

German parliament adopts anti-democratic “Asylum Package II”

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Last Thursday, Germany’s lower house of parliament (*Bundestag*) passed the so-called Asylum Package II by a large majority. The upper house (*Bundesrat*) then agreed on Friday to this further restriction of the country’s right to asylum as well as a law making it easier to deport convicted foreigners.

This has far-reaching implications. The German parliament’s decision not only signifies a restriction of the right to asylum to the point where it is virtually no longer recognisable, it goes beyond that. It lays the basis of a legal system that for the first time since the Nazi regime robs a portion of the population of democratic rights. Today it is people fleeing war and poverty who are affected, and tomorrow it will be other portions of the population who will be excluded and denied their rights.

While human tragedy is running its course on the borders of the Balkan countries, destroying any hopes for life and a future for tens of thousands of families with children, the well-paid politicians of the Christian Democratic Union/Christian Social Union (CDU/CSU) and Social Democratic Party (SDP) voted 429 in favour and 147 against, with four abstentions. This brings into force the following changes in German asylum law:

- * Rapid decisions on asylum applications by refugees coming from so-called safe countries of origin. This group already includes the Balkan countries and some African states such as Ghana and Senegal. Currently, the list of “safe” nations is being expanded to include Algeria, Morocco and Tunisia. Follow-up applications will also be treated in this way, as well as those from people who “do not cooperate”. As the law states, “This will apply, for example, if they falsify their identity or refuse to provide fingerprints”.

- * Accommodation of refugees in three to five large internment camps (reception centres or registration centres) and a strict residency rule. Those people without “the perspective of staying” will be interned and their application “reviewed” on site. In practice, this means the application will be rejected, and deportations will then be carried out

“directly from the reception centre”. The entire asylum procedure will be complete within a week. If a refugee violates the residency requirement, he or she will receive no welfare payments and the asylum procedure will be suspended immediately.

- * The deportation of sick and traumatised refugees. Doctors’ examinations will in practice be ignored, unless they indicate a life-threatening illness when the asylum application is made. Sick children will also be deported, although Germany ratified the UN Convention on the Rights of the Child in 1992 explicitly prohibiting this.

- * The right to family reunification will be suspended for two years for those with a “subsidiary right to protection”. Subsidiary protection is given, for example, to Syrian refugees who are not or have not yet been recognised as refugees under the Geneva Convention of Refugees, but who enjoy protection from deportation due to the dangerous situation in their home country resulting from war. Unaccompanied minors also come under this category. They will only be able to reunite with their parents in individual cases.

- * Welfare payment will be cut. Single refugees will have benefits cut across the board by €10 per month for language courses. In the future, asylum seekers will only be fully entitled to claim state welfare when they have registered in the local area and hold a refugee pass.

- * In conjunction with all this, the easing of equal treatment regulation under current law, thus enabling the deportation of “foreigners” convicted of crimes, and not just refugees. In the future, a “criminal” without a German passport, convicted of a violent crime (grievous bodily harm, rape) carrying more than a one-year suspended sentence, will, in addition to the punishment for those holding a German passport, be deported. People of second- or third-generation immigrant families will thereby be stigmatised.

A number of human rights, asylum, legal, medical, psychiatric and children’s organisations have opposed the reactionary, vindictive Asylum Package II. Members of the German Bar Association (DAV) and the Republican

Attorneys' Association (RAV) protested in several cities on the same day. In addition, the fact that the government's human rights commissioner, Christoph Strässer (SPD) resigned three days before the vote, even though the SPD was a key architect of the law, makes clear how wide-ranging the attack on existing legal norms is.

The newly adopted asylum regulations were "a sell-out of the principles of a constitutional state", wrote the RAV in a Berlin statement. The law marked a "sad high-point in a terrible development of law", and could "ultimately not be justified on constitutional principles".

Several basic rights are being suspended for certain sections of the population by the new law. The rapid decisions on asylum applications deny those affected the right to a fair and independent hearing. For the entire process of review, legal consideration and adjudicating, which normally takes several months, only a week is planned. "Representation by lawyers will generally not take place, due to the short time-scale and above all the practical impossibility of leaving the reception centre at all to contact a lawyer", the RAV wrote.

Secondly, the deportation of sick individuals violates the right, guaranteed in the Basic Law for the Federal Republic of Germany (Constitution), Article 2 ("Personal Freedoms"), Paragraph 2, which states that "Every person shall have the right to life and physical integrity" and that "Freedom of the person shall be inviolable", as well as Article 2 of the European Convention on Human Rights, on "the right to life".

Children and young people in particular with post-traumatic stress disorder require longer periods of treatment, explained Jakob Maske, spokesman for the association of paediatricians on DeutschlandRadio. The German government cynically justified the deportation of sick refugees, by saying it was necessary to implement provisions against doctors and psychotherapists who provided certificates to refugees "on request".

The denial of family reunification for refugees with subsidiary protection violates Article 6 of the Basic Law, which guarantees the protection of the family, as well as Article 8 of the European Convention on Human Rights and the UN Convention on the Rights of the Child. The review of specific individual cases involving unaccompanied minors, which was included shortly prior to the vote following complaints from the SPD, means no improvement, according to migration lawyer Bernward Ostrop. Many minors, during the long waiting period for such proceedings, would become adults and thus lose the special protection afforded to children and young people.

Claudia Kittel of the German Institute of Human Rights actually expects an increase in the waiting time for family

reunification from two to four years and says the basic right to family reunification has been "overturned". In regard to the review of specific cases involving children and family reunification, Tobias Klaus from the federal professional association for unaccompanied child refugees commented that in the meantime, "more people would [get into] boats in the Mediterranean".

During the presentation of its annual report, Amnesty International also strongly criticised the German government. It was "losing sight of human rights", according to general secretary of Amnesty Deutschland Selmin Caliskan, and was relying only on "harshness and sealing borders". On Tuesday, Heinz Hilgers, president of the German Child Protection Association (DKSB), wrote an open letter to President Joachim Gauck, urging him to block the law—a futile effort!

With the latest asylum law, the German government has finally swung behind the racist policies of extremist forces. CSU leader Horst Seehofer and Alexander Gauland of the right-wing nationalist Alternative for Germany were correspondingly vehement in their comments. The latter called for the closure of the German border "with full decisiveness", and protested that the faces of suffering children could not be used as blackmail.

The Greens and Left Party played a critical role in this attack on basic rights. In the Bundestag, where their votes were not decisive, they declared themselves to be friends of the refugees and voted firmly against the law. But in the Bundesrat (representing the sixteen federal German states), where the grand coalition relies on the Green-led or Green-supported governments in Baden-Württemberg and Rhineland Palatinate, they voted in favour. Although a vote against would not have overturned the law, it would have at least delayed its implementation.

Even the Left Party-SPD-Green-governed Thuringia, represented by Left Party state premier Bodo Ramelow, and the SPD-Left Party government in Brandenburg did not raise objections to the law in the Bundesrat.

The new asylum law represents a qualitative turning point for democratic rights in post-war Germany. Hand in hand with the revival of German militarism and imperialism, the old, deeply anti-democratic and racist domestic policies are returning. They are intended to divide the working class and defend the interests of the wealthy privileged elite.



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