



Asylum Package II - what does it mean for refugees and their supporters?

There was much confusion surrounding the so-called "Asylum Package II". The Federal Government has planned and discussed it for a long time. This new tightening of the asylum law has now been in force since 17 March.

With the following text, we would like to inform refugees and their supporters what the new law actually regulates:

Accelerated asylum procedures (§ 30a AsylG [Asylum Act])

Asylum Package II introduces "accelerated asylum procedures". "Accelerated" means that the BAMF is supposed to decide on people's request within a week. During this week, the people should continue to live in "special reception centres".

The term "special reception facility" is a new word for a special kind of accommodation, in which the accelerated asylum procedure is to take place. It means that people from so-called safe countries of origin (plus a few other criteria, see below) are housed separately. They are supposed to live in these internment camps until their asylum procedure has been completed. If their application for asylum is refused, they are supposed to stay there until they are deported. For people from "safe countries of origin", this means that they can be deported after a week. That much time they have, in theory, to appeal against a rejection. In order to do so, however, they would have to be informed of their rights. As before, an action would have no suspensive effect and would have to be filed in connection with an urgent application. It is still unclear how this would be implemented in Mecklenburg-Vorpommern. It is also not yet clear whether one of the four initial reception facilities will be declared a "special reception centre" or if, as to date, people whose application has been rejected as being "*manifestly unfounded*" will simply remain in the initial reception centre.

The Flüchtlingsrat MV e.V. (Refugee Council of Mecklenburg-Vorpommern) has access to the initial reception centres to inform the people there about their rights. Unfortunately, they cannot reach all refugees in the process.

In the future, the interviews (officially called "hearings") are meant to take place within 48 hours. Within one week after the interview, the BAMF must then make a decision regarding asylum. If the BAMF needs more time, the people from the "special facility" may be distributed across the local regional authorities.

Since an "integration pathway" has recently been set up in the initial reception centre in Stern-Buchholz, people applying for asylum from countries of origin whose acceptance rate is high (Syria, Eritrea, Iraq and Iran) are currently being sent there. The village of Horst itself offers the BAMF certain advantages for isolating people from "safe countries of origin": poor bus links, little access to lawyers and few voluntary supporters. The field offices in Basepohl and Fünfeichen are currently being used as accommodation. To date, there have been no indications that the BAMF will carry out interviews there.



Who is affected by the accelerated procedure?

- Asylum seekers from so-called "safe countries of origin". Currently, they are Albania, Bosnia and Herzegovina, Ghana, Kosovo, Macedonia, Montenegro, Senegal and Serbia.
- Asylum seekers who have "obviously" given a false identity or false nationality. For example, by not giving important data or important documents to the authorities.
- Asylum seekers who have deliberately destroyed identity or travel documents.
- "Follow-up applicants", i.e. people who have already gone through an asylum procedure. New evidence that has arisen during the time of the asylum procedure can be submitted in a follow-up application. An example of this is the fact that, in their city of origin, the family of the asylum seeker has been threatened and warned that the relative will be killed if he or she returns.
- Asylum seekers who refuse to be fingerprinted in order to verify whether Germany is responsible for the asylum procedure under the Dublin Regulation.
- Asylum seekers who have been expelled on grounds of public safety or order.

These categories are intended solely to reduce the number of approved applications for asylum. The Federal Government relies on deterrence: the more hopeless applying for asylum is for certain groups, the fewer people will come to Germany – that is what the people in charge hope. And this incidentally undermines the fundamental right to asylum further. People from "safe countries of origin" report, for example, that, in practice, their hearings are often not conducted with the appropriate seriousness and that they are put under pressure to quickly come to the point. This phenomenon will be exacerbated when the people concerned have little or no contact with lawyers and supporters in the special facilities.

Crackdown on an infringement of the residence obligation (§ 33 para. 2 No. 3 AufenthG [Residence Act])

The term "residence obligation" means that people cannot leave a certain area around their place of residence. In the first three months of the asylum procedure in MV, that is normally the whole state of Mecklenburg-Vorpommern. For people in "special reception facilities", this residence obligation will be tightened from now on: they are no longer allowed to leave the administrative district or the district of the relevant immigration authorities. If they do so nevertheless, the BAMF will close the asylum procedure. The people in question may submit an application for review so that the process will continue – but only once. Otherwise, the new application will be deemed as a subsequent or follow-up application. However, new justifications will have to be found for a subsequent application.

Simpler deportation of sick people (§ 60a AufenthG [Residence Act])

In the language of the legal text, this means that it is, in principle, "assumed" that health reasons do not preclude deportation. This means that the Federal Government considers it basically reasonable to expose sick people to deportation. This applies to physical ailments (e.g. after surgery) as well as to psychological stress (e.g. symptoms arising after traumatic experiences).

If medical reasons prevent deportation, the sick people concerned will, in future, have to submit a "qualified medical certificate". This certificate must meet stringent requirements (§ 60a para. 2c Residence Act).

The certificate must be submitted to the aliens department immediately, otherwise it will not be taken into consideration (§ 60a para. 2d of the Residence Act).

Up to now, Section § 60 para.7 of the Residence Act guaranteed that people with serious illnesses could not be deported if the disease cannot be treated in the country of origin. With Asylum Package 2, this will only apply if the illness is life-threatening. Moreover, the standard



of the quality of the treatment in the country of origin is being changed: it need not meet the standards in Germany. Furthermore, it need not be ensured that the treatment must take place in the asylum seeker's home town. It is sufficient if the treatment is available somewhere in the country.

The paragraph on how to deal with sick asylum seekers shows the full force and inhumanity of Asylum Package II. In principle, the state of health should not be a critical factor in improving someone's fundamental right to asylum. This paragraph makes it clear, however, that the ruling parties have not included human rights considerations in the new law. It basically puts the principle of equal treatment into question by putting in place other minimum standards for the treatment for non-Germans. Furthermore, it can be assumed that the social structures of the countries of origin are not adequately taken into account when it comes to the question of whether the treatment of the disease in the country of origin is POSSIBLE or ACTUALLY FEASIBLE. If, for example, treatment in an expensive hospital is theoretically available in Ghana's capital, it does not mean that it is also available for Ghanaians living in a rural area.

Less money for asylum seekers (§ 3 AsylbewerberlG [Asylum Seekers' Benefit Act])

The Asylum Seekers' Benefits Act is being changed. This means the asylum seekers will receive less money.

Adults in reception facilities, for example, will receive €135 a month each. Up to now, they received €145 a month. Especially when one has so little money to live on, a cut of €10 is severe: having it or not having it may mean, for example, the means to finance a ride to an appointment to the authorities. Or to go shopping. Or to call home. Or to pay a lawyer ...

This part of "Asylum Package II" also clearly contradicts the principle of equality, as set out in the Constitution of the Federal Republic of Germany. The Federal Government thus puts the basis of the Constitution in question: namely the validity of human rights to the same extent for everyone.

No family reunification for people entitled to subsidiary protection (§ 104 para. 13 AufenthG [Residence Act])

Those asylum seekers that obtain a residence permit as "a person entitled to subsidiary protection" (§ 25 para. Clause 1, 2. Alt. AufenthG) are not allowed to bring their families to Germany for the next two years. The Federal Government phrases this nicely: family reunification is granted as of 16.03.2018. This applies only to those people entitled to subsidiary protection who obtain this status after 17 March 2016.

In 2015, around 1,200 people received this residency status. Politically, this paragraph only makes sense therefore if, in the future, more people will receive this status. Prior to 2015, this status was awarded to people who had fled Syria. The Refugee Council of MV expects that this will again be the case in the coming months – especially in the regions of Syria, where the Federal Government nicely describes the situation as "safe" because it is under the control of the Assad regime.

The "entitled to subsidiary protection" residence status does not come with as many "privileges" as the refugee status as recognised under the Geneva Convention. It is initially valid only for 1 year. Where there are opportunities to question the status, therefore, this should be done: e.g. with Syrians who had problems with the Assad regime or who belong to ethnic minorities.



Act enabling the easier deportation of delinquent aliens and regarding the extended exclusion of refugee status with delinquent asylum seekers

Asylum seekers can be more easily deported if they have committed an act of violence that leads to a conviction. A so-called "particularly serious deportation interest" (§ 54 Residence Act) exists when a non-German national was sentenced to at least one year's imprisonment for an intentional offense, which was committed by force, with the threat of violence or "by stealth". If the sentence is for less than one year, this means from now on that it constitutes a "serious deportation interest".

This puts one principle of the rule of law into question in a dangerous way: two laws will be merged together. Behind this is a racist argument that subliminally associates criminal intent with the origin of the offender. Who would ever think of deporting serious offenders with a German passport from the country? What makes a German rapist less dangerous than a non-German?

"More" checking of staff at reception centres (§ 44 paragraph 3 AsylG [Asylum Act])

The operators of reception facilities "should" have the staff show them extended certificates of good conduct issued by the police at regular intervals. An obligation to do so is not required by law. This would mean that it will become harder for convicted offenders to work in a shelter for asylum seekers. There continues to be no guidelines as to how racist or neo-Nazi attitudes of future employees can be exposed.

In addition, the law provides no guidelines for the qualification of employees. This is a fatal error, particularly in view of the fact that facilities that make use of social workers are often understaffed: new employees need training in asylum law as well as in the educational field. Training in intercultural competence or the subtleties of racist stereotypes in everyday work should also be regularly demanded by employers.

Racism in laws – racism in people's minds

Each individual paragraph of "Asylum Package II" represents a violation of fundamental rights. It exacerbates a two-class legal system, in which asylum-seekers are denied basic rights.

Broad sections of this legislative package will not withstand an action before the Federal Constitutional Court should someone affected by it file a suit. It contains elements that the Constitutional Court found to be illegal a few years ago. The current political line of the Federal Government to respond to cheap far-right racist propaganda is dangerous. The AFD will certainly continue to enjoy ever greater popularity if the established parties make the scope of what can be said political fact.

From the point of view of the Refugee Council of MV, what is required is a political line that welcomes the newly arrived to Germany and gives them freedom to make choices about how they would like to live.