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For freedom of movement: Independent information for refugees and migrants coming to Europe

من اجل حرية التنقل : معلومات مستقلة للاجئين و المهاجرين القادمين الى اوروبا

Pour la libre circulation: Informations indépendantes pour réfugiés et migrants arrivant en Europe

برای آزادی و حرکت : اطلاعات مستقل برای پناهندگان و مهاجران آینده در اروپا

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## Information against fear

### Germany will NOT immediately start mass-deportations to Afghanistan – let's fight together for your right to stay!

*Last updated: January 1st 2017*

In the last few months, many within the Afghan community have been feeling a growing fear about the worsening treatment of Afghan refugees in Germany and in the whole of Europe. After a first charter-deportation took place on 14<sup>th</sup> of December 2016 and 34 young men have been deported from Frankfurt to Kabul, this fear is growing even more. Some even fear they could be picked up at home to be deported without any warning, when they are still in the asylum procedure. This is fortunately NOT TRUE.

Very important information: It is not possible to deport someone during the asylum procedure. This means that, as long as you have not received the decision notice ("Bescheid") or as long as your asylum application has not been rejected, there is no threat of being deported! No one will be deported before the asylum procedure is finished and never ever before the interview has been taken!

It is very important that you take care by yourself and let the Bundesamt/BAMF always knows your current address, even if you are transferred by the authorities themselves. It might happen that they invite you for an interview or send you a decision to the wrong address – and that your asylum procedure gets denied even without interview or that you miss the timelimit to appeal against a decision.

Nevertheless for all those (especially young men), who have been rejected not only by the Bundesamt (BAMF) but also by the court and who have only "Duldung" (toleration status) it is getting more dangerous. You should now be more careful then before and figure out once more together with your lawyer or in counseling, which measures should be taken (e.g. starting a "Petition" and/or "Härtefallantrag" already right now. In case you have only "Duldung" and don't know how to continue or also if you just feel afraid, please come for counseling. You can find contacts here:

<http://w2eu.info/germany.en/articles/germany-contacts.en.html> and here:

<https://www.proasyl.de/beratungsstellen-vor-ort/> - Or you can ask Pro Asyl, Tel [+49 \(0\)69-242 314 20](tel:+4906924231420) (Mo–Fr 10–12 & 14–16) or email [proasyl@proasyl.de](mailto:proasyl@proasyl.de).

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## The current situation: Deportations from Germany to Afghanistan have started to become more, but they cannot deport masses of Afghans from Germany!

- At the beginning of October 2016 the European Union and the Afghan government signed a **readmission agreement** to “facilitate” the return of Afghan asylum seekers who have not been granted asylum and who are now in a state of „toleration“ („Duldung“). They even talked about a terminal for deportations that should be built in the Kabul airport.
- On 14<sup>th</sup> of December 2016 the German authorities carried out a first charter deportation from Frankfurt to Kabul. 34 young men got deported (while they had planned originally to deport 50 people, 16 deportations could be stopped last minute based on different reasons).
- **BUT:** This readmission agreement does not immediately lead to mass-deportations. Its implementation will probably take years. Just within Germany, there are already 14.000 Afghans today who only have a “Duldung” status (so-called “toleration” after a fully negative asylum procedure), and in Sweden, Norway, Denmark there are many more.
- Still not many people have been deported to from Germany to Afghanistan (in 2015 in all over Germany it has happened to 9 people, while in 2016 together with the 34 persons from the charter on 14<sup>th</sup> of December it have been around 60 persons, all of them men).
- What take place more regularly are so-called “**voluntary returns**” to Afghanistan, which means that people decide by themselves (and sign) to go back. This often does not really happen on a “voluntary” basis, and often without being informed about the consequences. If you consider this as a possible next step, you should ask the above-mentioned contacts about options for a trustful counseling beforehand - many times we have seen people who had to flee a second time after a return.
- For Germany, we estimate that for now the practice to deport only young, single, healthy men will continue. So there will probably be no deportations of so-called “**vulnerable people**” such as families, single women or elderly people.
- Finally (if we count also those who get protection after a “Dublin” procedure) the percentage of people who get a **right to stay** (refugee status or humanitarian protection) for Afghans it was still quite high in Germany: in 2015 it was 78%, and until November 2016 2016 it was still above 60%. Only in the last few months this rate of acceptance/recognition got lower – which means that the migration office starts to be more strict in considering certain regions as “safe”, and they have been claiming more often than before that a person could have also found an alternative “safe place” inside the country („why can’t you live in Kabul or Herat, where it is safe?“).
- Contrary to the propaganda of EU-member-states, **Afghanistan is not safe!** Every day people lose their lives or get injured in bombings or shootings. You should try to make the authorities understand very concretely why you are personally in danger in Afghanistan.

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## Their aim is to produce fear

Maybe the number of deportations won’t grow very high, but one main aim of this agreement is also to produce fear among a whole group of refugees, to make people change their routes or perhaps even to provoke voluntarily returns out of fear. The German government hopes that everybody will pick up the phone to call relatives and friends in Afghanistan, Pakistan and Iran to tell them: “Don’t come to Europe, you have no chances here.” You should NOT do this.

We would like to join hands and build solidarity in order to not let them win, with this idea of creating fear to terrorize people who have already enough problems. Most importantly: don’t panic! If you are afraid to be affected by the readmission agreement, please ask your lawyer or a counselling office to try to figure out with them how to obtain a right to stay.

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## Some useful information for your right to stay

There are different needs in different steps of the procedure. So we divided the following chapter into three different parts:

1. Most in danger: all those (and especially young and healthy men) who have only “Duldung” after negative decisions in the asylum procedure
2. If you are still waiting for your interview to be taken.
3. If the interview was taken but you do not have the decision OR you had a negative decision but you are waiting for the second decision from the court

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### 1. Most in danger: All those (and especially young and healthy men) who have only “Duldung” after negative decisions in the asylum procedure

In the charter deportation on 14<sup>th</sup> of December we have seen that it was mainly young men, who had stayed for different amounts of time in Germany. All had been rejected twice, in the Bundesamt (BAMF) and in the court. They have been picked up at home or at their work-places, most of them already in the days before the charter deportation happened.

There is an announcement for a next charter-deportation for beginning of January. We would recommend for everyone who has only “Duldung” to check now, if there is other options to get a status. We can recommend to figure out five different ways:

- a. Since August 2016, if you follow the vocational training (“Ausbildung”) you can get a so-called “Ausbildungsduldung”. For the whole time you are following the “Ausbildung”, you have the right to keep a “toleration status” (and you will not get deported while on this status) and in case you find a job afterwards you have the right to get a residence permit. That means vocational training effectively can save you from deportation. You have to apply for this at the foreigners’ office (“Ausländerbehörde”). Sometimes they will not give you the permit. If they deny they have to do it in a written form, you can again appeal against this decision in front of a court. This appeal is often successful, because it is often unlawful for that office to deny it to you. You can find an overview about this in German here: <https://www.proasyl.de/news/anspruch-auf-ausbildung-informationen-zur-neuen-rechtslage-fuer-geduldete/>
- b. There is also the option to apply for a right to stay according to §25a for people younger than 21 who have been in Germany for at least 4 years and, according to §25b, for people older than 21 who have also families with children who have been in Germany for at least 6 years, and for adults without children who have been in Germany for at least 8 years. In German here you find some hints on how this works: [http://www.einwanderer.net/fileadmin/downloads/\\_25a/\\_25a.pdf](http://www.einwanderer.net/fileadmin/downloads/_25a/_25a.pdf)
- c. Even if the asylum procedure fails, and you obtain a negative result all the way to the end of the process, there is also the option - via “Petition” to a state parliament and hardship case commission (“Härtefall-Kommission”) - to get a right to stay based on “integration”. It becomes complicated to defend and prevent a person from being deported especially if s/he is accused of criminal offences. If the criminal offence sentence is too high, this also blocks petitions to “Härtefall-Kommission”. Remark: sentences for drug-dealing and other kind of criminal conviction will exclude from all options to get another residence permit and thus cause a big danger of deportation.

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- d. If there are new reasons (for example new medical problems, a psychological survey, that did not exist before etc.) there could be also options to restart a new procedure (Folgeantrag). You should speak about this with your lawyer. In German language you can find some more hints here: <https://www.proasyl.de/hintergrund/hinweise-fuer-afghanische-fluechtlinge-und-ihre-beraterinnen/>
  - e. Also if your family situation changes in the meantime (for example you get married with a German citizen or a person who has already a right to stay here and/or you got a child who has a right to stay in Germany and you are taking care of it, this changes the situation and you have to figure out with your lawyer and or counseling-office how to present this as a new basis for your right to stay to the authorities.

In some cases, the authorities will deport to “set an example” to scare all others, like they did on 14<sup>th</sup> of December and they announced for beginning of January once again. Yet it is actually still possible to stop a deportation until the last moment. You can find more ideas on how to do that here: <http://w2eu.info/germany.en/articles/germany-deportation.en.html> (in English, including a PDF printable in several languages) and <http://w2eu.info/germany.fa/articles/germany-deportation.fa.html> (in Farsi).

In case you are considering leaving Germany to go to another country, it can be very helpful to think about it twice to avoid finding yourselves in an even worse situation. There are a lot of information and useful contacts here: <http://w2eu.info/> and it is crucial to ask for advice BEFORE leaving, so that you know what it is important to keep in mind as you go. In many cases, especially when people have already been registered here and have been here for some time, it would be much easier and quicker to fight for a right to stay in Germany than in a second country – especially as there is also the chance of “Dublin” deportations back to Germany.

Especially for Bavaria: Afghans who have only a toleration („Duldung“) status in Bavaria (after the end of a complete procedure with negative results - thus without holding any other status) may receive threat letters. If you receive such a letter, this does NOT mean that you will be quickly deported. Please visit a counseling office or your lawyer to speak about your prospective chances to stay.

**Be careful:** It is planned that EU-member-states will have the possibility to issue travel documents (so called „laissez passer“) for those Afghan citizens who have requested a passport in an Afghan embassy/consulate. This means that this “laissez passer” will enable the EU to return Afghans also without a valid Afghan passport. As a consequence, you cannot rely any more on the work of Afghan embassies, which often asked you twice if you really want to get a passport before they issued it.

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## 2. If you are still waiting for your asylum interview: Some useful information on asylum procedures for Afghan refugees:

- a. Asylum procedures in Germany are now processed faster than before. There is less time to prepare for the asylum interview. **Prepare yourself as soon as possible.** Once more: no one will be deported before their case has been examined after the asylum interview!
  - b. Even if the migration office (Bundesamt/BAMF) takes a “negative” decision, they don’t have the last word. Everyone has a **second chance**, if you appeal against their decision in front of a court of law. We expect that many courts will correct the strict decisions of the BAMF, and that in the second round many people will obtain a right to stay. Very important: check your post / mail regularly (every day), so you don’t miss the right timed chance to appeal!
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- c. Those most in danger are mainly the **young and healthy man** without family. People who come from regions like Kabul, for example, and that are then considered to be relatively safe, will be most affected.
- d. It is always good to **prepare for the asylum procedure**. A few hints can help to get a better result:
- Before the interview: Contact a counseling office and prepare yourself. You can find information about the asylum interview in Germany here:
    - English: <http://w2eu.info/germany.en/articles/asylum.html>
    - Dari: <http://w2eu.info/germany.fa/articles/germany-asylum.fa.html>
  - The interview: Here you need to talk as in detail as possible about what really happened to you and your family. Take your time, and explain the reasons for your personal persecution and what you fear might happen to you in case you have to return.
  - For Afghans who grew up in Iran or Pakistan, it is very important to explain that you don't know Afghanistan and that you have no support there.
  - In the interview, don't use a special "case" that is too far away from your own reality. Mostly these are "cases" well known to the BAMF. You may risk that they'll accuse you to be lying. It would be very complicated to correct your statements and their reactions afterwards!
  - For young healthy men, and also for unaccompanied minors who will turn 18 soon: having family members in Kabul or in other "safe" regions of Afghanistan can be a problem. Especially if you are regularly in contact with them, the BAMF may assume that your family would be able to support you if you were to return there.
  - It is very important to document health-related problems from the very beginning by obtaining medical certificates from a doctor. This concerns especially all kinds of psychological problems that can be a result of bad experiences/memories from Afghanistan or also from your journey to get out of there. Many of you know the symptoms: sleeplessness, bad dreams, headache-attacks, problems to concentrate etc. This is called "traumatization" or "post-traumatic stress disorder (PTSD)". If you are able to get medical/psychological certificates about this kind of suffering, that can help you in your asylum procedure. You should show these documents at the asylum interview or, following a possible rejection of your asylum application, to the foreigner's office ("Ausländerbehörde").
  - If you have an Afghan Passport or ID: it is often dangerous to present a passport or ID before you obtain a positive decision about your asylum case. Before presenting a passport or ID, it is always good to ask for advice to a counseling office and/or to a lawyer.
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### **3. For those who have already received a first negative decision and are waiting for the court to decide:**

Some Asylum and Court procedures in Germany take a **long time**. That can be a problem, because many times waiting lead to exhaustion. Nevertheless, this waiting time can be extremely useful for those who may have a lower chance to win the right to stay already with the migration office ("Bundesamt" or "BAMF") in the first round. Time is playing on your side! If you use it for both to integrate more (learning the local language and/or trying to find a job or a chance to study) and to build a network of friends who will fight for your right to stay together with you, the longer it takes the better it is.

Please read carefully the information in the first part on "Ausbildungsduldung", Right to stay based on §25a and 25b and "Petition" and "Härtefall" above. For all these options it is crucial that:

- a. you learn German,
- b. you start to earn your own money (and get independent from social welfare),
- c. it can be helpful that you "integrate" (means also connections to local associations, it can be football, arts, music etc, you try to voluntarily assist someone etc.)

So you should use the time to prepare the next step (that is hopefully not needed, but it is always good to have a plan B).

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## We propose the following:

1. Everybody should help in stopping rumors and false information. If you can, please copy this information and share with friends.
2. Prepare for your asylum case.
3. Let's join hands to ask for better integration options – we expect that the foreigners' offices ("Ausländerbehörden") will become more strict with work-permits or permissions to begin education ("Ausbildung") and we need to build networks to struggle for more and better access to both language courses and work permits.
4. Let's join hands and build solidarity against deportations. Afghanistan is not safe. Let's join hands against fear. Each person who gets a negative decision should have many friends around him/her to make this message clear: together we will not allow anyone to be deported back against their will!

**Against fear – right to stay for everybody!**

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## What is w2eu.info?

w2eu.info provides contacts and counselling to refugees and migrants on their way. At the outer borders of Europe, people are refused entry, they are imprisoned and deported.

Nevertheless people are coming. w2eu.info is supporting you who come to Europe in your struggle for a better life.

We welcome all travellers on their difficult trip and wish you all a good journey - because freedom of movement is everybody's right!

Permalink to this leaflet:

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