

Introduction

Do you live in Lower Saxony and do not (yet) have a residence permit? You have recently applied for asylum or your application has already been rejected? If so, I'm sure you have a lot of questions.

With this fact sheet, we would like to answer some of your questions and inform you about the asylum procedure and about your residency prospects after your application for asylum has been finally rejected. If you have further or other questions after reading this fact sheet, please do not hesitate to contact us by email (nds@nds-fluerat.org) or on phone(051198246030).

The Refugees Council of Lower Saxony is not a public authority, but a private and independent human rights organization. We consider it our task to support refugees in Lower Saxony regardless of their residential status.

Information for asylum seekers in Lower Saxony:

The asylum procedure and other residency prospects

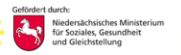


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I. The asylum procedure



1.1 Where and how can I apply for asylum?

A so-called application for asylum, i.e., the wish to apply for asylum, can be submitted to the police after entering the country, but in principle also to any other authority. In Lower Saxony, this authority will usually send you to an arrival centre. In this arrival centre, you can then submit your application for asylum to the Federal Office for Migration and Refugees (BAMF).

If you have not (yet) submitted an application for asylum to the police or another authority, you yourself can also go to one of the arrival centres in Bad Fallingbostal or Bramsche and submit your application for asylum there.

As a general rule, you must submit your application for asylum personally. A written application for asylum is only permitted in rare exceptional cases – for example, if you are in prison or in hospital for a longer period of time.

1.2 What happens next at the arrival centre?

Application for asylum and registration

After you have arrived at the arrival centre, you can submit your application for asylum to the BAMF. You do not have to provide reasons for your application for asylum at this point. Aside from that, you will be registered. In the process, you and your children, insofar as they are six years of age or older, will be photographed and fingerprinted.

Initial medical examination

An initial medical examination is also carried out by the State Admission Authority (LAB). If you or your children suffer from illnesses or disabilities, you must tell the doctor. For example, if you have medical certificates, prescriptions or medical packaging, you should always present them at the initial medical examination – even if they are not in German. Ask the medical staff to make copies of these documents and return the originals to you. This is important so that your health needs are recognised and taken into account as part of your medical care and accommodation. You may be confronted with the fact that there are different rules for compulsory vaccinations in Germany than in your country of origin.

I. The asylum procedure



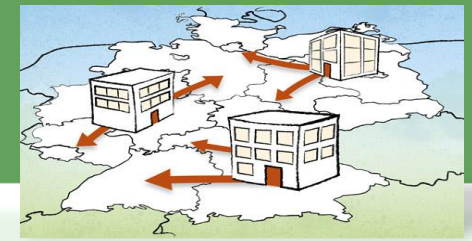
Obtaining residence documents

At the arrival centre, you will first receive proof of arrival and later a temporary residence permit as a residence document. These residence documents are usually issued with a validity of several months. Depending on the status of your asylum procedure, your temporary residence permit will be extended further, or you will be issued with other residence documents corresponding to your current residence status.

Referral to another location and processing the application for asylum

The BAMF then decides whether your application for asylum will be processed in Lower Saxony or another federal state. If your application for asylum is processed in Lower Saxony, your reasons for asylum (please refer to 3. below) will be heard and you will then be transferred to a large initial reception centre in Bramsche, Braunschweig, Friedland, Oldenburg or Osnabrück, a branch office of these facilities (e.g., in Celle, Fürstenau, Bad Bodenteich) or directly to a municipality in Lower Saxony. In this municipality, you will receive accommodation in (smaller) collective housing units or in a flat.

If your application for asylum is processed in another federal state, you will receive a request to submit your application for asylum to the initial reception facility of another federal state immediately after you have been registered. You must comply with this request.



2. Staying in the arrival centre/initial reception facility

2.1 How long do I have to stay at the reception facility?

- If you apply for asylum, you are generally obliged to stay in an arrival centre/initial reception facility (hereinafter referred to as reception facility).
- Your obligation to stay in a reception facility ends
- if the state reception authority moves you to a municipality,
- if you have under-age children (under the age of 18) after six months at the latest,
- if you do not have under-age children after 18 months at the latest,

as soon as you receive a positive asylum decision from the BAMF on your application for asylum,

if you do not have under-age children and come from a so-called "safe country of origin" only if you receive a positive asylum decision from the BAMF on your application for asylum

In practice, the time you actually have to stay at a reception facility in Lower Saxony depends on various factors – such as how full the facilities already are or whether there is housing available in the municipalities. Therefore, we cannot make any concrete statement as to how long you will have to live in a facility like this.

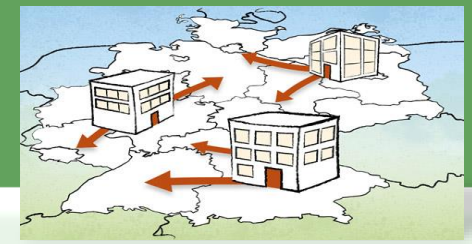
After your obligation to live in a reception facility ends, you will be transferred to a municipality. The municipality to which you are transferred decides whether you will be accommodated in collective housing or in an own flat. You may only look for a flat yourself once the BAMF has granted your application for asylum.

2.2 Which rules apply in the reception facility?

In order to find out what rules apply in the reception facility on site, please ask a person in charge – e.g., social service or security service – about the "rules of the house." These "rules of the house" contain the "house rules" of the reception facility – for example, for using the common areas, receiving visitors or for sleeping. The rules of the house must be handed over to you in a language you understand.

2.3 What to do if there are conflicts in the reception centre?

If you feel that you are being treated badly or have been attacked in an inappropriate way, you can lodge a complaint and defend yourself at the reception facility. Insofar as you have conflicts with employees of authorities, the security service, social workers, the caretaker, other residents or family members, you have several options for action.



2. Staying in the arrival centre/initial reception facility

Calling the police

Especially if you have already suffered physical violence, but also in other situations in which you feel threatened or under pressure, you can call the police at any time by dialling 110. Tell the police your name, exactly where you are and why you're calling. You can also go to a police station near you and state your query there.

Submit a complaint to the social services/management of the facility

You may lodge a complaint verbally or in writing to the social services of the facility. You can also submit your complaint in your language of origin.

If you state your name when lodging your complaint, the social services and management of the facility have to look into your complaint and inform you of the result of the examination. However, you can also lodge an anonymous complaint. For this, there are letter boxes in the reception facilities through which you can lodge your complaint.

In your complaint, it is important that you specify what happened. Describe as precisely as possible who did or did not do or say something or anything on what day and at what time. It is important not to let too much time lapse between the incident and the complaint.

Expressing your concerns to the complaints office for citizens and police

You can also address your complaint to the external "Complaints Office for Citizens and Police at the Lower Saxony Ministry for the Interior and Sport". You can reach the complaints office as follows:

Postfach 221, 30002 Hanover

Address for personal appointments agreed upon in advance by telephone: Clemensstrasse 17, 30169 Hannover.

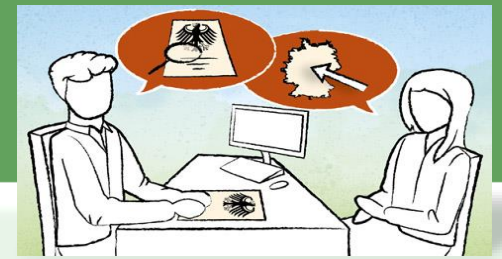
Phone: 05 11 – 12 04 89 9; Fax: 05 11 12 09 94 89 9

Email: [Beschwerdestelle\(at\)mi.niedersachsen.de](mailto:Beschwerdestelle(at)mi.niedersachsen.de)

Contacting an independent, non-governmental, counselling centre

If you do not want to contact an authority, but an independent counselling centre, it is best to contact one of the organisations that offers independent advice at the premises of the reception facility. You are also welcome to contact us by phone (0511 98 24 60 39 or by email at nds@nds-fluerat.org). We will support you as best as we can and will be happy to help you get in touch and other counselling centres.

3. The hearing



3.1 What is the hearing?

The hearing is the most important part of your asylum procedure. During the hearing, you have to explain the reasons why you cannot return to your country of origin. The BAMF will then check whether you are eligible for protection status in Germany. What you say in your "interview" is decisive; it will be very difficult to correct what you have said or to add something to it later on. It is therefore extremely important that you are well-prepared for the hearing.

As a rule, the hearings on applications for asylum take place while you are still staying in the arrival centre/initial reception facility. In exceptional cases, you may already be living in a municipality and invited to a BAMF branch office for a hearing.

Make sure that you go to the hearing at all costs. If there are important reasons why you cannot attend the hearing, please inform the BAMF as soon as possible and request that the hearing be rescheduled. If you are ill, send any sick notes or medical certificates you may have to the BAMF.

3.2 Who receives what protection in Germany?

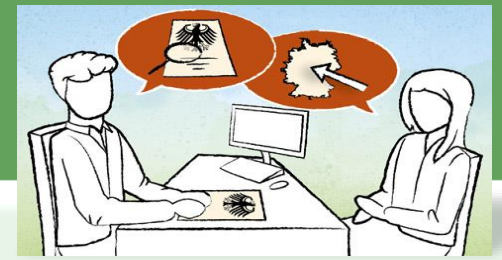
In total, there are three types of protection that you can obtain if your application for asylum is approved.

Granting of refugee status

You will be granted refugee protection if you can credibly prove that you are being persecuted in your country of origin on the grounds of race, religion, nationality, political opinion or membership of a particular social group. The persecution can come from the state, but also from other parties. If you are not persecuted by the state, but by other parties, you will be recognised as a refugee if you can credibly demonstrate that the state cannot or does not want to protect you from these parties.

Recognition as someone entitled to subsidiary protection

You will receive recognition as someone entitled to subsidiary protection if you provide valid reasons for believing that you are threatened with serious harm in your country of origin.



3. The hearing

Serious harm is considered to be the following:

- death penalty or execution,
- torture or inhuman or degrading treatment or punishment, or
- serious and individual threat to your life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Determination of deportation bans

A deportation ban is granted to you if you can convince the BAMF or the court that one of your rights under the European Convention on Human Rights will be violated when you return to your country of origin or that there is a considerable material threat to your body, life or freedom – for example, because you are seriously ill or would have to live in existential poverty.

3.3 How can I prepare for the hearing?

Write down the reasons why you escaped. It is best to create an accurate timetable of your history of persecution, listing all the important reasons and dates for your application for asylum, so that you can report everything confidently and in the correct order during the hearing.

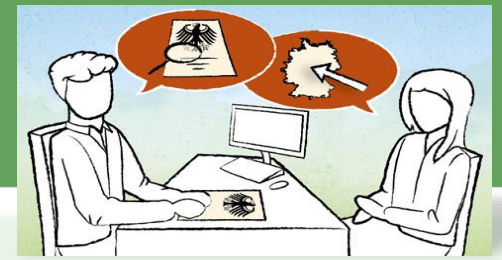
It is also important that you are able to explain at the hearing exactly why the police in your country of origin cannot protect you. Be prepared to explain why moving to another region of your country of origin would not have offered you safety.

Also write down prosecutions/threats from your private environment

Persecutions and threats that have occurred or are occurring in your private environment may also be important in the asylum procedure. You may also be granted protection under certain conditions, for example, due to threats from family members. In this respect, describe everything that troubles and worries you.

In case of health problems: go to a doctor and obtain a medical certificate

If you have any health problems, you should see a doctor as soon as possible, who will issue a medical certificate explaining them. These kinds of certificates can then be submitted at the hearing. If the medical certificate has not yet been issued at the time of the hearing, you can agree on a deadline with the BAMF for submitting the certificates afterwards.



3. The hearing

If you have, for example, medical certificates, prescriptions or medicine boxes, please present them at the hearing in any case – even if they are not in German. Ask the BAMF to make copies of these documents and return the originals to you.

If you have been tortured or are suffering from other traumatising experiences: get professional help

If you have been tortured or have had other bad experiences, you should also try to get professional help as soon as possible. We advise you to contact the Network for Traumatised Refugees in Lower Saxony (www.ntfn.de).

Even if you may find this difficult to do, it is important in the hearing that you state what you have been through. We advise you to take photos of injuries to your body and submit them to the BAMF during the hearing.

Contact non-governmental counselling centres and social workers

If you can, you should make an appointment with a counselling centre – inside or outside the initial reception centre – or with a lawyer who specialises in asylum law before the hearing so that you come prepared to your hearing. In addition, you should get in touch with counselling centres and social workers so that they can, for example, help you make appointments or organise medical certificates.

3.4 What rights and obligations do I have during the hearing?

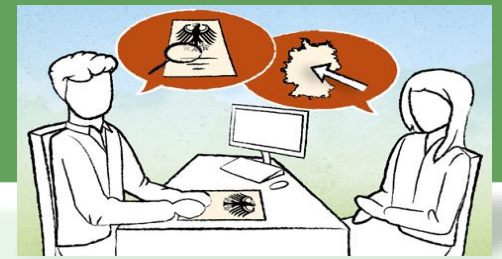
Right to accurate communication

You have the right to have the hearing conducted in a language in which you can communicate well. This is usually your native language. Before the hearing, tell the BAMF the language in which you want to speak at the hearing. The Federal Office will provide you with an interpreter. You also have the right to bring an interpreter with you to the hearing, but at your own expense.

In the case of gender-related issues: your right to be heard by a woman and to have a female interpreter

If your statement includes gender-related issues or intimate details, you as a woman can insist on being heard by a woman and use a female interpreter. Inform the BAMF about this before the hearing.

3. The hearing



In the case of traumatic experiences: your right to be heard by specially trained persons

If you find it difficult to talk about your reasons for fleeing due to traumatic experiences, before the hearing, you can also request that a specially trained BAMF employee conduct the hearing. These employees are referred to as "Special Representatives".

Right to be accompanied

You have the right to be accompanied to the hearing by different persons.

Your lawyer may take part. The BAMF cannot refuse this. For practical reasons – especially during this coronavirus pandemic – it may nevertheless be helpful to give notice that you will be accompanied by your lawyer.

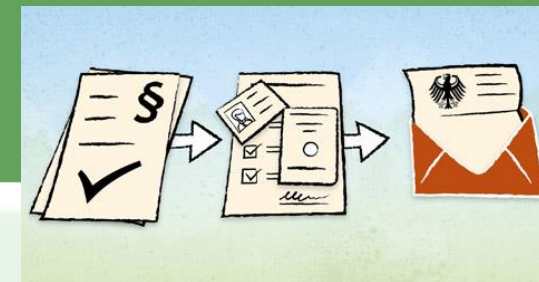
A "counsellor" may also take part; the BAMF cannot refuse this without reason. A counsellor can assist you in exercising your rights during the hearing. Although it is not required by law, it makes sense to inform the BAMF in advance that person X will be accompanying you to the hearing as a counsellor, especially during this coronavirus pandemic.

A trusted person who serves as a counsellor and only appears to support you emotionally during the hearing can also accompany you to the hearing. In this case, it is important to inform the BAMF in advance of them, because without prior notice, the BAMF can refuse to allow this person from attending the hearing – regardless of the coronavirus pandemic.

Obligation to examine the minutes of the hearing

At the end of the hearing, the minutes of the hearing will be translated orally. You will then be asked to confirm with your signature that everything you have said has been recorded correctly in the minutes. You should only confirm this with your signature if the entire protocol has been fully translated, you have understood everything and the content of the protocol corresponds to the information you have given. If one of these steps has not been fulfilled, tell the hearing officer that you will not sign the minutes until the information you have given has been correctly recorded in the minutes. Insist on a complete clarification of all misunderstandings, open questions and ambiguities before you sign anything.

4. The BAMF'S decision



4.1 What do I have to look out for after receiving the BAMF's decision?

When you receive the BAMF's decision, it is important that you immediately clarify the following questions:

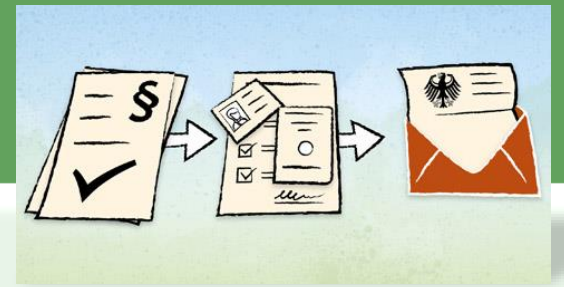
The BAMF's decision	
The BAMF has granted you protection	The BAMF has not granted you protection/the court has rejected your action
What form of protection is it? Recognition as a refugee, subsidiary protection or a deportation ban?	Should an action be brought against the BAMF's negative decision?
If you have been granted subsidiary protection: should an action be brought for the granting of refugee status?	If you wish to bring an action against the BAMF's negative decision, when does the deadline for bringing an action expire? (Please also refer to 4.2)
If you have been granted a deportation ban: should an action be brought for the granting of refugee status or subsidiary protection?	

4.2 How long do I have to lodge a complaint against the BAMF's rejection decision?

"Simple rejection" of your application for asylum

If you have received a "simple rejection" for your application for asylum, the competent administrative court must receive the action within two weeks of notification of the decision. A period of one month after receiving it shall apply for the statement of reasons for the action. The action shall have suspensive effect. This means that you may not be deported as long as the court has not yet ruled on your action. You can keep your temporary residence permit for the duration of the court proceedings.

4. The BAMF'S decision



Rejection of your application for asylum as "clearly unfounded"

If your application for asylum has been rejected as "clearly unfounded" or "inadmissible", the action must be received by the competent administrative court within one week of receiving the decision. The one-month period shall continue to apply to the statement of reasons. The action shall not have suspensory effect. This means that the BAMF's negative decision shall remain effective. Therefore, together with the action – also within one week – a request for emergency legal protection must be submitted to the court, with which the order of suspensory effect is applied for. Otherwise, your temporary residence permit will expire and you may be deported despite the ongoing legal proceedings. If the application for suspensory effect is rejected, in principle, you will unfortunately be faced with deportation, even if the court has not yet ruled on your action.

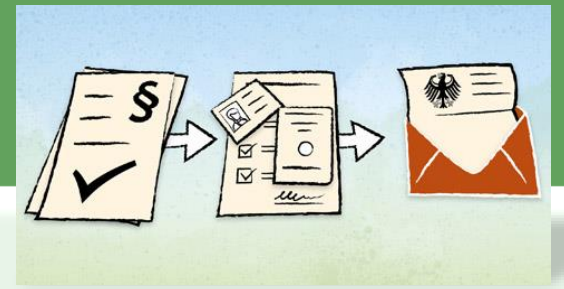
Upgrade or topping-up actions

If your application for asylum has only been partially granted, i.e., you have only been granted subsidiary protection, for example, you can bring an action for refugee status with the competent administrative court within two weeks of receiving the decision. If you have only been granted a deportation ban, you can also bring an action for refugee status or subsidiary protection with the competent administrative court within two weeks of receiving the decision.

4.3 How do I know when the decision was served and which court is the competent court?

The date of receipt is noted on the yellow envelope in which you receive the BAMF's decision. The administrative court to which you need to bring your action and the deadline for filing the action can be found in the instructions on the right to appeal at the end of the BAMF's decision.

4. The BAMF'S decision



4.4 Do I need a lawyer to lodge a complaint against the BAMF's rejection decision?

No. You can also bring and justify the action without a lawyer. However, the action must be written in German. You can also contest the case in an oral hearing before the administrative court without a lawyer. As a rule, however, it is highly recommendable to consult a lawyer for the statement of claim at the latest. Hiring a lawyer costs money.

4.5 What if I can't afford a lawyer?

If you cannot afford a lawyer, you can apply for legal aid through the state to cover your legal costs. However, you will only be granted legal aid if your action has a reasonable prospect of success. Counselling centres that specialise in asylum law will help you find a lawyer as well as apply for legal aid.

II. Prospects upon completion of the asylum procedure



1. What happens upon successful completion of an asylum procedure?

Granting of refugee status

If you have been granted refugee status, you will receive a residence permit for three years. The residence permit may be renewed after the end of the three-year period. You are also entitled to receive an international travel document for refugees. You are allowed to work. Insofar as you do not have a job, you will receive social benefits in accordance with Social Security Code II or XII. In principle, you are free to choose your place of residence (within Lower Saxony).

Granting of subsidiary protection

If you have been granted subsidiary protection, you will first receive a residence permit for one year. In the case of an extension, the residence permit is issued for a further two years. After the end of the two-year period, the residence permit may be renewed for two years respectively. Insofar as you do not have a passport, you are generally obliged to speak to the embassy of your country of origin and apply for a passport. You are allowed to work. Insofar as you do not have a job, you will receive social benefits in accordance with Social Security Code II or XII. In principle, you are free to choose your place of residence (within Lower Saxony).

Granting of deportation bans

If you have been granted a deportation ban, you will in principle receive a residence permit for one year. After the end of the year, the residence permit may be renewed if there are still reasons for the deportation ban. Insofar as you do not have a passport, you are generally obliged to speak to the embassy of your country of origin and apply for a passport. You are allowed to work. Insofar as you do not have a job, you will receive social benefits in accordance with Social Security Code II or XII. In principle, you are free to choose your place of residence (within Lower Saxony).

II. Prospects upon completion of the asylum procedure



2. What prospects do I have if my asylum request was unsuccessful?

If you have not brought an action against the BAMF'S negative decision or your action before the administrative court has not been successful, the immigration authority may stipulate where you have to live – insofar as you are dependent on social benefits.

Insofar as the asylum procedure has been completed without success, we strongly recommend that you contact a counselling centre that specialises in asylum and aliens law or a lawyer in order to have the prospects for a residence permit examined. The following illustration merely provides an overview of which alternative housing options are generally available during an asylum procedure.

Issuance of a residence permit for family reasons

Insofar as you are married to a person who has a residence permit or is a German national, a residence permit can be issued on family grounds. The same applies if you have an under-age child who has a residence permit or is a German national. It is therefore important that you inform the immigration authorities immediately that you are married or have a child.

Further prospects for a resident permit

Depending on how long you have been in Germany, you may be able to obtain a residence permit in accordance with Sections 25 (5), 25a or 25b of the Residence Act. We recommend that you contact us or a specialised counselling centre to have your prospects for a residence permit checked.

Applying to the Hardship Commission of Lower Saxony

Insofar as a residence permit in accordance with Sections 25 (5), 25a or 25b of the Residence Act cannot be issued for you and you have been in Germany for at least 18 months, you can submit an application for a residence permit to the Hardship Commission of Lower Saxony. We recommend that you contact the "Specialised Counselling Centre for Submissions to the Hardship Commission of Lower Saxony".

II. Prospects upon completion of the asylum procedure



You can reach the Specialised Counselling Centre as follows:

Kargah e. V.
Ms Friederike Vorwegk
Ms Carmen Schaper
Zur Bettfedernfabrik 1
30451 Hanover
Phone: +49 (0) 511 126078-13
Office hours (phone):
Monday, Wednesday: 10 a.m. to 1 p.m.
Thursday: 2 p.m. to 5 p.m.
Email: fachberatung-hfk@kargah.de

DRK-Kreisverband Aurich e. V.
Mr Bernd Tobiassen
Schmiedestr. 13
26603 Aurich
Phone: (04941) 6972640
Email: fachberatung-hfk@ewe.net

Issuance of a suspension of deportation

If you do not receive a residence permit and cannot be deported (yet), the immigration authorities will issue you a suspension of deportation. As a rule, a suspension of deportation is only issued for a short period of time. However, it may be extended again and again if the reasons why you cannot be deported persist. Such reasons for a suspension of deportation may include the following:

De facto impossibility of deportation – for example, because there are no flights to your country of origin or because your passport is missing,

- Legal impossibility of deportation – e.g., because you cannot travel due to illness, have family ties in Germany or the asylum procedure of your child born in Germany has not yet been completed,
- you are completing qualified vocational training
- The Hardship Commission of Lower Saxony has accepted your application for a decision

II. Prospects upon completion of the asylum procedure



Insofar as there are no (more) reasons for a suspension of deportation, you will very likely be deported. **Important:** The date of deportation will not be communicated to you.

Possibility of leaving the country on a voluntary basis

If in principle you decide to go back to your country of origin or another country on a voluntary basis, you may receive financial or other means of support. For this or to get advice on how to return, we recommend that you contact the Raphaelswerk in Hanover, for example, as follows:

Phone: +49 511 7005206-0

Fax: +49 511 700520699

Email: hannover@raphaelswerk.net

Address: Vordere Schöneporth 10, 30167 Hanover

II. Prospects upon completion of the asylum procedure



3. What will the immigration authority require upon unsuccessful completion of an asylum procedure?

Insofar as the asylum procedure has been completed without success and you do not have a passport, the immigration authority will require you to contact the embassy or consulate of your country of origin and apply for a passport. You are generally required to do so by law.

Insofar as you do not make an effort to obtain a passport, the immigration authority may forbid you from taking up employment or may reduce your social benefits. Insofar as you make an effort to obtain a passport, you will not be threatened with bans on employment or reductions in benefits. **Important:** Document your efforts to obtain a passport – for example, by asking the embassy to give you a letter stating that you have applied for a passport, by keeping your travel tickets to the consulate as proof, or by taking photos on site.

Insofar as you have already tried to obtain a passport or other proof of identity without success and can prove this, you should contact the immigration authorities and ask what else you can do to obtain a passport or other identity documents.

Insofar as you only have a suspension of deportation and are not willing to leave on a voluntary basis, the immigration office can send you with your passport or other proof of identity to the embassy of your country of origin and organize your deportation. However, people can be deported to any number of countries even if they do not present a passport or other proof of identity.

Legal notice

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30173 Hanover

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Dieses Projekt wird aus Mitteln
des Asyl-, Migrations- und
Integrationsfonds kofinanziert.



Gefördert durch:



Niedersächsisches Ministerium
für Soziales, Gesundheit
und Gleichstellung

