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Kabul 11.11.2016
Yohannen fordern Gerechtigkeit
für enthauptete Opfer

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AGAINST DEPORTATIONS TO AFGHANISTAN

let's fight together for the right to stay!

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Since Germany has regularly carried out collective deportations to Afghanistan, the fear of deportation is huge in the Afghan community. Many are insecure and fear that they could be the next to be deported to Afghanistan. In most cases this fear is unfounded! Contrary to what is often claimed, the chances of Afghan refugees being granted the right to stay in Germany are still not bad. And despite regular collective deportations, only a comparatively small part of the Afghan community is threatened by deportation to Afghanistan.

The main aim of deportations is to spread fear among a whole group of refugees in order to persuade them to change itineraries and destination countries or to “voluntarily” return to Afghanistan. The German government hopes that everyone will pick up the phone and call their relatives and friends in Afghanistan, Pakistan and Iran to tell them: “Don’t come to Europe, you have no chance here.” That’s exactly what you shouldn’t do! Instead of spreading panic and rumours, it is important to network and get good advice and support as early as possible.

In many cities it has been possible to establish solidarity networks between those affected and supporters and thus largely prevent deportations of Afghans. We therefore propose to join forces and build solidarity so that fear does not spread among people who already have enough problems. And for supporters, too, fear is usually a bad advisor. Sorted information and a look at possible solutions help those affected more than excitement and hectic.

If you do not yet have a lawyer or contact with a local counselling centre and supporters, you should contact the Refugee Council of your own federal state as soon as possible:

<https://www.proasyl.de/en/our-network/>.

Helpful contacts can also be found here:

<https://t1p.de/f8k7> and here: <https://t1p.de/4u3f>.

You can also contact PRO ASYL directly:

+49 (0)69 242 314 20

(Mon–Fri 10–12 & 14–16 h)

or by e-mail to proasyl@proasyl.de

(<https://t1p.de/4u3f>)



AFGHANISTAN IS NOT SAFE!

Against Fear – Right to Stay for Everyone!

GENERAL INFORMATION ON DEPORTATIONS TO AFGHANISTAN

In October 2016, the German government concluded an agreement with the Afghan government to facilitate the deportation of Afghan nationals who are obliged to leave the country (in German: <https://t1p.de/e4u6>). The key point of the agreement is the agreement that Afghan citizens can be deported to Afghanistan without a passport under certain conditions.

In December 2016, the German Ministry of the Interior carried out the first collective deportation to Kabul. Since then, such collective deportations have taken place regularly – normally once a month. A total of 405 Afghans were deported to Kabul in this way in 2017 and 2018 (2017: 121 and 2018: 284). These collective deportations will continue in 2019.

There are currently about 17,000 Afghans living in Germany who have to leave the country. Measured by this, the number of people deported to Afghanistan is not particularly high. However, the deportation practices of the individual federal states vary greatly: most federal states only deport very few people to Afghanistan. By far the most people to Afghanistan were deported from Bavaria (see in German: <https://t1p.de/mgfq>).

It is often claimed that Afghans have very poor chances in the German asylum process. That is wrong! The chances have become a bit worse than before, but even the most recent BAMF figures show that many have been granted protection status. In 2018, almost half (49.9%) of all Afghan asylum seekers whose asylum applications were decided on by the BAMF received a positive decision from the BAMF. Even if the asylum application is rejected and a complaint is filed against the rejection, the chances are not bad: in 2018 the courts reversed the rejection by the BAMF in 58% of the cases and granted protection status.

WHO IS THREATENED WITH DEPORTATION TO AFGHANISTAN?

Since the collective deportations began in December 2016, only single men have been deported to Afghanistan. Some have only been in Germany for a short time, others have lived here for many years. All of them had had their applications for asylum rejected at some point, which is why they only had a “Duldung” (toleration status) as proof of identity. They were picked up at home or at their workplaces, many already some days before the deportation.

Women, children and families have not yet been deported to Afghanistan! In all probability this will not change so quickly. For single men it depends on a number of factors whether they are threatened with deportation or not. It is therefore particularly important that they seek individual advice and seek solutions together with lawyers, counselling centres and supporters!

Since the situation can change again quickly, all others should also ensure that they inform themselves regularly and maintain contact with their lawyers as well as with counselling centres and refugee councils. The following information is intended to provide an overview of who is threatened with deportation. However, they are no substitute for individual counselling!

No one can be deported during the asylum procedure!

This means: As long as the asylum application has not yet been rejected by the BAMF, you cannot be deported. The same generally applies if the asylum application has been rejected by the BAMF, but a complaint has been filed against the rejection in the timeframe that allows it and the court has not yet decided on the complaint. The safest sign that someone is still in the asylum procedure and cannot be deported is the possession of a residence permit.



Not having a passport does not protect against deportation!

Many still believe that they cannot be deported if the German authorities do not have a valid Afghan passport. That is wrong! German authorities can – if the Afghan authorities do not issue a passport within 4 weeks – deport people to Afghanistan without a passport. Germany and Afghanistan agreed on this in a joint declaration in October 2016.

Only if someone receives a “Duldung”; a deportation can become possible!

If a court confirms the rejection of the asylum application by the BAMF or no complaint has been filed against the rejection, someone becomes “obliged to leave the country” and receives a “Duldung.”



“Obligatory to leave” means that the person is legally obliged to leave the country. If the person does not leave “voluntarily,” the BAMF threatens deportation. This sounds frightening, but does not mean that someone is actually threatened with deportation. By far not all Afghans with a tolerance are threatened with deportation to Afghanistan! Women, children and families, as already mentioned, are not currently deported to Afghanistan – even if they only have a “Duldung.”

Single men with “Duldung” who do not have any obstacles to deportation are potentially threatened. Obstacles to deportation can be, for example, the presence of close

family members in Germany, serious certified illnesses or, under certain conditions, a training contract (“Ausbildungsvertrag”). The competent foreigners authority (“Ausländerbehörde”) checks whether there are any obstacles to deportation.

NOTE: In order for the foreigners authority (“Ausländerbehörde”) to be able to check whether obstacles to deportation exist, it must know all relevant information. If, for example, you are ill, you will have to submit certificates proving your illness to the foreigners authority (“Ausländerbehörde”) immediately! Please contact your lawyers and local counselling centres to find out whether you have any obstacles to deportation or whether you are potentially threatened with deportation!

NOTE: Some immigration authorities do not even issue “Duldungen” any more, but some fantasy papers or “border crossing certificates.” If the foreigners authority (“Ausländerbehörde”) don’t want to grant you any more “Duldung,” this may be an indication that it becomes more serious now. In this case, please contact your lawyer or an counselling centre as soon as possible.

The danger of a deportation depends strongly on in which federal state you live!

The 16 federal states can decide for themselves whether or who they want to deport to Afghanistan. Some federal states do not deport to Afghanistan at all, others relatively much. This means that even for single men who do not have any obstacles to deportation, the actual risk of deportation depends very much on which federal state they live in. On the homepage of the human rights organisation PRO ASYL you can find an overview map of the deportation practice of the federal states, which is regularly updated (see: <https://t1p.de/mgfq>) In addition, it makes sense to contact the Refugee Council of the respective federal state (see: <http://www.fluechtlingsrat.de/>) in order to better understand who is threatened with deportation in this federal state and whether the situation changes.

Some federal states “only” deport persons who classify them as “offenders,” “endangerers” or “identity refusers”. Others deport “priority” persons who belong to one of these three groups. It is therefore important to understand what this means:

Offenders: Whoever is classified as an offender and therefore to be deported differs from state to state. It is not the case that only “criminals” were deported. As a rule, penalties can become dangerous if they exceed 50 daily fines or 90 daily fines for offences which, according to the Residence Act, can only be committed by foreigners. Daily fines are added. This means that several small sentences can have the same effect as one large one. It is not always

necessary for someone to have been convicted by a court of law in order to be deported.

Endangerers: Persons are defined as those who have not yet committed any crimes, but for whom the police authorities assume that they will commit crimes of considerable importance – often with a terrorist background. The term is vague and controversial. If someone is classified as a threat, a lawyer must be called urgently and immediately.

“Identity refusers”: The term “identity refuser” does not mean that the persons concerned must have given a false identity. This is very rarely the case. Most of them fall into this category because, from the point of view of the authorities, they have not fulfilled their legal “duty to cooperate”. This means that, as tolerated persons, they did not make sufficient efforts to obtain a Tazkera and an Afghan national passport from the authorities. There is no clear definition of when a person who is accused of lacking co-operation in obtaining a passport will be classified as an “identity refuser”. Experience shows that those affected may run (at least in some federal states) the risk of being booked on a deportation flight if they do not respond to a written request from the foreigners authority to cooperate in obtaining documents.

That is why it is important not to ignore letters from the authorities in which people who have only “Duldung” are asked to obtain an Afghan national passport! If you receive such letters, it is important to clarify with your lawyers and/or a counselling centre whether the requested cooperation is lawful. If so, be sure to cooperate

so that you do not run the risk of being classified as an “Identity Refuser”. In addition, participation in passport procurement is often a basic precondition for options to secure residence, such as taking up educational training (“Ausbildung”)! Rumours that participation in passport procurement increases the risk of deportation are wrong – as said, Germany is able to deport people to Afghanistan without a passport since October 2016.

We therefore urgently advise you to document the corresponding efforts to obtain a Tazkera and an Afghan passport and, in consultation with lawyers and counselling centres, to inform the authorities of what has been done (e.g. letters to Afghan consulates in Germany, to authorities in Afghanistan, appeals to the consulate, contacting family members, etc.).

DOING WHAT? USEFUL INFORMATION FOR A RIGHT OF RESIDENCE

At this point we have compiled a few advice notes. Part 1 is aimed at people who are still at the beginning of the asylum procedure or who are still applying for asylum. Part 2 is aimed at all those whose asylum application has already been rejected by the BAMF and who are either still in legal proceedings or are already tolerated.

An important note: The information compiled here can only give an initial overview, but does not replace individual counselling. Therefore we would like to remind everyone that it is crucial to contact counselling centres, lawyers, refugee councils and local initiatives at an early stage, who can advise and support you in the various stages of the proceedings!

1. FOR THE ASYLUM PROCEDURE

It is best, of course, if it doesn't even come to the point where someone becomes "obliged to leave the country" and gets a toleration ("Duldung"). In order to increase the chances of a protection status in the asylum procedure, it is important to prepare for the hearing in the asylum procedure ("interview"). Some asylum procedures in Germany are now carried out very quickly. This means that sometimes there are only a few days between the asylum application and the interview. Therefore you have little time to prepare for the interview and you should start as soon as possible. It's best to do this before you apply for asylum in Germany. Here are a few tips for preparing for the interview:

Before the interview:

Contact a counselling centre and/or a lawyer to prepare yourself. Helpful information to prepare for the interview can also be found here in several languages:

www.asyl.net/view/detail/News/information-zur-anhoerung-im-asyilverfahren/

<http://www.asylindeutschland.de/>



NOTE: It is very important to make sure that the BAMF and also your lawyer have always your current address! This also applies if you have been transferred to another accommodation by the authorities. Otherwise, an invitation to an interview or a decision may be sent to the wrong address. This can result in the asylum procedure being suspended without an interview having taken place, or the deadline for filing an appeal against the negative decision being missed.

The interview:

You should report in as much detail as possible what happened to you and your family. Take your time and explain the reasons for your personal persecution, what your family is afraid of and what would threaten you if you had to return. Think about what happened and when. If you can write, you can also write down some key points so that you don't get confused. If you mess things up in the interview, it might be bad for you later.

Take care to tell everything in detail, your own reasons for escape, but also the whereabouts of family members (especially if they are also no longer in Afghanistan and had to flee). Also tell them what could happen to you if you had to go back to Afghanistan and if you could survive there or not. If you think that you could not survive there, explain exactly why it is not possible for you to survive there or settle elsewhere in Afghanistan.

If you grew up in Iran or Pakistan, it is very important that you say that you do not know Afghanistan and that you have no support there.

Don't tell a particular "case" in the interview that is too far away from your own reality. The BAMF usually knows these "cases" well. You risk getting a negative decision because your statements are not credible. It then becomes very complicated to correct your statements and the result later!

For young, healthy men and also for unaccompanied minors who soon turn 18, having family members in Kabul or other "safe" regions in Afghanistan can be a problem. Especially if you are in regular contact with them, the BAMF can assume that your family has the opportunity to support you if you return there.

It is very important to document health problems from the beginning with medical certificates. This is especially true for all kinds of psychological problems that are a result of bad experiences/remembrances from Afghanistan or your escape. Many of you are familiar with the symptoms: sleeplessness, nightmares, headache attacks, concentration problems, etc. This is called "traumatisation" or "post-traumatic stress syndrome". If you have the opportunity to get medical/psychological certificates about these problems, this can help you in your asylum procedure. You should present these documents at your asylum interview or, if your asylum application is rejected, at the foreigners office. Counselling centres can also help you to find good doctors and psychologists.

If you have an Afghan passport or identity card: It is a good idea to always ask an advice centre or a lawyer for advice before presenting a passport or identity card. You can simply point out that you had to leave the papers behind when you fled.

It is very important that the minutes of the hearing are correct. Ask for a copy of the transcript and have it translated back. Only sign it if you are sure that the transcript matches what you said. If you notice any mistakes afterwards, you should contact an advice centre as soon as possible.

NOTE: Don't let them force you to leave the country "voluntarily"!

It can happen that the authorities inform you of the possibility of returning to Afghanistan "voluntarily" at a very early stage. Often the authorities even offer people money for a return to Afghanistan. The authorities' advice is not independent, they have an interest in a "voluntary" return and often do not inform the people concerned about the consequences. Anyone considering such a "voluntary" return should first seek independent and trustworthy advice. We have often met people who had to flee again after a "voluntary" return. A legal return to Germany is not possible after a "voluntary" return.



It can happen that your asylum application is rejected and you receive a rejection notice from the BAMF. Young, healthy and single men, who may still have family members in Afghanistan, most often receive negative decisions. A rejection notice is of course frightening at first, but no reason to panic. The BAMF does not have the last word, you can sue a court against the negative decision. As already mentioned, the courts correct many decisions of the BAMF and oblige the BAMF to give the affected persons protection status after all (see above).

But be careful! The complaint must be received by the court within two weeks of notification of the negative decision at the latest – in rare cases even faster. This means that you must make sure that mail reaches you so that you can react quickly if a negative decision is received. It is also a good idea to use the time you spend waiting for the notification to get in touch with counselling centres and lawyers who can help you quickly if you receive a negative notification! You can file the complaint yourself or with a counselling centre. For the reason of the complaint you need in any case a lawyer! Detailed information about the possibility of the complaint can be found here:

→ <https://t1p.de/2hnw>

NOTE: If the asylum application (and the complaint) should be rejected, there are still ways to secure the stay in Germany permanently. In practice, the hurdles are sometimes very high. It is nevertheless worthwhile to use the waiting time already during the asylum procedure in order to have a starting situation as good as possible in case the asylum application is rejected.

For example, this is important:

- a) Learning German and – if possible – going to school.**
- b) To find work or even better a training place (“Ausbildung”) and to become independent of social benefits.**
- c) It can also help that you “integrate” yourself (e.g. join clubs like football, art, music etc. or get involved in voluntary work).**
- d) It is important NOT to commit crimes and not to risk convictions, as this is a reason for exclusion for most of the possibilities of residence protection explained in the next part. In addition, several federal states have agreed to give priority to deporting persons who have committed crimes.**

2. POSSIBILITIES FOR A RIGHT OF RESIDENCE IN CASE OF A NEGATIVE DECISION IN THE ASYLUM PROCEDURE

We recommend that all Afghans who are only tolerated regularly check with lawyers and counselling centres whether there is a possibility of obtaining residence status.

Caution: Working alone does not protect you from deportation! A job is helpful in proving successful integration and has an impact on hardship applications (“Härtefallanträge”) and the right to stay. But working alone is not enough.

NOTE: Criminal convictions (e.g. for drug trafficking) exclude most other possibilities to obtain a residence permit and thus considerably increase the risk of deportation.

We recommend that everyone review the following six options:

1) Temporary suspension of deportation status due to educational training (“Ausbildungsduldung”):

Anyone who starts or has already started “Ausbildung” is entitled to “training tolerance” (“Ausbildungsduldung”) under certain conditions. This means that he/she is protected from deportation for the entire period of training and can subsequently obtain a residence permit under certain conditions. Unfortunately, the rules on training tolerance are interpreted very differently, which is why it is important to obtain independent advice locally. A detailed overview of the training tolerance with addresses of individual contact points can be found here in German:

→ <https://t1p.de/i48e>

2) Provisions for permanent right to remain (“Bleiberechtsregelung”):

For people who have already lived in Germany for several years and only have a “Duldung”, there is the possibility under certain conditions to apply for a permanent right of residence according to §25a (young people and young adults under 21 who have been in Germany for at least 4 years) or according to §25b (adults older than 21 who have children and have been in Germany for at least 6 years and adults without children who have been in Germany for at least 8 years). Here is some information (in German) on how this works:

→ <https://t1p.de/5nx8>

3) Temporary suspension of deportation status due to work (“Beschäftigungsduldung”):

For some time people have been asking for a new law introducing a so-called “employment tolerance”. Many hope that this will also protect a job from deportation in the future. The problem: The law has not yet been passed and it is – as of today – unclear when it will come into force and what changes there will be. Unfortunately, the draft law suggests that the conditions for “employment tolerance” will be so high that only relatively few people will meet them:

- ➔ Securing one’s livelihood for at least 18 months
- ➔ Job with more than 35 hours per week for more than 18 months (20 hours for single parents)
- ➔ Good knowledge of German
- ➔ Identity must be established beyond any doubt on the basis of documents
- ➔ No conviction for criminal offences
- ➔ Tolerated for at least 12 months, not before

It is certainly important to keep in mind the employment toleration and to clarify with your lawyer or an advice centre whether you might be able to meet the requirements in the foreseeable future.

4) Petition and case of hardship (“Petition” and “Härtefall”):

Even if the asylum procedure fails up to the last instance, there is still the possibility of a “petition” to the respective state parliament and the hardship commission to obtain a right to stay due to “integration”. It is particularly complicated (and impossible from a certain penalty) to go this way, if accusations or convictions for criminal offences exist. If the penalties are too high, this also blocks petitions to the hardship commission. For petitions and cases of hardship, it is best to contact the Refugee Council of your federal state.

5) Follow-up application/new asylum application:

If there are new reasons (e.g. new health problems, a psychological report that did not exist before, etc.), there is also the possibility to submit a follow-up application, i.e. an application to the BAMF for a new procedure. The follow-up procedure must be well prepared, because if a follow-up application is made, the new reasons must be presented immediately. This should be discussed with a lawyer. Information in German and tips can be found here:

- ➔ <https://t1p.de/eomk>

6) Founding a family:

A change in the family situation (e.g. marriage to a German citizen or a person who already has a right to stay here and/or if the person concerned has a child, has the right to stay in Germany and cares for him/her) can also change the situation and, together with a lawyer or counselling centre, it should be clarified how the new situation can be presented to the authorities as a basis for a right to stay.

HOW TO PREVENT DEPORTATIONS:

Charter deportations to Afghanistan take place regularly. If you are sure that you are acutely at risk of deportation, check with the Refugee Councils (see: www.fluechtlingsrat.de) for the dates of the charter-flights. Flights are usually known a few days in advance and warnings are sent. Inform all friends who are also at risk.

In many cities, people have joined forces to support those who are threatened with deportation – sometimes even to hide them at home during the dangerous days before the deportation flights. That's what they call "citizens asylum." They warn people who might be affected when the next deportation flight is announced. Some of these initiatives can be found on this website: <https://solidarity-city.eu/>

Some of those affected also manage to prevent their deportations themselves, almost at the last minute. This is not so easy with charter deportations (unlike normal passenger flights, which are usually used to organise Dublin deportations to other European countries, for example). More information on deportation prevention can be found here: <https://t1p.de/yysj> (in English, as well as a PDF which can be printed in several languages) and <https://t1p.de/rrxi> (in Farsi).

FLEEING TO OTHER EUROPEAN COUNTRIES:

If you are thinking about leaving Germany and fleeing to another country, you should consider the consequences carefully to avoid getting into an even worse situation. There is a lot of information and useful contacts on the Welcome to Europe website and it is very important to ask advice BEFORE you leave the country so that you know what to look out for when you leave. In many cases, especially if people are already registered here and have been here for some time, it would be much faster and easier to fight for the right to stay in Germany than in any other country – especially since there is a high risk of “Dublin” deportations back to Germany, e.g. from countries like France. If you are deported to Germany, the risk is sometimes even higher than before to go directly to deportation detention and be deported further to Afghanistan.

WE SUGGEST:

- 1) All those who are threatened by deportations to Afghanistan need a team that fights with them for the right to stay. The fear and the pressure are sometimes almost unbearable if you are alone, which is why you need not only lawyers and advice centres, but above all good friends who listen to you and look for ways together with you.
- 2) Everybody should stop spreading rumours and false information that are frightening. If you can, please copy this information and pass it on to your friends and others affected.
- 3) Prepare well for your asylum procedure.
- 4) Let's jointly demand better integration opportunities – we fear that the foreigners authorities will reject more strictly the issue of work permits and permits to start training. We must therefore join forces and fight for better access to language courses and work permits.
- 5) We should build solidarity against deportations. Afghanistan is not safe. In many cities, affected people and supporters organise public events together. Together we will not allow anyone to be deported against their will!

AGAINST FEAR – RIGHT TO STAY FOR ALL!

Further information for counsellors and supporters:

Pro Asyl: Information for Afghan refugees and their counsellors:

www.proasyl.de/hintergrund/hinweise-fuer-afghanische-fluechtlinge-und-ihre-beraterinnen/

➔ <https://t1p.de/mgfq>

This leaflet can be found online:

English (leading to all languages as PDF as well):
w2eu.info/germany.en/articles/germany-deportation-afghanistan.en.html

➔ <https://t1p.de/1w45>

Dari:

w2eu.info/germany.fa/articles/germany-deportation-afghanistan.fa.html

➔ <https://t1p.de/whr7>

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