

During an arrest:

It is compulsory to give information about your name, date and place of birth, citizenship, status of family and adress.

Don't share more information! You are not able to know what they will accuse you of. You have the right to refuse any testimony / statement, be it in contact with the police, the departement of public prosecution or in front of court. Don't get frightened due to their threats or false promises.

In any case: don't sign a testimony.

If they took your belongings or money, demand a protocoll but don't sign this protocoll.

After an arrest it is your right to call a lawyer. We will give you the number at the beginning of the march. Illegalized persons could be directly put into jail as custody to secure deportation – also in this case you have the right for a lawyer.

If you are free again, inform immediately the legal-support group!

After the march:

If there is assumption that there will be a trial against you and/or you got arrested during the protest march, check your mail / letterbox regularly. There are often very short time periods to handle the legal accusations or it is necessary to react quickly.

If you receive a penalty order (yellow envelope), get immediately in touch with a lawyer, with a local legal support group or the legal-support from the protest march (you will receive the contact during the march).

In any case: we will support you in any situation when it is possilbe for us! We will not leave you alone! Together we are strong!

Bei Fragen bitte schreibt uns oder ruft uns an:

E-Mail: legal.marchforfreedom@riseup.net

Für allgemeine Infos zum Marsch, wendet euch an:

Amir (فارسی, english) 0049 15215154310

Ksenia (русский) 0049 17623561329

Ali (bambara, français, espanol) 0049 15213087340

Badra (bambara, français, italiano, english) 0049 17689296602

Asif (اردو, english, русский, हिन्दी, ελληνικά, ئىنگىلىزچە, ਪੰਜਾਬੀ) 0049 17631764453

Riad (français, العربية, deutsch) 0049 15214846596

Nadia (türkçe, english, français, deutsch) 0049 15730063279

Legal aspects, risks and strategies against repression

Protest March from Strasbourg to Bruxelles May/June 2014

concerning asylum-seekers, people with the residence permit status of „Duldung“ and people with a humanitarian stay permit from another country
(from the perspective of German law)

Risks and legal consequences

Right for demonstration

Everyone has the basic right to demonstrate, this right is also valid for asylum-seekers and people with „Duldung“. In general there is a higher risk to be controlled during demonstrations.

Compulsory Residence („Residenzpflicht“)

It means a violation of the compulsory residence to stay in an area which is not part of the allocated district (Every German governmental district – so-called Bundesland – differs in its handling of this restriction). If the controlled person holds the status of „Duldung“, they could take away the „Duldung“ from her_him and she_he could be sent back to the allocated district. At the first time of breaking the compulsory residence it is judged as an administrative offence (minor break of law) and the person has to pay a fine (about 40-60 €). If the person does not pay the fine, a court procedure is started and a lawyer should be contacted. Owing to circumstances this could be treated as a reason to be put in jail as custody to secure deportation („Abschiebehaft“).

If the compulsory residence has been broken for several times, it is treated as a criminal offence (mostly if it has been broken for three times). If the compulsory residence has been broken for several times within a short amount of time (e.g. 17th/18th/19th of may), it is treated as one administrative offence instead of several administrative offences.

Social benefits

If a person is within the asylum procedure or has got the status of „Duldung“ and he_she does not come to pick up her_his money at the social services department („Sozialamt“), all social benefits can be withdrawn, including the right for accommodation facilities. Normally an incorporation back into the social benefits system can be rearranged by the person him_herself.

Strategies: What do we organise to make the protest march as secure as possible?

- We will have contact to lawyers within all countries and during the whole time of the march. On the way lawyers will always be in touch with us to support us.
- We will start local legal-support groups or arrange contact persons after the march in order to support you in legal questions or problems that have risen as a consequence of the march.
- The more the protest march is a topic within public awareness and within the media, the more security will be there. The media group tries to create as much public awareness and legitimacy as possible. The right for demonstration is a democratic, human and basic right. No European country wants to lose its reputation to be a „democratic“ country as it could happen if there were reports about repression against a legitimate protest.
- We will contact politicians who support our claims and ideas of the protest march in order to use their powerful position for the march. Still it will be a self-organised march with a democratic form of participation under the political protection. As a consequence the risk of repression should be decreased. In 2012, non-citizens („Sans-papiers France“) have organised a caravan through Europe using this strategy and there were no arrests.
- There will be a workshop at the beginning of the march to handle repression and find strategies against repressions.

Tips

During the march:

- Write your name and date of birth at the beginning of the march on a list of the legal-support-group from the protestmarch. An authorisation for lawyers who support us should also be signed there. Only if these circumstances are fulfilled, we can guarantee that you will have as soon as possible contact to a lawyer in case of an arrest.
- Create (infinity) groups with persons whose faces and names you know in order to let us know who got arrested as soon as possible.
- If you observe an arrest, inform the legal-support group immediately.
- Please share videos or photos of the arrest with the legal-support group. It is important to have material of testimony if there is a trial.

„Illegal“ Entry into another country / Getting controlled in another country

If a person who is not allowed to stay in another country (e.g. because she/he is within an ongoing asylum procedure), is controlled in another country, the police will try to hold the person. First, they try to get information about his/her identity and try to compare personal identity data. They want to check if false documents have been used.

Asylum seekers / persons with „Duldung“: They try to deport the person back to Germany. Owing to circumstances, the „illegal“ entry is treated as a criminal offence. It is not possible to foresee the duration of the arrest.

Illegalized persons: Persons who could be deported due to the law and as they went into hiding, are threatened by an actual deportation to the so-called home-country. Owing to the circumstances, a deportation can also take place from France or any other place. In general, they prefer „the easiest procedure“.

Dublin-III-cases: It is possible to deport a person to the country in which the first fingerprint has been taken from her/him.

These regulations are valid for families or parts of families, even if the rest of the family stays at another place.

Persons with humanitarian right to stay: Persons who hold a humanitarian right to stay due to national right of one of the EU countries (e.g. Italy), could move freely for touristic reasons within the European Union. They could be hindered to enter another country when officials doubt their touristic ambitions. It is dependent on the actual situation: Is there enough cash money? Could they name an address where they want to go?

The humanitarian right to stay is not influenced by this, but it is important that passport and residence papers have been taken by the persons.

Consequences for the asylum procedure within Germany:

Duldung:

The status of „Duldung“ vanishes, but the reason for the „Duldung“ generally rests and therefore the right for a „Duldung“ stays. Owing to the circumstances the argument of „submergence“ (e.g. the fact of being away of the allocated area could be interpreted as submergence) can be treated as a reason to be put into jail as custody to secure deportation.

Ongoing asylum process/ „Aufenthalts-gestattung“:

Persons who are within an ongoing asylum process in Germany and who have a so-called „Aufenthalts-gestattung“ as asylum status, keep that status – also after a deportation from another EU-country to Germany. There is no direct influence for the asylum process, but anyhow the individual case is important.