



Study

Return Policy in Germany. Ways to Strengthen Financed Voluntary Departure

Summary

The residence of failed asylum seekers is terminated either through deportation or voluntary departure. In the case of the deportation, the Residence Act defines relatively detailed provisions whereas for voluntary departure, which is supposed to take precedence, there are hardly any legally binding specifications. The federal government is only responsible for coordinating the funding programmes for voluntary return. In both variants of residence termination the federal states (*Länder*) are responsible for implementation. In particular with regard to what is known as financed voluntary departure, practices vary considerably between states and even between the individual municipal authorities tasked with enforcement. This study examines the differences in enforcement in the states of Hesse, Rhineland-Palatinate and Saxony-Anhalt. It focuses on how the issue of residence termination is handled nationally by the *Länder* and, in particular, on the question of how the option of financed voluntary departure is handled by policymakers and enforcement bodies. The legal basis, the policy concepts at state level and the available financial resources are discussed; the study looks at the question of responsibilities and the point in time for return counselling as well as the use of coercive measures.

Using the comparative case studies as a basis, recommendations are developed that aim to help make the policy of residence termination in Germany more consistent, predictable and fair. It should seek to make it possible for those affected to leave voluntarily without immediate enforcement and to only carry out deportations as a last resort:

(1) In consultation between the federal government, *Länder*, municipalities and other stakeholders of counselling services (e.g. the International Organisation for Migration or independent organisations), it should be more clearly defined who gives which information about the financed departure at what point in time. Asylum seekers should already be provided with basic information about the options for return counselling and assistance as part of an entry and orientation meeting which should be offered mainly by non-governmental actors when asylum seekers are registered in a particular *Land*. In the event that the asylum application is rejected, the Federal Office for Migration and Refugees (BAMF) should explain



the negative decision as well as the legal implications and consequences related to enforcement in a face-to-face meeting if possible and in particular explain funding options and return counselling services. The overall responsibility for return counselling services should be embedded in the Residence Act and should lie with the immigration offices. They should, however, generally delegate this task to return counselling centres of non-governmental actors because the goal is not to replace proven structures, but to strengthen them. This is the only way to guarantee that each person required to leave the country is counselled about the concrete options of financed departure.

(2) The federal government and *Länder* should work together to ensure that people required to leave the country receive detailed and up-to-date information that they also understand. To this end immigration offices and return counselling centres must be adequately staffed and have enough room, for example, to involve interpreters or language facilitators.

(3) The exchange between the levels of the federal government, the *Länder* and municipalities is essential for a transparent and uniform return policy (e.g. via the Conference of Ministers of the Interior and the relevant administrative regulations). This means, in particular, intensifying the shared understanding of enforcing residence termination. The *Länder* should empower the authorities tasked with enforcement to work uniformly with clear and transparently communicated instructions (e.g. in the form of decrees). It is also helpful when immigration offices share information about successful practices.

(4) Compared to the status quo of the REAG/GARP return programme, long-term possibilities for financial support for voluntary departure are needed that guarantee planning certainty and are more consistent with the goal of reintegration. The increase in funding for REAG/GARP and the decision of the federal government and *Länder* to also encourage the reintegration of returnees in the countries of origin in the future as well are to be welcomed. An evaluation - not only of the new "StarthilfePlus" programme, but of all funding structures related to return - would be desirable. The prerequisite is that comparative return statistics are kept in the future.

(5) At EU level the EU member states should strive to develop more effective exchange of good practices and agree on principles of counselling and support services for voluntary departure in the framework of the Common European Asylum System (CEAS), for example, by revising the directive on repatriation or what is known as the return manual.