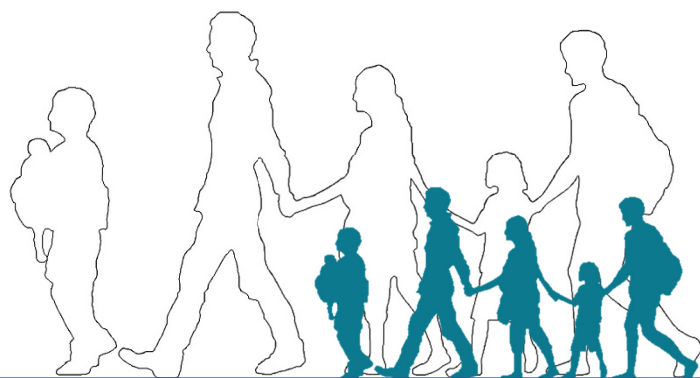




# Themendossier: Abschiebung



**A Dossier by Saxon Refugee Council**

**Compiled by „Reto“ Project Office**

Leben retten – Rechte schützen



**UNO-Flüchtlingshilfe**

**PRO ASYL**  
FÖRDERVEREIN PRO ASYL E.V.

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3,377 people were deported by the State of Saxony in 2016.

Ever since Saxon Refugee Council documents human rights violations in the course of deportations, the NGO and others were forced to observe how one human right after the other was levered out. Due to the relentless pace of deportation, stories like those described here just need to be told.

In that year, Saxon Refugee Council and other NGOs were forced to document the violation of one human right after the other, following the relentless pace of the Foreigners' Departments. In 2017 we publicly want to document those human rights violations and critically accompany them. The press release that accompanied the publication of this dossier can be found [here](#).

We already had to document the separations of two families for the year of 2017. Another family was separated during a Dublin deportation. Much more families will be separated already. In the meantime, it turned out that the public gets to know only about "spontaneous" family separations.

Starting with a political problematization of deportations followed by legal tips up to individual cases you can inform yourself here on "Blackbox Deportation" and its practice in Saxony.

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## Introduction

“The 40-year old mother Joy Gardner suffocated in her apartment in 1993 after she was tied and gagged by the police men responsible for her deportation [as happened in Great Britain, SFR]. Hands tied behind the back, tied feet, police men who push down the head or create massive pressure on the chest of the people affected – measures like these and similar ones repeatedly caused people’s death in the course of their deportation. As it happened in the case of 27-year old Nigerian Samson Chukwu dying in a Swiss deportation camp in 2001 or in the case of 31-year old Christian Ecole Ebune in the terminal of a Budapest airport a year before. Both of them had tried to escape from the authorities. The 27-year old Palestinian Khaled Abuyarifeh succeeded in preventing his first deportation. He protested what caused the pilot to reject Abuyarifeh to board the plane. When Swiss officials tried to deport him the second time they tied him to a wheelchair and gave him additional sedatives. In an elevator Abuzarifeh had

to vomit and suffocated on his vomit.” (Oulios 2015: 51f)<sup>1</sup>.

Violence and deportation go hand in hand. Irregular reports about single cases cause a short outcry but quickly disappear in public discourse. Only, those are not single cases. Deportations are enforcement measures, enforcing means, something needs to be executed against the will of another person. Against the will of people who do not want to go back. Who do not want to go back so badly that they are willed to commit suicide even if they do not see any other option in their situation. The freelancing author Miltiadis Oulios presents numbers from Great Britain. 57 people under threat of deportation committed suicide in that country only between 1989 and 2006 (cf. ebd.). Not all German states with detention centers for deportation have statistics like these. On the basis of the numbers of those who do, one can speak of at least eight suicide attempts and 17 self-injuries in those prisons ever since 2012. They expose the unstable situation of innocent people, violently detained for the purpose of their deportation (cf. [BT-Drs. 18/7196](#): 108ff)

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<sup>1</sup> Original: „Die 40-jährige Mutter Joy Gardner erstickte 1993, nachdem die mit der Abschiebung beauftragten Polizisten die Jamaikanerin in ihrer Wohnung gefesselt und geknebelt hatten [so geschehen in Großbritannien, Anm. SFR]. Auf dem Rücken gefesselte Hände, Fesseln an den Füßen, Polizisten, die zusätzlich den Kopf nach unten hebeln oder massiven Druck auf den Brustkorb der Betroffenen ausüben – solche und ähnliche Maßnahmen führten wiederholt zum Tod bei Abschiebungen. Bei dem 27-jährigen Nigerianer Samson Chukwu, der 2001 in einem Schweizer Abschiebelager starb, ebenso wie beim 31-jährigen

Kameruner Christian Ecole Ebune ein Jahr zuvor im Abfertigungsbereich des Budapester Flughafens. Beide hatten versucht, vor den Beamten zu fliehen. Der 27-jährige Palästinenser Khaled Abuzarifeh hatte seine erste Abschiebung verhindern können, weil er protestierte und der Pilot sich daraufhin weigerte mitzuwirken. Beim zweiten Versuch hatten Schweizer Beamte ihn an einen Rollstuhl gefesselt und ihm zusätzliche Beruhigungsmittel verabreicht. Im Fahrstuhl am Flughafen musste Abuzarifeh sich übergeben und erstickte am Erbrochenen.“ (Oulios 2015: 51f)

Also Saxony deported 3.377 people in 2016. And in Saxony too, violence was not avoided. Saxon Refugee Council perceived the year of 2016 as incredibly brutal. The documentation of the council and other NGOs mirrors concrete human rights violations, giving that perception substance. Various actors from civil society noticed how one after the other moral and legal line was crossed step by step. In the relentless pace that was dictated by the deportation measures, families were separated, pregnant and sick people were deported and kids were handcuffed. Our point is: those are not single cases. The violence that is expressed in Saxon deportation practice as well is the answer to the political question raised by escape and migration. Deportations, the concept of “Safe Countries of Origin” as well as the externalization of EU-borders all together are measurements that speak the language of those who want to prevent people from escaping. We do not hold those answers for tenable. We hold those answers for only temporary measures who only postpone the answer to that question. We know what those measurements do to people, everyone knows that. The only question is if the individual wants to look at what happens in the countries of origin and on the escape routes. And at what happens again and again in Saxony as well whenever people are taken out of their apartments in the middle of the night. We want to enable people to look at it with this dossier because we want to give another answer to the political question of escape and migration. And exactly because the question is so big and so

many smaller, but even more complex and multifaceted question result out of it, we want to show people what deportation means. We want to expose the problems that come with deportation and to present the right to move and the right to stay for everyone. We want to give legal advice to people who want to stay and show them where they could get support. We want to present the stories of people who had to endure deportation. We want that people think about what happened to 3.377 people who lived in Saxon cities, towns and villages until 2016. So people might ask themselves if the price that is paid here could be too high. And who may ask themselves for what a price is being paid here actually? For security or for the nation already? And where does the first start and the last end?

The political rhetoric as well as the concrete measurements in legislation and its enforcement – all of that currently speaks a different language. US-president Donald Trump’s executive orders on asylum and migration policy are the only most prominent examples. But other voices are needed who speak another language. This must be possible in Saxony too. This is why we will publicly document and critically supervise the human rights violations of the year of 2017 here on our website. We call upon everybody who shares our position to position him\*herself against deportation, to participate in exposing its faults and to support people under threat of deportation with all options available. We want the right to move to become reality.



# Deportation Problematicized

## *Saxon Deportation Practice*

The current deportation practice of Saxony is rigid and brutal. It is characterized by a number of human rights violations. Until now, we documented separations of families, the deportation of sick people possessing certificates confirming their illness and inability to travel, the deportation of pregnant women as well as the captivation of minors. All of that happened over the course of the last year.

In February 2017, Saxon Refugee Council reported on a new level of escalation concerning family separations. Even though a mother was diagnosed an obstacle for deportation by a public health officer, her family members were deported. From the perspective of Refugee Council, the deportation was illegal. Put under pressure like this, the mother requested "voluntary return". Even more so: this kind of cold-bloodedly planned family separations have never appeared in the answers of the state government to minor requests. Only the family separations that were enforced 'spontaneously' were indicated. This explanation lacks every logic since Ministry of the Interior as well as Foreigners' Departments plan deportations way ahead and the separations were consciously calculated. This also means: there is no way of

knowing exactly, how many human rights violations like these were enforced in Saxony.

In April 2017, Leipziger Volkszeitung newspaper reported on the deportation of 17 people from Leipzig/ Halle airport to Tunisia. According to the article, the deportees' body holes were checked – in order to prevent self-injuries and/ or suicide attempts. Thereby, deportation only works if it ensures sheer survival. The human right to physical integrity is suspended for 17 human beings so in the aftermath one can say deportations are enforced in a humane way.

Human rights violations like these happen again and again and every time when deportations are carried out. Often the claim is raised, those human rights violations would be an exception of an enforcement act that „concludes due process of law“. But this is not the case, those violations are the rule, they are inherent to deportations. Hence, deportations are always an act of violence, carried out by the state. People are being deported to a country where they do not want to live. If one adds the political will to produce high deportation numbers as it is the case in Saxony, tragedies in Saxon cities and municipalities are unavoidable. 1.725 people have been deported in 2015. In 2016, 3.377 people were affected. In the first quarter of 2017, 579 people were deported.

On May 17<sup>th</sup> 2017, Saxon Parliament decided upon the law regulating custody for the purpose of deportation. From now on, authorities are enabled to take people into detention without them

having committed a crime in order to ensure their deportation (more on that under “Information on Detention for the Purpose of Deportation”).

Saxon Refugee Council supports the Right to Stay for All and thereby the Right to Free Movement. This involves us fundamentally opposing deportations.

### *... Deportation*

Often, deportations are described as blackbox. Dozens of police officers stand in front of apartment doors, usually in the middle of night. The people about to be deported are exposed to mental stress to the uttermost limit. Translation service is provided in only a few cases by Foreigners’ Departments and the police. Within a short period of time, the people about to be deported need to pack their belongings, are transported to assembly points and brought to separate airport terminals. There they board the plane aside from tourist traffic, aside from the public. The impact of that enforcement act on the people to be deported is disastrous. If children are affected, the night of deportation will be remembered as decisive point in their biography.

### *‘Safe Countries of Origin’*

People from the so-called “Safe Countries of Origins” are mostly affected by deportations. According to German law, that category applies to the states of Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal and Serbia. The EU-member-states are

labeled as “Safe Third States”, though their citizens enjoy freedom of movement within the EU. Solely in the course of applying the Dublin Regulations deportations from one EU-



member-state to the other take place. Also, there are states who de facto are treated as “safe” by the Federal Agency for Migration and Refugees (BAMF). People of Algerian, Moroccan or Tunisian citizenship have a remarkably low chance to receive protection in Germany, most often their decree (“Bescheid”) is issued as “obviously unfounded” by the BAMF. Only, neither the states of the Western Balkans nor the Maghreb-states are safe really. The first officially and socially exclude and persecute Rom\*nja, the same holds for the case of LGBTIQ-people in the states and societies of the Maghreb. The BAMF would not classify the Maghreb-states as safe either. A BAMF-report certifies that, documented and cited by [Zeit](#) newspaper. According to BAMF-internal guidelines dealing with countries of origins, the agency assumes that in the whole of Algeria terror organizations operate, cause attacks and gunfights. In Morocco, torture is executed by authorities. For Tunisia, the agency would not want to preclude systematic persecution of specific groups.

Individual reasons of escape disappear behind the term of the “safe country of origin”. Suddenly, deportation of people to these states appears to be legitimate. Here it is not only the word “safe” that borders cynicism. Also, for many people the origin from one of those countries is based only on their citizenship. They spent a major part of their life, if not all of it, in Germany or in any other of the EU-member-states. „Origin“ does not have anything to do with the state that issued their passport.

*Not the number of the dead, the number of the arriving is supposed to decrease*

Deportations are only one appearance of state enforcement that contradicts the position of the right to stay for everyone. The border regime of the EU is another example. The dying in the Mediterranean did not only begin when 4.220 people drowned in 2015 or 5.022 more did so in 2016. It began a long time ago already. Just the number of the arriving had to increase to a level where the societies, especially those in the north of Europe, seriously dealt with the questions asylum and escape raise. The conclusion however, was not to reduce the number of dead people. No, all purposed aimed to reduce the number of the arriving survivors so that the questions of asylum and escape would disappear out of public discourse again. With all effort the EU tries to externalize its borders to the periphery. The Union does not shy away from making contracts with dictatorships so that they would prevent their own population from escaping (comprehensive information on that on the migration control platform published by [taz](#) newspaper. Countries like Tunisia

are being supported with technology and knowledge to close their borders today already, without a deal like the one between EU and Turkey even to be required. This way the escape routes become more and more dangerous. However, people dare to escape.

*The inherent fault of the nation state*

Deportations, the concept of “safe countries of origins” as well as the EU border regime are only three examples, as roughly described as they were in this text, how EU-member states want to prevent people from escaping. For the price of dead and injured, of desperation and traumatization. We do not think of this situation as bearable. The flaw in the construction of the nation state becomes apparent: it simply cannot meet the requirements that are raised by human rights. In the end, only citizens of the nation will enjoy protection by the nation state and will make use of their right to stay unconditionally. Nation and state are not united stably and never did so. There has always been migration, people always set off, looking for a better life. Today, intercontinental escape and migration movements stretch over seas and deserts and pass border after border, often to a high price. Modern information and communication technology makes it possible. The arrival of the escaping in Europa is widely described as “refugee crisis”. But the people who pass borders are not in crisis, they are in bare necessity. Only, necessity may be remedied and mitigated under the condition that the political will to do so is existent. A crisis in contrast is

characterized by the high risk every decision holds. People crossing borders expose the crisis of the nation states, who for the most part still have a self-understanding as liberal and representative democracies. The refugees do that by simply appearing physically in the territories of those states, making apparent the contradiction between the universal values of democracy and human rights and the particularity of exclusive nations. Although universal rights, participation in the representative system and the liberal understanding of the state of law in the interest of the individual apply to the citizens, they are not applied to the others, to those who shall not belong. However, the remarkable thing, not only since 2015, is that the refugees are not granted the right to move, they simply take it.

States are forms to organize social relations. Those who prefix the nation to the state do not act in the interest of universal rights and liberal state of law. Those who propagate the nation want to get rid of these accomplishments: recognition of the single case and rights that apply universally. Those rights are the points the individual can refer to. Refugees are those who cannot rely on their individual case to be recognized. They are unprotected in the sense that human rights, universally composed, are refused to them and thereby are violated. Simply by the dynamics of migration that crosses borders, the currently most strongest concept of societal relations – the one of the static unity between nation and state – is being questioned on the continent of its origin. And yes, the

concept has been successful due to the world map being ordered by nation states. Because of the same modern communication technologies that enable people to escape over continents and a lot more of secured knowledge, a lot of ignorance is required to close one's eyes in front of the people on the escape routes and the conditions in their countries of origins.

### *Answers rather than temporary measures*

A position inheriting the right to stay for everyone rejects the concept of an homogeneous nation as not usable for finding the answer to the most important question raised of the 20th century. The question of escape and migration finally needs to be answered for it is the 21st century already. Deportation and externalization of borders are no answers to these questions, they are lethal and only temporary measures. Deportation and externalization of borders happen whenever states are abused for the ideology of the nation and are no longer perceived as orders of societal relations. In this sense, the slogan "Right to Stay for Everyone" is both political demand and political challenge. Because, as Miltiadis Oulios argues in "Blackbox Deportation":

"[...] we [need] to change perspective: at the very beginning of all efforts should not stand the begging for humanity any longer. Instead, the focus should be on the struggle for freedom and for the recognition of the fact, that migrants, that refugees will take their right to free movement anyway, that they will



exercise it. And this long before we grant it to them.” (Oulios 2015: XIV; translated from the German original).

### *Chances for Change*

These words sound a lot more grand than they actually are. Concretely speaking, everyone is able to participate in exposing the inherent faults of deportations (we will try to present concrete options in this dossier). If possible, one may convince him- or herself of the disastrous situation at EU's external borders. Change starts in the mind and this change will only succeed when humanity in its plurality communicates, has conversations – when “Politik” understood as polity, politics and policy at the same time is applied. Chances for change or effect exist. The concrete case of the collective deportation to Afghanistan in December 2016 was accompanied by an outspokenly critical public. The addressees of that critique are the German state governments. Deportations lie in their responsibility. Also the Saxon state government could push for a more humane policy. It may do so by renouncing deportations or, only as an another example, by aiming for a judicial review proceeding by the Supreme Court on the ever stricter asylum laws that were passed ever since 2015. It may sound naïve considering the behavior of the Saxon Minister of the Interior, but still, the coalition consists of two partners. Rethinking Saxon interior policy is urgently needed. We, Saxon Refugee Council, draw the following conclusions from the individual cases we and others made public and thereby from Saxon deportation practice:

- By producing high numbers of deported people the politicians responsible want to shape their profile in the face of the political opponent from the right-wing fringe. Copying the right-radical and inhuman original will not profit. CDU never got benefit in election whenever the party tried to adapt that fringe. The only result was a strong shift of rhetoric and law in the direction of inhumanity.
- Absolute, inalienable human rights, for example article 2 or article 6 of German constitution, do not play any role when enforcement authorities realize political objectives.
- This is a worrying development. All powers controlling the executive branch should take notice and start to act, question and judge accordingly.
- The Saxon Delegate on Foreigners' Issues needs to reevaluate his legally defined duties. The interests of all foreigners should lead his political acting.
- There should be a general stop of deportations! We explicitly demand a stop of deportations to Afghanistan. The state government also plans to deport to the civil war country.

- The Saxon government stretches moral and legal borders. It is everybody's task to point out that fact – towards refugees as well as towards Saxon public.

## Literatur Used

*Arendt, Hannah (2003): Elemente und Ursprünge totaler Herrschaft – Antisemitismus, Imperialismus, totale Herrschaft, Piper: München (English title: Origins of Totalitarianism)*

The human being possesses rights only when he\*she is a state's citizen and the state actually grants and enforces them. Hence, human rights are downgraded to citizens' rights. Those who cannot rely on the state's protection or even have to fear it are thrown back to being human. After Auschwitz one cannot assume that being human is the foundation of having rights any longer. Accordingly, a new right is needed which is fundamentally different to citizens' rights – the right to have rights.

→ What the right to have rights exactly means is explained by → Förster, Jürgen

*Arendt, Hannah (2011): Über die Revolution, Piper: München (English title: On Revolution)*

Arendt uses her comparison of the American and French Revolution (with references towards the Russian one) to define the desirable objective of any revolution. It is not liberation from a regime perceived as illegitimate, the sheer overthrow. This is supposed to be an only negative definition of freedom, freedom from something. Instead, revolution is about a new beginning, creating a new order, a constitution, in which the positive understanding of freedom, the freedom to act, is being kept. The European understanding of revolution inherents an outspokenly destructive element. An understanding

that is based on necessity, on what has to be done, lays the foundation for war, for destruction. Revolution in contrast rests on freedom. Freedom always needs to push for a new beginning.

*Bauman, Zygmunt (1998): Globalization – The Human Consequences, Polity Press: Cambridge*

The way globalization has served only the privileged for now and how humanity is being separated in "tourists and vagabonds" describes Zygmunt Bauman. Only one of the mechanisms pushing in that direction: the slow disappearance of immigration visa with a simultaneous increase of passport and migration control and trafficking.

„The first [the tourists] travel at will, get much fun from their travel [...] are cajoled or bribed to travel and welcomed with smiles and open arms when they do. The second [the „vagabonds“] travel surreptitiously, often illegally. Sometimes paying more for the crowded steerage of a stinking unseaworthy boat than others pay for business-class gilded luxuries – and are frowned upon, and, if unlucky, arrested and promptly deported, when they arrive.“ (Ebd.: 89)

*Förster, Jürgen (2009): Das Recht auf Rechte und das Engagement für eine gemeinsame Welt – Hannah Arendts Reflexionen über die Menschenrechte, HannahArendt.net – Zeitschrift für politisches Denken, Nov. '09, Ausg. 1, Band 5: Berlin (English translation: The Right to Have Rights and Engaging for a Shared World – Hannah Arendt's Reflections on Human Rights)*

URL:

<http://www.hannaharendt.net/index.ph>

[p/han/article/view/146/258](https://p/han/article/view/146/258) (last time visited January 15th 17)

If Arendt rejects human rights because they only come into effect as citizens' rights, how then should a right to have right be effective? Arendt does not even want to provide a legal structure for this right to have rights, to draft or to institutionalize it. Because then a state would be needed again, enforcing that right only for a group within humanity. Again, the right to have right would be degraded to a citizen right. Arendt also does not understand the right as a pre-state/ natural/ God-given/ metaphysical one. This understanding turned out to be of no use considering Auschwitz. Arendt perceives the right to have right as a guiding principle for political acting. To speak out for human rights always means to be political. The condition for „Politik“ in its threefold meaning are interhuman relations.

“[...] human rights [are] not owned steadfastly, they do not come with birth. [...] Even more so they are the expression of a specific humane relationship that constantly needs to be renewed and taken care of. Its effect and appreciation needs to be subjected to everlasting concern. Humanity needs to ensure that human rights appear in the world so that they become real and have practical effect.” (Ebd.)

Original: „[...] die Menschenrechte [sind] kein unverbrüchliches, qua Geburt verbürgtes Eigentum der Individuen [...]. Vielmehr sind sie Ausdruck einer spezifischen menschlichen Beziehung, die stetig erneuert und gepflegt werden muss, so dass ihre Geltung und Beachtung ständiger Auftrag zur Sorge ist. Die Menschen müssen dafür Sorge

tragen, dass die Menschenrechte in der Welt erscheinen, dass sie Wirklichkeit und praktische Wirksamkeit erlangen.“ (Ebd.)

*Oulios, Miltiadis (2015): Blackbox Abschiebung – Geschichte, Theorie und Praxis der deutschen Migrationspolitik, Suhrkamp: Berlin*

Deportations are the one side of asylum and migration policy that is consciously being kept away from the public. This is shown by Miltiadis Oulios in this comprehensive research. His purpose: to initiate a political discussion on deportations that goes beyond the outrage about the individual case because only that way change may happen.

*Sternhell, Zeev (2010): The Anti-Enlightenment Tradition, Yale University Press: Yale*

Sternhell finds the origins of nationalist thought in the 18th century and demonstrates the development of the Anti-Enlightenment tradition with its organic nations, of „nation's bodies“ until now. Sternhell recognized a repeal of universal human rights and the state of law – those mechanisms that are supposed to protect the individual. He concludes:

„Progress may not be continuous, history may advance in zigzags, but that does not mean that humankind must trust to chance, submit to the regime of the hour, and accept social evils as if they were natural phenomena and not the result of an abdication of reason. To prevent people of the twenty-first century from sinking into a new ice age of resignation, the Enlightenment vision of the



individual as creative of his or her present and hence of his or her future is irreplaceable.“ (Ebd.: 443)

*Vowinckel, Annette (2001): Geschichtsbegriff und Historisches Denken bei Hannah Arendt –Dissertation eingereicht am Simon-Dubnow-Institut Leipzig, Köln: Böhlau Verlag (English translation: Hannah Arendt's Understanding of History and her Historical Thinking)*

Arendt defines history in a fragmented way, that means, every person's perspective on the world bases on his or her own experiences. His or her story (the fragments) enable people to engage in conversation and to exchange their different and plural experiences. Only out of conversation politics emerge. The experiences of the 20th century have been unambiguous for Arendt. "Hell on Earth" was realized in Auschwitz, "hell" defined as the individual made completely superfluous and thereby destined to be exterminated. Also, the possible end of humanity was demonstrated by the nuclear bombs that had been dropped on Hiroshima and Nagasaki. Considering these experiences, Arendt concludes without any doubt: humanity needs to prevent totalitarianism for its own sake by preserving its inherent skills which are plurality, conversation, acting and thereby being political. Arendt preserves her trust in humanity to always refound a political space aside of such ruinous processes.

## Legal Tipps



In Germany, the federal states are responsible for enforcing deportations. Together with the state head office (Landesdirektion) the foreigners' departments organize deportations under the supervision of the ministries of the interior. Though until the deportation is actually enforced, the agencies and offices have got to go a long way..

### *Preparation in the Asylum Procedure – The Interview*

By requesting asylum, refugees receive a temporary permit to stay. The asylum procedure should be used already to make a possible future deportation less likely. Core of the procedure is the interview. Here refugees are supposed to bring up all their reasons of escape. It is highly recommended to get in touch with a local and independent counseling center that offers legal advice. The counseling centers prepare for frequent questions, the story of escape can be told, telling the story can be practiced. This is of particular relevance since the BAMF reasons its decisions by evaluating the “credibility” of the interviewee (and contradicts that reasoning by letting two different officials interview and decide rather than one person doing both).

We highlight the right to bring an assisting person to the interview. The assisting person has got the right to intervene in case the interviewer would not dissolve contradictions or

inconsistencies. Also, the assisting person has got the right to ask the interviewer to raise additional questions. In every case the protocol should be translated to the interviewee after the interview. If the interviewer tries to ignore that, insist on your right! An eye should be kept on the translator, too. They often lack professionalism. PRO ASYL comprehensively informs about the interviewing and deciding practice as well as about the quality of the official decision documents (“Bescheide”). Currently, the agency is confronted with critique in all aspects of its work. PRO ASYL and other organizations published a joint [memorandum](#) that points out fundamental deficits in the agency’s job and bases its critique on a number of documented individual cases.

Also people from countries labeled as “safe” respectively from countries with a low percentage of recognition should prepare intensively for the interview. The interview protocol could play an important role in a possible, concluding process at administration court.

A multilingual online [leaflet](#) published by asyl.net informs comprehensively on the issue of the interview. Also to be recommended is the multilingual [movie](#) on the same issue, published by Cologne Refugee Council and other initiatives from Cologne.

### *After receiving the ‘Bescheid’*

It is recommended to consider options in the following order:

1. File a complaint at administration court (responsible court is noted on Bescheid), if necessary, file another complaint at the higher administration court
2. Check options resulting out of residence law
3. Check if it is worth to file a subsequent request for asylum (see below)
4. Check if it is worth to file a request for a hardship case at Hardship Commission (see below)

### *Filing Legal Remedies at Administration Court*

The time limit for filing legal remedies starts as soon as the 'Bescheid' of Bundesamt für Migration und Flüchtlinge was sent (date was noted on the yellow envelope. Keep it in every case!). In the case of usual rejection or partial rejection (i.e. subsidiary protection was granted only for example), the time limit is two weeks. In case of an obviously unfounded rejection, you've got only one week. The time limit as well as the responsible administration court are noted on the information sheet on remedies.

The remedy itself may be issued by the next asylum legal center. Alternatively, the responsible administration court offers a service center where one might file lawsuits.

Additionally, the reasoning for the lawsuit needs to be handed in. Asylum

legal centers usually do not draft those documents. A lawyer is required here, legal advice centers support and connect and answer questions on the money issue.

When it comes to Dublin-cases (the BAMF-Bescheid indicates an inadmissible rejection), a legal center should be contacted in order to evaluate the chances for success of a lawsuit.

### *Further Options to Stay resulting out of Residence Law*

Three questions are relevant when it comes to checking possible residence options as they are outlined in the following:

1. How long has the person been in Germany?
2. Does the person have any professional or educational qualifications?
3. Are there obstacles for deportation?

*§25a Residence Law: Residence permit in the case of well integrated teenagers and young adults*

Conditions are

- constant stay of four years in Germany,
- the visit of a school or graduation from school or vocational training in the period of those four years,

- that the request has been issued before the 21st year in life was completed
- and “that it appears that the foreigner may integrate well due to previous education and life situation”
- Also, there should not be any hints that he\*she does not recognize the constitutional order of Germany based on freedom and democracy.

*§25b Residence Law: Residence Permit due to Long Term Integration*

Conditions here include

- a constant stay of eight years in Germany, in case a minor child lives in the household, six years suffice.
- The person or the family should be able to cover the majority of her\*his\*its living expenses by themselves or it should be likely that this is the case in the near future when the current situation concerning education, income and family is taken into account
- German language skills should be at least on level A2
- the actual school visit needs to be proved in case that children live in the household
- This time, the person needs to recognize the constitutional order of Germany based on freedom and democracy (different to §25a!)

and needs to have basic knowledge about law, society and life in Germany.

*§25 (5) Residence Law: Obstacles for Deportation*

If actual or legal obstacles for deportation exist and they appear to persist in the foreseeable future, a stay permit may be issued. There should be no findings on how long the obstacles for deportation will last. If for example the waiting period for obtaining a passport can be expected to be indefinitely long, condition for the stay permit are fulfilled (cf. Hofmann 2016: 499)

In case deportation has been suspended for 18 months, a stay permit needs to be issued. For this, the Foreigners' Department should not recognize any guilt in the emigration that has not taken place. The Foreigners' Department sees guilt as given in case false declarations or deceptions about identity or citizenship have been made. It will also not issue the permit in case obstacles for emigration were not removed although it would have been reasonable.

*§18a Residence Law: Residence for Qualified, Tolerated Foreigners*

Under the condition that the Federal Agency for Labor agrees as well as the professional qualification complies, the Foreigners' Departments can issue residence permits for the purpose of occupation. The Federal Agency decides without priority review (“Vorrangprüfung”). That means, it will not check if a German or EU citizen might



be suitable for the job. The permit may be issued if

- one has graduated from vocational training or university or
- one has graduated from a foreign university and has been working in a job that complies his\*her qualification in Germany for two uninterrupted years or
- one has graduated from vocational training and has been working in his\*her profession for three uninterrupted years. The whole of the household's living expenses have not been covered by public budget for the last year.

Furthermore, sufficient living space is required, German language skills should be on B1/level, no deception of the Foreigners' Department about aspects relevant to residence law should have taken place, there should be no contact nor support to extremist and terrorist groups and there should be no verdict on intentional crimes. Exceptions are fees due to crimes that can be committed only by people without German citizenship in the framework of residence and asylum law. The exception is valid for daily rates up to 50 or up to 90.

**IMPORTANT:** Obstacles for a stay permit according to §18 Residence Law are relatively high. In case a request for asylum was issued and rejected and no legal remedies can be filed anymore (i.e. the request for asylum is rejected as incontestable), the people affected

- have to emigrate to their country of origin temporarily (§10 Abs. 3 Residence Law)
- a written agreement with the Foreigners' Department should be reached.
- Before that they need to request a cut of their ten month re-entry restriction to the day of their re-entry.

Good preparation is needed here, definitely a counseling center needs to be contacted!

*§60a (1) 4 Residence Law: Letter of Tolerance for the Purpose of Vocational Training*

The so called "Ausbildungsduldung" was issued with the "integration law" of July 2016. First and foremost it needs to be said that the law defines no margin of discretion for the Foreigners' Office. The department must issue the letter of tolerance (see below why this is often not the case in reality).

The most important condition is the start of a qualified vocational training in the past or future. Although the Foreigners' Department actually has no margin of discretion, some departments reject the request for such a letter of tolerance. In every case the department needs to justify that decision. If arguing is not possible, one might require the reasoning in written form. A lawsuit may be filed too. Contact counseling centers and lawyers if that is the case.

Another condition is that concrete measures to end the stay in Germany are

not in planning. This is where a loophole opens up for the state government. There is no definition of what “concrete” actually means. The Bavarian government includes simple invitations for appointments into the definition. There are verdicts of different administration courts that do not share that view. They are collected by PRO ASYL [here](#). The states of Rhineland-Pfalz and Lower Saxony obliged their Foreigners’ Departments to apply the rule in the interest of the law and the people affected. Why the issuing of “Ausbildungsduldung” often fails in practice was shown in a position paper, published by us and other state refugee councils. To be found [here](#).

The basis of our experiences is still not sufficient to draw a conclusion although we do observe Foreigners’ departments issuing the permit.

After vocational training has come to an end, the letter of tolerance shall be extended for another six months so one is able to look for a job. If the job search turns out to be successful, a residence permit according to §18a Residence Law (see above) needs to be issued for a period of two years.

Work does not protect from deportation. Theoretically, deportation still might be enforced. By having a job, one might argue with an even more profound integration when it comes to requesting residence permits. It also could play a potential role in Hardship Commission.

*§60a Residence Law: Temporary Suspension of Deportation – Letter of Tolerance (Duldung)*

First and foremost: a letter of tolerance is neither a residence nor a settling permit. Only because of actual or legal obstacles for deportation, such a letter is issued (§60a Abs. 2 Satz 2).

A letter of tolerance always has temporary character and does not protect from deportation. Usually, it is issued for a period of three or six months.

*§60a (2) 2 Residence Law: Letter of Tolerance due to Impossibility of Deportation*

It is differentiated between actual and legal obstacles for deportation. Firstly, obstacles concerning the situation in Germany are listed.

- Actual obstacles of deportation if
  - inability to travel (check the advice for medical certificates below)
  - continuous lack of passport or other papers required (e.g. visa)
  - interrupted traffic routes
  - statelessness or people who are rejected reception by their alleged country of origin
- Legal obstacles of deportation
  - The reasons that had been checked in the asylum procedure and could have lead to the prohibition of deportation. (→ obstacles of deportation concerning the situation in the country

of destination, see text on §60 Abs. 7 below).

- Furthermore, the protection of marriage and family as well as the right on physical physical integrity, granted by the constitution.
- It may be added that the legal status of marriage does not suffice the recognition as obstacle of deportation. The family actually needs to live in an interdependent community (cf. Hofmann 2016: 947)

Differentiating between legal and actual obstacles of deportations is difficult when it comes to obstacles concerning the situation in the country of destination. A look on §60 Abs. 7 Residence Law helps. These reasons have been checked in the asylum procedure already on the possibility of issuing a prohibition of deportation. Again, it is recommended to contact a counseling service and a lawyer.

- Sentence 1 prohibits deportation in case of a substantial, concrete threat to body, life or freedom in the country of destination. Theoretically, it is still possible to suspend deportation in case that the health situation would decrease in the country of destination due to non-sufficient health care (§60 Abs. 7 Satz 2). This section is part of the laws that were made ever stricter ever since 2015. See the advice for medical certificates below.
- Swiss Refugee Support regularly publishes very helpful papers on

different treating options to different illnesses in the different countries of origin. References to reports from other NGOs are to be found there, too. With reports like these, one might argue in the interest of the individual case. Available [here](#).

We have noticed that local Foreigners' Departments do not even issue the Duldung anymore. Only, the law unambiguously states that the Duldung is to be issued. Neither alternative documents such as "Grenzübertrittsbescheinigung" or "Aufenthalt ohne Dokumente" suffice the requirements of identity proof nor do they have any legal basis in residence law. State government argues that there are reasons for a Duldung. We doubt that. If a deportation cannot be enforced – also if no obstacles for deportation are existent but rather the Foreigners' Department is simply not able to do so – a Duldung needs to be issued. Even though the Duldung is problematic itself it is much more difficult to find an apartment or a job or even to open a bank account. It is questionable if a residence permit according to §§25 a and b Residence Law can be applied if the period of Duldung was interrupted.

You may also check the minor request on „Grenzübertrittsbescheinigungen“ below.

*§60a (2) 3 Residence Law: Letter of Tolerance due to Margin of Discretion*

A letter of Tolerance due to margin of discretion might be issued if urgent

humanitarian or personal reasons or substantial public interests require the person affected to stay. Aside from the “Ausbildungsduldung”, other reasons might include surgery that cannot be conducted in the country of origin, an upcoming graduation from school or vocational training or taking care of a sick family member. There is always a chance to argue with the Foreigners’ Department on other reasons to be thought of.

Issuing a letter of tolerance due to margin of discretion is in the public interest whenever the person affected needs to witness at court or whenever it is part of a police investigation. Neither integration efforts nor pending petitions are considered.

Checking the conditions for residence permits and letters of tolerance is a complex matter. It is highly recommended to contact a counseling center and a lawyer. Similarly, the foreigners’ departments are not obliged to inform people affected whenever requirements for a residence permit or a letter of tolerance are met. That means that people could get deported who actually met the requirements of §25b, concerning long-term integration. Saxon Refugee Council demands such an obligation to inform.

### *Subsequent Request for Asylum*

Under some conditions, a subsequent request for asylum is worth to consider. Only, new reasons should have emerged that haven’t been evaluated by the BAMF until now. A changed situation in the

country of origin could be a new reason. Health or psychological issues could at least provide the basis for the status of protection of deportation. A subsequent request for asylum does not protect you from deportation though! Different from the first request, you will not receive a temporary permit to stay for the period of the asylum procedure. This only happens if the BAMF decides to evaluate the request in depth and does not reject due to formal reasons. This is why the subsequent request should be accompanied by an emergency appeal, aiming to postpone deportation. This is very important! The Supreme Court rejected to let one man be deported to Afghanistan because his emergency appeal was still not decided upon. Contact a counseling center and a lawyer for both subsequent asylum request and emergency appeal.

### *Hard Ship Commission*

Only the [members](#) of Hard Ship Commission are entitled to hand in requests. It is important that there are no pending legal remedies and/ or requests for a residence permit. Generally speaking, all options of a safe residence should have been tried or should be considered as not feasible. Hard Ship Commission will not decide on reasons that have been checked by an agency, department or court. Proven integration progress is of first priority. Language skills, economic status as well as social and cultural integration are taken into account.

The head of Saxon Hardship Commission is the Saxon Delegate on Foreigners’



Issues. He has got high influence which request are accepted or decided upon in a positive way. Ever since the incumbent delegate came into office, we have been noticing, the interests of foreigners hardly play a role for his office. Saxon Refugee Council as Member of Hardship Commission is disillusioned by the development the commission has undertaken ever since 2014. The almost concluded deportation of a family from Waldheim in December 2016 caused insecurity. Their case was pending at Saxon Hardship Commission. Immediate return measures should be stopped according to §4 Abs. 5 of Saxon Hardship Commission Law. Only the personal effort of the mayor of Waldheim prevented drastic and illegal consequences caused by failures of authorities

### *The Stop of Deportation*

#### *§60a (1) Residence Law: Stop of Deportation*

In the case of acute catastrophes in the country of destination, the ministry of the interior may declare the stop of all deportations for the maximum period of three months. A letter of tolerance is issued on the legal basis of §60a Abs. 1 Residence Law. There is no legal claim existent. Public pressure may be helpful, Saxon Refugee Council supports initiatives and networks in Saxony. Write to [pr@sfrev.de](mailto:pr@sfrev.de) or call public relations directly: 0351/ 33 22 52 35.

In the paragraph, a reference to §23 Residence Law can be found. Here, the highest state agency may order that people of specific citizenship or specific

group membership receive residency. Reception results out of humanitarian reasons or reasons concerning international law or whenever the political interests of the Federal Republic of Germany shall be preserved.

#### *Stop of Deportation of Rom\*nja*

Saxon Refugee Council demands such a residency from Saxon state government in the case of the Rom\*nja, mostly escaped from the Western Balkans. The situation of Rom\*nja in the Western Balkans is characterized by persecution and discrimination. Their political and social exclusion results in a high degree of poverty with consequences for health and life expectancy. Humanitarian reasons and reasons concerning international law are given. The political interest results out of the historical responsibility of the Federal Republic, legal successor of the German Reich, for the in Porajmos committed crimes. Official mourning in memory of the genocide among Sint\*ezze and Rom\*nja takes place today, a memorial has been erected in Berlin. Only, remembrance does not come along with concrete improvement of the life situation of the European Rom\*nja. This is the failure of the European community in general and of the Federal Republic in particular. After 72 years having passed ever since the end of World War Two and the liberation of the concentration and extermination camp Auschwitz-Birkenau this comes close to mockery. The ministries of the interior would not have to do a lot in order to apply §23 Residence Law..

### *Advice for Medical Certificates*

The main paragraph here is §60a (2c) Residence Law. Also that paragraph was made stricter in October 2015. Nowadays, it is generally assumed that health reasons are no obstacle for deportation. Now, the person affected is obliged to comprehensively reason his\*her sickness, means, to certify it by a doctor. The bar for such certificates has been raised enormously and thereby has the work effort for the doctors. The German Lawyers' Association writes:

“Protection of physical integrity needs to be preserved already because of constitutional reasons. The legislator is thereby prohibited to issue opposing rules of procedure. Hence, protection cannot depend on a specific medical certificate not brought up. A lack of such a certificate does not make life threatening deportations constitutional. Also here, the inquisitorial system [i.e. the need to state the reasons on which a decision is based and to investigate the background of the circumstances concerning that decision] remains.

Basic human rights like the right to physical physical integrity are absolute and not to be subjected to political objectives such as high deportation numbers. This unconstitutional ruling makes a judicial review of the ever stricter asylum legislation ever since 2015 even more necessary.

Psycho-therapeutic certificates do not play any role since the paragraph makes the restriction “medical (ärztliche) certificate”. §1 Abs. 3 of the Law on psychotherapists leaves no doubt about

the qualification of certified psychotherapists according to the German Lawyers' Association.

Hence, if a **psychotherapist attests** Post Traumatic Stress Disorder (PTSD), the certificate cannot lead to a letter of tolerance. In case a doctor certifies PTSD, the certificate should be as detailed as possible due to a high degree of skepticism of the Foreigners' Departments towards that diagnosis. Be aware that certificates of state doctors could count more than others, although the Foreigners' Department needs to justify that. PTSD can only be diagnosed after longer periods of therapy. This already could cause a problem since the Foreigners' Department could assume that the person affected may cause an obstacle for deportation by him\*herself. Additionally, announcing the deportation may indicate re-traumatization. If it is diagnosed accordingly, foreigners' departments again make unfounded assumptions (cf. Hofmann 2016: 945ff)

If a psychotherapeutic certificate is existent, it should nevertheless be handed in. Administrative courts strengthened psychotherapeutic certificates in the past. The Higher Administrative Court of North Rhine-Westphalia argued that psychotherapists indeed “are able to diagnose psychological sicknesses, even Post-Traumatic Stress Disorder due to their professional qualification.” (cf. OVG NRW, Judgement from December 19th 2008, 1Az. 8 A 3053/08.A). Again one can say: look for a counselling center. Other courts may decide differently.

The **medical certificate** needs to meet the following requirements:

- the actual circumstances that made up the basis for professional evaluation
- the method of evaluation
- the professional-medical evaluation of the symptoms (diagnosis)
- the degree of severity of the sickness and the consequences that result after medical treatment out of the situation

Aside from those outspokenly high requirements, the certificate needs to be sent “immediately” to the Foreigners’ Department. The Lower Saxon Refugee Council writes, immediately could be understood as time period of two weeks. If the Foreigners’ department does not receive the certificate within that period, the department is not allowed anymore to consider it. If there are other actual indications of a life threatening or otherwise severe sickness, exceptions from this rule could be made. Also if it is reasoned that there is no own fault for sending the certificate too late, an exception applies. The certificate will not be considered if the obligation to be medically examined by a state doctor is not met. The person affected needs to be informed about those obligations and the consequences if he\*she does not meet them.

The requirements for medical certificates were compiled by Henning J. Bahr, a lawyer from Munich, once again, published by AnwälteHaus. To be found [here](#).

As it was outlined before, **obstacles for deportation concerning the country of destination may be recognized** due to health reasons even though the legislator made the complying paragraph (§60 Abs. 7 Satz 2 Residence Law) much stricter. The sicknesses need to be life threatening or severe in order for an obstacle for deportation to be recognized. Additionally, this happens only then, if the health situation can be expected to decrease in the country of destination due to the country’s health care system. The legislator generally decides that health care in the country of destination does not have to suffice health care in the Federal Republic. Also, it is enough already if medical treatment is available in one part of the country of destination only. German Lawyers’ Association claims that those rules are not constitutional, referring to Article 2 of the constitution, dealing with physical integrity. The association elaborates that point in a statement.

Even though these restrictions exist: **the right to physical integrity is absolute**. It should not be undermined by an inhumane paragraph. Saxon Refugee Council wants to expose the problems the paragraph causes. For this, comprehensive documentation is required in order to be able to argue in public. With a critical mass of individual cases, public pressure can be created constantly. We are dependent on your help here. Once again the contact details to public relations: [pr@sfrev.de](mailto:pr@sfrev.de) // 0351 / 33 22 52 35. Since sensible data is concerned, encrypted communication should be used after first contact.

## Church Asylum

First and foremost, church asylum makes sense when it comes to Dublin cases. Due to a time limit of six months within deportation to another EU-member-state needs to be enforced, Germany is responsible for processing the asylum procedure after those six months. When in church asylum one can hold out for the time limit to end, even though the freedom to move might be restricted severely.

It is important to differentiate between Dublin-cases and those cases who fall under the safe-third-country regulation. Dublin cases are relevant whenever an applicant for protection requests asylum but BAMF rejects it as inadmissible since another EU-member-state is responsible for processing the asylum procedure.

- Dublin-procedures happen in the following counterfactual scenarios:
- Whenever an asylum procedure is going on in another Dublin state.
- Whenever the request for asylum has been rejected in another Dublin state.
- Whenever another Dublin state granted a national protection status and the request for asylum was rejected.
- Whenever no asylum procedure was started in any Dublin state but the person affected traveled through another Dublin state.

The safe-third-country regulation applies to people who have received the

refugee status according to the Geneva Convention on Refugees or who have received subsidiary protection. Church asylum is not of use here.

Advice to church asylum is offered among others by the Delegate on Foreigners' Issues of the Protestant Church of Saxony, Albrecht Engelmann. Contact [here](#).

Church asylum might become obsolete due to the planned reform of the Dublin-regulation, known as Dublin IV. Exactly those six-month time-limits are targeted. A switch of responsibilities between the member states is thereby excluded. Thereby, the phenomena of refugees in orbit would be accepted. Refugees could be deported to countries like Bulgaria, Hungary or Italy even after years – all of them countries who are overburdened already and/ or actively commit human rights violations. By diffusing responsibilities for people seeking shelter among the member states, people will only have access to the asylum procedures of those states where they do not have a humane chance of survival. PO ASYL comprehensively informs [here](#) to Dublin IV and its critique.

### *If all options are tried and exhausted...*

... and the person affected is under threat of deportation, the following advises should be kept in mind:

Refugees confronted with deportation are still free human beings. Even if the police appears to be too powerful, they do not have to remain silent, can still



make decisions and still can move. For this, they need support.

Wishes and planes of the people affected should be taken seriously. Also, limits to action should be determined and accepted. Deportations often have a traumatizing effect, especially for kids. Actions by supporters should always be agreed upon with the people affected.

Take a public stand against deportation. Raise awareness among friends and acquaintances or in public by giving addresses, readers' letters, participation at demonstrations. The public relations office of Saxon Refugee Council supports initiatives like these. Our concern is to document deportations comprehensively to expose the problems that come with the enforcement measure of the state. More information to public relations in this field here. (SFR interner Link)

The telephone number of our asylum counseling center on Dammweg 4 in Dresden: 0351/ 33 22 12 73. Of the center on Henriettenstraße 5 in Chemnitz: 0371/ 90 31 33. Our employees gladly provide further information and arrange an appointment if necessary.

### *Deportations to Afghanistan*

In December 2016, the first collective deportation to Afghanistan after 12 years took place. In this context, PRO ASYL pointed out important hints for the interview, link [here](#). Against the background of ever continuing deportations to Afghanistan, Bavarian

Refugee Council compiled tips in [Dari](#) and [Paschtu](#). Further hints in English, Farsi and German on our [website](#).

### *Deportations out of Schools*

In Bavaria, a couple of cases were reported where police officers and officials from Foreigners' departments appeared in schools. Students were supposed to be dragged out of their lessons in order to deport them. Out of that reason, the Union for Education and Science together with Hubert Heinold, a lawyer from Munich, compiled a guideline for teachers so they can refuse to participate in a legally watertight way. The guideline can be found [here](#).

### *Literatur Used*

The "Guideline for Refugees" of the Refugee Council of Lower Saxony gives a detailed and comprehensive overview on the here presented permits to stay and possibilities to receive a letter of tolerance. More information concerning refugees are provided, the asylum procedure for example is explained in depth. Most of the information presented here base on those guidelines. Here the link

Also used:

Hofmann, Rainer M., editor (2016): NomosKommentar Ausländerrecht, Nomos Verlagsgesellschaft: Baden-Baden

Deutscher Anwaltsverein, Hrsg. (2016):  
Stellungnahme 4/2016 zur Einführung  
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II), URL:  
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/sn-4-16-zum-gesetzentwurf-der-  
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beschleunigter-asylverfahren-33981](https://anwaltverein.de/de/newsroom/sn-4-16-zum-gesetzentwurf-der-bundesregierung-zur-einfuehrung-beschleunigter-asylverfahren-33981)  
(Last access: January 2nd 2017)

# Info regarding Detention for the Purpose of Deportation



*Dresden Hammerweg – Here, detention and custody for the purpose of deportation are supposed to be enforced*

## ***What is Detention for the Purpose of Deportation?***

Detention for the purpose of deportation is the most rigorous instrument to “ensure deportation” whenever people are obligated to leave under the threat of enforcement. Federal police respectively foreigners’ department will have come to the impression that the person wants to actively avoid deportation. Detention is applied whenever deportation is ordered to the country of origin or to another EU-member state according to Dublin III regulation. Since detention is the strongest enforcement of a measure against the will of an individual, a judge needs to order it. For that, foreigners’ departments and federal police issue according requests at the responsible district courts.

Detention for the purpose of deportation is regulated in §62 Residence Law.

Saxony detained 232 people in 2013 (source: dnn). The majority of people who were detained in Saxony were picked up by the police when they crossed the border to Germany without legal documents. Since they have no permanent residence, the authorities assumed that only by incarceration deportation can be ensured. Another reason for detention might be an expired residence title (e.g. in the case of a negative decision to a request for asylum) and the person affected not departing “voluntarily”.

Until December 2013, Dresden prison had capacity for 24 men about to be deported in a regular jail. On the basis of EU return directive, issued in 2008 already, that practice was considered to be illegal. The directive orders a clear separation between prisoners who are there because of the Penal Code and those detained for their deportation. Sharp restriction of the conditions of detention were the result. Private mobile phones were prohibited, “leisure” time and visitor hours were limited. Ever since December 2013, detainees are incarcerated in the detention centers of Berlin Köpenick and Eisenhüttenstadt in Brandenburg.

The leaflet [“Defenseless behind Gates”](#), issued by PRO ASYL, gives an overview on the conditions of detention in German detention centers. The Refugee Councils of Brandenburg and Schleswig-Holstein as well as Humanistische Union explain

facts and arguments in the leaflet "[Detention without Crime](#)".

### *What is the Difference between Detention for the Purpose of Deportation and Custody for the Purpose of Departure?*

The most obvious difference is the detention period. Four days maximum when it comes to departure custody, until twelve months in the case of deportation detention (much longer in practice). Whereas deportation needs to be enforced soon in the case of custody, i.e. the foreigners' department has organized documents, flights etc. already, this does not have to be so in the case of detention. A decision about deportation does not even have to be met (Preemptive detention). Otherwise one might be detained if he\*she is forcibly obligated to emigrate, a deportation order according to §58a Residence Law was issued, the Foreigners' Department could not find out the current address of the person affected, he\*she prevented deportation by other means or danger of escape persists.

In the case of custody, the obligations to cooperate must have been violated and deception on identity or citizenship must have taken place. The federal paragraph that enables custody, is itself a problematic one. §2 (14) of Residence Law defines what fugitive means. Whereas the regulations on detention refer to that definition, §62b on custody circumvents them. At least arbitrariness by authorities is something that needs to be calculated with.

### *Custody in Saxony*

On May 17<sup>th</sup> 2017, Saxon Parliament passed the law on the enforcement of custody in Saxony with the votes of CDU and SPD. It is a temporary law until a more comprehensive law will replace it. There, the enforcement of both detention for the purpose of deportation as well as custody for the purpose of departure will be regulated. An appeal that was sent to the Members of State Parliament not to vote for the law did not have any effect.

For the first time ever, Saxon wants to put people into custody for departure. Custody for the purpose of departure affects people who escaped and are about to be deported to exactly those countries, where they are under threat of persecution, hardships, discrimination as well as poverty caused by structural exclusion. The custody also enables the detention of beneficiaries of protection, of kids and sick people as well as families. The state government publicly declared that it intends to separate the latter if necessary. The Saxon state government does not have to apply the Federal Residence Law. By all means, the option exists to create political pressure together with the state governments of other federal states like Schleswig-Holstein or Rheinland-Pfalz. Those two states already declared that they want to get rid of the paragraphs that regulate detention, custody and their enforcement in Residence Law.

The realization of both instruments as it is intended in Saxon Law on the Enforcement of Custody Detention violates the UN-Convention on the Rights of the Child, the EU-return directive, German constitution and even German

Residence Law. The law gets tightened ever faster and stricter, the demands from the political right are preemptively transformed into law before older laws can show effect even. Humanity cannot keep up with that kind of speed. The ultima ratio detention for deportation as well as custody for deportation are made legal, milder alternatives such as close and individual case management are not considered. We appeal to the representatives of Saxon Parliament to reject the Saxon Law on the Enforcement of Custody when it is voted upon. By this, the crossing of even more moral and legal lines in Saxony would be prevented.

Our critique and demands base on the following points:

- Substantial doubts have been raised concerning the ever tighter asylum laws that were passed ever since 2015. Instead of enforcing those laws on the state level, holders of political office should aim for judicial review of those laws by the Supreme Court. In this sense, the enforcement of custody in Saxony shall be avoided.
- The visitors' rights of families and friends, lawyers and NGOs need to be granted and actually implemented in practice.
- The Penal Procedure Code only applies to criminals. The people that are affected here never committed a crime. Such a general reference to the Penal Procedure Code, as it is found in this law, is highly problematic. The reasons for that are to be found in numerous points: the general

reference misappropriates the necessity for social advice, for psychosocial and psychotherapeutic offers, rights of vulnerable persons as well as the right to privacy of correspondence and telecommunication. The custody is about to become to an absolute "Blackbox". At least eight suicide attempts in German detention centers ever since 2012 show the need for outmost sensitivity and the importance of transparency. We remind that the people affected are about to be deported. Re-traumatizations under this conditions of detention are very likely.

- The administration courts need to be included much more in the review for the reasons for arrest. The open question on pending procedures needs to be clarified. Administration of justice needs to present at all times.
- By incarcerating minors, Saxony will violate the UN-Convention on the Rights of the Child. The kids will not be able to fulfill their constitutional obligation to go to school. Again, article 6 is relativised by the state government. The separation of families is expanded by another instrument.

A change request of CDU and SPD aimed to "improve" conditions in custody. That was supposed to look like that:

- The proposed change of law claims that particular attention will be paid to the situation and



needs of people in need of protection". There is no definition of what that is supposed to be.

- Families as well as unaccompanied minors are supposed to be incarcerated separately. Which does not change the fact that families and unaccompanied minors will be incarcerated.
- An advisory board that includes two representatives of civil society is supposed to guarantee control and transparency. An unrestricted right for lawyers and NGO-employees was not regulated here.

Custody not only means the restriction of human rights – human rights are violated.

The whole appeal can be found [here](#). It was sent via E-Mail to the Members of Saxon Parliament as well as to the Saxon Members of German Bundestag to their knowledge. A short problematization of the change request can be found [here](#).



"It's not a crime to escape! – Protest against the custody law in front of Saxon State Parliament on May 17<sup>th</sup> 2017

# Press Reports

## *Deportation Practice in General*



In a joint press release the Federal Association PRO ASYL as well as Saxon Refugee Council criticize Saxon deportation practice as brutal, family and health do not count in Saxony. The following media pick up the release:

<http://www.sz-online.de/sachsen/abschiebepaxis-in-der-kritik-3424509.html> (June 20th 2016)

Report on the most recent deportation numbers that have almost doubled over the course of last year:

<http://www.mdr.de/sachsen/aktuelle-abschiebezahlen-sachsen-100.html> (February 5th 2017)

*Dpa* picked up our report about the forced separation of families. On the following websites the article was published:

<http://www.sz-online.de/sachsen/fluechtlingsrat-beklagt-familientrennung-durch-abschiebung-3635116.html> (March 14th

On *Custody for the Purpose of Deportation* a couple of media reports appeared.

SFR's protest in front of State Parliament was announced here:

<http://www.mdr.de/sachsen/protest-gegen-geplantes-abschiebe-gesetz-sachsen-angekündigt-100.html> (May 17th .17)

The faction's positions were presented here:

<http://www.mdr.de/nachrichten/politik/regional-abschiebegewahrsam-sachsen-100.html> (May 17th .17)

SFR's position was comprehensively described in the following interview with *Freie Radios*: <http://www.freie-radios.net/83096> (May 19th 17)

## *Practice of „alternative documents“ replacing the Duldung*

<https://mephisto976.de/news/vorwurf-gegen-auslaenderbehoerden-60567> (May 11th 17)

Luan Zejneli, whose case was handed in in Saxon Hardship Commission, was affected by the practice. *Leipzig Internet Newspaper* reported: <http://www.l-iz.de/leben/gesellschaft/2017/05/Fluechtlingsorganisationen-werfen-saechsischen-Auslaenderbehoerden-rechtswidriges-Verhalten-vor-177093> (May 12th 17)

### *Hard Ship Commission*

The student from Leipzig, Luan Zejneli, was supposed to be deported after turning 18 years old. Thanks to the solidarity of his classmates, public pressure was created. SFR handed in the case in Hardship Commission. It's vote was positive.

<http://www.l-iz.de/leben/gesellschaft/2017/05/Interview-mit-Benjamin-Heinsohn-%E2%80%9ESein-Glueck-kann-Luan-nur-in-Deutschland-finden%E2%80%9C-177407> (May 18th 2017)

<http://www.lvz.de/Leipzig/Lokales/Luan-darf-bleiben-Leipziger-wird-nicht-abgeschoben> (May 19th 17)

Ever since Geert Mackenroth heads Saxon Harship Commission, the number of recognized hard ship cases has been decreasing. *Taz* newspaper raises the question of the Why.

<https://www.taz.de/Asyl-und-Abschiebung/!5411684/> (06.06.17)

### *Case of the Bekir/ Kamberovikj family*

Interview in Coloradio with SFR on how the deportation was processed, the legal situation of the family at that time and the critique concerning the agencies.:

<https://www.freie-radios.net/77344>  
(May 27th 2016)

*Saxon Newspaper* reports that the State Head Office would not make any statement on the promise given to Azbije Kamberovikj to let her be examined by a doctor.

<http://www.sz-online.de/nachrichten/abschiebung-in-zwei-akten-3409989.html> (June 02nd 2016)

On a failed deportation shortly after the separation of Bekir/ Kamberovikj family reports *Saxon Newspaper*.

<http://www.sz-online.de/nachrichten/abschiebung-geht-schief-3415990.html> (June 09th 2016)

*Jungle World* cites the lawyer of the family, Oliver Nießing, and his reasoning on why the deportation was contrary to law in his view.

<http://jungle-world.com/artikel/2016/24/54217.html> (June 16th 2016)

*Migazin* shifts focus on the issue of statelessness that affects many Rom\*nja. The paradox between officially promoted culture of remembrance of the Porajmos and the anti-romaistic discrimination that still happens as well as the criminalization of their protest appears in the text.

<http://www.migazin.de/2016/06/17/familientrennung-bei-nacht-aber-die-lassen-dich-einfach-nicht-normal-leben/>  
(June 17th 2016)

*MDR exakt* shows the situation of the family as deportation was still threatening the family members that remained in Germany.

<http://www.mdr.de/exakt/angst-vor-abschiebung-100.html> (June 29th 2016)

*Freitag* newspaper spoke intensively with Sami Bekir and mirrors the situation of the family when they still lived in Macedonia.

<https://www.freitag.de/autoren/der-freitag/als-tito-lebte-hatten-wir-noch-rechte> (October 13th 2016)

### *Case of Mrs. D. and her kids*

*Leipzig Internetzeitung* comments on the separation of Mrs. D and her older son from the youngest as a clear breach of constitution and United Nations' Convention on the Rights of the Child.

<http://www.l-iz.de/melder/wortmelder/2016/06/zentrale-auslaenderbehoerde-sachsen-verstoesset-gegen-grundgesetz-und-verletzt-mehrfach-un-kinderrechtskonvention-139999>  
(01.06.16)

Report from *mephisto* on the deportation and family separation and the

subsequent law suit against the police, issued by Mrs. D and funded by Peperoncini e.V.

<http://mephisto976.de/news/familie-durch-polizei-getrennt-56003>  
(16.06.16)

*Migazin* presents the different perspectives on the deportation.

<http://www.migazin.de/2016/06/24/vollkommener-abschieberausch-krankemutter-jaehriger/> (24.06.16)

*kreuzer* portrays the story of Mrs. D, her reasons for her first escape from Chechnya and her second from Poland as well as her life and her dreams in Germany.

<http://kreuzer-leipzig.de/2016/07/12/nicht-ohne-ihre-kinder/> (July 12th 2016)

17)

## Minor Inquiries

### *January 29<sup>th</sup> 16<sup>h</sup>: Deportation of an 18 year old woman from Leipzig*

In 2015 families were separated already. A young woman turns 18. After reaching the age of majority, she is deported and separated from her family.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/616](#).

### *June 14<sup>th</sup> 16: Deportation of a woman without her minor son from Grimma*

The case of Mrs. D. as described in the chapter Single Cases is being dealt with here. The proceeding of police and foreigners' department is being reasoned with the prescribed temporariness of the separation. The human right on family protection is being relativized since the deportation was supposed to be enforced under all conditions. The reasons of Mrs. D. not to return to Poland did not play any role in the considerations of the foreigners' department.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/5205](#).

### *June 14<sup>th</sup> 16: Obstacles to Deportation due to Health Reasons*

By issuing Asylum Package II in February 2016, the Bundestag agrees to deport sick people in a more easy way. The tightening of obstacles to deportations in the country of destination and in the country of current residence are

repeated (check Advices for Medical Certificates under Legal Tipps). A proven risk of suicide will be checked as obstacle for deportation in every single case which means that the officials of the foreigners' departments are placing themselves above medical expertise.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/5267](#))

### *June 24<sup>th</sup> 16: Family Separations due to Deportation*

Until May 31st 2016 ten families were separated. In 2014 five families were affected (counted after statistical recording was started in February 17th 2014). In 2015 five families were affected. The number of separated families will increase to 20 cases in 2016.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/5266](#))

### *July 11<sup>th</sup> 16: Assumingly illegal Deportation of a Family from Riesa in June 9<sup>th</sup> 2016*

The deportation and separation of the Bekir/ Kamberovikj family is being dealt with here. The state government understands the proceeding as legal, rejecting the allegation of unlawfulness. Valentin Lippmann mentions the statelessness of Sami Bekir which does not count for the Minister of the Interior to suspend his deportation. A record in the Macedonian natal register suffices to doubt the statelessness of Bekir from his point of view.

Answer of the SMI to the inquiry of the Member of Parliament Valentin



Lippmann, Bündnis 90/ Die Grünen, [Drs. 6/5476](#))

***August 11<sup>th</sup> 16: Deportation of 15 Asylum Seekers in a Patient Transfer to Macedonia***

At June 2nd 2016 15 sick refugees are deported in a charter flight to Macedonia. The medical care on board perhaps ensured the physical integrity of the patients. Even more so, the costs of 75,000 Euro ensured the Minister of the Interior's argumentation for an alleged ability to travel.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/5779](#))

***October 16<sup>th</sup>: Deportation to Kosovo at September 20<sup>th</sup> 2016***

Saxon Refugee Council accuses the Minister of Interior of having made false statements in that answer. He writes that clinical pictures were known in the case one person. A specialist doctor made a certificate, i.e. not a public health officer. According to the view of the Minister of the Interior, no statements were made dealing with the ability to travel of the person affected. Saxon Refugee Council can refute that statement, the certificate of the specialist is archived.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/6571](#))

***Family Separations due to Deportations ever since June 2016***

In sum, 19 families were separated due to deportation until September 30th. Police men have no margin of discretion

to avoid the separation of families. Only the Central Foreigners' Department respectively the lower Foreigners' Departments can decide.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/6618](#))

***November 14<sup>th</sup> and 17<sup>th</sup> 16: Further questions regarding the Deportation to Kosovo on September 20<sup>th</sup> 2016***

Foreigners' Departments receive their medical competence and expertise to evaluate clinical pictures from paragraphs. As it is the view of the Minister of the Interior. He once again confirms that there have not been any sign for an existing inability to travel. As described, Saxon Refugee Council can refute that. Also, the Minister answers to Petra Zais that no suicide risks have been determined by a doctor. The documents we archived say otherwise, too. The handcuffing of a Nine-Year-Old is confirmed.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/6860](#) and Petra Zais, Bündnis 90/ Die Grünen, [Drs. 6/6864](#))

***November 18<sup>th</sup> 16: Use of Direct Force for the Enforcement of Deportation***

It is dealt with the handcuffing of minors during deportations. The Ministry of the Interior repeats the legal basis. Enforcement measures of the police need to be appropriate regarding the age of the people affected. The question of why a police squad needs to tie up a Nine-Year-Old is not being answered.

Answer of the SMI to the inquiry of the Member of Parliament Petra Zais, Bündnis 90/ Die Grünen, [Drs. 6/6865](#))

***December 21<sup>st</sup> 16: Deportations to Kosovo at November 30<sup>th</sup>/ December 1<sup>st</sup> 2016***

The deportation of nine people on November 30<sup>th</sup> and 22 people on December 1<sup>st</sup> is confirmed. In the case of one person the ability to travel was doubted by a specialised doctor. A public health officer was able to dispel those doubts.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/7231](#))

***January 27<sup>th</sup> 17: Deportations from Saxony in the fourth quarter of 2016***

The Ministry of the Interior speaks about 3,206 deportations in 2016. MDR contrarily reports that 3,377 people were deported. The State Directorate of Saxony confirms the number of 3,377 after a request of Saxon Refugee Council. Hence, the number of 3,206 is void.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/7768](#))

***February 13<sup>th</sup> 17: Deportations in special cases***

The number of 20 family separations is reported. The Minister of the Interior explains that no statistics on the number of deported pregnant women and sick people are available.

Answer of the SMI to the inquiry of the Member of Parliament Juliane Nagel, Die Linke, [Drs. 6/8097](#))

***April 25<sup>th</sup> 17: 04.17: Consideration of Human Rights and Law during Deportations***

A comprehensive questionnaire was handed in by the faction of Bündnis 90/ Die Grünen and answered. Some findings can be reported on but some questionable excuses were made by the state government as well. As an example: the government does not record the incidents whenever a pilot rejects flying a deportation flight. This is hardly plausible. Saxony participated in funding "Re-integration projects" which are supposed to show effect in the countries of origin after deportation with not less than 52.231,05 Euro for the years of 2015 and 2016. High risk pregnancy can only be diagnosed by public health officers. The expertise of specialized doctors does not count. Handcuffing a minor is simply the enforcement of an administrative act (which is the deportation). In front of other questions the government shuns away as it is the case with question 5 and 6 in the complex of questions on the hardship commission.

Answer of SMI to the major request of the faction Bündnis 90/ Die Grünen [Drs. 6/8633](#) (provided on our website due to five PDF documents.)

***April 28<sup>th</sup> 17: Deportations from Saxony in the first quarter of 2017***

The number of 579 deportees was published, 63 people were deported to other EU member states due to Dublin III Regulation.

Answer of the SMI to the inquiry of the Member of parliament Juliane Nagel, Die Linke [Drs. 6/9126](#).

*April 28th 17:*

*„Grenzübertrittsbescheinigungen“ and other documents which do not certify the suspension of deportation in contrast to §60a (4) Residence Law*

The state government confirms the issuing of alternative documents. It interprets the law in a way that according to that interpretation reasons for a Duldung are required.

Answer of the SMI to the inquiry of the Member of parliament Juliane Nagel, Die Linke, [Drs. 6/9127](#)

*May 31st 17: Further questions on Drs. 6/9123: Deportations in Special Cases*

After further requests regarding the forced family separation, the ministry of the interior writes that it does not list planned family separations. Hence, probably more than 20 families were separated in 2016 and probably more than three in 2017.

Answer of the SMI to the inquiry of the Member of parliament Juliane Nagel, Die Linke, [Drs. 6/9541](#)

*June 23<sup>rd</sup>, 17: Further questions on Drs. 6/3267 – Deportation of refugees that escaped from Afghanistan*

The state government announces not to have deported people to Afghanistan yet. In 2017, 25 people were urged to „return voluntarily“. In 2016, 190 were affected. 353 people of Afghan citizenship were obligated to leave under the threat of enforcement on June 9th 2017.

Answer of the SMI to the inquiry of the Member of parliament Juliane Nagel, Die Linke, [Drs. 6/9716](#)

## Start to Act!

Approach the newly arrived in your village or town, join a local initiative you like, support wherever support is needed. Especially in the asylum procedure, assistance is needed to prevent deportations in the future. Translating “Bescheide”, having an eye on time limits, contacting counseling centers, preparing BAMF-interviews, getting informed and educating oneself further – here, step by step competence and networks can be created. We provide legal advice here.

Whenever you hear something about deportations in your commune, start asking question, try to figure out if people who perhaps remained in Germany need further support but accept lines too. Turn to public relations of Saxon Refugee Council so Saxon deportation practice might be criticized as a whole.

Stay informed about deportations in Saxony. A various numbers of initiatives and NGOs are on Facebook or publish newsletters as Saxon Refugee Council does.

Go demonstrating, speak up against deportations among friends and family, spread information material, write readers’ letters etc. Contact local authorities, write to your local member of state or federal parliament, organize and create pressure on him\*her to position him\*herself against Saxon deportation practice.

Get in contact with the church communities of your village or city and make them aware of Saxon deportation practice. Christian representatives might be allies to end this deportation practice in CDU-dominated Saxony.

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## Local Counseling Centers

### *Borna*

*Bon Courage e.V.*

Kirchstraße 20-24

04552

Post Address:

Postfach 11 32

04541 Borna

Tel.: 0157 / 75 17 68 55 / 03433 / 26 06 160 / 03433 26 06 161

Mail: [info@boncourage.de](mailto:info@boncourage.de)

<https://boncourage.de/>

### *Chemnitz*

*Sächsischer Flüchtlingsrat e.V.*

Henriettenstraße 5

09112 Chemnitz

Tel.: 0371 / 90 31 33

Mail: [asyl@saechsischer-fluechtlingsrat.de](mailto:asyl@saechsischer-fluechtlingsrat.de)

Counseling hours: Mondays 1pm to 4pm  
// Tuesdays 10am to 1pm / 2pm to 4pm  
// Thursdays 10am to 1pm / 2pm to 4pm

Furthermore: Social Advice, Access to Labour and Education, Recognition of Foreign Degrees

Further appointments by Arrangement

*AGiuA e.V.*

Adalbert-Stifter-Weg 25

09131 Chemnitz

Tel.: 0371 / 495 127 55

Mail: [atendi@agiua.de](mailto:atendi@agiua.de)

Counseling hours: Wednesdays 1pm to 3pm // Fridays 10am to 12pm

<http://www.agiua.de>

### *Dresden*

*Sächsischer Flüchtlingsrat e.V.*

Dammweg 4

01097 Dresden

Tel.: 0351 / 33 22 12 73

Mail: [asyl@saechsischer-fluechtlingsrat.de](mailto:asyl@saechsischer-fluechtlingsrat.de)

Counseling hours: Tuesdays 10am to 6pm

Further Appointments by Arrangement

Furthermore: Social Advice, Access to Labour and Education, Recognition of Foreign Degrees, Hardship Commission

*Ausländerrat Dresden e.V.*

Internationales Begegnungszentrum

Heinrich-Zille-Straße 6

01219 Dresden

Counseling hours: Mondays to Wednesdays and Fridays 10am to 4pm

<http://www.auslaenderrat-dresden.de/>

*Kontaktgruppe Asyl e.V.*

Counseling in the Monday Café of Kleines Haus

Glacisstraße 28

01099 Dresden

Mondays 5-7pm



<http://kontaktgruppeasyl.blogspot.de/>

*Cabana – Ecumenical Information Center*

Specialised Advice on Family Reunifications

An der Kreuzkirche 6, 1st floor to the right

01067 Dresden

Tel.: 0351 / 492 33 67 // 0351 / 492 33 62 // 0351 / 492 33 69

Mail: [cabana@infozentrum-dresden.de](mailto:cabana@infozentrum-dresden.de)

Thursdays 1pm to 4pm

<http://www.infozentrum-dresden.de/>

*Caritasverband für Dresden e.V.*

Lohrmannstraße 20

01237 Dresden

Tel.: 0351 / 2728 3501

Mail: [asyl@caritas-dresden.de](mailto:asyl@caritas-dresden.de)

<http://www.caritas-dresden.de/>

## ***Döbeln***

*Treibhaus Döbeln e.V.*

Bahnhofstraße 56

04720 Döbeln

Tel.: 03431 / 60 53 17

Mail: [info@treibhaus-doebeln.de](mailto:info@treibhaus-doebeln.de)

<http://treibhaus-doebeln.de/>

## ***Freiberg***

Arbeitskreis Ausländer und Asyl  
Freiberg

Hornstraße 25

09599 Freiberg

Tel.: 037313 / 55089

## ***Leipzig***

*Refugee Law Clinic Leipzig e.V.*

Burgstraße 27

04109 Leipzig

Mail: [beratung@rlcl.de](mailto:beratung@rlcl.de)

Counseling on every second Friday of the month, dates and place to be found on the website

<http://rlcl.de/beratung>

*Initiativkreis Menschen.Würdig e.V.*

Bornaische Straße 3d

04277 Leipzig

Mail: [bus-le@riseup.net](mailto:bus-le@riseup.net)

<http://www.menschen-wuerdig.org/>

*Romano Sumnal e.V.*

Advice for Serbian speaking Rom\*nja

Beratung für serbischsprachige Rom\*nja

Pöge-Haus

Hedwigstraße 20

04315 Leipzig

Every second Monday 3.30pm to 5.30pm

Tel.: 0178 / 334 622

[0https://www.romano-sumnal.com/](https://www.romano-sumnal.com/)

*Peperoncini e.V.*

Local Legal Aid Fund for Asylum Seekers  
who filed Lawsuits

## Local Counseling Centers

Lokaler Rechtshilfefonds für  
Asylsuchende im Klageverfahren

Mail:

peperoncini@posteo.de <https://www.kleinrotbissig.org/>

## *Pirna*

*AG Asylsuchende Sächsische Schweiz/  
Osterzgebirge e.V.*

Lange Straße 38a

01796 Pirna

Mail: info@ag-asylsuchende.de

<https://www.ag-asylsuchende.de/>

## Individual Cases

### *Balic\* Family – Deportation of a Sick Man*

The Balic family of Kosovan citizenship and members of the Ashkali ethnicity issued their request for asylum in Germany in 2013. As members of the Ashkali minority they were ousted from their house, homelessness was imminent. Furthermore, the husband is suffering from severe traumatization with subsequent mental complaints. The Yugoslavia War left its mark upon him. In Kosovo he could not find any or not sufficient treatment for his suffering. The BAMF would not let count all of these reasons and rejected the request for asylum as obviously unfounded.

Ever since arriving in Germany in the year of 2013, Mr. Balic has been in stationary as well as ambulatory psychological treatment. His war experiences were processed. Towards the administration court of Leipzig he stated that he was a soldier in 1999, serving at the Albanian-Kosovan border. He had to watch many friends die. Small children were killed in front of his eyes. He himself was beaten up and abused. He had to gather up dead bodies in the so-called clearing unit Pec. Due to these experiences, Mr. Balic developed a distinct post-traumatic stress disorder, a somatisation disorder and a continuous personality disorder. For ten years he was exposed to an outdated medical therapy. The treatment with benzodiazepine let him become addicted to the drug.

Due to his addiction, Mr. Balic was stationed in the detoxification center Soteria in Leipzig for approximately three weeks. There, the war trauma was diagnosed. A regular, ambulatory treatment followed. A public health officer of Leipzig County certified the post-traumatic stress disorder in February 2015. Also the psychotherapist in charge points out the importance of a continued psychiatric and psychotherapeutic treatment. It should not be disrupted she argues. In case of deportation to the country where the traumatization originated, one could be almost absolutely sure that re-traumatization respectively heavy deterioration of the symptom will happen. The psycho-therapists statement also notes that suicidal thoughts and acts cannot be excluded if deportation would be enforced. That stressor should under no circumstances be triggered. Therefore, Mr. Balic was not able to travel.

In July 2015, Leipzig administration court rejects the family's legal complaint. In August, the first try to deport the family is undertaken. It fails due to Mr. Balic's bad physical condition. Afterwards, he is in stationary treatment for a couple of days. A subsequent request for asylum is rejected within less than three months. In September 2016, the family is deported to Kosovo. Shortly before, talks were undertaken to prepare a request for Saxon Hardship Commission due to the serious condition of Mr. Balic.

*The family was supported and its case documented and written down by Bon Courage e.V. from Borna.*

*\*Family name was changed*

### **Deportation and Separation of the Bekir/ Kamberovikj Family**

On May 25th 2016, early in the morning, approximately 20 police officers stand in front of the door of Sami Bekir's and Azbije Kamberovikj's family. They announce to pick up Kamberovikj and their three youngest kids to deport them. Bekir emphasizes towards the officers that his wife is suffering from a serious heart disease and that the flight could be too onerous for her. The officers ensure that a doctor will check her before the plane will take off. Bekir is being told that he and the other kids will be picked up at early afternoon and then will be deported too. Bekir waves Good Bye to his wife, only kept conscious by strong medicines, and his three youngest. As soon as the police officers disappear with that part of his family he will not see again until this very day, Bekir starts to pack his things. On no account he will return to Macedonia – a country that does want him to be there as little as the Federal Republic of Germany or Bosnia-Herzegovina. From all three states he had to endure deportation because: Bekir is stateless, meaning nothing else than being defenseless. In Macedonia he would be separated from his family again, he knows that. He could not support his sick wife from Bosnia-Herzegovina either in case he gets deported to there. The more likely it seems in Germany. He will not return to



Macedonia. Bekir decides to go into hiding.

Meanwhile, Azbije Kamberovikj is on her way to Berlin airport. Still she is under shock because of her being separated from her husband and her kids. She hopes for the promised, medical examination at the terminal. She suffers from the coronary heart disease, three heart catheters were implanted. In this moment and under these conditions, there is a de-facto acute danger of a heart attack or a sudden cardiac death. Only, the medical examination will not happen at the airport. Kamberovikj is brought on

board. The plane departs in time.

Azbije Kamberovikj and her three children survive due to donations for the time being. The family hopes to be reunited soon. The road to unification could lead over an upcoming conciliation hearing at Saxon Higher Administration Court. There the decision will be made if the kids that remained in Germany might receive a residence permit according to §25a Residence Law. In case of success, Azbije Kamberovikj and her three youngest kids could have a chance to return to Germany and to be reunited with her family again.

### *Deportation of Mrs. Ulqini, eight months pregnant*

In a petition issued on [openpetition.de](http://openpetition.de) the employees of a kids' day care center in Dresden write about the deportation of their translator:

„On June 8th in the early morning, around 7am, Mrs. Ulqini and her family were picked up in their apartment – unannounced and before the Letter of Tolerance expired and a decision in their law suit was made, the police deported them. At the same day they landed in Albania. Alma Ulqini was eight months pregnant. Her pregnancy was clearly obvious. Nevertheless, she was put in a plane, though every airline knows about the possible complications that might occur in that stage of pregnancy. Mrs. Ulqini never wanted to go into hiding. She wanted to integrate, to work and to participate in the integration of other refugees.

Her husband was persecuted since he became too critical as a journalist. He also immediately began a language class and a reeducation course in Germany. He already had a contract as everyday attendant in a care center, a job that would have started the upcoming days.

[...]

Considering the family's story, colleagues, teachers, the parents' council, the parents and other employees could not understand how the family was deported. The church community was

speechless as well as were many other friends and acquaintances.

[...]

Integration needs to be lived!

How can we satisfy the requirements the current refugee situation raises if we do not let count the individual case or do not wait until the individual case is examined. Alma Ulqini was needed here in Dresden and could have been a huge support in this sensitive field of work where we operate. For all those refugees who would have stayed for longer in Dresden Prohlis and for their kids going to 122th primary school, Alma Ulqini was THE driving integration force – making arriving and integrating easier by simply using language.”

### *Portrayal of a Deportation – Shakir\* Family*

On September 19th, it was the afternoon, my dad was released from hospital. In the night, around two o'clock, police officers were in the staircase, my dad heard them coming up. After ten minutes or so they were at the fourth floor and knocked against our door. My dad opened the door and the police officers asked: “Are you Shakir family?” My father said yes and the police officers replied that we are about to be deported to Kosovo. I was still asleep. My mother stood in my room together with two officers, waking me up. As I was awoken I saw the police men and I started to cry and to cry because I knew what was going on. I told them that I do not want to go to Kosovo. Suddenly I was



on the floor, everything went black, I did not see or hear anything. Later I was told that I had a shock. The moment I could get up again I ran to my school bag and grabbed it. I shouted that I do not want to go to Kosovo. This is why the police men handcuffed me. Also my father was tied up like that. I was dragged out, the police men carried me like an animal. I was put in the police car, sitting there alone until they brought my dad, also carrying him and putting him into the car next to me. I was only in T-Shirt, socks and shorts, this way they dragged me out! It was very cold already and I was freezing. I kept asking the police if I could get into other clothes upstairs but they forbid that. In the end they brought shoes, a jacket, trousers and a pullover. I also asked them again and again if I could support my mother with the packing. They always replied no, no, no. My mother was alone with the police men at the first floor. My mom did not even know what to pack first. At the end she forgot all my dad's medics 'cause she was that nervous. I would not see her again until the assembly point although they told us my mom would be with us downstairs soon. At the end she was transported in different car, we did not see that. At once the police officers just said that my mom is gone already and on her way to the assembly point. As we reached that place the handcuffs were taken from me and my dad. From the assembly point we were brought to Leipzig-Halle airport. There we had to wait for another two hours. Everyone received a bottle of water and one slice of bread with cheese. Then we had to board the plane. For me, the deportation was terrible.

*The report was written by the son of Shakir family.*

*\*Name of Family was changed.*

Today the family lives together with nine other persons in the house of Mr. Shakir's brother. Employees of URA 2, a returnee program funded by a couple of German states, stopped by the family's house. To enter and to examine the living situation was not of their purpose. They simply insured themselves that the family has a roof over their heads. Mr. Shakir was offered two appointments with the psychologist of URA 2. After that, no further sessions were possible. Too many people had been deported recently Mr. Shakir was told. The son of the Shakir family attends school again. The question remains how long he will be able to do so. His cousin graduated recently, but the family does not have the money to finance secondary school. The loan of her father needs to suffice for the whole family.

*You can help with a donation*

The organizations 'Pieschen für Alle', 'Laurentius-Kirchgemeinde Dresden' and the Saxonian Refugee Council ('Sächsischer Flüchtlingsrat e.V.') are calling for donations for the family. The house needs to be renovated and a separate apartment to be built. The Laurentius Kirchgemeinde has set up a bank account for this purpose:

IBAN: DE06 3506 0190 1667 2090 28

BIC: GENO DE D1 DKD (KD-Bank)

Purpose: RT1002/Flüchtlingsarbeit-Prishtina.



If you like to get a donation receipt, please provide your personal address in the 'purpose' field. You will receive the receipt at the start of 2018.

### *Kutlovci Family, deportation despite high risk pregnancy*

In Crottendorf in the Erz Mountains, the Kutlovci family found a new home. After their deportation to the Kosovo at December 1st 2016, the employees of the Family Center of Crottendorf reported that the family had established a wide network in the neighborhood already. The family became active in the family center, participated in German classes as well as in soccer training and organized meeting events. On December 1st 2016, the police stood in front of that family's home, too. Mrs. Kutlovci was five months pregnant at that time already. The employees of the center report, the pregnancy was not an unproblematic one. Additionally, Mrs. Kutlovci suffered from a serious kidney disease, a doctor was about to examine her on December 20th 2016. Like many other families, the Kutlovcis were deported to homelessness. The agencies knew about their house in Kosovo being destroyed due to the war. Aside from the violent deportation of a pregnant woman this case shows that even far reaching integration efforts do not count in the face of the threat of deportation enforced by the agencies.

### *Separation of D. Family*

It is six o'clock in the morning of April 5th 2016 when Mrs. D. and her 15-year old son are picked up by the police in their apartment in Grimma. The woman

having fled from Chechnya shall be deported to Poland. The EU-member-state is responsible for Mrs. D. due to the third-country-regulation.

The Federal Agency for Migration and Refugees as well as the Foreigners' Department know that Mrs. D. escaped from her husband from Chechnya. After she had heard that her husband knew about her place of residence at that time in Poland, she decided to escape a second time. To return to Poland would be way too dangerous for the family.

Only, this morning most of Mrs. D.'s thoughts go to her younger son, 13 years old. He spent the night at a friend's place, nevertheless his mother is about to be deported. The police men are not sure how to proceed. They call the Central Foreigners' Department which gives the Okay to deport and decided to leave the 13 year old boy alone in Germany. Mrs. D. asks the police officers what is going to happen to him. They reply that the youth welfare office will take care of him. Although the office gets informed, the boy remains disappeared. Until the return of Mrs. D and her 15-year old after more than two weeks, a 13-year old, scared boy stays in Germany and has to look for himself alone.

Being separated from mother and older brother, youth welfare office and police fail to get him back in custody. The temporarily discontinued investigation on the question of how a kid can be separated from its mother due to deportation were conducted once again. The separation of the family is not the only thing the former "Leipzig

Association against Family Separations because of Deportations”, here represented by Initiativkreis Menschen.Würdig e.V. and Peperoncini e.V., was criticized. Also in the case of Mrs. D., doctors found a possible deportation too dangerous to enforce.

### *Forced Separations of Families*

A new quality was reached when it comes to the separation of families in February 2017. The mother of a family was prohibited from getting deported due to her sickness. Thus, her husband and her three kids should have stayed in Germany too. But things went differently. In the night of February 21st to 22nd, police officers stood in front of the apartment door of the family. All members packed their things. The moment the mother wanted to leave the apartment with her bag, she was stopped by the officers. She won't get deported is what she is informed about. Only at this point, the family knows the complete plan of the enforcement authorities. The woman, mentally sick, collapses. A little later she gets hospitalised. Next morning, she is dismissed. At that moment, her husband and kids are in Kosovo already. The woman, even though she got the right to stay, decides to follow her family voluntarily. The calculation of Foreigners' Department and Ministry of the Interior works: the mother cannot hold the pressure that is executed on her..

## Press Releases

### *May/ June 16: Press Releases regarding the separation of the Bekir/ Kamberovikj Family*

Three press releases were published by us in May and in the beginning of June after Azbije Kamberovikj and her three youngest kids were deported and their family separated. The first press release dealt with the deportation itself. In the following one we criticized the administration court of Dresden that had rejected an emergency appeal within 24 hours and thereby could not carry out a comprehensive, content-related evaluation. In the third one we dealt with a thoughtless statement of Markus Ulbig ("The people know that they have to leave the country. Only if they do not attend their duty to do so, we operate with enforcement measures."). Together with PRO ASYL we published another press release in June. Deporting at all costs as it is practiced in Saxony was criticized here. Since we rearranged our website, those press releases are only available in bad quality. We kindly ask to excuse that circumstance. Available [here](#).

### *September 14<sup>th</sup> 16: The Double Standard of the Free State of Saxony*

The state government reacted fiercely to a flyer that was published by us with information against deportation. We took the chance to problematize Saxon deportation practice again. By showing three single cases we tried to expose the double standard of the Free State of Saxony. We published the release at September 14<sup>th</sup> 2016. Available [here](#).

### *September 21<sup>st</sup> 16: Deportation to Medical Nowhere*

In September, people we accompanied and whose cases are presented in this dossier, were deported to Kosovo. We pointed at the bad medical supply situation in the country that had been labeled as "Safe Country of Origin". Here, we reported on the family father Shakir already. With his file we can prove that the Minister of the Interior made false statements in an answer to a minor request of the Member of Parliament Juliane Nagel (check [here](#), Answer to Minor Request from October 16<sup>th</sup>). Press release available [here](#).

### *21.11.16: Violated Human Rights and Where to Find Them*

In September, people we accompanied and whose cases are presented in this dossier, were deported to Kosovo. We pointed at the bad medical supply situation in the country that had been labeled as "Safe Country of Origin". Here, we reported on the family father Shakir already. With his file we can prove that the Minister of the Interior made false statements in an answer to a minor request of the Member of Parliament Juliane Nagel (check [here](#), Answer to Minor Request from October 16<sup>th</sup>). Press release available [here](#).

### *February 15<sup>th</sup> 17: Right to Move and Right to Stay instead of Relentless Hardness*

This press release accompanied the publication of this dossier. Available [here](#).

***March 14<sup>th</sup> 17: Separation of Families reaches New Level***

On the day of the publication, Saxon Refugee Council already knew of two separated families in 2017. Particularly shocking: the separation of one of the families was deliberately planned by the enforcement agencies. The mother of the family was prohibited from departing. Nevertheless, her husband and kids were deported. Put under pressure to such an extent, she decided to follow her family to the Kosovo “voluntarily”. Available [here](#).

***May 5th 17: Enabling a Safe Residence Permit for Refugees in Vocational Training***

Us and other state refugee councils criticized that the Duldung for the purpose of vocational training fails in its very core already. Since it is a Duldung, deportation is only suspended. Concrete problems result out of that in practice. Our demand: a residence permit for refugees in vocational training. Press release [here](#).

***May 11th 17: Saxon Foreigners' Departments ignore Supreme Court***

Even though the Supreme Court unambiguously ruled in 2003 already that the Duldung *needs* to be issued, the state government thinks that one needs reasons for a Duldung. Consequences for the people affected appear on the labor and housing market. It is not finally clarified if that practice causes problems

when it comes to the recognition of residence permits. Press release [here](#).

***June 20th 17: On the Occasion of World Refugee Day: Defenselessness by Law***

Ever more human rights violations undermine the right to asylum. Keeping people from arriving and deporting those who have already arrived as quick as possible – those are the political objectives. They ignore all the friendships and the solidarity which developed ever after the summer of the so-called “Willkommenskultur”. Link [here](#).

***June 23rd 17: Again the Ministry of the Interior plays dirty games***

Ever since March 2017 it was known that family separations are enforced. Only, they are documented statistically. Hence, they do not appear in the replies of the state government to minor requests – in contrast to spontaneously conducted family separations. We think that this explanation runs contrary to every logic. We demand those numbers to be corrected and an end to that inhumane practice.

The press release [here](#).

## Table of Links

Here you can find all the links that appear in the dossier and are important for legal advice.

### *Asylum Procedure*

*„Guideline for Refugees“ compiled by Lower Saxon Refugee Council:*

<https://www.nds-fluerat.org/leitfaden/>

*PRO ASYL: Memorandum for fair and thorough asylum procedures in Germany*

<https://www.proasyl.de/news/memorandum-zu-asylverfahren-zeigt-qualitaetsmaengel-beim-bamf/>

*Informationsverbund Asyl & Migration: Multilingual Leaflet with information on the Interview in the Asylum Procedure:*

<http://www.asyl.net/arbeitshilfen-publikationen/arbeitshilfen-zum-aufenthalts-und-fluechtlingsrecht/informationsblatt-anhoerung/>

*Refugee Council Cologne: Multilingual Movie on the Interview in the Asylum Procedure:*

<http://www.asylindeutschland.de/de/film-2/>

### *Options resulting out of Residence Law*

*Position paper of a couple of State Refugee Councils on the Duldung for the Purpose of Vocational Training:*

<http://www.saechsischer-fluechtlingsrat.de/wp-content/uploads/2017/05/Positionspapier-Ausbildungsduldung-F%C3%BCnf-LFR-Final.pdf>

*RA Henning J. Bahr/ Anwälte Haus: Requirements for doctor's certificates after the tightening of §60a (2c) 3:*

<http://www.saechsischer-fluechtlingsrat.de/wp-content/uploads/2017/05/RA-Henning-Bahr-Anforderungen-%C3%A4rztliche-Gutachten.pdf>

### *Members of Saxon Hardship Commission*

<http://sab.landtag.sachsen.de/de/der-saechsische-landesbeauftragte/haertefallkommission/mitglieder-der-haertefallkommission-6774.cshml>

### *Church Asylum*

*Advice on Church Asylum by the Deputy for Foreigners' Issues of Saxon Protestant Church::*

<http://www.evlks.de/kontakt/beauftragte/737.html>

*PRO ASYL: Critique on Dublin IV*

<https://www.proasyl.de/news/geplante-reform-des-dublin-systems->



[verschaeftungen-stellen-fluechtlinge-schutzlos/](#)

## ***Deportations to Afghanistan***

*Advice against Fear, compiled by Bavarian Refugee Council:*

In Dari: [http://www.fluechtlingsrat-bayern.de/tl\\_files/Startseite/201701-Against%20the%20fear-Afghanistan\\_DARI.pdf](http://www.fluechtlingsrat-bayern.de/tl_files/Startseite/201701-Against%20the%20fear-Afghanistan_DARI.pdf)

In Paschtu: [http://www.fluechtlingsrat-bayern.de/tl\\_files/Startseite/201701-Against%20the%20fear%20Afghanistan\\_PASCHTU.pdf](http://www.fluechtlingsrat-bayern.de/tl_files/Startseite/201701-Against%20the%20fear%20Afghanistan_PASCHTU.pdf)

*Advice from us in Farsi, German, English:*

<http://www.saechsischer-fluechtlingsrat.de/de/2017/06/23/abschiebung-nach-afghanistan-am-28-juni-von-leipzighalle/>

## ***Custody and Detention***

*PRO ASYL: The Leaflet „Defenseless behind Gates“:*

[https://www.proasyl.de/wp-content/uploads/2014/07/Abschiebungshaft\\_Bericht\\_Juli\\_2013\\_Webversion.pdf](https://www.proasyl.de/wp-content/uploads/2014/07/Abschiebungshaft_Bericht_Juli_2013_Webversion.pdf)

*Refugee Council Brandenburg, Refugee Council Schleswig-Holstein, Humanistische Union: The Publication „Detention without a Crime“ gives facts and arguments against detention for the purpose of deportation*

[http://www.humanistische-union.de/fileadmin/hu\\_upload/doku/publik/HU2013\\_AB-Haft1-korr.pdf](http://www.humanistische-union.de/fileadmin/hu_upload/doku/publik/HU2013_AB-Haft1-korr.pdf)

*Saxon Refugee Council: Appeal with Critique on the Law Regulating the Enforcement of Custody for the Purpose of Deportation:*

<http://www.saechsischer-fluechtlingsrat.de/de/2016/11/23/appeal-an-die-mitglieder-des-saechsischen-landtags/>

*Saxon Refugee Council: Problematicization of the changed law regulating custody:*

<http://www.saechsischer-fluechtlingsrat.de/de/2017/05/08/ein-besserer-ausreisegewahrsam-macht-grundrechtsverletzungen-nicht-besser/>

*Saxon Refugee Council: Detention for the Purpose of Deportation: Texts by detainees, prison employees and volunteers of detention contact group Dresden (Publication in 2014):*

<http://dev.saechsischer-fluechtlingsrat.de/wordpress/wp-content/uploads/2016/04/Brosch%C3%BCre-Abschiebungshaft-in-Sachsen-Abschiebungsgefangene-aus-Sachsen.pdf>