forum internationale wissenschaft bonn
ZiF Zentrum für interdisziplinäre Forschung
Center for Interdisciplinary Research
Universität Bielefeld
ReligionundPolitik
EXZELLENZCLUSTER | WWU MÜNSTER

Proceedings of the 2018 ZiF Workshop

Studying Migration Policies at the Interface between Empirical Research and Normative Analysis

Matthias Hoesch & Lena Laube (eds.)

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The Role of *Entscheider* in the Asylum Procedure: A Legal and Ethical Analysis

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DOI: 10.17879/95189429199

The workshop as well as the publication of the proceedings were kindly supported by the Center for Interdisciplinary Research Bielefeld (ZiF), the Cluster of Excellence "Religion and Politics" Münster, and the Forum Internationale Wissenschaft Bonn (FIW Bonn).

Recommended citation: Kleinschmidt, Nicolas & Krüger, Jessica 2019: "The Role of *Entscheider* in the Asylum Procedure: A Legal and Ethical Analysis." In *Proceedings of the 2018 ZiF Workshop "Studying Migration Policies at the Interface between Empirical Research and Normative Analysis"*, ed. Matthias Hoesch and Lena Laube, ULB Münster (miami.uni-muenster.de), 143–156. doi: 10.17879/95189429199

The Role of *Entscheider* in the Asylum Procedure: A Legal and Ethical Analysis

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Abstract

In this article we examine the role of *Entscheider* (decision-makers) in the German asylum procedure, both legally and ethical. As the responsibility for deciding on asylum applications lies exclusively with them, their significance for the German asylum procedure can hardly be underestimated. However, over the last few decades the situation of *Entscheider* changed significantly: While the number and complexity of the cases they have to decide on has increased due to the growing immigration, the requirements for their education have been lowered, owed to critical amendments to the relevant law. We analyze how the law currently defines the role of *Entscheider*, whether the legal framework is constitutional, and what modifications morality requires. Although the law defining their role seems to be constitutional, *Entscheider's* education must be improved and they must be entrusted with the hearing of the applicants to meet what morality requires, we conclude.

Keywords

Entscheider; Ethics of Entscheider; German Asylum Procedure Law; Ethics of Administration

DOI

10.17879/95189429199

The German asylum procedure is centred on the decision of *Entscheider* (decision-makers), as they exclusively decide on asylum applications. Hence, the decisions of a single *Entscheider* significantly influence the lives of hundreds of asylum seekers. Despite their central role in the asylum procedure, research has so far paid remarkably little attention to them. What may look astonishing at first glance, is rather unsurprising regarding the difficulties that we encountered as soon as we started working on this topic.

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When we designed our research project, we asked the BAMF (Federal Office for Migration and Refugees) for permission and cooperation for a survey on BAMF *Entscheider* in order to additionally answer the empirical question on how they themselves understand their role in the asylum procedure. We were quite optimistic, as the chairwoman of the Scientific Advisory Board of the BAMF supported us greatly and even the head of the BAMF appeared to be curious about our project. Then came spring 2018, a series of press releases about meddled asylum applications, which amounted to a profound crisis, and – after weeks of waiting – the BAMF preferred not to cooperate with us.

Therefore, our analysis consists of two parts now. First, we outline the role the German administrative law assigns to *Entscheider* in the asylum procedure and critically analyze whether the current design meets legal and especially constitutional requirements. Second, we provide an ethical analysis of the relevant legal framework, concentrating on the three most debatable characteristics of the role of *Entscheider*. Although we are forced to leave the empirical question aside, we want to emphasize its general importance.

The Role of *Entscheider* in the Asylum Procedure *de lege lata*

The legal analysis we would like to start by giving a short overview of the quite remarkable historical development of *Entscheider's* role in the German asylum application system.

Historical Development

The first Aliens Act, enacted in 1965, stated that the decision on asylum applications had to be taken by a committee consisting of two assessors and a chairman who had to be qualified to hold judicial office (§ 30 AuslG). Decisions on intra-administrative objections (*Widersprüche*) against the committee's decisions were taken by another committee of a similar composition. The assessors were appointed equally by the Federal Minister of the Interior and the Federal Council (*Bundesrat,* i.e. the second chamber of the German Parliament). Both committees were unbound by directions and instructions.[2]

In 1982, the AsylVfG (later: AsylG) abolished the committees and replaced them with single and independent *Entscheider* (*Einzelentscheider*).

[2] Marxen 1967, § 30.

With the enactment of the Immigration Act on January 1, 2005, legislation was altered to the effect that *Entscheider* are now subject to directives. This means that specific instructions regarding individual procedures are now permissible. BAMF *Entscheider* no longer have a special position compared to other federal officials. The main objectives pursued by this change in legislation as laid out in the explanatory statement of the law are to maintain the uniformity of the legal system, relieve pressure on the administrative courts, as well as accelerate the asylum procedure. The earlier design was considered "impracticable and retarding the asylum process".[3]

Unity of *Entscheider* and Hearer

Up to date, neither in the Asylum Act, the Asylum Procedures Directive nor by the administrative courts has it been recognized that hearing the applicant and deciding on her application should be conducted by the same person.[4] Hearing the applicant has never been one of the original tasks of *Entscheider*, but it can be entrusted to them.[5] For a long time, it was deemed normal that *Entscheider* who would finally decide on the asylum application had also heard the applicant. However, the BAMF deviated from this rule, as this was deemed necessary in the past decades. In the course of the so-called refugee crisis in 2015, the BAMF set up so-called "decision centres", where cases already heard were being decided by a central pool of *Entscheider*, so that hearing and deciding are now regularly conducted by different officials.[6]

Qualification and Training of *Entscheider*

The demands on the qualification and training of *Entscheider* have drastically decreased over the decades.[7] Whereas earlier legislation (§ 30 I 3 AuslG) provided for the chairman of the recognition committee to be qualified for judicial office (i.e. two legal state examinations), the individual *Entscheider* who replaced the committee was only required to have the qualification of the higher intermediate-level civil service (§ 4 III 2 AsylVerfG 1982). Another change of legislation (§ 5 AsylVfG, replacing § 4 AsylVerfG) then allowed that civil servants of the middle-level civil service may also be appointed as *Entscheider,* if permitted by statutory ordinance (*Rechtsverordnung*).

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[3] BT-Drs. 15/420, 106.

[4] BVerwG, Beschl.v. 13.5.1996 – BVerwG 9 B 174/96, Rn. 6 (Jurion); VG Frankfurt (Oder), Beschl. V. 23.3 2000 – Az. 4 L 167/00.A, Rn. 8 (juris).

[5] Bergmann 2018, § 5 AsylG Rn. 17; BVerwG, B.v. 13.5.1996; VGH München Beschl. v. 8.8.2017 – 9 ZB 17.30, BeckRS 2017, 123005.

[6] VGH Mannheim, VBlBW 2017, 424; BT-Drs. 18/9415, 67.

[7] Bergmann 2018, § 5 AsylG Rn. 18.

In the course of the so-called refugee crisis, the training of newly hired staff was shortened once again so that it lasted three weeks for hearers, four for *Entscheider* and five weeks for *Vollentscheider* – *Entscheider* who can also conduct a hearing.[8] Since July 31, 2016, the hearing may also be conducted by a trained employee of another administrative authority that carries out tasks under the AsylG and the AufenthG.[9]

Constitutionality of the Legislation

In a nutshell, *Entscheider* today are subject to directions and instructions, decide single-handedly instead of in a panel, and rarely conduct the hearing themselves that they base their decisions on. This structure and thus the role of *Entscheider* must be measured against sub-constitutional administrative law as well as constitutional law, such as the fundamental right to asylum, Article 16a GG, and the principle of the rule of law, Article 20 III GG, as well as against the EU directive on common procedures for granting and withdrawing international protection (2013/32/EU).

Training and Qualification

In a ruling on airport asylum proceedings (*Flughafenverfahren*) in 1996, the Federal Constitutional Court found, without any discernible differentiation between hearers and *Entscheider*, that detailed training and ongoing further training were required, but accepted the existence of these conditions as given without further examination.[10] Besides, the Asylum Procedures Directive (2013/32/EU) only requires "adequate knowledge in questions of international protection" and the "necessary training" of *Entscheider* (recital 16) and makes (little) more detailed provisions on the qualification of hearers (Art. 15 para. 3 lit. a). However, the Directive calls for the persons involved in the decision to be in a position "to carry out their activities with due respect for the principles of professional ethics in force" (recital 17). Whether a few weeks of training suffices to meet these requirements, is doubtful.[11]

Independence or Ligation of Instructions and Directions

The independence of instructions and directions used to include decision-making in its entirety. It served to keep decisions free of political influence, and thus to ensure that *Entscheider* were solely guided by Article 16a GG and to avoid foreign policy

[8] BT-Drs. 18/9415, 65.

[9] Göbel-Zimmermann/Eichhorn/Beichel-Benedetti 2018, Rn. 474.

[10] BVerfG, NVwZ 1996, 678, 682.

[11] Göbel-Zimmermann/Eichhorn/Beichel-Benedetti 2018, Rn. 478.

difficulties.[12] It included the examination of the formal and material legality as well as the question whether all facts had been adequately ascertained. Instructions regarding individual procedures, but also general directions, e.g. regarding the prosecution of certain population groups in certain countries, were therefore not permitted. In this respect, the independence from instructions was partly comparable with the factual independence (*sachliche Unabhängigkeit*) of judges. Some instructions, e.g. such given to *Entscheider* in their function as hearer or on the order in which the processing of applications is carried out, were nevertheless permissible.[13]

Independence of directions and instructions, though, are very unusual in the German administrative law system. The German democratic principle, as laid out in Art. 20 II 1 GG, requires an uninterrupted chain of legitimacy (*demokratischer Legitimationszusammenhang*) from every act of the administration to the will of the people. This can only be guaranteed if every act of the administration can be traced back to the respective state minister as the supreme administrative authority, in this case, the Federal Minister of the Interior, who is chosen by the chancellor, accountable to the state parliament and thereby democratically legitimized.[14] The minister can execute her authority by issuing orders for internal application of concrete or individual nature (known as instructions – *Weisungen*) or of abstract or general nature (administrative directions – *Verwaltungsvorschriften*).[15] Therefore, federal officials have a duty to obey (*Gehorsamspflicht*, as stated in § 62 I 2 BBG). Exceptions to this rule are possible if stated by a special law and constitutionally justified. Such exceptions exist e.g. for the Federal Accounting Office (*Bundesrechnungshof*, § 3 IV BRehG, Art. 114 GG) and for university professors as far as their teaching and research are concerned.

Hence, the question is whether such an exception could also be justified in the case of *Entscheider*. In view of Article 16a GG, which enjoys a particularly important position due to its close connection to the fundamental right of human dignity (Article 1 GG), and the peculiarities of the determination of the facts in the asylum procedure,[16] it does not appear to be entirely excluded. Another question, however, is whether independence from instructions is constitutionally required. This is indisputably not the case, since there is no infringement of Article 16a GG by making

[12] Bergmann 2018, § 5 AsylG Rn. 19.

[13] Bergmann 2018, § 5 AsylG Rn. 19.

[14] Grigoleit 2017, § 62 Rn. 3.

[15] Grigoleit 2017, § 62 Rn. 4.

[16] Marx 2012.

Entscheider subject to instructions and directions and no violation of other constitutional goods comes into consideration. The design of the *Entscheider's* role as independent or bound by instructions is thus entirely the responsibility of the legislative authority.

Unity of Hearer and *Entscheider*

The administrative courts and legal literature agree that it is advantageous for the decision on the asylum application if the *Entscheider* also hears the applicant and is thus able to gain a personal impression.[17] However, the mere advantageousness of a legal structure is not decisive for its legal or constitutional conformity. If the applicant's submission is believed and the application is rejected for reasons other than lack of credibility, for example, because the reasons put forward are not enough to substantiate the application, the separation of *Entscheider* and hearer does not make any significant legal difference. Thus, the separation of hearer and *Entscheider* in principle does not violate the duty of official investigation (*Amtsermittlungsgrundsatz*, § 23 VwVfG).[18] The decision on the unity or separation of hearer and *Entscheider* is therefore incumbent upon the head of the BAMF, and thus ultimately on the Federal Minister of the Interior (Art. 65 GG) who has discretion over the design of the procedure of hearings, as it is not regulated by law.

The situation is different if the application is rejected due to a lack of credibility.[19] The assessment of credibility is a subjective decision, even if it is linked to certain legally established standards.[20] If there are doubts about credibility, it must be ensured that the *Entscheider* can obtain a personal impression of the applicant. If this is not the case, this constitutes a violation of the duty of official investigation (§§ 24 VwVfG, 24 AsylG), which constitutes a concretization of the constitutional principle of the legality of the administration (*Grundsatz der Gesetzmäßigkeit der Verwaltung*, Art. 20 III GG).[21]

It seems questionable whether without legal regulation it is ensured that in individual cases hearings and decisions fall to the same person, despite the systematic separation of hearers and *Entscheider*. This is unlikely because the credibility of a

[17] Göbel-Zimmermann/Eichhorn/Beichel-Benedetti 2018, Rn. 12-19; BVerwG, B.v. 13.5.1996; VGH Mannheim, VBlBW 2017, 424.

[18] BVerwG, Beschl.v. 13.5.1996, Rn. 6.

[19] BVerwG, Beschl.v. 13.5.1996; VGH Mannheim, VBlBW 2017, 424; BT-Drs. 18/9415, 67.

[20] Gies 2017, 410.

[21] Schwarz 2016, § 24 VwVfG Rn. 4.

statement cannot be assessed before the hearing itself; once the hearing has been conducted by a staff member qualified only to conduct hearings, the entire hearing would have to be repeated by a different staff member. However, since the separation of hearer and *Entscheider* was introduced precisely to speed up proceedings,[22] such a time-consuming correction of the procedural error mentioned above does not appear to be guaranteed in all cases. Although the legislator has a broad discretion to enact laws, there is a limit when the lack of legal regulation violates the prohibition of insufficient legislation (*Untermaßverbot*). This would be the case if the legislator did not enact a law that suffices to protect the fundamental right to asylum or to ensure judicial protection, which is generally very limited in asylum procedure law. It seems highly questionable whether the complete absence of a legal regulation to ensure the principle of official investigation in cases of dubious credibility can satisfy the prohibition of insufficient legislation.

What Should Be the Role of *Entscheider* in the Asylum Procedure?

It is not a trivial truth that law is not necessarily moral just because it is law. Therefore, an action might be perfectly legal and yet illegitimate. It is a kind of fallacy we have to keep in mind, since what is true for each and every law is also true for the German law defining the role of *Entscheider* in the asylum procedure.[23] So, the question is: What – from a moral point of view – should be the role of *Entscheider* in the asylum procedure?

There are two possible ways to answering that question: starting from scratch or taking the status quo into consideration. Both ways embody two different metaethical approaches. Let us call the first the idealistic approach and the second the pragmatic approach of ethical analysis. In the following, we pursue the pragmatic approach because we can assume that, although an idealistic approach may give a good answer to our question, the implementation of this answer would cost more resources and is therefore less likely to be implemented than the answer the pragmatic approach provides. It is a common mistake made by philosophers to aim for the best possible solution in ethics without thoroughly looking at its feasibility. In all the possible solutions we strive for the most feasible with the best moral consequences.

[22] BT-Drs. 18/9415, 67.

[23] In his current introduction to administrative ethics, Benjamin Lindner (2017, 48) affirms the importance of the distinction between the terms of legality and legitimacy for administrative ethics in general.

By emphasizing the consequences, we have already revealed the basic ethical assumption which makes our approach consequentialist. But to define what the "best consequences" are, we have to reveal some more of our basic assumptions upon which we build our ethical analysis. We assume that the purpose of morality is at least to diminish suffering caused by human actions. As everyone who is affected by an action may be the subject to suffering caused by this action, anyone who is affected must be considered. This means for us not only to regard *Entscheider*, but also the asylum seekers and the German state.[24]

Having clarified our approach and our basic assumptions, we try to answer what should the role of Entscheider in the asylum procedure be. As we have pointed out their current role has mainly three debatable characteristics: First *Entscheider* are bound by instructions and directions, second, they decide single-handedly and, third, not necessarily based on hearings they conducted themselves. We will discuss all three characteristics to analyse their role in the asylum procedure.

Should *Entscheider* Be Subject to Instructions and Directions?

The answer to this question first and foremost depends on whether we assume the current government should be allowed to influence the individual asylum procedures, as that is the purpose of instructions and directions. If one argues for *Entscheider* being instructed or directed, one accepts the influence of the government. If one argues against them being bound, one denies the government to exert influence on asylum procedures.

The best argument to put forward against the influence of the government seems to be the ill intentions a government could have and their consequences. The damage that could be caused by such bad influence of the government on the asylum procedure would, in the worst case, be life-threatening for the asylum seekers if the result were their legally or morally unjustified deportation. The argument is built upon the assumption that this damage needs to be prevented. However, the only possibility to avoid such damage appears to deny the government any influence on the asylum procedures. In consequence, it appears that *Entscheider* should not be subject to instructions and directions.

The argument is conclusive, but weaker than it seems. What would it mean for the influence of the government to be "bad"? The argument is primarily convincing

[24] With this assumption we are pursuing a more comprehensive approach to an ethics of *Entscheider* than Tobias Trappe (2015, 47), whose "ethics of asylum administration" is probably the only approach to such an ethics so far.

because it does not answer this question. Apparently, there are as many answers as there are migration policies. Even representatives of incompatible migration policies could agree on the argument. Moreover, the argument suggests that the influence of the government on asylum procedures could assume undesirable effects of alarming proportions. However, this suggestion lacks reason. The government is in its instructions and directions bound to the German constitution (Art. 1 III, 20 III GG) and every asylum procedure is contestable before an administrative court if it was violating constitutional or only sub-constitutional law. As no administrative judge is bound by any instruction or direction (Art. 97 I GG, § 1 GVG), all legally and probably most immoral consequences of the governmental influence on *Entscheider* would be revised by the court hearing.

We do not deny the possibility of immoral consequences due to the influence of the government. However, its instructions and directions could also lead to moral consequences. More precisely, they might offer the only possibility to compensate for the inadequate training of *Entscheider* by scaling down the leeway in their decision-making. This compensation could be of advantage for all three subjects we would like to regard in our analysis: for the asylum seekers (as the probability of legal and legitimate decisions on their application may rise), for *Entscheider* (since the instructions and directions at least partially release them from their moral responsibility for the applicants)[25] and for the state (because the higher probability of legal decisions implicates a lower probability of cost-intensive corrections by administrative courts). Therefore, it seems to be – especially within the pragmatic approach – morally demanded to obligate *Entscheider* to follow the instructions and directions of the government – at least for the moment.

Should *Entscheider* Decide Single-handedly?

As with the first question, we should disclose the assumption that is crucial to answering our second question concerning the role of *Entscheider* in the asylum procedure, namely whether they should decide alone. This assumption seems to be that *Entscheider* can at least make a legal decision on asylum applications.[26] If one leaves *Entscheider* to decide single-handedly, they should be able to make those decisions at

[25] In particular, this can provide moral relief for *Entscheider* who are aware that their training is hardly sufficient to fulfil their moral responsibility towards the applicants.

[26] Of course, it also would be right to state that the negation of this very assumption (i.e. "*Entscheider* can*not even* make legal decisions on asylum applications.") is decisive for answering the second question. In fact, the answers to all three questions concerning the role of Entscheider are always determined by a particular assumption or its negation.

least within the legal framework. Otherwise, we assume it is morally untenable to leave those decision to a single *Entscheider*.

The fact that there is a high number of cases overturned by the administrative courts may counter this assumption: In 2017 almost 40% of the decisions challenged before administrative courts were overruled by the judges.[27] This points to *Entscheider* not being able to reliably decide on the applications while abiding by the law. As long as this situation is not changed by providing them with better training, they therefore should not make those decisions. In consequence, though, this would call for *Entscheider* to be again part of a panel, which would decide on the asylum applications.

But this alternative is not much better. If the decision was made by a panel of *Entscheider*, the decision is not necessarily legal or legitimate. The assumption that *Entscheider* can compensate for each other´s weaknesses is not evident.[28] Instead, forming panels entails the risk of group pressure.[29] In order to conform to the majority of the panel, some *Entscheider* might knowingly support illegal or illegitimate decisions on asylum applications. Even if we leave these objections aside, it has to be pointed to the significantly higher resource expenses for panels of *Entscheider* compared to sole *Entscheider*, especially concerning the expenditure of time. What does it mean for an asylum seeker if she has to wait for months for a decision on her asylum application? How many more resources does it take for the state to integrate someone after such a long period of waiting time for a positive decision? Ultimately, there is a threat of wasting private and state resources, that is hard to be morally legitimized.

Therefore, within the pragmatic approach, it seems the best alternative to let *Entscheider* decide on their own and to sufficiently train them, so they are able to make legal and legitimate decisions. If they are not sufficiently trained, they should not be replaced by better-trained *Entscheider* – even if there were actually well-trained *Entscheider* to supplant them. The change in personnel would delay the asylum procedures of many asylum seekers, cost the state additional resources and force current *Entscheider* into unemployment. Instead, their lack of competence should be compensated by further training. The ethics of migration and administration should contribute to the concrete design of this education and training if it is not to lose contact with the real world.

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[27] Anzlinger/Auel 02.08.2018.

[28] We are grateful to David Miller for pointing out that even taking into account the Condorcet-Jury-Theorem, a panel of *Entscheider* would only make the decision significantly more likely legal or legitimate if the number of *Entscheider* in the panel were very high.

[29] For the influence of group pressure, see the by now classical experiment of Ash (1951).

Should *Entscheider* Also Conduct the Hearing?

How to answer this third question basically depends on whether one assumes that *Entscheider* can make legal and legitimate decisions on asylum applications without having heard the applicants themselves. If this assumption is false, it seems morally imperative that the *Entscheider* hear the applicants in the asylum procedure. If, however, one shares the assumption that *Entscheider* can make legal and legitimate decisions without having heard the asylum seeker, one allows the personal separation of hearing and decision in the asylum procedure.

We have argued for *Entscheider* to decide single-handedly for the procedure being more efficient. An adaption of this efficiency-argument also seems to be the strongest for the separation of *Entscheider* and hearer. It is therefore hardly surprising that the former president of BAMF, Jutta Cordt, put forward the same argument to justify the separation of hearing and decision.[30] The argument can be reconstructed as follows: If *Entscheider* are specialized in deciding on asylum applications and hearers are specialized in hearing the asylum seekers, the division of labour seems to let them work more efficiently. The smaller variance in operational procedures would raise the pace of work and division of labor could even lessen the influence of cognitive biases.[31]

But it is exactly the division between the one deciding the asylum application and the one hearing the asylum seeker which provokes further distortions. By this division the testimony of the asylum seeker is not only being distorted by the cognitive biases of *Entscheider* but also by the ones of the hearer. Let us not forget, that usually none of the two is able to speak the language of the asylum seeker, throwing a third person – the interpreter – into the mix, leaving a threefold distorted testimony. As the testimony is the foundation for the decision of *Entscheider*, the risk of a threefold distortion is morally untenable and altogether not efficiency-raising, these distortions increase the risk of not only morally but also legally wrong decisions, which probably take more time to be corrected than to be prevented. For this reason alone, the consequences of the separation of hearing and decision on asylum applications are neither in the interest of the applicants, nor the state nor *Entscheider* – assuming that they themselves strive for legal and legitimate decisions.

However, there is a second reason. The division of *Entscheider* and hearers implicates a division of moral responsibility for the decision on the asylum applicants.

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[30] Haerder 28.02.2017.

[31] Trappe (2015, 48) has already stressed the influence of the cognitive bias of *Entscheider* on their asylum decisions as a problem and thus a topic of administrative ethics.

This division poses a risk leaving *Entscheider* only with an indirect responsibility for those whose applications they decide on. If they do not hear the applicants, they decide solely based on a report on the testimony of the applicants, which they are not responsible for. Of course, it is not impossible to determine the respective responsibility of the *Entscheider* and the hearer in a decision. But the division of responsibility evidently makes this determination more difficult. This problem, which Dennis Thompson called the "problem of many hands",[32] is not a particular problem of asylum administration. But in the asylum administration it can be particularly dangerous, as *Entscheider* are responsible for people in particular need of protection. If they do not take sufficient account of this responsibility, their decisions can be life-threatening for the applicants in the short term. However, the division of labor allows *Entscheider* to distance themselves from their responsibility for the applicants[33] – even more than if they heard the asylum seekers themselves.[34] Therefore it seems appropriate for *Entscheider* to hear in person the testimony of the asylum seekers on whose applications they decide.

In summary, *Entscheider* should be bound by instructions and directions, decide single-handedly and on the basis of their own hearings. We are well aware that this answer only takes into account the three most debatable characteristics of the role of *Entscheider* in the asylum procedure and is therefore just a start. It will be the task of an ethics of migration and administration, which takes greater account of *Entscheider*, to proceed and define their role in more detail.

Conclusion

As we have shown, the current legislation on the role of *Entscheider* in the German asylum procedure is constitutional and morally justifiable in many aspects. The systematic separation of hearing the applicant and deciding on her application, however, is not acceptable from a moral point of view. It is therefore gratifying that BAMF is beginning to entrust the *Entscheider* with the hearing of the applicants again.[35]

Even though laws are not necessarily based on moral considerations, the importance of this specific area of administrative law on the life of human beings

[32] Thompson 1980, 905.

[33] Trappe (2013, 254) also points to the problem of the many hands in asylum administration. Unlike us, however, Trappe sees the greatest danger in the loss of human dignity of Entscheider

[34] Schneider and Wottrich (2017, 106) indicate that *Entscheider* – due to the limited contact – can distance themselves from their responsibility for their decisions on the asylum applications even if they hear the applicants themselves.

[35] www.bamf.de.

demands high standards of not only legal but also moral justification – a necessity that European lawmakers have already recognized in recital 17 of the Directive on Asylum Procedures. But although they have recognized the necessity of a professional ethics of *Entscheider* they did not elaborate on this. It seems that at this juncture ethicists are in demand to help filling in the gap. Since the gap is one in European law, filling it is neither only a German interest nor only a task of German ethicists and lawyers.

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