

Institutional Racism and Refugee-Policies in the Context of the Ukraine War

On the Situation of Third-country Refugees in Berlin

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Abstract: Russia's attack on Ukraine and the ensuing war has forced many people to flee. In response, the European Union has activated the so-called mass influx directive, which spares refugees the asylum procedure and grants them direct access to social support and the labor market. However, third-country nationals without a permanent residence permit in Ukraine, including many international students, are excluded from this set of rules. As part of a teaching research project conducted at the Protestant University of Applied Sciences Berlin (EHB), interviews were conducted with third-country nationals who had fled Ukraine and with employees of the counseling center CUSBU - Communities Support for BIPoC Refugees Ukraine, as well as participant observations of everyday counselling sessions were carried out. It becomes clear how the exclusion of third-country nationals from the regulations of the mass influx directive leads to unclear, non-transparent and arbitrary actions of the authorities towards this group, which is interpreted as a form of institutional racism.

Keywords: Institutional Racism, Mass Influx Directive, Migration, Refugee Policies, Ukraine

INTRODUCTION

The beginning of the war against Ukraine in February 2022 was accompanied by social support for the refugees fleeing the war, support which was last seen in 2015 during the Syrian war. Once again, volunteer structures were created in a very short time and *Deutsche Bahn* transported refugees from Poland to Germany free of charge. But this time, something was different: the EU adopted the so-called Mass Influx Directive – for the first time since its design in 2001 (cf. Anhang II EU-Verordnung

2018/1806).¹ The Directive enabled all Ukrainian citizens to stay temporarily and gain access to social benefits and the labor market without the usual red-tape barriers of the asylum process. However, soon it became apparent that not for all the refugees from Ukraine conditions were as positive as they were predicted to be. Refugees of colour reported of severe racist incidents during their flight. In contrast to the white Ukrainians, they were prevented from boarding trains while fleeing, asked to leave the trains or pay a fare. Refugees of colour were also hindered from crossing the border, detained illegally in Poland, and taken off trains by German police in Frankfurt Oder, where they were bodily searched and – in opposite to the white refugees with Ukrainian passports - ordered to apply for asylum (cf. Pallokat et. al 2022; Pro Asyl 2022; taz 2022).

Moreover, in the first week of March 2022, it was announced that the Mass Influx Directive² will not be fully applied to third-country nationals lacking a permanent residence permit in Ukraine, among them a huge group of students of colour from several Asian and African countries who had been studying in the Ukraine until the war broke out. That means that the Mass Influx Directive entitles Ukrainian citizens (and third-country nationals with permanent residence status in the Ukraine) to temporary protection up to three years, as well as access to the social system, education, and labor market. But these entitlements will not extend to Third-country national refugees without permanent residence title in the Ukraine.

To support BIPoC³ refugees who fled the war, most of them third-country nationals, the Counselling Center CUSBU (Community Support for BIPoC Refugees Ukraine) was founded in Berlin. When the summer term started, we asked the

1 | The Mass Influx Directive was designed against the backdrop of the experiences of the wars in Ex-Yugoslavia, when many refugees entered the EU at once, in order to manage mass flight movements more efficiently. In this paper we do not further discuss the justified question of why the Directive wasn't adopted already in 2015, when thousands of mainly Syrian refugees were aiming for protection in Germany, Austria, France, Belgium, the Netherlands, and Sweden.

2 | The Mass Influx Directive only applies to Ukrainian citizens, their families, and people from third countries who had a permanent residence permit in Ukraine or were under international protection at the time the war began, except for Afghan, Syrian and Eritrean citizens, since it is assumed that a safe return to these countries is not possible (see Mediendienst Integration 2022a).

3 | The term BIPoC describes Black, Indigenous, and People of Color. It is a positive, political self-designation of racially discriminated persons. It describes a common horizon of experience shared by people who are not white. This arises, for example, from privileges that are not granted. This term does not (primarily) describe skin color (see e.g. Aydemir et al. 2020).

CUSBU team members how we can support their work, together with the students of an undergraduate student course in Social Work at the Protestant University of Applied Sciences in Berlin (EHB). In the first step, volunteer work was done at CUSBU, and participant observations were carried out. It had become clear to us that the exclusion from the Mass Influx Directive resulted in a precarious situation for third-country refugees who lacked a permanent residency title in Ukraine. Therefore, we decided to conduct interviews with third-country refugees and CUSBU staff-members to examine the legal and social situation of third-country national refugees, many among them BIPOC, in Berlin within a racism-critical perspective. The results show that as the Mass Influx Directive deliberately excludes them, this group lingers in a legal and social limbo. Ukrainian refugees from third countries have been facing and continue to face serious exclusions from social services. We understand this fact as a form of practice of institutional racism.

As a general fact, migration regimes produce racial exclusions. They create different status groups of people along the category of citizenship, thus regulating who is allowed to enter a country and who is not, who gets permanent residency titles and who remains in precarious conditions. Additionally, citizenship itself is rooted in colonialism and racial exclusions (cf. Balibar/Wallerstein 1990/1998). While citizens of the Global North and Western countries, like the European Union member states, the United States or Canada, are allowed to easily enter most countries, passport holders of many former European colonies in Africa, Asia, and Latin America have limited and restricted opportunities to get a visa for other countries, especially those in the West and the Global North.

In this article we will start by discussing a theoretical framework that includes institutional racism, and then give an impression of the precarious social situation created by exclusion from the Mass Influx Directive.⁴ We demonstrate that social services are provided intransparently and arbitrarily to third-country nationals from Ukraine. We follow up with the discussion of our results in dialogue with theories of institutional racism.

4 | Although Ukrainian citizens are privileged towards third-country nationals as they profit from the Mass Influx Directive, that does not mean that they do not face racism. 65 attacks on refugee shelters were reported until November 2022 as well as several physical attacks on Ukrainian refugees (Mediendienst Integration 2022b). The anti-Slavic racism leads to exploitative work conditions for Ukrainian refugees (Panagiotides 2023). In Germany almost all kinds of refugee status are precarious.

CURRENT REFUGEE POLICIES AND CRITICAL RACISM THEORY

In the following, we focus on a cutout of the current European migration regime, namely the special regulation of the Mass Influx Directive. Our aim is to explain how third-country refugees are discursively and legally excluded from the benefits of the Mass Influx Directive and how institutional exclusions from social services are a direct consequence.

Racism is a social relation that constructs people as groups on the basis of various possible characteristics, to whom (mostly negatively connoted) behaviors, values or characteristics are attributed in a homogenizing and essentializing manner, and based on such construction, access to material, social and symbolic resources is hindered, limited, made more difficult or withheld on the basis of these attributions (cf. e.g. Bojadžijev 2009; Hall 1990; Kalpaka/Räthzel 2017). Racist exclusions mirror historical, often colonial, relations. In the case of Germany, colonial expansion and violence affected not only societies on the African, Asian, or American continents, but also the eastern parts of Europe. A specific anti-Slavic racism emerged during the German Empire in the second half of the 19th century. This form of racism imagines populations in Eastern Europe, Southeastern Europe, and Russia as inferior and subhuman. During the Second World War, these racist constructions served as justification for the violent expansion to Eastern Europe by the *Wehrmacht* of National Socialist Germany, the following violent implementation of mass forced labor, as well as the extinction of the soviet populations, especially by starvation – the so called »Unternehmen Barbarossa« (see Heer/Naumann 1997; Petersen/Panagiotides 2022; Terkessidis 2021). The tradition of anti-Slavic racism can be seen in contemporary discourses and exclusive migration policies.

Given the history of anti-Slavic racism, it is not easy to explain why the immigration of thousands of Ukrainian refugees to Germany is widely accepted. The precarious integration of Ukrainians into the German labor market, especially in the areas of sex work, care work and unskilled agricultural labor (cf. Schork et al. 2022 and Birke in this issue) as well as surrogacy (cf. Hochschild 2012; Der Spiegel 2022), demonstrates the exclusions that Ukrainians suffered before the war. But racism is an extremely flexible resource (cf. Scherschel 2015). Natio-ethno-racial boundaries (cf. Mecheril 2004) can be politically, legally, and discursively drawn and withdrawn. Anti-Slavic racism does not seem to play a role in the German society's reception of Ukrainian refugees. On the contrary, the collective narrative of Ukrainian women as main victims in need of protection prevails (cf. Der Spiegel 2022a), alongside a discourse on Ukraine as a well-educated (cf. Mediendienst Integration 2022) and digi-

talized society (cf. Handelsblatt 2022). Ukrainians suddenly seem closer to a white German-European and Christian »us«.⁵ Notably, Ukrainian-ness is discursively limited to whiteness. Ukrainians with a Roma background, for instance, have recurrently reported about racist treatment and frequently suffered racist media attacks (cf. Akçit 2022). Alongside whiteness, citizenship also functions as a tool for racist divisions in the current situation. In media and political discourses, a distinction is made between 'real' Ukrainians who had to flee the war and refugees from third countries, who had to flee the same war, but are treated with suspicion and discursively defamed as »Wirtschaftsflüchtlinge«⁶ (cf. *ibid.*). Among the third-country refugees, international students from African and Asian states have raised the most political (and racist media) attention,⁷ and we interviewed some of them within the framework of our research.⁸

This racist discursive distinction is mirrored in the legal framework. With the current regulation, Ukrainian citizenship (and permanent residence titles) become the decisive factors to be considered in the application of the Mass Influx Directive. But this is by no means necessary. The EU member states were free to include »other groups, such as students from third countries or workers with a temporary stay permit« (bordermonitoring.eu 2022). However, »Der Spiegel« revealed how the exclusion of third-country refugees without permanent residence status in the Ukraine has come about: Austria, Poland, and Slovenia (which in principle advocate a restrictive European migration policy), agreed to the Mass Influx Directive only under the condition that third-country nationals without permanent residence remain excluded

5 | There is no research so far that explains that shift. One reason might be the geostrategical opposition to Russia.

6 | *Wirtschaftsflüchtling* (economic migrant) is a racist term that suspects refugees only to be interested in improving their economic situation and that therefore questions migrants' entitlement to refugee protection.

7 | Before the outbreak of war, international students paying tuition fees were an economic factor in Ukraine. The wide range of courses offered in English and the low cost of living were particularly attractive to students from African, Arabic and Asian countries.

8 | Although they are not so visible in political debates or media reports in Germany, also non-Ukrainian refugees with other Eastern European citizenships outside the EU, like for example Moldavians face the exclusion from the mass influx directive. And anti-Slavic racism remains powerful in general: The Senator of the Interior from Berlin, to name one example, suggested in November 2022 to deport Moldavian refugees to make space in refugee shelters for Ukrainian refugees (cf. Tagesspiegel 2022).

from it (cf. Der Spiegel 2022b), being quite aware of the group of 75.500 international students from African, Arab, and Asian countries (ibid.).

Against this backdrop, the Mass Influx Directive can be seen as a macro-level instrument to legally frame unequal access to rights in the current Ukrainian war context. We understand this as a form of racist exclusion that corresponds to racist discourses and policies against immigrants from African, Asian, and Eastern-European countries.

INSTITUTIONAL RACISM: THEORETICAL FRAMEWORK

What does this macro-level legal exclusion mean for the access to social and legal resources for third-country refugees? The so-called visa-free stay and thus the exemption from the requirement of a residence permit for refugees from Ukraine was firstly granted for 90 days and then extended twice each for 90 days ending 30.11.22. In Berlin, a follow-up transitional solution has been found and allowed third-country refugees to stay for another three months – ending 31.01.23 (cf. Senatsvorlage No. S-606/2022; Mediendienst Integration 2022). In Berlin, however, third-country nationals without a permanent residence permit are now advised by an internal regulation of the Berlin Senate to apply for temporary protection under §24 of the Residence Act. This is due to the impossibility of a permanent and safe return to the country of origin. Although the prospects of a positive decision are not good in most cases, the applicants are issued a fictitious certificate for the duration of the procedure and the applications have to be individually examined by the »Landesamt für Einwanderung« (LAE).⁹ In view of the highly problematic handling of third-country refugees from Ukraine by the social welfare offices, as described in the following chapters, it is important to emphasize that the entitlement to social benefits begins when certain conditions are met: the person in need of assistance shows up at the social welfare office; the person proves their residency in the territory of the Federal Republic of Germany; and the social welfare office becomes aware of their need pursuant to Section 6b AsylbLG. Accordingly, prior registration, ID treatment or registration with the foreigner's authority are not explicit a legal prerequisite for the commencing of benefits. This means that all refugees from Ukraine - regardless of their residence title in Ukraine - are initially entitled to benefits under the AsylbLG within the above-

⁹ | This information was given to us during a conversation with CUSBU-members at 21.11.2022.

mentioned period of the visa-free stay. As soon as a fictitious certificate has been issued, the refugee is generally entitled to benefits according to SGB II/XII, as well as child benefits (cf. Asyl.net 2022).

Our research results show that these rights are generally blocked by federal and municipal offices in Berlin, such as the social service and the Job Center. To analyze these violations of rights, we use the theoretical framework of institutional racism. Racism is to be understood as a social relation or as a social structure (Weiß 2001). Theories of institutional racism analyze how this relation is reflected in organisations and institutions (cf. Karakayali 2022). Studies on institutional discrimination show how habitualised and collectively shared rule-like norms, values, and expectations are inherently racist, or they cause unintended racist effects so that they can no longer be traced back to individuals acting in a racist manner (cf. Gomolla/Radtke 2009). Whether these institutional racist exclusions are implemented on purpose or by accident is controversially debated. Scholars on postcolonial theory point to the fact that some institutions like the police were even founded for the very reason of stabilizing racist distinctions (cf. El-Tayeb/Thompson 2019).

Current research points to the connection between racist knowledge and the resulting exclusionary practices. Racist knowledge in institutions consists of socially and generally available discourses, stereotypes, and prejudices as well as institution- or organization-specific experiential knowledge (cf. Hormel 2010: 177). Institutional knowledge and legitimations play a subordinate role in our study as we do not include the perspectives of the respective authorities and public institutions. Rather we asked the third-country refugees about their experiences. This widely proven approach (cf. Ahmed 2012) allows for collecting data about exclusionary practices, which are difficult to directly observe, which have not been documented by the respective institution, and which would not be named in interviews with employees.

For our aim to explain the experiences of third-country refugees with Job centers and social services in Berlin, we refer to the state of research on institutional racism within administrations. Regarding social- and health services and Job Centers, only a few studies focus on institutional racism in Germany. The following strategies have been identified as recurring practices: Restrictive handling of applications due to the insinuation of an inappropriate claim of exploitation of the social system or criminal motivation (cf. Graevskaia et al. 2022: 8; Neuburger/Hinrichs 2021: 43); rejection of social benefit claims at the municipal level (cf. Graevskaia et al. 2022: 12; Neuburger/Hinrichs 2021: 42); neglecting responsibility (Neuburger/Hinrichs 2021: 44); and making people wait and delaying the granting of benefits with the aim that claimants disappear from the authority's jurisdiction (cf. Graevskaia et al. 2022: 8; Neuburger/Hinrichs 2021: 68). A major theme in the literature points to the failure

to deal with language barriers, which Neuburger and Hinrichs understand as means of direct discrimination (cf. *ibid.*: 82), because people are ‘made’ unable to exercise their rights due to the authorities’ insistence on German as the *lingua franca*. Not offering translation is also understood as an educational measure to encourage people to learn German by officials (cf. Graevskaia et al. 2022: 7), often violating data protection with stopgap solutions such as translations by security personnel (cf. *ibid.*: 9). We review these racist practices and complement the research made on them with our research results.

METHODOLOGICAL APPROACH

The third-country refugees from Ukraine we have interviewed are students or labor migrants from third countries without a permanent residence permit in Ukraine. They include three persons from Kenya, two persons from Nigeria and one person each from each of the following countries: Iraq, Egypt, Zambia, Zimbabwe, and Algeria. They are all clients of the CUSBU association that was founded in March 2022. CUSBU is being funded by the Senate Department for Integration, Labor, and Social Affairs.

The research process took place in several phases. From April to July 12 of 2022 the students volunteered to support the work of CUSBU. Forty-two ethnographic observation protocols were written about volunteer assignments. After the end of the volunteer phase, the students conducted ten guided qualitative interviews with refugees and three with the CUSBU team-members. The interviews were conducted in English, transcribed and pseudonyms were created (except for the interviews with the CUSBU team members). The interviews were analyzed using the qualitative-structural content analysis method according to Kuckartz (2012), with which the interview material was coded deductively and inductively. The observation protocols were not systematically analyzed, but some protocols are quoted below for illustrative purposes.

The interviews with the CUSBU team-members, Rajaa Sabbagh, Vicky Germain, and Sharon, reveal that CUSBU engages in a variety of networking activities, for example with other NGOs, but also with organizations that provide accommodation support. In addition, legal and psychological help is organized, and in some cases, contacts are even established with NGOs and lawyers in Ukraine for legal issues. Other activities include political and lobbying work with political parties, politicians, and other stakeholders, as well as working with the crisis team of the Berlin Senate to draw attention to the precarious situation of third-country nationals. Finally, the ne-

cessity to keep up to date with the changing political and legal framework conditions is described as another field of activity. According to the CUSBU association, a total of 4.429 third-country nationals have been served by the association since March 2022¹⁰. Rajaa Sabbagh sees one of the goals of CUSBU as providing a safe space for the clients:

»Trying to fill the gap between the social office and the clients and trying to make them feel better. With this back and forth of treatment, back and forth treatment from the social office.« (Rajaa Sabbagh, lines 135-137)

The refugees greatly appreciate this support. All interviewees emphasized that they received support only from these non-governmental support services, and that CUSBU plays a particularly important role as a mediator between third-country nationals and the authorities.

»STUCK IN A LIMBO«: EXPERIENCES WITH AUTHORITIES

»When asked about the interviewees' experiences with the federal authorities, we received particularly extensive statements. Most of the interviewees' experiences refer to situations and events in the social welfare offices of the Berlin districts. The interviewed CUSBU team members generally question the existing regulations for third national citizens from the legal standpoint. They are critical of the fact that Ukrainian residents and non-residents are given different legal determinations, although they all fled from the same war. The refugees are also very aware of this unequal treatment: »Treating us differently from the Ukrainians is just a workaround to denying us our rights« (Aaron B., lines 87-89).

The team members believe that all applications for residence titles from third-country nationals are systematically rejected by the State Office for Immigration (Landesamt für Einwanderung, LAE), because the case workers do not conduct interviews with the applicants—which they are obliged to do—and rather make their decisions based on files.

»Everything is super not transparent. Until now, all the people who had their interviews, did not actually have an interview. They just went

10 | see cusbu.de [23.10.2023]

there, submitted the paper, and were told to wait. And then they were called again and were told that Berlin cannot help them. They didn't even know that the person they were talking to is not the person making the decision. They didn't know that they are talking to the translator, not the case worker.« (Sharon, lines 70-74)

This causes extreme frustration, above all because they see their clients' motivation and engagement; despite the trauma of the war and having to adapt into a completely new reality, the refugees were strongly committed to taking German courses and looking for residence opportunities. The team members criticize, that these efforts are not recognized or appreciated by the LAE. For students from African and Asian countries, the situation is particularly precarious because most of them invested a lot of money in their education in the Ukraine. A return to the countries of origin without a degree is therefore not an option.

As mentioned above, the previous residence status of the refugees in Ukraine is decisive for the decision on a residence prospective according in application of the Mass Influx Directive for temporary protection in Germany. For the duration of the visa-free stay in Germany (at least 90 days) as well as for the associated social benefits, all refugees from Ukraine need not present proof of the type of stay in Ukraine, a passport or passport replacement document. Also, existing passports may not be withheld by the authorities without good cause (e.g., in case of a concrete suspicion of forgery) (cf. Asyl.net 2022).

However, the interviewed CUSBU team members report instances in which the refugees' passports have been confiscated. Several of the interviewees also explained that officials, especially at the social welfare offices, demand documents (such as a Ukrainian student ID) confirming their stay in Ukraine, ignoring the fact that these people fled a war zone and may not have had the chance to retreat these documents. Some government officials demanded that third-country refugees must present a Ukrainian passport, even though this is not required by law neither for a visa-free stay nor for an application for temporary protection:

»[...] at the beginning, they [the authorities] did not accept us. They said, you need to go back. If you don't have an Ukrainian passport, you can't do anything.« When we asked for money [social benefits], they said »you need an Ukrainian passport.« (Saido M., lines 12-16)

In addition, there are repeated attempts, contrary to the legal basis, to send third-country refugees to the asylum procedure or back to Ukraine to allegedly obtain missing documents (Sada M., lines 59-68; Nathan T., lines 8-17; Ayo S., lines 27-28). The request to obtain and present documents that are difficult or impossible to

organize - which would often require a dangerous return journey to Ukraine - leads to helplessness. Nathan T., for example, said that the required ID card was lost during the flight to Germany:

»I cannot rely on any governmental system here because I can't prove that I was in Ukraine or that I was legally in Ukraine.« (Kim W., 58-61)

The lack of sufficient information about official processes also causes frustration among the interviewees. Despite intensive efforts to obtain information, there is a lack of clarity about what is expected of third-country refugees, what steps need to be taken, which offices are responsible for which concerns. Additionally, the authorities' practice of sending refugees back and forth between different offices and authorities is perceived as demoralizing. Lisa I. states:

»[...] there's not enough information being given. You're not being told: ›You need to do this and this and this, and then move from here and get this and this and it's done.« It's: ›You got here, I don't know how you got here from there. I just do what I'm supposed to do. I won't even explain it, and then go and figure it out on your own.‹« (Lisa I., lines 21-25)

This quote also addresses the perceived arrogance of the authority employees, who obviously do not see it their task to explain and effectively inform about official processes. This impression of shifting responsibilities back and forth on the part of the authorities also corresponds with the students' experiences as volunteers at CUSBU. The observation protocols document various situations in which refugees tell the volunteers about their disastrous experiences with authorities:

»A young man who studied in Ukraine and was born in Morocco was very distressed because he had problems with his registration. He told me that he didn't know where to go and had already slept on the street for an appointment at the Bürgeramt¹¹ in Hamburg. He had driven all the way to Hamburg for the appointment and, on the spot, he was sent away again without his documents that he had brought with him being looked at.« (Protocol 12, lines 24-29)

This shows that the authorities' actions are hardly comprehensible, sending the refugees around in a senseless way and even exposing them to danger. In other

cases, refugees were given appointments with authorities without being informed about what was supposed to happen during these appointments (Protocol 11, lines 25-28).

Furthermore, the refugees we interviewed repeatedly complained about the slowness of the official processes in Berlin. Even if procedures are initiated, individual processing steps often take an exceedingly long time, and the refugees have no choice but to wait. This experience is also confirmed by the CUSBU team members, who complain that refugees sometimes must wait months for a hearing by the LAE or for a fictitious certificate, which is a prerequisite for the granting of a language course. This slows down the refugees in their efforts to shape their situation and apply for a residence permit. Ayo S., for example, answers the question about his everyday life by saying:

»I just wake up, and that's all. I'm still waiting. I'm still waiting for the Job Centre in the city where I was, to transfer my documents to the city [...]. The only thing I do now is wake up, come here, hope that they call, hope my documents are transferred.« (Ayo S., lines 31-41)

When the wait for certificates, needed for further steps, causes delays, the persons concerned fall into a state of limbo in which they must passively wait it out. This is a difficult situation for many to endure, especially given the brief period within which they can legally stay in Germany without a visa, during which they must strive for a longer-term stay perspective.

Since all third-country refugees we interviewed spoke English rather than Ukrainian or Russian, the perceived burden of communicating with the authorities is exacerbated when authority employees do not speak English. Three of the interviewees reported that they met case managers at the social offices who had little or no knowledge of English. In two cases, a person was called in to translate into Ukrainian. In one of these cases, the refugee did not speak Ukrainian himself:

»They speak German, and someone translate from Ukrainian, and I do not speak Ukrainian and also don't speak German. So, it was very hard for me [...].« (Leo S., lines 29-35)

In another case, the language spoken by the interpreter turned out to be Russian and not Ukrainian (Alex L. lines 31-36). The lack of knowledge of English among the administrative staff in Berlin authorities and offices, and the lack of English-language information material, are also confirmed by the students' observation protocols:

»First and foremost, I wondered why there were no forms translated into English on the part of the Job Centre.« (Observation protocol 2, lines 12-16)

The lack of knowledge of English on the part of the authorities' employees means that refugees must be accompanied to all offices (Protocol 11, lines 55-60).

ARBITRARINESS, IGNORANCE OR BENDING OF THE LAW?

The CUSBU team members see that the most severe problem is that the authorities act in a completely non-transparent manner and often contrary to the applicable legal situation. For example, the refugees are regularly denied social benefits and accommodation benefits to which they are entitled. Some refugees, therefore, had to run up debts and sleep on the street. A volunteer who supported a refugee economically for months and who ran out of money was asked to prove through his bank statements that he could not continue to finance the refugee (Sharon, lines 56-82). Vicky Germain, in turn, states:

»We have had information withheld from clients. We have had clients told that their reasons for escaping the war, wanting to be in Germany or whatever are not good enough for any type of visa. Under paragraph 24, we have had clients told at social offices that their application for paragraph 24 was denied. It is not their competence to decide whether or not, you know, whether someone's residency permit is going to be given out or not. But they have told the client that it has been denied and they will not receive any funds. We have had clients denied funds for housing. We have had clients denied funds for housing to the point where they have ended up on the street with debt. So, it is very heart-breaking to see how even in a time where it is very clear that the LADG exists that people still feel bold enough to do that from the position of their employment as a government employee.« (Vicky Germain, lines 89-103)

Another problem is the lack of contact persons in the offices with whom incorrect decisions or unclear procedures can be clarified. Furthermore, the team members interviewed observe arbitrariness on the part of the authorities' employees, which is shown by the fact that several people with the same request are treated completely different and the existing regulations are managed very differently depending on the

district. Alex L. also had to experience this when he went to the social welfare office asking for accommodation. He was accompanied with a friend who had also fled Ukraine. Each of them met a different employee in a different and while Alex L. was told to come back the next day, the friend was immediately given a place in accommodation. When Alex L. appeared the next day for the agreed appointment, he was turned away with the words »Berlin is full and there's no place« (Alex L. lines 31-36). The CUSBU team members therefore often accompany their clients to the offices to make the employees aware of the legal situation and to ensure that the refugees receive what they are entitled. However, they often experience resistance from the employees of the authorities.

»We had moments where, for example, at Tegel we were told that we could not accompany people. But the problem is that accompanying someone is a right guaranteed by the law, to any government office. So, considering that Tegel is a governmental facility, one can accompany people. But still, there were attempts to prevent us from that. And it becomes a situation where you realize that if you do not know your rights, like every situation that has to do with People, if you do not know your rights, then you know there's no way for you to observe them. And when you do know your rights, people [officials] just get really annoyed.« (Vicky Germain, lines 34-52)

The CUSBU team members see such behavior as a violation of human rights, but also of children's rights, because they observe that even unaccompanied minors are denied the protection they are entitled to and that children suffer especially when families are torn apart. One reason for this harassing and unwilling behavior of the authorities, according to CUSBU team members, is that since March 2022, new regulations have been introduced several times, which must be implemented quickly, but the authorities' staff are often not sufficiently informed.

Experiences of direct or open racism, in turn, are less frequently mentioned. Alex L. experienced during his visit to the social welfare office how his case worker explained to the interpreter:

»»They are coming here just to take our money. They're coming from their countries to receive money. They don't do anything here«. (...) after that she was talking, I was hearing like she was talking ›Arab, Arab‹ and she told the translator: ›Look, his passport is an Iraqi passport, he's even not Ukranian and he's coming here«. So, she was repeatedly uttering the words ›Arab‹ and ›Iraq‹ and that stuff.« (Alex L., lines 48-49)

CURRENT MAIN PROBLEMS AND FUTURE WISHES

The long and grueling wait for appointments and official decisions, as well as the lengthy and delayed processing of the refugees' documents by the offices, put a great strain on the interviewees and lead to further problems. Almost all refugees interviewed named the acquisition of German language skills as the main current problem. Some interviewees said that the language is needed for the job search, or the continuation of their studies. Most of the refugees interviewed would like to take up a job, which is often not possible due to insufficient German language skills or missing documents. Most of the refugees interviewed are, as explained above, international students who would like to continue or complete their studies in Germany. But current regulations create enormous hurdles for students such as finding a place to study within the period of the visa-free stay, obtaining a study visa, proofing German language skills at C1 level according to the Common European Framework of Reference for Languages, and securing the necessary 10.000 Euros deposit required. The recognition of academic achievements from abroad is also complicated. Finally, many international students who have fled Ukraine are unable to document their temporary study residence in Ukraine, as one of the interviewees in the research project, Kim W., explains:

»The school doesn't want to lose their students, but they can't give out your documents. So even if you write to them, they have a silence policy to remove liability because if they send out the documents and they get lost they'll say you lost them or if they lose their students, they're also losing money. So, if you have someone in Kharkiv that could go and get them for you or you get them yourself, which is practically impossible.« (Kim W, lines 104-108).

Nathan T. has no hopes of getting a place to study in Germany:

»I wanted to study medicine but here it is impossible, you have to forget it because even the German natives told me that they themselves can't get an admission to universities. So, shifting careers is possible but still it is hard for me.« (Nathan T., lines 37-39)

Most of the refugees wish to obtain a residence title in Germany. But the strict regulations put pressure on the refugees because the time is hardly sufficient to fulfil all the conditions for a residence title (language learning, economic independence, university admission and/or employment). Sada M. states:

»Cause it's slow [the administrative processes]. It is so slow that it takes much time to like get things done, and apart from that we have limited time.« (Sada M., lines 109f).

Regarding their professional careers, most of the refugees interviewed primarily wish that they would be able to finish their studies in Germany and find a job so that they would be able to provide for themselves. Sada M. also expressed the wish to overcome the hierarchical differentiation of people based on skin color, origin, and nationality. She dreams of a future in a multicultural and diverse society where everyone is treated equally:

»[...] and my wish for the future is, that we all get to appreciate ourselves more and look beyond our colour and all those things, appreciate each other more, give ourselves a little bit of space so we can work more on ourselves. I wish this will be easier for the upcoming generations [...]« (Sada M., lines 115-119).

DISCUSSION

The interviewees have reported practices such as unlawful collection of documents, demanding unnecessary documents, and expecting them to get back to the war zone in order to get their papers. The unlawful practice of pushing third-country refugees into the asylum procedure is already known from other reports (cf. Conradi 2022, Burger 2022). Blocking social support and accommodation, and refusing to protect minors, are severe threats to the interviewees. Additionally, the attempt to deprive third-country refugees from being accompanied by supporters in government offices is a violation of their rights. The LAE's rejection of residence title applications without a proper procedure are another reported rights violation.

The CUSBU team members and the refugees we interviewed also reported the drastic slowness of official procedures necessary for further steps; the lack of sufficient information and transparency, e.g., sending refugees around between municipal offices and federal states to senseless appointments; as well as the fact that no contact persons for complaints could be found at the authorities. Another problem is the lack of translation and translators that makes it almost impossible for the refugees to go through the application procedures.

Following Graevskaia et al. (2022) and Neuburger/Hinrichs (2021), these actions can be framed as strategies to create non-responsibility, making people wait and delaying the granting of benefits. Letting applicants wait has also been analyzed as a

common exclusionary and grueling strategy of immobilization regarding the asylum policies at the EU external borders, e.g. in Malta, Lampedusa, and the Greek Islands (cf. Tazzioli 2018). The lack of translation services is described as another racist strategy: the failure to deal with language barriers (cf. Neuburger/Hinrichs 2021).

Even measures that appear to be neutral can cause racist discrimination if they have the racist effects of excluding a specific group (e.g. Gomolla/Radtke 2009). Thus, it is possible to speak of institutional racism in that the arbitrary and non-transparent actions of the authorities' employees, as well as the lack of supervision and communication on the part of the Senate administration, work together in such a way that the refugees are unable to exercise their already limited rights. As we only interviewed the refugees, it is unclear how the authorities would legitimize these incidents and exclusions. But neither the complex and changing legal framework nor the fact that the third-country refugees are treated by asylum law until they get their fictitious certificate explains why administrative staff holds back documents, tells refugees to go back to the war zone to get documents, deprives them from accommodation, tries to deny them NGOs support, or neglects to conduct interviews with them, as LAE staff does with the refugees.

As a result, third-country refugees are forced to wait idly for appointments, papers and permits, and they must make frequent pointless visits to the authorities, despite their high motivation and great commitment to consolidating their stay. The CUSBU team members are seen as a valuable support from the refugees' perspective. However, since refugees must be accompanied when dealing with the authorities, because otherwise their rights are threatened with disregard, CUSBU is drastically understaffed even though it still receives voluntary support.

CONCLUSIONS

As discussed in the theoretical part of this paper, the Mass Influx Directive has knowingly and intentionally created the structural conditions for the unequal treatment of refugees, differentiating between with Ukrainian citizenship and third-country nationals without permanent residence titles in Ukraine. However, despite knowledge about the disadvantaged situation of third-country refugees without permanent residence status in Ukraine, the German government has not yet tried to enact a separate protection status for this group. Only Berlin, Hamburg and Bremen have so far adopted special regulations that allow for more time to apply for a residence title at all. Third-country nationals are subject to completely unclear regulations at the level of institutional implementation of the Mass Influx Directive by the offices and au-

thorities concerned, which, moreover, change rapidly without this being adequately communicated to the authorities that must work with them, which, in turn, leads to each authority handling processes differently. The administrative implementation of these regulations is difficult to control and is not controlled. The result is arbitrary official practices of letting people wait, disinformation, and the withholding of social benefits, which contribute to the fact that refugees from third countries cannot consolidate their stay. Obtaining student status is also nearly impossible because the timeframes for enrollment are too short, and the requirements for the level of German and financial requirements are too high. This can be understood as a form of institutional racism, and the strategies adopted by the officials, described here, are also known from other studies on institutional racism (cf. Graevskaia et al. 2022; Neuburger/Hinrichs 2021; Ahmed, 2012).

Black third-country refugees are a racially marginalized group. This is shown both by the separate legal regulations applied to them, the racist attacks they suffer during the flight from Ukraine, and the accompanying media discourse which differentiates between educated, able-bodied Ukrainians who deserve support on the one hand, and BIPOC refugees who are accused of illegitimate economic interests on the other (cf. Akçit 2022). The actions of the authorities described here contribute to preventing BIPOC refugees from consolidating their stay.

This research on institutional racism is limited to the perspective of the refugees and the professional staff of a non-state counselling facility, CUSBU. Therefore, further research that accommodates the perspective of the social welfare offices, the Job Center, and the LAE is needed. But in any case, the question arises as to why the Berlin Senate has decided to create non-transparent and inadequately implemented special rules for a relatively small group of refugees, which threatens to lead to the deportation of many initiative-taking and hard-working young people. This is particularly surprising because the city of Berlin has been a member of several pro-migrant city networks since 2018, such as the EU-wide Solidarity Cities alliance and the German city network of »Safe Havens«.

LITERATURE

- Ahmed, Sara (2012): *On being included. Racism and Diversity in Institutional Life.* Durham: Duke University Press.
- Akçit, Hakan (2022): *Flucht und Rassismus. Solidarität muss bedingungslos sein.* In: Heinrich Böll Stiftung: *Heimatkunde vom 19.04.2022.* URL: [heimatkunde.boell.de \[02.11.2022\]](https://heimatkunde.boell.de/02.11.2022).

- Anhang II der EU-Verordnung 2018/1806 (2018): Verordnung (EU) 2018/1806 des Europäischen Parlaments und des Rates vom 14.11.2018. URL: eur-lex.europa.eu [09.11.2022].
- Aydemir, Fatma et al. (2020): *Eure Heimat ist unser Albtraum*. 8. Aufl. Berlin: Ullstein Buchverlage.
- Asyl.net (2022): *Fragen und Antworten: Perspektiven für nicht-ukrainische Staatsangehörige, die aus der Ukraine geflüchtet sind*. URL: asyl.net [09.11.2022].
- Balibar, Etienne / Wallerstein, Immanuel (1990/1998): *Rasse. Klasse. Nation. Ambivalente Identitäten*. Hamburg: Argument.
- Bojadžijev, Manuela (2009): *Die windige Internationale. Rassismus und Kämpfe der Migration*. Münster: Westfälisches Dampfboot.
- bordermonitoring.eu (2022): *Zur Umsetzung der Massenzustromrichtlinie vom 03.03.2022*. URL: bordermonitoring.eu [09.11.2022].
- Burger, Reiner (2022): "Ukraineflüchtlinge. Die Probleme der Drittstaaten". In: *Frankfurter Allgemeine Zeitung* vom 12.11.2023. URL: msn.com [22.06.2023].
- Conradi, Friedrich (2022): "Asylbewerber wider Willen?" In: *Süddeutsche Zeitung* vom 1.5.2022. URL: sueddeutsche.de [22.06.2023].
- CUSBU (Community Support for BiPoC students Ukraine): URL: cusbu.de [09.11.2022].
- El Tayeb, Fatima / Thompson, Vanessa (2019): *Alltagsrassismus, staatliche Gewalt und koloniale Tradition. Ein Gespräch*. In: Baile, Mohamed Wa / O. Dankwa, Serena / Naguib, Tarek / Purtschert, Patricia / Schilliger, Sarah (Hg.): *Racial Profiling. Struktureller Rassismus und antirassistischer Widerstand*. Bielefeld: transcript.
- Gomolla, Mechthild / Radtke, Frank-Olaf (2009): *Institutionelle Diskriminierung*. Springer: VS.
- Graevskaia, Alexandra / Menke, Katrin / Rumpel, Andrea (2022): *Institutioneller Rassismus in Behörden – Rassistische Wissensbestände in Polizei, Gesundheitsversorgung und Arbeitsverwaltung*. IAQ-Report 2022/2. URL: ec.europa.eu [22.01.2023].
- Hall, Stuart (1990): *Rassismus und kulturelle Identität*. *Ausgewählte Schriften 2*. Hamburg: Argument Verlag.
- Handelsblatt (2022): *Die Ukraine zeigt Deutschland, wie digitaler Schulunterricht geht*. *Handelsblatt* vom 25.05.2022. URL: handelsblatt.com [22.01.2023].
- Heer, Hannes / Naumann, Klaus (Hg.) (1997): *Vernichtungskrieg: Verbrechen der Wehrmacht 1941-1944*. Hamburg: Zweitausendeins.
- Hochschild, Arlie Russel (2012): *The outsourced self*. New York: Metropolitan.
- Hormel, Ulrike (2010): *Diskriminierung von Kindern und Jugendlichen mit Migrationshintergrund im Bildungssystem*. In: Hormel, Ulrike / Scherr, Albert (Hg.): *Diskriminierung. Grundlagen und Forschungsergebnisse*. Wiesbaden: VS Verlag. 173–197.
- Kalpaka, Annita / Nora Rätzl (1986/2017): *Die Schwierigkeit, nicht rassistisch zu sein*. Hamburg: Argument Verlag.
- Karakayali, Juliane (2022): *Kritische Rassismusforschung: Theorien, Konzepte, zentrale Befunde*. In: Hunold, Daniela / Singelstein, Tobias (Hg.): *Rassismus in der Polizei*. Wiesbaden: Springer. 15-33.

- Karakayali, J. / Kron, S. / Ali Adam, G.-E. / Beierle, L. / Dier, F. / Hakakzadeh Zanjani, R. / Jacenko, M. / Minuth, A.-S. / Qunaj, L. / Sarb, A. / Sünderhauf, A. / Steegmann, H. / Theilmann, K. / Tiemann, I. (2022): Die rechtliche und soziale Situation aus der Ukraine geflohener Drittstaatler*innen in Berlin in rassismuskritischer Perspektive. Working Paper URL: eh-berlin.de [22.01.2023].
- Kuckartz, Udo (2012): Qualitative Inhaltsanalyse. Methoden, Praxis, Computerunterstützung. Weinheim: Beltz Juventa.
- Mecheril, Paul (2004): Einführung in die Migrationspädagogik. Weinheim: Beltz.
- Mediendienst Integration (2022a): Flüchtlinge aus der Ukraine. URL: mediendienst-integration.de [09.11.2022].
- Mediendienst Integration (2022b): Weniger Straftaten mit Bezug zum Ukrainekrieg. URL: mediendienst-integration.de [21.6.2023]
- Neuburger, Tobias / Hinrichs, Christian (2021): Mechanismen des institutionellen Antiziganismus. Kommunale Praktiken und EU-Binnenmigration am Beispiel einer westdeutschen Großstadt. Forschungsbericht für die unabhängige Kommission Antiziganismus. Hannover: Institut Bildung-Forschung-Qualifikation e.V. URL: institut-fuer-menschenrechte.de [09.11.2022].
- Pallokat, Jan / Poth, Attila / Siggelkow, Pascal (2022): Schwarze Menschen an Flucht gehindert? Tagesschau vom 08.06.2022. URL: tagesschau.de [02.11.2022].
- Panagiotides, Jannis (2023): Flucht aus der Ukraine, postsowjetische Migration und die Zukunft der Migrationsgesellschaft. Frankfurt: UTB.
- Petersen, Hans Christian / Panagiotidis, Jannis (2022): Rassismus gegen Weiße? Für eine Osterweiterung der deutschen Rassismusdebatte. URL: bpb.de [22.01.2023].
- Pro Asyl (2022): Angriffskrieg auf die Ukraine: Rassismus auf der Flucht. URL: pro-asyl.de [02.11.2022].
- Scherschel, Karin (2015): Rassismus als flexible symbolische Ressource. Bielefeld: transcript.
- Schork, Franziska / Loschert, Franziska / Kolb, Holger (2022): ‚Zeitenwende‘ bei der Arbeitsmarktintegration? Teilhabe und Prekarität von Ukrainerinnen und Ukrainern am deutschen Arbeitsmarkt. SVR-Policy Brief 2022-3. URL: frnw.de [22.01.2023].
- Der Spiegel (2022a): Menschenhandel an der Grenze zur Ukraine. Ausgabe vom 09.04.2022. URL: spiegel.de [22.01.2023].
- Der Spiegel (2022b): Warum ausländische Studierende um ihre Zukunft in Deutschland bangen. Ausgabe vom 24.11.2022. URL: spiegel.de [22.01.2023].
- Tagesspiegel (2022): ‚Wir schieben nach Moldawien ab‘. Berlins Innensenatorin löst großen Streit in der Koalition aus. Ausgabe vom 30.11.2022. URL: tagesspiegel.de [22.01.2023].
- Taz – Die Tageszeitung (2022): Ganz klares racial profiling! Ausgabe vom 06.03.2022. URL: taz.de [02.11.2022].
- Tazzioli, Martina (2018). The Temporal Borders of Asylum. Temporality of Control in the EU Border Regime. *Political Geography*, 64. 13–22.
- Terkessidis, Mark (2021): Wessen Erinnerung zählt? Koloniale Vergangenheit und Rassismus heute. Hamburg: Hoffmann und Campe.

- Walburg, Christian (2022): Kriminell oder kriminalisiert? Die Rolle der Polizei bei Verdachtsschöpfung und Konstruktion der »Ausländerkriminalität«. In: Hunold, Daniela/Singelstein, Tobias (Hg.): Rassismus in der Polizei. Wiesbaden: Springer VS. 385-205
- Weiß, Anja (2001): Rassismus wider Willen. Ein anderer Blick auf eine Struktur sozialer Ungleichheit. Wiesbaden: Westdeutscher Verlag.

