



# Cooperation obligations in the identity clarification process for people in asylum proceedings

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## Foreword

These guidelines are aimed at people in asylum proceedings. In this process, you usually have a temporary resident permit. Requirements for your *cooperation* are explained. These guidelines should help you to document your *cooperation*. They should help you to become familiar with your rights and obligations – and avoid sanctions.

This information sheet does not substitute advice! Every case is different! It is vital that you seek advice from a specialist advice centre or competent lawyer.

These are examples of important questions:

- What specific things do you have to do?
- What are you not allowed to do?
- What consequences can this have?
- What might happen if you do not cooperate?

## 1 What are cooperation obligations?

You are in asylum proceedings. There are cooperation obligations in asylum proceedings. This means that you must help to clarify your identity. Do you have a passport or other identity document? Then you must give this to the authorities. You are legally obliged to do this (cf. Section 15 Para. 2 German Asylum Act – AsylG).

## 2 What exactly do you have to do?

Did you enter Germany using a passport or passport replacement? Or do you have a document to prove your identity? Then you have to submit this to the Federal Office for Migration and Refugees (BAMF).

What are identity documents?

- Passport
- Passport replacement
- Expired passport
- Identity card
- Birth certificate
- Marriage certificate

- School certificate
- School attendance certificate
- University certificate
- University attendance certificate
- Military identity card
- Driving licence
- Consular identity card
- Service card
- Registration certificate
- Family register
- Visa
- ... and other official documents

Do family or friends have your documents? You can have them sent to you to clarify your identity.

Make sure that you make copies before submitting the original documents. If possible, also have the copies certified. Have the BAMF confirm which documents you have submitted.

### 3 What are you not allowed to do?

Are you going through asylum proceedings? Then you must not place yourself under the protection of your country of origin. No one can ask you to do this.

This means:

- You are not allowed to go to the embassy/consulate.
- You may not return to your country of origin.
- You must not contact the authorities in your country of origin (even through relatives).

Want to do it anyway? Doing so will jeopardise your asylum application. The Federal Office might think that you are no longer seeking protection in Germany and your asylum application is deemed to have been withdrawn (cf. Section 33 Para. 3 AsylG).

## 4 What might happen if you do not cooperate or are deceptive?

Do you have documents that have not submitted to the authorities? Or have you been deceptive about your identity or nationality? This can have consequences:

### a) Rejection of the asylum application

The BAMF can reject your asylum application as “manifestly unfounded” (cf. Section 30 Para. 3 No. 2 and No. 5 AsylG). This is a particularly bad rejection. You only have one week to file a complaint with the administrative court. The complaint alone does not protect against deportation.

### b) Withdrawal of the asylum procedure

The BAMF might think that you do not want to continue asylum proceedings and consequently ends the asylum proceedings (cf. Section 33 Para. 1 and Para. 2 Sentence 1 No. 1 AsylG).

### c) Benefit cuts

The social welfare office may cut your benefits for six months (cf. Section 1a Para. 5 AsylbLG). This means that you will receive less money. This can be extended if you continuously fail to comply with your *cooperation obligations*.

## 5 Why is it important to document your cooperation in the identity clarification process?

- a) Your asylum application might be rejected. Even then there are possibilities to stay in Germany. For example, with a temporary suspension of deportation for the purpose of training (Ausbildungsduldung) (cf. Section 60c German Residence Act – AufenthG) or a temporary suspension of deportation for the purpose of employment (Beschäftigungsduldung) (cf. Section 60d AufenthG). You must clarify your identity by a certain date to be granted a temporary suspension of deportation for the purpose of training or employment.

Temporary suspension of deportation for the purpose of training:

- Did you enter Germany before 1 January 2017? Then you will have to prove your identity by the time you apply for the temporary suspension of deportation for the purpose of training.
- Did you enter Germany between 1 January 2017 and 1 January 2020? Then you must have clarified your identity by 30 June 2020.
- Did you enter after 1 January 2020? Then you must clarify your identity within the first six months after entry into Germany.

Temporary suspension of deportation for the purpose of employment:

- You entered Germany before 1 January 2017 and an employment contract exists on 1 January 2020: then you will have to prove your identity by the time you apply for the temporary suspension of deportation for the purpose of employment.
- You entered Germany before 1 January 2017 and no employment contract exists on 1 January 2020: Then you must have clarified your identity by 30 June 2020.
- You entered the country between 1 January 2017 and 1 August 2018. Then you must have clarified your identity by 30 June 2020.

Have you done everything reasonable to clarify your identity? But your identity can only be clarified after the deadline through no fault of your own? Then this deadline is deemed to have been met. Therefore, it is important to document your cooperation in asylum proceedings.

#### b) Residence permit separate from asylum proceedings

Do you want to marry a German citizen? Or do you have a German child? Then you can get a residence permit separate from asylum proceedings. To do this, a passport (and, therefore, identity clarification) is generally required (Section 28 AufenthG in conjunction with Section 5 AufenthG). Do not withdraw your asylum application carelessly. In some cases, the immigration authorities ask you to leave and re-enter Germany with a visa.

## 6 Proof of cooperation

It can be helpful to document your cooperation in asylum proceedings. The table in the annex will help you do this. You can use it in the future to prove what you have done.

Document each step as accurately as possible. You should also collect all evidence. You should attach all evidence to the table, for example:

- Letters to family
- Letters to friends
- Post/fax receipts
- Letters to university
- Letters to school
- Letters to employer

This also applies to emails, WhatsApp, Facebook or Viber messages, for example. Take a screenshot, for example.

Do you have witnesses? Write down any names and dates of birth in the table.

You don't have any proof of a conversation, for example, a telephone call? Make a *record* from your memory immediately after the conversation. The sample *record* can help you do this.

The table serves as proof of your cooperation. Make sure you make a copy before you submit the table. You can submit the table together with all collected evidence to the immigration authorities as proof of your *cooperation*. **Make sure you make a copy before submission!**

## References

Weiser, Barbara/Röder, Michael (2018): *Passbeschaffung und Mitwirkungspflichten von Personen mit einer Duldung, bei Asylsuchenden und bei Schutzberechtigten – ein Leitfaden für die Beratung. (Obtaining a passport and cooperation obligations for people with a temporary suspension of deportation, for asylum seekers and beneficiaries of protection status – guidelines for advice. – in German –)* Caritas Association for the Diocese of Osnabrück, online at: <https://www.nds-fluerat.org/wp-content/uploads/2018/11/%E2%80%9EBeratungsleitfaden-zu-Passbeschaffung-und-Mitwirkungspflicht-bei-Personen-mit-einer-Duldung-bei-Asylsuchenden-und-Schutzberechtigten%E2%80%9C.pdf>.

## Annexes

On the following pages, you will find a *fictitious* example of how the **table for documenting cooperation** can be filled out. You will also find a *fictitious* example of the conversation **record**. These examples aim to show you how the **table** and **record** might look like.

You will then find a *blank copy* of both the **table** and the **record**, which you can fill out yourself.

## IMPRINT

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## Annex 1 – Table for documenting cooperation – example

Date	What did I do?	To whom did I speak? (Name/telephone number)	How did we communicate?	Is there a result/deadline/agreement/rejection?	Are there witnesses?	What evidence is there?
14 July 2020	Call to my sister to send me my birth certificate	A. Alissa, born 1/5/1990, tel. 00 225 123456789	Tel.	She says she is trying to get my birth certificate. I should contact her again in 2 weeks.	Yes, my housemate, Andrea Schulze, born 20/05/1985, Erfurt	– Record
30/07/2020	Call to my former employer	Mr N Oulani, tel. 00 225 12345678	Tel.	I asked if he could send me my service card – he said he would look to see if he still has it	My friend, Bela Bali, born 20/09/1980	– Record
03/08/2020	Following up with my sister about my birth certificate	A. Alissa, born 1/5/1990, tel. 00 225 123456789	Email	She hasn't had a reply yet, she's waiting for a reply from the office		- Print off of email
15/08/2020	Call to my former employer	Mr N Oulani, tel. 00 225 12345678	Tel.	Following up about whether he has looked for my service card. He says he's found it and he'll send it to me.	My friend, Bela Bali, born 20/09/1980	– Record
18/08/2020	Following up with my sister about my birth certificate	A. Alissa, born 1/5/1990, tel. 00 225 123456789	WhatsApp	She's now spoken to the office and she needs power of attorney from me – I should send it to her		Print off of a screenshot of our WhatsApp messages

Annex 2 – Table for documenting cooperation (blank copy to fill out yourself)

Date	What did I do?	To whom did I speak? (Name/telephone number)	How did we communicate?	Is there a result/deadline/agreement/rejection?	Are there witnesses?	What evidence is there?

Annex 3 – Record for documenting cooperation (example)

**Date/time:** *14/07/2020, 3.30 pm*

**spoke with:** *A. Alissa, born 1/5/1990*

(x) on the phone

(telephone number if applicable: *00 225 123456789*)

( ) in person

( ) other (e.g. Skype)

**Witness:** *Andrea Schulze, born 20/05/1985, Erfurt*

**Content of the conversation:**

*I called my sister. I asked her if she could get hold of my birth certificate. She said she would try and get my birth certificate. But to do so she has to go into the city. It's a long way to the city. She said she has to find someone to look after her children while she goes there. She will try and go there in the next few days. She said I should contact her again in two weeks.*

Annex 4 – Record for documenting cooperation (blank copy to fill out yourself)

**Date/time:** .....

**spoke with:** .....

( ) on the phone

(telephone number if applicable: .....)

( ) in person

( ) other (e.g. Skype: .....)

**Witness:** .....

**Content of the conversation:**

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