

Stop the impending limitation of the right to asylum!

For a true right of residence for people classified as 'tolerated pending deportation' over a number of years

**Demonstration on 5th December 2014 at 2 pm,
Potsdamer Platz**

On the 3rd of December 2014, the Federal Government will publish a draft of the awkwardly titled law: *"for the redefinition of the right of residence and the termination of residence"*. However, the announced regulation of the right of residence for those who have been classified for years as 'tolerated pending deportation' will benefit almost none of those living with this classification. Instead, this law represents the most comprehensive restriction of the right to asylum since 1993. All refugees who are registered in another EU country and are therefore subject to the 'Dublin Regulation' are to be locked up in detention centres pending deportation. This affects around a third of all refugees.

'Tolerated' refugees held hostage to reasons of state

Around 95,000 refugees live in Germany with "Duldung", or "tolerated" status. 22,000 have had this status for over 10 years. The state would like to deport them, but is unable to due to 'obstacles to deportation', for example the lack of a passport. For decades, a war has been waged against these 'tolerated persons'. Their lives are to be made as unbearable as possible, in order to coerce them into 'co-operation' in passport acquisition. They are barred from working, are subjected to "Residenzpflicht" ('residential obligation', forbidding unapproved travel into other federal states), are forced to live in camps and receive reduced social support. They are condemned to a life outside the borders of society, without chances or perspectives for the future.

From an interview with a refugee living in Saxony-Anhalt since 1996, with the status 'toleration pending deportation':

What future do you hope for?

I have been here since I was 18. I spent my whole youth here and today I no longer have a future.

There have been repeated calls for a right of residence for those affected by years of 'toleration', yet all right of residence provisions until now have affected only a small group. The majority of those afflicted have been excluded, because they are

supposedly contravening their 'duty of co-operation'. The forces of law and order, represented by politicians, bureaucrats and judiciary, insist on a specifically German legal fundamentalism. Anyone who has ever given false information regarding their own identity can no longer expect to be awarded the right of residency. Those who have fulfilled their 'duty of co-operation' in terms of passport acquisition, on the other hand, are 'rewarded' with deportation.

“Flight risk”, “entrance ban”, “implementation deficits”

In April 2014, the Federal Minister of the Interior (BMI) presented a draft bill as part of the long-conceived project for the “elimination of implementation deficits”. By this, the BMI means that there are too few deportations and that deportation attempts are repeatedly thwarted by public opinion, the movements of affected individuals and the courts. They have devised a way to resolve this: detention pending deportation should become the rule for all refugees who have been registered in another EU country.

“Perfidy in paragraphs”

(Heribert Prantl, Süddeutsche Zeitung)

Central to this complicated work of legal paragraphs is the redefinition of the “flight risk” seen to justify the imposition of detention. To this end, a catalogue of case constellations has been compiled, meaning that almost all refugees in the Dublin process will be affected, including:

- Anyone who has left another EU country, *“before an ongoing process to assess an application for international protection has been concluded”* – Flight risk! – **Detention of all refugees in the Dublin process.**
- Anyone who has *“entered by evading a border control”* – Flight risk! – **Detention of all Dublin process refugees who have entered Europe without a visa.**
- Anyone who has *“deceived regarding their identity, especially through concealment or destruction of identification or travel documents, or who have given a false identity”* – Flight risk! – **Detention of all Dublin refugees without a passport.**
- Anyone who has *“refused or neglected co-operative action in the establishment of their identity”* – Flight risk! – **Coercive detention for all Dublin refugees who do not co-operate on their own deportation.**

Entrance ban for the Schengen area

An additional instrument is the proposed extension of entrance bans for the

Schengen area. The entrance ban is to apply to anyone who *“has not complied with their obligation to leave the country by the set departure deadline”* or who *“has entered Germany in order to draw public benefits”*. The latter accusation will be made against directly defined groups: anyone whose asylum application is rejected

- as *“impermissible”* (all Dublin cases),
- as *“insignificant”* (because the person has already been acknowledged as entitled to protection in another EU state, or
- as *“evidently unfounded”* (because the person comes from a “safe country of origin” or because the refugee's reasons for applying for asylum are not believed).

We all still remember how Kretschmann, the Green Party Minister-President for Baden-Württemberg, declared three West-Balkan states to be “safe countries of origin” at the Federal Assembly in September 2014. In combination with the “entrance ban”, this “compromise on asylum” means that: asylum seekers from the West-Balkan states are no longer able to leave these countries. They are surrounded by the Schengen area to which the entrance ban applies.

A further consequence: a work ban for anyone whose asylum applications are rejected as “evidently unfounded”. The professed advantage of the so-called compromise on asylum of 2014 – the lifting of the principle of subordination for the work permit following a stay of 15 months – disappears into thin air.

The new draft of the law: no right of residence for anyone

With pre-deportation detention, entrance bans and prohibition of employment, it is not surprising that nothing remains of the planned right of residence regulation. Formally, it is still the long called-for “cut-off date and age independent” right of residence regulation, but no-one is able to benefit from it.

- Anyone whose asylum application is rejected as “evidently unfounded” is barred from working and is unable to meet the condition of *“independent provision of means of subsistence”*. No right of residency!
- Anyone who *“has not complied with their obligation to leave the country by the set departure deadline”*: Entrance ban! No right of residency! This applies to all persons with 'toleration' status.
- Anyone convicted of a crime, even minor offences: No right of residency!
- Anyone *“who prevents or delays the termination of the stay through deliberately false information, deception regarding identity or nationality, or non-fulfillment of reasonable requirements of co-operation on the removal of obstacles to departure”*: No right of residency!

Even if we don't yet know the ways in which the draft of 3rd December 2014 will differ from the existing draft, we can be certain of one thing: given the extreme, draconian positions of the first draft, any assuagements will appear as acts of kindness with which the co-governing SPD can demonstrate its "negotiation skills". This too is a domination technique.

We find ourselves on the eve of a severe tightening of asylum law, a massive deterioration of the rights and living conditions of refugees. It is not the first attempt of the forces of law and order to hollow out the right to asylum. They are repeat offenders. Let's stop them!

- **No tightening of asylum law! For humane asylum policies!**
- **No more work prohibitions, entrance bans, or pre-deportation detention. Remove these and all other similar instruments from the arsenal of deportation mechanisms!**
- **For a right of residency for those who have been classified as 'tolerated' over a period of years! This must apply to everyone, without exceptions!**

As part of the nationwide week of action against the tightening of asylum law

www.migrationsgesetze.info *(information on migration laws)*