>Die aktuellen Flüchtlingsströme</i> und <i>die tragischen Ereignisse der letzten Wochen</i> müssen uns in der Asylpolitik endlich zum Umdenken bringen. Leider müssen wir uns auf Zustände wie diejenigen in Deutschland und Österreich vorbereiten. Die anderen Ländern haben das schon getan. Einige wollen das Schengen-Abkommen aufheben, andere die Kontrollen an den Grenzen wieder einführen. Das Dublin-Abkommen ist faktisch tot. Die aktuellen Strukturen sind durch die grosse Zahl der Menschen, die zu uns kommen, überlastet. Nicht alle von ihnen sind Flüchtlinge, die Schutz brauchen. In den letzten Tagen hat Deutschland beschlossen, Leuten, die aus Kosovo, Mazedonien und Albanien kommen, kein Asyl mehr zu gewähren. Man spricht von einem Drittel der Leute, die im letzten Jahr die im letzten Jahr ein Asylgesuch eingereicht haben.
7. Brand Heinz, NC - Septembre 9 2015, 1421	Ich möchte Sie daher dringend bitten, nicht zuletzt mit <i>Blick auf die grossen menschlichen Schicksale</i> , die hier

Parliamentarian, Council, Page	Text
	zur Diskussion stehen, beim Familiennachzug eine strenge Voraussetzung zu schaffen, damit nicht Personen unter einem falschen Titel in die Schweiz gelangen und nicht bei ihren Familienangehörigen landen, hier auf sich selbst gestellt sind und ein Auskommen suchen müssen, was sie oft in Isolation, in Depression, aber oft auch in Armut bringt.

Category 2: Testing Phase in Zurich

Parliamentarian, Council, Site	Text
1.2 Minder Thomas, CoS - June 15 2015, 540	Beim eröffnen von Zentren sind wir aber auf die Bevölkerung angewiesen. Der Chef des SEM sieht die Lösung für die Neustrukturierung in einer Zentralisierung aller räumlichen Strukturen. Dass der <i>Testbetrieb in Zürich</i> genau dieser Vorgabe, ja sogar der Hauptzielsetzung nicht entspricht, ist für mich nicht nachvollziehbar. Die Asylbewerber müssen dauernd mit einem Shuttlebus von der Unterkunft ins Verfahrenszentrum chauffiert werden.
1.2 Minder Thomas, CoS - June 15 2015, 540	In der Wirtschaft würde man einem solchen <i>Testzentrum</i> , einem solchen <i>Testmarkt</i> , nie und nimmer grünes Licht erteilen. Dieser <i>Testbetrieb in Zürich</i> findet also nicht im Massstab eins zu eins statt. Lassen sie sich also von positiven Zahlen in diesem <i>Züricher Testzentrum</i> nicht blenden! Es ist logisch, dass diese Zahlen besser aussehen, wenn man den Asylsuchenden 2000 Franken Rückkehrhilfe anbietet statt wie bisher 500 Franken.
2. Föhn Peter, CoS - June 15 2015, 541	Neu soll jedem Asylsuchenden ab dem ersten Tag ein unentgeltlicher Rechtsbeistand zur Seite gestellt werden. Das kann doch nicht sein! Man hat jetzt schon <i>Erfahrungen</i> gesammelt. Aber wenn man ein Resultat will, kann das in der <i>Testphase</i> wunderbar beeinflusst werden. Ob dies aber immer so positiv bleiben wird, bezweifle ich.

Parliamentarian, Council, Site	Text
3. Minder Thomas, CoS - June 15 2015, 550	Wir haben erfahren, dass das getaktete Verfahren im <i>Testzentrum in Zürich</i> nicht eingehalten werden konnte, weil eritreisch Dolmetscher fehlten. Wenn wir eritreische Familien auf sechs Bundeszentren verteilen, haben wir noch grössere Probleme als dann, wenn die Betreuung all dieser Familien an ein und demselben Ort geschieht.
4.1 Hösli Werner, CoS - June 15 2015, 560	Wir von der Subkommission 4 der ständerätlichen Finanzkommission haben im Februar dieses Jahr den <i>Testbetrieb in Zürich</i> besucht und uns vor Ort über die Erkenntnisse und Erfahrungen informieren lassen. Ich meine festgestellt zu haben, dass es kein Larifari-Betrieb ist, die Verfahren beschleunigt werden und trotzdem die gewünschte Rechtssicherheit mit entsprechendem Vertrauen in das Verfahren besteht. Durch die Tatsache, dass die Rechtsvertretung zum Entwurf eines ablehnenden Asylentscheides nochmals Stellung nehmen kann, ist das erstinstanzliche Verfahren sehr transparent und asylsuchendenfreundlich aufgebaut. Deshalb hat alsdann der erstinstanzliche Entscheid hohe Akzeptanz und ist rechtlich sehr fundiert.
4.2 Hösli Werner, CoS - June 15 2015 -560	Auch das Bundesverwaltungsgericht steht dem Ansinnen des Bundesrates ablehnenden gegenüber. Man befürchte, wie in den Niederlanden, einer Weiterzug von 90 Prozent der Entscheide. Das ist eine nicht unwahrscheinliche Folgerung, wenn sogar eigene Entscheide des Bundes mit Bundesgeldern angefochten werden können. Der <i>Testbetrieb</i> hat dies noch nicht bestätigt. Aber es war auch ein <i>reduzierter Testbetrieb</i> , nicht mit der ganzen Breite des Gesuchsspektrums, und die Erfahrungen sind noch sehr kurzfristig.
5. Föhn Peter, CoS - June 15 2015, 560	<i>Zahlen</i> kann man immer zurechtbiegen, das heisst nur diejenigen Vergleiche einbringen und heranziehen, welche dann auch positiv und sehr schön daherkommen, wie bei der

Parliamentarian, Council, Site	Text
	Eintretensdebatte. Wie sehen die <i>Zahlen</i> aber allenfalls morgen aus?
6. Fehr Hans, NC - Septembre 9 2015, 1384	Im <i>Testzentrum in Zürich</i> - ich war bei einem Besuch dabei - wird einfach eine doppelt so hohe Rückkehrhilfe gewährt wie normal.
7. Brand Heinz, NC - Septembre 9 2015, 1389	<p>Ich habe sehr wohl Kenntnis von diesen Rechtsberatungen, ich habe das auch mit verfolgt. Ich bin einfach der Meinung, dass es nicht notwendig ist. Schauen Sie, es gibt kein anderes Rechtsgebiet im schweizerischen Recht, in dem man Verfügungsadressaten eine unentgeltliche Rechtsberatung bietet, damit der Empfänger der Verfügung weiss, dass das, was er bekommt, auch tatsächlich rechtens ist.</p> <p>[Antwort auf Doris Fiala auf die Frage, ob Herr Brand bei seinem Besuch im <i>Testzentrum</i> nicht mitbekommen habe, dass dank der kostenlose Rechtsberatung die Verfahren viel schneller abgewickelt werden und im Grunde die Kosten sich eben nicht nur decken, sondern um ein Vielfaches wieder einspielen.]</p>
8. Brand Heinz, NC - Septembre 9 2015, 1437	<p>Die Erfahrung zeigen ja gerade auch beim <i>Testzentrum in Zürich</i>, dass es anders auch geht, dass diese Ziele auch anderweitig erreicht werden können.</p> <p>[bzgl. Plangenehmigungsverfahren. Das Testzentrum in Zürich wurde ohne Plangenehmigungsverfahren erbaut]</p>

Category 3: gratuitous legal consultation and protection

Parliamentarian, Council, Site	Text
1. Föhn Peter, CoS - June 15 2015, 541	<p>Einerseits geht es um die Behandlung von renitenten Asylsuchenden, welche die Sicherheit der Zentren stören. Aber andererseits geht es vor allem um die <i>unentgeltliche Rechtspflege</i>. Wenn es mir schlechtgeht, wird mir auch nicht automatisch ab sofort ein Beistand auf Bundeskosten zur Seite gestellt. Neu soll jedem Asylsuchenden ab dem ersten Tag ein <i>unentgeltlicher Rechtsbeistand</i> zur gestellt werden. Das kann doch nicht sein! Man hat jetzt schon Erfahrungen gesammelt. Aber wenn man ein Resultat will, kann das in der Testphase wunderbar beeinflusst werden. Ob dies aber immer so positiv bleiben wird, bezweifle ich. Auf die diesbezüglichen Minderheitsanträge werde ich in der Detailberatung zurückkommen.</p>
2.1 Hösli Werner, CoS - June 15 2015, 560	<p>Nun aber im Gesetz, wie es gemäss Fassung des Bundesrates und der Kommissionsmehrheit daherkommt, festzulegen, dass der Bund jenen, die gewillt sind, Beschwerde gegen diesen Entscheid zu führen, eine <i>Rechtsvertretung zur Beschwerdeerhebung zur Verfügung zu stellen</i> und dies alles gleich <i>auch noch zu bezahlen hat</i>, ist inakzeptabel. Stellen Sie sich einmal vor, Sie bekommen für einen privaten Bau von der zuständigen Staatsebene die Baubewilligung. Ihr Nachbar will nun dagegen Einsprache erheben, und Sie haben ihm einen Rechtsvertreter zur Verfügung zu stellen und diesen samt <i>allen damit zusammenhängenden Kosten gleich auch noch zu bezahlen</i>, nur damit Ihr Nachbar Ihr eigenes Vorhaben verzögern kann, weil er klare Gesetzesgrundlagen nicht akzeptieren will. Oder Sie sind Besitzer einer Wohnung und kündigen Ihrem Mieter ordnungs- und rechtmässig. Nun müssen Sie dem Mieter</p>

Parliamentarian, Council, Site	Text
	<p>einen Rechtsvertreter für seine Beschwerde gegen die Kündigung zur Verfügung stellen und diesen nebst <i>sämtlichen übrigen Kosten auch noch bezahlen</i>. Ich frage Sie: Würden Sie das machen? Sie müssen diese Frage nicht beantworten. Ich mache es für Sie alle hier im Saal: Sie würden sich zu Recht mit Händen und Füßen gegen ein solches Vorgehen wehren. Aber in diesem Asylgesetz wollen Sie nun eine noch weiter führende Regelung verankern. <i>Sie bezahlen sämtliche Kosten</i>, auch die dadurch steigenden Kosten der Gerichte, um das eigene Urteil anzufechten. Auch das Bundesverwaltungsgericht steht dem Ansinnen des Bundesrates ablehnend gegenüber. Man befürchtet, wie in den Niederlanden, einen Weiterzug von 90 Prozent der Entscheide.</p>
2.2 Hösli Werner, CoS - June 15 2015, 560	<p>Lassen Sie mich noch ein paar Worte zu Artikel 102h sagen. Hier habe ich die Ansicht, dass für die <i>unentgeltliche Rechtsvertretung</i> Antrag zu stellen ist. Der Bundesrat möchte die <i>Rechtsvertretung ohne entsprechenden Antrag zuteilen</i>. Asylbewerber müssen gemäss Bundesrat ausdrücklich auf die Rechtsvertretung verzichten, wenn sie diese nicht wollen. Das entbehrt jeglicher Usanz in unserem Land. Ausser für das Geborenwerden und das Sterben haben wir in unserem irdischen Schweizer Leben wohl für alles ein Gesuch zu stellen, Formulare auszufüllen, Anträge einzureichen. Asylbewerbern wird freimütig und grosszügig gleich zu Beginn mehr zugestanden als jedem Bewohner dieses Staates. Das kann bzw. darf es nicht sein.</p>
3.1 Föhn Peter, CoS - June 15 2015, 560	<p>Wir halten auf Gesetzesstufe unmissverständlich fest, dass ab Beginn der Vorbereitungsphase und für das weitere Asylverfahren jeder Person eine <i>Rechtsvertretung</i></p>

Parliamentarian, Council, Site	Text
	<p><i>zugeteilt wird</i> – mein Kollege Hösli hat es richtig gesagt – , sofern die asylsuchende Person, man höre und staune, nicht <i>ausdrücklich darauf verzichtet</i>. Wie dem Kanton Schwyz genügt auch mir die Verfassungsnorm. Anspruch auf unentgeltliche Rechtspflege hat man unter anderem, wenn das Begehren nicht aussichtslos erscheint. Hier im Asylgesetz bekommen alle Asylsuchenden <i>unentgeltliche Rechtsvertretung</i>, wenn sie nicht ausdrücklich darauf verzichten.</p>
3.2 Föhn Peter, CoS - June 15 2015, 561	<p>Wir Schweizer sind bestrebt, jeder Person immer alles und jedes zu bieten, das heisst Entgegenkommen, wo immer möglich. Hier beantrage ich, dass <i>unentgeltliche Rekursmöglichkeiten</i> mit allen möglichen Rechtsmitteln nur so weit wie unbedingt notwendig zu geben sind.</p>
3.3 Föhn Peter, CoS - June 15 2015, 561	<p>Wie schon gesagt, hat auch der Kanton Schwyz in der Vernehmlassung diese Artikel klar abgelehnt. Ich zitiere: «Gemäss Artikel 29 Absatz 3 der Bundesverfassung hat jede Person, die nicht über die erforderlichen Mittel verfügt, Anspruch auf <i>unentgeltliche Rechtspflege</i>, wenn ihr Rechtsbegehren nicht aussichtslos erscheint. Soweit es zur Wahrung ihrer Rechte notwendig ist, hat sie ausserdem Anspruch auf <i>unentgeltlichen Rechtsbeistand</i>. Diese Anspruchsvoraussetzungen haben auch im Asylverfahren zu gelten.» Ich bitte Sie, die Attraktivität der Schweiz nicht noch weiter zu erhöhen und auszubauen, sondern eher zurückzufahren.</p>
4. Minder Thomas, CoS - Septembre 22 2015.15, 941	<p>Diese Asylgesetzrevision ist eine der grössten der letzten Jahre; denken wir nur an die Bundeszentren, die Enteignungsmöglichkeit, die Kosten von 548 Millionen Franken, das getaktete Verfahren oder den <i>unentgeltlichen Rechtsschutz</i>.</p>
5.1 Fehr Hans, NC - Septembre 9 2015, 1384	<p>Kommt alle in die Schweiz; wir schaffen 6000 oder mehr neue Plätze; jeder von euch bekommt einen <i>Gratisanwalt</i>;</p>

Parliamentarian, Council, Site	Text
	wenn ihr kommt, könnt ihr lange oder praktisch für immer bleiben, und es wird für euch gesorgt. Das ist die Botschaft nach aussen, und sie gilt auch für die Schlepper.
5.2 Fehr Hans, NC - Septembre 9 2015, 1384	<i>Gratisanwalt</i> : Das kann man natürlich wortreich erklären. Aber in Holland, wo man ein ähnliches System hat, ergreifen über 90 Prozent der Asylbewerber dieses Rechtsmittel und machen Rekurs.
6.1 Brand Heinz, NC - Septembre 9 2015, 1389	Wenig überzeugend ist sodann auch – Kollege Fehr hat es bereits gesagt – die <i>Beistellung einer unentgeltlichen Rechtsvertretung</i> . Diese hat in Holland in der Zwischenzeit zu einer Beschwerdequote von über 90 Prozent geführt. Die Risiken der Übernahme <i>einer solchen Rechtsvertretung</i> sind beträchtlich. Die SVP lehnt deshalb die vorgeschlagene Beistellung einer unentgeltlichen Rechtsvertretung ab. Sie ist im Übrigen einerseits ein beispielloser Misstrauensbeweis gegenüber dem Staatssekretariat für Migration. Andererseits erhalten damit Asylsuchende im Schweizer Rechtssystem sogar mehr Rechte als Schweizer, was nicht hinnehmbar ist. Überdies werden damit auch Präjudizien für andere Rechtsbereiche geschaffen, was unbedingt zu verhindern ist.
6.2 Brand Heinz, NC - Septembre 9 2015, 1389	Schauen Sie, es gibt kein anderes Rechtsgebiet im schweizerischen Recht, in dem man jedem Verfügungsadressaten eine <i>unentgeltliche Rechtsberatung</i> bietet, damit der Empfänger der Verfügung weiss, dass das, was er bekommt, auch tatsächlich rechtens ist. Das ist einzigartig in der Schweiz und nach meinem Dafürhalten unnötig. Im Übrigen habe ich aufgrund langjähriger Erfahrungen die Gewissheit, dass das Staatssekretariat für Migration sorgfältig arbeitet und dass auch die Beordnung eines Rechtsanwaltes nicht vor Fehlentscheiden schützt. Denken Sie an diese zwei

Parliamentarian, Council, Site	Text
	<p>kürzlich bekanntgewordenen Fälle. Diese Personen waren beide anwaltlich vertreten, beide waren vor dem Bundesverwaltungsgericht, und trotzdem hat sich offenbar der Entscheid als unrichtig erwiesen.</p>
<p>7. Amaudruz Céline, NC - Septembre 9 2015, 1412</p>	<p>On veut nous faire croire qu'on veut accélérer les procédures tout en prévoyant <i>une assistance juridique gratuite</i>. Les avocats mettront toujours tout en oeuvre pour pousser leurs clients dans une procédure élargie. Tant et aussi longtemps que le nombre de possibilités de recours n'est pas réduit, il y a lieu de prolonger le délai à sept ans pour l'octroi d'une autorisation de séjour s'il s'agit d'un cas de rigueur. Aujourd'hui, une personne déboutée pourrait après cinq ans passer de la clandestinité au permis B. Ce délai de cinq ans sera facilement atteint notamment, comme je viens de le dire, si les possibilités de recours et les moyens de droit ne sont pas restreints et si l'on ne renonce pas au projet d'offrir des conseillers et représentants juridiques gratuits à tous les requérants d'asile.</p>
<p>8.1 Rutz Gregor, NC - Septembre 9 2015, 1438</p>	<p>Darum geht es auch bei meinem Minderheitsantrag auf Streichung der Artikel 102f bis 102m, auf Streichung dieser neuen Bestimmungen <i>zur unentgeltlichen Rechtspflege</i>; das ist ein Antrag für die Beibehaltung des bisherigen Rechts. Hier geht es um ganz zentrale Grundsätze unserer Rechtsordnung. Worum geht es denn bei der <i>unentgeltlichen Rechtspflege</i>? Die unentgeltliche Rechtspflege kennen wir in unserem Land seit über 130 Jahren. Hier geht es darum, die Rechtsgleichheit zu bewerkstelligen, zu gewährleisten. Denn wir sagen zu Recht: Voraussetzung für die Gewährleistung der Rechtsgleichheit ist, dass alle Menschen den gleichen Zugang zur Justiz haben, auch jene, welche die Mittel</p>

Parliamentarian, Council, Site	Text
	dafür nicht haben. Das ist der Grundsatz, auf dem diese unentgeltliche Rechtspflege aufbaut.
8.2 Rutz Gregor, NC - Septembre 9 2015, 1439	Dieses Recht gewährleistet auch die Europäische Menschenrechtskonvention in Artikel 6. Aber die EMRK stellt nur die Anforderung bezüglich zivilrechtlicher Angelegenheiten und strafrechtlicher Belange, während die Schweiz hier weiter geht und auch öffentliche Verfahren unter diesem Titel akzeptiert <i>und unentgeltlich</i> Rechtspflege ermöglicht.
8.3 Rutz Gregor, NC - Septembre 9 2015, 1439	Diese <i>unentgeltliche Rechtspflege</i> wird zugesprochen, wenn drei Bedingungen erfüllt sind: Es muss eine Bedürftigkeit vorliegen; das Verfahren, das vom Betreffenden angestrebt wird, darf nicht aussichtslos sein; und es muss eine Notwendigkeit der Verbeiständung gegeben sein. Diese drei Voraussetzungen müssen alle Personen, welche unentgeltliche Rechtspflege in Anspruch nehmen wollen, erfüllen. Das ist heute auch schon im Asylverfahren möglich, und es gilt für alle anderen Personen auch in anderen Verfahren. Ein bedingungsloser Anspruch auf <i>unentgeltliche Rechtspflege</i> wäre ein Novum in der schweizerischen Rechtsordnung, in einem schweizerischen Gesetz. Es ist falsch, wenn gesagt wird, dass darüber schon 2013 von der Bevölkerung entschieden worden ist. In der Asylgesetzrevision, über welche wir am 9. Juni 2013 abgestimmt haben, steht die unentgeltliche Rechtspflege, die bedingungslose Gewährleistung der unentgeltlichen Rechtspflege so nicht drin.
8.4 Rutz Gregor, NC - Septembre 9 2015, 1439	Ich staune auch etwas, wie hier unter den Parteien ein Gesinnungswandel stattgefunden hat, nachdem es hier um ganz zentrale Grundwerte geht. Ich habe eine Vernehmlassungsantwort der Freisinnig-Demokratischen Partei vom September 2013 entdeckt, wo eigentlich genau

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	<p>das drinsteht, was ich Ihnen heute erzählen möchte, dass nämlich das bestehende Recht reiche, um die Probleme im Asylwesen zu lösen, wenn es nur konsequent umgesetzt würde; das hätte unserem Nichteintretens- oder unserem Rückweisungsantrag entsprochen. Abgelehnt wird jeglicher weiterer Ausbau des <i>unentgeltlichen professionellen Rechtsschutzes</i>, weil der generelle Beizug von professionellen Rechtsvertretern nicht zu einer Vereinfachung und Beschleunigung des Verfahrens führe; das Gegenteil sei der Fall. Das meine ich auch. Ich bin froh, dass es die FDP so klar formuliert hat. Ich finde es aber etwas schade, dass Sie heute das Gegenteil davon erzählen.</p>
<p>8.5 Rutz Gregor, NC - Septembre 9 2015, 1439</p>	<p>Der andere Punkt ist viel gravierender: Die <i>unentgeltliche Rechtspflege</i> wurde geschaffen, um die Rechtsgleichheit gewährleisten zu können, damit alle Menschen in der Schweiz den gleichen Zugang zur Justiz haben. Darum gibt es auch diese Bedingungen. Denn es wäre nicht richtig, wenn jemand, der sehr vermögend ist, <i>gratis einen Rechtsbeistand</i> erhalten würde und jemand, der diese Mittel nicht hat, keinen solchen Beistand zugesprochen erhielte. Darum müssen die Bedingungen gegeben sein – ich habe sie genannt: Bedürftigkeit, das Verfahren darf nicht aussichtslos sein, und die Notwendigkeit der Verbeiständung muss gegeben sein. Wenn wir hier für eine bestimmte Kategorie von Leuten eine <i>bedingungslose unentgeltliche Rechtspflege</i> einführen, schaffen wir gerade das Gegenteil von dem, was dieses Institut will. Wir schaffen eine Rechtsungleichheit, und das ist falsch. Es ist ja heute schon möglich, eine unentgeltliche Rechtsverbeiständung zu kriegen, wenn man die Bedingungen dafür erfüllt.</p>

Parliamentarian, Council, Site	Text
8.6 Rutz Gregor, NC - Septembre 9 2015, 1439	Um dies noch mit einer Fachmeinung zu verdeutlichen: Die <i>unentgeltliche Rechtspflege</i> bezweckt nicht, sämtliche Prozesse, die ein Mittelloser vom Zaun bricht, mit Steuergeldern zu schützen. Erscheint das Begehren schon von Beginn an aufgrund einer ersten oberflächlichen Prüfung als aussichtslos, kann die <i>unentgeltliche Rechtspflege</i> verweigert werden.
8.7 Rutz Gregor, NC - Septembre 9 2015, 1439	Wir wollen die Rechtsordnung gewährleisten. Wer bedürftig ist, soll <i>unentgeltliche Rechtspflege</i> haben, aber hier mit einem ganzen Bataillon von Gratisanwälten aufzufahren verbessert nichts an den Verfahren; das wäre hier falsch, das schafft nur juristische Ungerechtigkeit.
8.8 Rutz Gregor, NC - Septembre 9 2015, 1440	Sie sagen, dass die Notwendigkeit der <i>unentgeltlichen Verbeiständung</i> geprüft werden müsse, gehen aber offenbar davon aus, dass sie in Asylverfahren generell gegeben ist. Nun ist es ja denkbar, dass sich auch Schweizer Bürger in ähnlichen Situationen befinden, in denen sie sehr verletztlich und in Grundrechten direkt tangiert sind. Ich denke etwa an Verfahren bezüglich fürsorgerischen Freiheitsentzugs oder an Verfahren mit Kindes- und Erwachsenenschutzbehörden. Da müssen die drei Bedingungen erfüllt sein, damit eine <i>unentgeltliche Verbeiständung</i> erlangt werden kann. Das ist doch eine Ungleichheit. Finden Sie das nicht?
9. Amstuz Adrian, NC - Septembre 25 2015, 1911	Statt die verantwortliche Bundespräsidentin über noch klarere gesetzliche Vorgaben zum sofortigen Handeln zu zwingen, statt sie zu zwingen, das zu tun, was sie heute schon tun könnte und auch tun müsste, installieren wir mit den <i>Gratisanwälten</i> neue Anreize, die Schweiz als Zielland zu wählen. Es wird Rekurse und hohe Kosten ohne Wirkung geben – eine weitere Stufe der organisierten Unverantwortlichkeit in diesem Bereich

Category 4: Schengen/Dublin Treaty

Parliamentarian, Council, Site	Text
1.1 Minder Thomas, CoS - June 15 2015, 540	<p>Die Behandlungsfrist über alle Gesuche hinweg ist in diesen vier Jahren durchschnittlich von 239 auf 411 Tage angestiegen, bei positiven Entscheiden von 336 auf 503 Tage und bei Fällen von vorläufiger Aufnahme von 461 auf sage und schreibe 600 Tage. Seit Jahren geht es bei der Länge der Behandlungsfristen nur in eine Richtung, nämlich nach oben. Sogar Nichteintretensfälle gemäss <i>Dublin</i> brauchen im Durchschnitt 67 Tage, obschon das Computersystem <i>Eurodac</i> bekanntlich innert Sekunden anzeigt, ob die Person bereits ein Asylgesuch in einem anderen <i>Dublin-Staat</i> eingereicht hat oder nicht.</p>
1.2 Minder Thomas, CoS - June 15 2015, 540	<p>Ich komme zum Schluss: Die Safe-Country- und die Flüchtlingsfälle gemäss <i>Dublin</i> machen in der Schweiz zirka 60 Prozent aller Asylgesuche aus. Für diese sehr schnell zuentscheidenden Gesuche braucht es keine Bundeszentren. Für einen Kriegsflüchtling, welcher mit sehr grosser Wahrscheinlichkeit ein Ja erhält, ist es irrelevant, ob er in einem Bundeszentrum oder in einem Gemeindezentrum ein Bett bekommt. Bei den restlichen 40 Prozent der Fälle, den sogenannten erweiterten Verfahren, ist es mehr als fraglich, ob die Bundeszentren eine Beschleunigung und eine Entlastung bringen. Warum? Weil diese erweiterten Verfahren so oder so auf die Kantone verteilt werden und dort Betten gebraucht werden. Zudem sind es gerade diese erweiterten Verfahren, welche mit den Beschwerden die ganze Verfahrensorganisation blockieren.</p>
2. Föhn Peter, CoS - June 15 2015, 556	<p>Hier geht es um die erstinstanzlichen Verfahrensfristen. In Absatz 1 ist die Eröffnung der Entscheide im <i>Dublin-Verfahren</i> angesprochen. Für einmal war der Bundesrat sehr sportlich unterwegs, was ich sehr schätze. Er hat</p>

Parliamentarian, Council, Site	Text
	<p>nämlich gesagt, dass Entscheide im <i>Dublin-Verfahren</i> innerhalb von drei Arbeitstagen zu eröffnen seien.</p> <p>Heute hat man gut sechs Tage; so ist es jetzt im Testzentrum. Die Mehrheit will auf fünf Tage gehen. Ich habe dann gesagt: «Nein, das ist eine zu starke Erweiterung; die Eröffnung kann innerhalb von vier Arbeitstagen geschehen.» Mir ist es recht, wenn es ein bisschen gelockert wird; aber man darf es nicht zu stark lockern.</p>
3. Fehr Hans, NS - Septembre 9 2015, 1384	Das <i>Dublin-System</i> ist praktisch tot. 2014 hätten wir gemäss <i>Dublin</i> 15 000 Leute zurückführen können. Wir konnten ganze 2600 zurückführen und hatten sogar 4000 Gegengesuche.
4.1 Brand Heinz, NS - Septembre 9 2015, 1385	Ob dies aber einmal der Fall ist, das ist aufgrund der jüngsten Entwicklung höchst zweifelhaft. Sofern es einen weitgehenden Wegfall der <i>Dublin-Fälle</i> und damit ein Ausbleiben der kostengünstigsten Fälle gibt, ist zweifelhaft, ob die angestellte Betriebsrechnung tatsächlich noch stimmt.
4.2 Brand Heinz, NS - Septembre 9 2015, 1385	Mit Inkrafttreten der <i>Dublin- III-Verordnung</i> Mitte Jahr wurde die Vollzugssituation der Kantone nochmals massiv erschwert. Eine derartige Gesetzgebung läuft den nationalen Bemühungen zur Verbesserung der allgemeinen Vollzugssituation und damit auch unserer aktuellen Gesetzesrevision diametral zuwider.
5. Brand Heinz, NS - Septembre 9 2015, 1389	Gemäss Botschaft geht man immer noch davon aus, dass 40 Prozent der Fälle im <i>Dublin-Verfahren</i> erledigt werden können und dass damit entsprechend weniger UnterkunftsKapazitäten benötigt werden. Es muss nach dem Scheitern der <i>Schengen/Dublin-Verträge</i> , welches mittlerweile zumindest im Ausland zugegeben wird, jedoch zur Kenntnis genommen werden, dass diese gemäss Botschaft massgebliche Fallkategorie

Parliamentarian, Council, Site	Text
	geschrumpft ist und nur noch marginale Bedeutung hat. Die Folgen sind ein zusätzlicher Bedarf an Unterkünften, die wohl mehrheitlich von den Kantonen bereitzustellen sind.
6. Graber Jean-Pierre, NS - Septembre 9 2015, 1396	La géographie des migrations rend <i>l'accord de Dublin</i> inapplicable. Pour essayer de résoudre ce grave problème, l'Union européenne tente d'imposer des quotas d'accueil à ses membres. Notre pays dispose d'un instrument juridique pour faire face avec pragmatisme à une pression migratoire de grande intensité, due à des conflits armés. Il s'agit de l'article 55 de l'actuelle loi sur l'asile, qui précise notamment que, confrontée à un afflux inhabituel de réfugiés, la Suisse leur accorde l'asile aussi longtemps que les circonstances le permettent, cela dans le cadre de ses possibilités mais aussi en se réservant le droit de régler de manière plus restrictive les conditions de l'octroi de l'asile
7. Pantani Roberta, NS - Septembre 9 2015, 1400	Con la parola magica «asilo» queste persone vengono automaticamente prese in consegna dalla Confederazione è indirizzate verso la procedura di asilo. Persino i casi Dublino, checché ne dicano stampa e giornali, presi in consegna da un centro di registrazione vengono dirottati direttamente all'unità speciale <i>Dublino</i> che si trova qui a Berna, da dove poi sono attribuiti a un cantone competente per l'esecuzione del rimpatrio, cosa che raramente avviene.
8. Rutz Gregor, NS - Septembre 9 2015, 1421	Wir wissen, dass zum Beispiel das <i>Dublin-Abkommen</i> – es wurde verschiedentlich angesprochen – nicht funktioniert, dass viele EU-Länder ihre Hausaufgaben nicht machen, dass Asylsuchende nicht registriert werden und dass hier grosser Handlungsbedarf besteht.
9.1 Fehr Hans, NS - Septembre 9 2015, 1438	Es geht um die Fristen in den erstinstanzlichen Verfahren. Diese werden geregelt in Absatz 1 für Dublin-Verfahren,

Parliamentarian, Council, Site	Text
	auch wenn <i>Dublin</i> praktisch tot ist, in Absatz 2 für beschleunigte Verfahren; dann kommt Absatz 3, der lautet: «Liegen triftige Gründe vor und ist absehbar, dass der Entscheid im Zentrum des Bundes getroffen werden kann, so können die Fristen nach den Absätzen 1 und 2 um einige Tage überschritten werden.»
9.2 Fehr Hans, NS - Septembre 9 2015, 1438	Die <i>Dublin-Verfahren</i> sind erstinstanzlich klar geregelt, die beschleunigten Verfahren sind erstinstanzlich klar geregelt, und jetzt kann man nicht wieder Ausnahmen schaffen mit diesen «triftigen» Gründen. Das Beschlossene soll nun gelten.

Category 5: Switzerland's Asylum Attractiveness

Parliamentarian, Council, Site	Text
1. Minder Thomas, CoS - June 15 2015, 539	Eine Tatsache ist, dass die Asylzahlen, die Dauer der Behandlung der Gesuche und die damit verbundenen Kosten in all den Jahren nicht gesunken sind, sondern im Gegenteil geradezu explodiert sind und ständig zunehmen. Sie werden auch in Zukunft nicht abnehmen, unser Land ist und bleibt <i>viel zu attraktiv</i> . Hinzu kommt, dass die schon Angekommenen eine Sogwirkung, also eine anziehende Wirkung, auf neue Bewerber haben. In der Regel gehen Asylsuchende dorthin, wo sich schon Landsleute befinden.
2. Föhn Peter, CoS - June 15 2015, 541	Aber um das Asylwesen in der Schweiz einigermaßen in den Griff zu bekommen, müsste man an ganz anderen Orten ansetzen: Die <i>Attraktivität</i> der Schweiz müsste vermindert, dem Dublin-Abkommen konsequent nachgekommen, das Schleppertum international nachhaltig verfolgt werden usw. Wir haben dazu schon einiges gehört. Aber heute geht es eben nicht um diese

Parliamentarian, Council, Site	Text
	Angelegenheiten. Die Zahlen zeigen heute ein erschreckendes Bild.
3. Föhn Peter, CoS - June 15 2015, 561	Ich bitte Sie, die <i>Attraktivität</i> der Schweiz nicht noch weiter zu erhöhen und auszubauen, sondern eher zurückzufahren. Das heisst für mich: danke für die Unterstützung des Minderheitsantrages!
4.1 Fehr Hans, NC - Septembre 9 2015, 1384	Das ist die Botschaft nach aussen, und sie gilt auch für die Schlepper. Die Schlepper werden sagen: «Schaut, die Schweiz will euch aufnehmen, sie schafft neue Strukturen, sie setzt in einer ersten Phase 550 Millionen Franken ein». Damit werden Sie die Schweiz als Asylland für jene, die gar keine Flüchtlinge sind, noch <i>attraktiver</i> machen.
4.2 Fehr Hans, NC - Septembre 9 2015, 1384	Dass eine Beschleunigung eintritt, wie da angepriesen wird, muss man erst noch beweisen. Wenn der Vollzug nicht funktioniert, nützt auch eine Beschleunigung nichts. Dann kann Asylsuche sogar <i>noch attraktiver sein</i> .
5.1. Brand Heinz, NC - Septembre 9 2015, 1384	Die SVP-Fraktion verlangt, dass die Vorlage mit wirksamen Bestimmungen zur Bekämpfung des Schlepperunwesens und zur <i>Senkung der Attraktivität</i> der Schweiz für die illegale Migration ergänzt wird.
5.2 Brand Heinz, NC - Septembre 9 2015, 1385	Deshalb führen gerade die Defizite im Vollzugsbereich zu einer besonderen <i>Attraktivitätssteigerung</i> unseres Landes.
6. Pantani Roberta, NC - Septembre 9 2015, 1400	Nach der Eintretensdebatte beginnen wir mit diesem Block mit der Detailberatung dieser Vorlage. Ziel der Vorlage war es, die Verfahren zu beschleunigen und <i>die Attraktivität der Schweiz zu vermindern</i> . Keine von diesen Erwartungen wurde aber in dieser Vorlage verwirklicht.
7. Rutz Gregor, NC - 09.09.15, 1410	Die Verfahren müssen beschleunigt werden, damit wir die Handlungshoheit im Asylbereich wieder zurückgewinnen, wie es von unserer Seite bereits gesagt

Parliamentarian, Council, Site	Text
	wurde. Die Verfahren müssen aber nicht beschleunigt werden im Hinblick darauf, dass noch mehr Kapazitäten geschaffen werden, dass <i>die Schweiz noch attraktiver gemacht</i> wird und so eine weitere Zunahme der Migrationsströme initiiert wird.
8. Amaudruz Céline, NC - Septembre 9 2015, 1412	De plus, les centres fédéraux projetés doivent être conçus comme des installations fermées. Les personnes qui veulent les quitter doivent motiver leurs intentions et inscrire les sorties qui doivent être fortement limitées. Les requérants sont ainsi en permanence à disposition des autorités. La sécurité des communes concernées sera accrue et <i>l'attractivité de la Suisse sera réduite</i> .

Category 6: Planning Permit Procedure

Parliamentarian, Council, Site	Text
1. Fehr Hans, NC - Septembre 9 2015, 1384	Auch das <i>Planverfahren</i> – auf Deutsch: die <i>Enteignungsmöglichkeiten</i> – geht einem im schweizerischen Rechtsstaat nun über die Hutschnur. Sie können nicht Private und Gemeinden für Asylzentren enteignen. Sie müssen den Leuten das Anliegen erklären, aber Sie können sie nicht durch <i>Enteignung</i> zwingen.
2. Brand Heinz, NC - Septembre 9 2015, 1389	Darüber hinaus muss zur Realisierung der gewählten Unterbringungskonzepte ein <i>Plangenehmigungsverfahren</i> , verbunden mit der Einräumung von <i>Enteignungsrechten</i> , eingeführt werden. Eine derart weit gehende Einschränkung der Eigentumsrechte oder gar die Beschränkung demokratischer demokratischer Rechte für diesen Zweck lehnt die SVP aus grundsätzlichen Überlegungen kategorisch ab. Es kann und darf nicht sein, dass Schweizer Bürger zwangsweise Grund und Boden zur Lösung von Asylproblemen hergeben müssen.

Parliamentarian, Council, Site	Text
3.1 Brand Heinz, NC - Septembre 9 2015, 1437	Wir sind auf besten Wegen, in dieser Asylgesetzrevision ein <i>Plangenehmigungsverfahren</i> einzuführen. Ein Plangenehmigungsverfahren ist nach meinem Dafürhalten eine Bankrotterklärung und eine Kapitulation vor den heutigen Asylproblemen. Dieses <i>Plangenehmigungsverfahren</i> steht auch im Widerspruch zu den heute immer wieder gehörten Aussagen, man sei mit den verschiedenen Partnern im besten Einvernehmen, man unterstütze die Erreichung der anvisierten Ziele. Wenn dem tatsächlich so ist, müsste man und könnte man gut auf ein <i>Plangenehmigungsverfahren</i> im Asylgesetz verzichten. <i>Plangenehmigungsverfahren</i> sind im bisherigen Recht für übergeordnete und wichtige Sachbereiche und zur Verfolgung übergeordneter, staatspolitisch wichtiger Ziele vorgesehen; zu denken ist hier etwa an den Nationalstrassenbau, die Eisenbahngesetzgebung oder die Energieversorgung. Dazu gehört der Asylbereich aber mit Sicherheit nicht. Wir nehmen hier auch einen Quantensprung nach unten vor: Wir senken die Voraussetzungen zur Einführung von <i>Plangenehmigungsverfahren</i> , was aus grundsätzlichen Überlegungen bedenklich ist.
3.2 Brand Heinz, NC - Septembre 9 2015, 1437	Das <i>Plangenehmigungsverfahren</i> , das ist die klare Absicht, entbindet natürlich von lästigen Verhandlungen mit Grundeigentümern, es entbindet von langwierigen Diskussionen. Das gehört aber nun einmal in unserem Staat dazu. Wenn Projekte verwirklicht werden sollen, dann braucht es einfach Überzeugungsarbeit, dann braucht es Verhandlungen. Wenn man dann zum Ziel kommt, dann tragen die Verhandlungspartner diese Lösung in der Regel auch mit. Die Erfahrungen zeigen ja gerade auch beim Testzentrum in Zürich, dass es anders auch geht, dass diese Ziele auch anderweitig erreicht

Parliamentarian, Council, Site	Text
	<p>werden können. Ich denke, dieser Weg ist mit Blick auf die Sache weit befriedigender, als wenn man solche Einrichtungen auf dem Enteignungsweg bauen muss. Nicht zuletzt mit Blick auf die weitere Zusammenarbeit, auf den Betrieb dieser Zentren mit der Umgebung, sei es mit den Grundeigentümern, sei es mit den Anliegern, ist es vorteilhafter, wenn man sich einvernehmlich einigt, als wenn man sich das erforderliche Terrain auf dem Enteignungsweg aneignen muss. <i>Plangenehmigung</i> heisst ja letztendlich auch Eingriffe in die <i>Eigentumsgarantie</i> Privater, und dies für einen in der Bevölkerung nicht unbedingt anerkannten Zweck.</p>
<p>3.3 Brand Heinz, NC - Septembre 9 2015, 1437</p>	<p>Man wird auch zur Kenntnis nehmen müssen, dass die Einführung eines <i>Plangenehmigungsverfahrens</i> bei der Bevölkerung unseres Landes auf grossen Widerstand stossen wird. Wir haben ja bereits bei der immer wieder erwähnten Vorlage 3 zur Kenntnis nehmen können, dass alleine die vorübergehende Nutzungsänderung für Militärunterkünfte auf grosses Unverständnis gestossen ist und in der Bevölkerung sehr grossen Unmut ausgelöst hat. Es ist leicht vorstellbar, welche Emotionen die Einführung eines <i>Plangenehmigungsverfahrens</i> zur Errichtung von Asylbewerberunterkünften nach sich ziehen wird.</p>
<p>4. Rutz Gregor, NC - Septembre 9 2015, 1438</p>	<p>Beim Antrag der Minderheit Brand betreffend die Streichung von Kapitel 6a geht es um die <i>Plangenehmigungsverfahren</i>. Dort geht es darum – ich habe es in meinem letzten Votum bereits angetönt –, dass faire, transparente Verfahren zentral sind, gerade im Asylbereich, damit die humanitäre Tradition der Schweiz von der grossen Mehrheit, von der sie bisher getragen wurde, weiterhin getragen wird. Deshalb ist es wichtig, dass die Verfahren transparent sind. Es wäre falsch,</p>

Parliamentarian, Council, Site	Text
	<p>hier Fristen zu verkürzen, auf öffentliche Auflagen zu verzichten und was hier alles noch an Sonderübungen vorgesehen ist – bis hin zur Möglichkeit des EJPD, private Grundstücke zu enteignen. Es wäre wirklich ganz falsch, hier solche Sonderbestimmungen ins Gesetz einzufügen. Wichtig ist Transparenz, wichtig ist, die Mitsprache und die Mitwirkung der Gemeinden und der Bevölkerung zu sichern.</p>
<p>5. Amstuz Adrian, NC - Septembre 25 2015, 1911</p>	<p>Mit dem neugeschaffenen <i>Plangenehmigungsverfahren</i> und den Enteignungsmöglichkeiten werden Bürgerinnen und Bürger, Gemeinden und Kantone regelrecht geknechtet. Ja, Sie können schon den Kopf schütteln auf der linken Seite. Landkauf, Enteignungsverfahren – ich gebe Ihnen ein Beispiel. Antragsteller für den Landkauf: das EJPD. Verhandlungsführer: das EJPD. Ermächtigungsstelle für die Enteignung: das EJPD. Einsprache- und Beschwerdeinstanz: das EJPD. Entscheide über die Enteignung: das EJPD. Genau gleich im Planungs- und Baubewilligungsverfahren. Antrag um Baugesuch: das EJPD. Verfahrensleitung: das EJPD. Einsprache- und Beschwerdestelle: das EJPD. Entscheid über Einsprachen: das EJPD. Bauentscheid: das EJPD. So funktionieren totalitäre Staaten, nicht die Schweiz. (Teilweiser Beifall)</p>

- NC = national council, CS = council of states

- words in cursive highlighted by the author

- text between [...] annotations by the author