
Book review: Roman Lehner, Friederike Wapler (ed.) *Die herausgeforderte Rechtsordnung. Aktuelle Probleme der Flüchtlingspolitik (The challenged legal system. Current problems of refugee policy)*, Berlin: Berliner Wissenschafts-Verlag 2018, pp.376.

by Rafał Flis

In January 2018, *Current problems of refugee policy*, a monograph edited by Roman Lehner and Friederike Wapler appeared on the German publishing market by Berliner-Wissenschaft publishing house in Berlin.

The monograph includes a collection of ten scientific publications by various authors on current problems resulting from the migration crisis in Germany, which culminated in 2015. The issue of the so-called migration crisis is particularly important given the scale and nature of the problems and related events associated with it for the political system and society of the Federal Republic of Germany.

The starting point of the monograph is the question of how the political system of the German state reacted in confrontation with a mass influx of immigrants. How the German legislator responded to the changing reality and whether this contributed to the sustainable development of immigration policy. The authors focus primar-

ily on the legal solutions adopted by the state in response to the crisis in Germany. The subject of the study is asylum law, family law, children's and youth law, construction law and European administrative law.

From a political perspective, there are two publications which deserve attention. The first is Christiane Langenfeld *Die "singuläre" deutsche Flüchtlingspolitik – eine Chronik ("Strange" German refugee policy – chronicle)*. The second is a publication by Anna Mrozek and Floriana Wehner *Was vom Tage übrig bleibt: Schengen, Grenzschutz and the "Flüchtlingskrise". (What are we left with: Schengen, border protection and the 'migration crisis')*.

The author of the first publication draws attention to the *peculiar* nature of German refugee policy. It chronologically presents how this policy has evolved from the assurances of politicians about the moral aspect of accepting refugees to the concrete political decisions towards them. The author

pays particular attention to the fact that, especially at the beginning of the crisis, in the late summer of 2015, the symbol of the *peculiarity of politics*, mainly on the part of German Chancellor Angela Merkel, was the slogan *Wir schaffen das* (we can do it/we will manage). The author emphasizes that the refugee policy was at that time marked by the moral and humanitarian commitment of rich and politically and economically stable Germany, which can, must and will manage to bear the burden of accepting refugees. The author emphasizes that asylum law in Germany has a constitutional scope and Germany is obliged to help people in suffering, which also for historical reasons is an important aspect of German self-esteem (Langenfeld, 2018, p. 26). The author notes, however, that already in the autumn of the same year there was a significant increase in problems: overcrowded refugee camps, overburdened offices, chaotic procedure, unregistered refugees, many months of waiting for an asylum application, conflicts between refugees or a dramatic increase in right-wing extremism. Increasingly, politicians and political commentators have pointed out that public mood is at its worst, that the willingness of society to help can be rejected if order is not established soon. The most important claims were: control and reduction of

inflows of immigrants, reliable registration of new arrivals, faster processing of applications as well as faster deportation. As a result, the political parties CDU/CSU and SPD prepared drafts of legal changes aimed at achieving the above mentioned objectives. The author describes in great detail all the changes made by the state in the fight against the refugee crisis. It presents the adoption of rights for the accelerated asylum procedure (*Asylverfahrenbeschleunigungsgesetz*), better known as the so-called *Asylum Package I*. and the so-called *Asylum Package II*. This is followed by a description of changes in the right to cash benefits, the granting of residence status during the asylum procedure or the improvement of data exchange, as well as the entry into force of the integration law (*Integrationsgesetz*).

The author's study is very important in order to show the reaction of state structures to crisis situations. It is possible to speak of a phenomenon of the authorities' reaction to a crisis situation resulting from the mass influx of immigrants and the problems associated with it. In other words, one can say that this phenomenon, or the *peculiarity of politics* cited by the author in the title, consists in showing the functioning of state structures in the face of the crisis, in showing how political parties

and state authorities reacted under the pressure of public opinion. The author presents it in a comprehensive manner. The material cited by the author may also be used for further research, e.g. for research on the effectiveness of the state in the face of crisis situations having a real impact on the functioning of its structures as a relevant aspect. Summarizing her study, the author draws attention to the fact that so far the solutions to the migration crisis on the European policy level, such as the distribution of asylum seekers between individual EU countries, cooperation with Turkey and the launch of the so-called *hotspots*, have not brought satisfactory results. According to the author, the starting point for solving the refugee issue is to pursue policies to avoid the causes of refugees, especially in Africa, as well as by strengthening external borders, supporting neighbouring countries in crisis or revitalising the Common European Asylum System. The author believes that the reception of refugees should be controlled in the form of limited contingents. Ms. Langenfeld uses the term *Renationalisierung der Flüchtlingspolitik* (*Renationalisation of Refugee Policy*) with further effects on the free movement of people and goods, in the form of permanent border control or even border closure. The author stresses that the renation-

alisation of refugee policy would also be influenced by other factors, such as the crisis of identification and acceptance of the European Union (Langenfeld, 2018, p. 58). In consequence, this would have ramifications for the very existence of the idea of the European Union. The author concludes by pointing out the need for greater European participation through the super-nationalisation of the Common European Asylum System, as well as in terms of lawmaking and law protection (p.59).

From the political perspective, an important research area due to the crossing of territorial and national borders and the political consequences associated with it is the publication of Anna Mrozek and Florian Wehner *Was vom Tage übrig bleibt: Schengen, Grenzschutz und die "Flüchtlingskrise"*. (*What are we left with: Schengen, border protection and the 'migration crisis'*). The main aim of the study is to present the interaction of the Schengen border protection system with the system for the protection of the external borders of the European Union, which, according to the authors, leads to the so-called process of *hardening the borders* (*Verhärtung der Grenze*), both external and internal. The authors emphasize that this process has been driven by the so-called *policy of open borders, borders without control* (*Politik des*

Durchwinkels) (Mrozek, Werner, 2018, p.286). The authors explain the consequences of this policy, where the European Union's external countries, such as Greece, which are most burdened by the mass influx of immigrants, no longer retain immigrants at the border but enter the Schengen area without registration, which has led to the reintroduction of border control within the Schengen area between the countries of central and northern Europe. The entire Schengen system was thus put to the test. This triggered a socio-political debate on the very meaning of borders and the constitutional role of the state in border control. The authors note that through this we can talk about the phenomenon of a reviving awareness of the function and significance of state borders as a control mechanism. This resulted in political action which contributed to the reintroduction of internal border controls and the tightening of external border controls. The *hardening of borders* is therefore a process of transforming borders from abstract administrative structures to impermeable physical barriers. The authors stress that the sovereignty of the Member States of the European Union is strongly demonstrated in this process. The authors come to the conclusion that, although supranationalisation is revealed by the introduction of Europe-

an border control and surveillance, the individual Member States of the European Union remain the decisive actors in the management of the European Union (Mrozek, Werner, 2018, p.287).

It is worth emphasising that the presentation of individual parts of both the first and the second publication indicates a very good knowledge of the presented issues by the authors. The issues dealt with and discussed in individual chapters and subsections are arranged in a transparent way and allow the reader to follow the activity of the German state in the face of the migration crisis in a systematic way.

Noteworthy, is the rich bibliography used by both Christian Langenfeld and Anne Mrozek, as well as Florian Wehner, mainly German and foreign language, which is a valuable source of information for the reader. The authors refer in footnotes to other authors and publications dealing with the issues it discusses. In this sense, this monograph may form the basis for other studies on migration.

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