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Russian Legal Team
or whom it concerns

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Sachbearbeiter: RA Frank

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Bei Schriftverkehr und Zahlung bitte angeben! Danke!

Extra questions for foreigners

Dear Legal Team Russia,

here are some answers to your questions, we hope, they can help you a little bit:

0) Do foreigners have the same rights as german citizens? Are there any special "foreigners legislation" in Germany? What is the difference for EU, non-EU- and people woh should have visas? Is it available on the net?

Foreigners do not have the same rights as german citizens in a number of branches of law.

Severel civil rights are not valid for foreigners, for example the right of assembly in Art. 8 Constitution of the Federal Republic of Germany (GG). Foreigners nevertheless can claim themselves to the liberty of action in Art. 2 I GG.

There are some special laws in Germany for Foreigners.

We have the so called Aufenthaltsgesetz (AufenthG). In this law are written down all terms about how to enter the country legal or illegal, get a limited permission to enter the country, get an unlimited permission to stay in the country and ways to loose the permission, getting removed and finally deported.

The Asylverfahrensgesetz (AsylVerfG) is designed specially for the law of asylum.

You can find all the texts updated in the net under "www.gesetze-im-internet.de".

EU-citizens normally have the permission to stay wherever they want in the EU.

There are some countries that have special contracts with germany, so their citizens do not need a visa to enter germany. Normally, the residence without visa is limited for about three months.

All other people need a visa to enter germany, which is given by the german embassy.

I think that there is a list of all countries, whose citizens need or do not need visa, on the internetsites of the german embassies, just type "german embassy" into the searching field of "google". Normally, the sites of the different german embassies are translated at least in english language.

1) Has a foreigner a right to demand a lawyer? (based on which law?)

Yes, of course, when you got the time to find one before getting jailed or even worse. When you are in Germany and need a lawyer call: **00 49 - 3 82 04 76 81 11 !**

Usually you have to pay for the work of a lawyer, but there are some public aids in case of emergency or not having enough money.

In Germany you got different types of law, different kinds of courts and different kinds of proceedings.

In case of an assembly for example you have public law, the right court would be the administrative court. Some smaller branches of public law are police law, regulatory law or law concerning foreign nationals.

In case of an assembly the authorities can make police orders or administrative orders like a ban on public meetings. At the end there will be administrative enforcement, for example a deportation.

In proceedings before an administrative court you can get legal aid, it depends on your income and your wealth. The lawyer will be paid by the government.

In case of committing a crime there will be a penal procedure. If it is a very serious crime or if the law case is difficult you will get an official-defense-counsel, also paid by the government.

The crime "breach of the peace" can be, when it is committed during a forbidden assembly, such a serious crime, it can also be the cause for an expulsion and at the end of a deportation.

*2) Are there any concrete reasons ground for deportation? Is there a list of these reasons?
"Serious crime is too wide ...*

In Germany, the deportation is a kind of administrative enforcement. Before this enforcement there must be an administration order which is provisional enforceable or unappealable.

The deportation is used, when the voluntary fulfillment of leaving the country is not ensured or by necessary reasons of public security or public order to control the leaving person. Normally, if the person got a return ticket to her or his home country, there is no place for a deportation because the person will leave voluntarily.

To get deported, there must be first of all the obligation to leave the country (§ 50 AufenthG). A reason for leaving could be crossing the border without permission or visa or the end of a valid permission.

In this case a foreigner has to leave the country at once or in a certain time-limit, given by the authorities.

A valid permission to stay in Germany can end (§ 51 AufenthG) by the end of the time for which it was given or by lack of the reason for which it was given. Another reason is the so called expulsion or removal. There are three kinds of expulsions named in the AufenthG.

§ 53 AufenthG:

In this cases, the authorities must remove the foreigner from the country. Examples for this are a condemnation in a penal procedure with a prison sentence for at least three years, committing serious drug-crimes, or the thing you named already "breach of the peace" during a forbidden assembly or a ban of public meetings. For the must-expulsion you need in this case a penal procedure without a probation. So not every public violence during a forbidden assembly must lead to an expulsion.

§ 54 AufenthG:

In this cases, the authorities normally shall remove the foreigner from the country. The authorities have a kind of discretion in this cases. Examples for this are a condemnation in a penal procedure with a prison sentence or for under 21-year old people a prison sentence for at least two years, both without probation. Another thing would be forcing violence against people or things during a forbidden assembly or a ban of public meetings or if the authorities have facts, that somebody is a member of an terrorist-organization. There are some more reasons, which are very special.

§ 55 AufenthG

In this cases, the authorities can remove the foreigner from the country, they must use discretion. The examples herefor are committing some smaller crimes or using hard drugs, or getting public welfare.

3) Who can demand the ambassadors? How? Is it worth to do? What is in their powers? What can you demand and await from them?

As far as we know, everybody can appeal to the embassy of his home country. If it is worth to do it, we do not know. Normally they cannot do anything against the German authorities.

4) It is possible to review deportation? How? How to appeal?

Yes. You can appeal to the administrative court and in urgent cases you can get a suspensive effect by getting a temporary order or an injunction from the court. The authorities then must wait, before the main case is over and unappealable. A German lawyer will know the right steps to do.

5) Where are people kept before being deported? For how long can they be kept there?

It depends. Normally they will be brought into a police station or into jail. For the meeting in Heiligendamm German authorities built special camps because of the masses of people.

They can be kept there until they get deported.

Another thing is the so called safekeeping. People will be brought into police stations or special camps when there is the suspicion, that they will go to a forbidden assembly or commit crimes or do other forbidden things. When you ask me, if this is legal I can fill books with discussions on this theme.

The safekeeping will normally not last longer than 48 hours, in special cases it can last up to 16 days.

6) Who pays for deportation? What is a law about it (article)?

The person who is deported pays the deportation. If the person has not enough money, the government will pay the deportation. If the person after the deportation will not come back to Germany, the government normally will not get back the money. There are several statutes that rule the costs of the deportation, there is not one special. The costs are depending on the costs of the return-ticket, the time in jail, the number of policemen supporting the deportation and so on.

7) It is necessary the ban entrance after deportation? For how long? Only for Germany or all EU or Schengen states? What is a law? (title, article)? Is it possible to appeal it?

When a person is deported, it is not allowed for her or him to enter Germany (§ 11 AufenthG) or the Schengen-States. The information about the person will be given to the Schengen-Information-System (SIS), at the border the authorities will deny the entry.

The ban will be forever, but you have the right to make an application to limit it. Then the authorities must limit the ban for about one year up to 15 years, it depends on the reason of the deportation.

You can go to court because of the decision of the limitation, when you think it is too long. The ban itself can only be appealed by going to court against the deportation.

In emergency-cases, for example a near relative dies in Germany, it is allowed to enter the country although the ban is not yet limited.

The authorities are insisting in paying the costs for the deportation before the ban is limited.

8) How to ask about political asylum in Germany? Procedure?

You can ask for asylum at any official authority in Germany. Every foreigner has the right to that.

The right of sanctuary will be examined and verified by the so called Bundesamt für Migration und Flüchtlinge in Nürnberg, which has branches all over Germany. The procedure is statuated in the Asylverfahrensgesetz.

9) To whom do they bring people in native country of the deported person? To the authorities? Are the authorities informed at all that this person is deported? Can they use extradition while deporting the activist?

Normally, the deported person is just supported into the plane or train. They come back into their home-countries like the other passengers.

If there is any problem with the authorities in the home country, the person should ask for the right of sanctuary in Germany.

10) If non-EU person is convicted in criminal offence and sentenced to several months of prison this person should be locked in German jail? Will this person usually be deported after that and banned?

Yes, probably the person will be first sent into a German jail. Maybe there is the chance to make a deal with the authorities, for example, the person is getting out of the jail after half of the time when the person leaves Germany at once.

After jail the person will be deported and banned. The only chance then is to ask for the right of sanctuary in Germany.

General questions:

1) If there is an exclusion zone for everyone or you should get a personal ban for the particular territory? Or it might be different?

There will be an exclusion zone with a big fence. Any activist can get a personal ban from the authorities for other areas as well. In case the personal ban is unfair, you can go to court and appeal for a temporary order or an injunction.

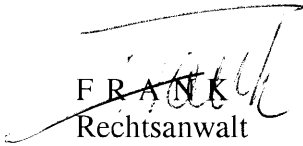
2) In which situation can police take away your passport?

Normally they can do this in cases of law concerning foreign nationals in order to deport the

person into her or his home-country. They will give back the passport after the person enters the plane or any other way of transport.

If there are any more questions, don't hesitate to ask!

Greetings from Germany


F R A N K
Rechtsanwalt