

# German government attacks rights of asylum seekers

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An expansion of the grounds for detention of refugees, rigorous deportations, residency and travel restrictions, and a restrictive recasting of the right to remain form the framework of the bill that the German cabinet agreed on last Wednesday. It is responding to the increase in asylum seekers in Germany with a massive tightening up of the right to asylum, in order to further strengthen the barricades against refugees.

Interior Minister Thomas de Maizière (CDU, Christian Democratic Union), who is responsible for drafting the law, claims that it contains “a welcoming and an unwelcoming message.” In reality, the unwelcoming aspects are far more prevalent than the minimal improvements to the right to remain, which will only apply to a small group of refugees of long standing. The core of the “Law for the redetermination of the right to remain and the termination of residence” is the criminalisation of refugees, who can be arrested at any time in the future, and the elimination of so-called obstacles to deportation.

Compared with a first draft in May of this year, some grounds for detention have been reworded, but the message remains the same: Whoever comes to Germany as an asylum seeker in future must expect to be detained. Those for whom there is the expectation of a “significant flight risk”—a contradiction in terms among refugees—will be detained.

The draft lists numerous reasons as to when this “flight risk” exists. Among others, it suffices if “the alien spent considerable amounts of money on a trafficker for his illegal entry”. The payment of €3,000 suffices as evidence of being illicitly trafficked into the country.

Apart from the fact that the term “trafficker” is not watertight legally, and is thus subject to interpretation by the judiciary, it is absolutely impossible for asylum seekers to enter Germany without paying expensive smugglers because the country has completely shut itself off from refugees.

Also, the destruction of “identity and travel documents” or the “use of a false identity” will be met with a mandatory jail term. But these are things that refugees are forced to do to even get into Germany and seek asylum.

*Süddeutsche Zeitung*, Heribert Prantl has referred the new rules as “not hard, but draconian”. He writes, “It has never been so easy to lock people up in the Federal Republic [of Germany].”

The draft bill uncompromisingly implements the “Reception Directive” adopted by the European Union (EU) Commission and the European Parliament. A year ago, the EU member states had agreed to include in EU law the lowest applicable national standards for the reception and accommodation of refugees. And since in Greece, Sweden and Malta, tens of thousands of refugees are systematically locked up, the Reception Directive foresees “generous” grounds for the detention of asylum seekers in the EU.

Originally, the government had announced its intention of not implementing this part. But, given the skyrocketing numbers of refugees from the crisis-wracked regions in the Middle East, Afghanistan and Africa, it is no longer interested in the humanitarian talk of yesterday.

The subsequent deportation of refugees is also being stepped up. To this end, the “expulsion law” is being entirely rewritten and an “expulsion interest” of the state introduced, which will be weighed by the courts against the individual “right to remain” of a refugee whose asylum application was rejected.

The bill foresees a significant expulsion interest not only for offences by refugees, but also in cases of political activity that threatens the “free democratic basic order of the Federal Republic” or “law and order”. The relevant paragraphs 53 to 55 are formulated loosely and consequently mean a ban on political activity for rejected asylum seekers. Even the self-organisation of refugees who are fighting for their right to stay, and organise refugee encampments or hunger strikes, can be said to represent a significant expulsion interest in future, justifying rapid deportation.

The blatant criminalisation of refugees is being justified by the alleged terrorist threat. It is no accident that in a press release of the Interior Ministry regarding the draft bill, refugees required to leave and terrorists are lumped together. It says: “In this way, the stay of persons not entitled to

remain in Germany will be consistently ended. Their obligation to leave would then be enforced. The new rules take into account, more than before, that violent extremists can also be fought by means of immigration law.”

Back in November, the Interior Ministry had complained about the lack of a legal basis for the uncompromising deportation of refugees. A ministry spokesman told the newspaper *Die Welt*: “There is a considerable lack of enforcement of the obligation to leave at the moment.” Many people would “remain permanently in federal territory, even if from any point of view—even humanitarian—they are not eligible for a residence permit”.

In 2014, some 10,000 refugees were deported from Germany. In official circles, this figure is seen as too low and is even considered as a reason for the increase in the number of refugees. In *Die Welt*, it says, in “agreement with findings at EU level”, the “existing lack of enforcement in terminating residence is a considerable pull-factor for Germany”. Traffickers would advise refugees to apply for asylum in Germany because the risk of deportation was lower than in other countries.

This reasoning is not only outrageous, it also obscures the specific consequences of aggressive German foreign policy in the trouble spots of the world, which contributes to the global increase in refugee movements. The federal government now wants to get rid of the refugees, for whose fate it is substantially responsible, as quickly and quietly as possible. With the new version of the deportation law, it wants to prevent the courts, which in the past often blocked deportation decisions, from putting any obstacles in the way of the authorities in future deportations.

To perfect the process of deportation, a four-day “departure custody” will be newly established in the arsenal of weapons employed against refugees. Rejected applicants can then be imprisoned for up to four days with a court order, “to ensure their removal”, without any other grounds being needed.

In addition, there will be residency and travel bans for refugees whose asylum application was rejected as “manifestly unfounded”. This is aimed primarily at refugees from so-called safe countries of origin, but will affect all refugees whose reasons for flight are declared unreliable, and in particular juveniles, who because of their age cannot provide sufficient grounds for their asylum application.

As a consequence, these entry and residence bans mean that refugees can be detained upon re-entry into the EU in every state. They are being criminalised throughout Europe, although all they can be accused of is applying for asylum.

With these new rules, the slight improvements regarding the right to remain are completely annulled and turned into an absurdity. In future, long-standing refugees, who have

been living in Germany for eight years, will be granted a right to remain. However, by utilising the extremely restrictive residency prohibitions, those affected can be kept from gaining any right to remain for years.

The refugee organisation ProAsyl points out that the new regulations will in no way get rid of so-called temporary residency “tolerations” and the insecurity they bring. “Instead, the pressure will be increased on the person concerned to leave the country. These regulations are suited to hollow out the promised right to remain in many cases.”

It is significant that the draft bill was received very positively in the media. The apparent improvements regarding the right to remain, which are nothing of the sort, were explicitly praised, but there was largely silence concerning the criminalisation of refugees. Volker Schaffranke justified the rigorous deportation regulations on broadcaster *ARD* with the cynical argument that they were intended to “preserve the acceptance of refugees in the population”. This form of reporting is part of a systematic campaign against refugees, who are said to be a burden on the social system.

When President Gauck or Foreign Minister Steinmeier (SPD, Social Democratic Party) say that “Germany [must] take on more responsibility in the world”, they mean the pursuit of imperialist interests by military means. Billions are spent supporting wars in Syria, Iraq, Ukraine and Central Africa. While the livelihoods of millions of people are bombed to smithereens, there is supposedly no money there to take responsibility for the people who are driven to flee in this way.

The new law is the flip side of the aggressive foreign policy being pursued by the grand coalition in Berlin. It is not only perfecting its measures against refugees. The criminalisation of asylum, the rigorous deportation regulations and the *de facto* ban on political activities for refugees are an attack on the fundamental rights of the entire working class.



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