

Guideline for Victims of Custody Pending Deportation

You are arrested by the police or the aliens registration authority. You are threatened with Custody Pending Deportation. What can you do? What are your rights?

The process:

Custody Pending Deportation may only be ordered by a local court on request of the police or aliens registration authority. The police or aliens registration authority obtains an appointment at the local court (the Hearing) and presents the reasons why they request for Custody . This local court decides neither on your deportation nor on the outcome of your asylum application. It only assesses how likely you are to abscond from deportation and decides whether you should be in Custody or not. At the Hearing, the request for Custody will be read out to you and you will have the opportunity to respond to it. The court will then ask you about your circumstances.

Prior to the Court Hearing:

- You have the right to contact a lawyer!
- If you have family members (i.e., spouse, life partner, parents, foster parents, children) who can make a statement in your favor, you should inform the court before the Hearing! The court will invite them to speak if they have relevant information about your circumstances.
- You might also ask the court to invite a person you know and trust (e.g., a person working in a counseling center) who will advise you and be present at the Hearing!
- If you do not speak and understand German very well, you can ask for an interpreter. You do not have to pay for it.

During the Hearing:

- If you have a lawyer, the court must invite him/her to the Hearing.
- Stay calm and let the authority read out and translate the Custody request! Listen to it carefully. Make your demand to get the Custody request in writing. Inform the court if any information provided in the request is incorrect.
- Prior to the Hearing, did you receive a document from the aliens registration authority, which stated that you would be deported? Only then, Custody can be requested. If you did not receive such a document, you can demand your release!
- Draw the attention of the court to any circumstance that goes against Custody. For example, if you have a residence permit from another EU country, if you are

under age, if you are pregnant, or suffer from a mental or physical illness (certified by a doctor), if you have a disability, if you are elderly, or if you have a spouse, life partner or children who live in Germany.

- If there is an alternative means to secure your deportation, you must not be taken into Custody. Request the court to verify whether there are less coercive measures. These include, for example, reporting obligations (regular visit to the police or aliens registration authority), residence restrictions (prohibition to leave a certain area), paying bail or other provisions of security.

After the Hearing:

What should you do when the local district court has ordered Custody Pending Deportation and you are being taken by the police to a Custody facility?

Your rights in Custody Pending Deportation:

- You have the right to contact your lawyers, legal counselors, family members and your embassy
- You have the right not to be put into the same accommodation with prisoners or pre-trial detainees
- You are entitled to pocket money: Ask the social service!
- You are entitled to medical care

You can also appeal against the Custody. The appeal must be submitted in writing within one month of the verdict at the same court that had ordered the Custody Pending Deportation. Get in contact with a lawyer!

Here you can find support:

refugee councils in germany: <http://www.fluechtlingsrat.de/>

Humanistische Union: <http://www.humanistische-union.de/>

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