



Benefit Reductions (AsylbLG)

Cash, Food Vouchers and other Benefits

Questions and concerns

What can I do?!

Every person who is registered in Germany is entitled to benefits to ensure survival. If you have applied for asylum, you do not have to make an additional application for benefits. You will receive social benefits according to what is called the »Asylbewerberleistungsgesetz« (AsylbLG – law of benefits for asylum seekers), at least until a residence permit is granted, or as long as you are in Germany. Persons who have been granted international protection, which continues to exist, in another member state of the European Union are not entitled to benefits (§ 1 paragraph 4 AsylbLG). These persons are only entitled to »Überbrückungsleistungen« (temporary benefits).

If you have a »Duldung« (exceptional leave to remain) and no income or assets of your own, this will remain so.

It is important to inform yourself, especially about the range of services and your own rights and obligations.

There are written documents for every transaction with authorities and offices in Germany. This makes the rights and obligations of the parties involved clear. This way everything can always be checked.

Important: For every written exchange it is always important to make a copy for your own documents. If benefits are granted, there is always a written notice. This letter is called the »Leistungsbescheid« (notice of benefits). A »Leistungsbescheid« (notice of benefits) can be issued provisionally, then it will be reviewed again after the period of benefits has elapsed. The duration of benefits is adjusted to the actual circumstances. This means, for example, that if there is a deadline for a decision on the right of residence, benefits will initially only be granted up to that date.

It's good to check every »Leistungsbescheid« (notice of benefits):

1. How high are the benefits? If you do not get benefits: Why not?
2. For which period do you receive benefits?
3. Which specifically named persons receive the benefits?
4. What is the legal basis for the benefit, sanction or refusal? (Paragraphs must be mentioned in the letter!)
5. Do you receive any cash or non-cash benefits (e.g. clothes or food)? How are you payed, e.g. in cash at the authorities or transfer to your account?
6. What can you do if you do not agree with the decision or ruling? What can you do legally against the decision? There must be information in the letter. This is called »Rechtsbehelfsbelehrung« (information on legal remedies).

If you have questions, ambiguities and above all problems, it is important to go directly to an advice centre or legal representative instead of waiting!

If you do not agree with the decision of the authority, you can file an appeal (»Widerspruch einlegen«). Please note the deadline for this is in the »Rechtsbehelfsbelehrung« (information on legal remedies).

You can find information on this in our **information sheet »Communicating with the German Authorities ('Behörde')«** on our website here:

It can often take several months or more for the authorities to review your letter. In any case, you will be informed of the resulting decision in writing in a new »Bescheid« (notice).

You can also file an appeal against this decision (»Widerspruch einlegen«).

If you no longer receive benefits and are therefore unable to pay for your basic needs (for example, food and rent), you can file an »Eilantrag« (urgent application) with the responsible »Sozialgericht« (social court). It is helpful if you get a lawyer or other legal support.

Important: Inform yourself! Check the content of the letters from the authorities! Stick to deadlines! Keep documents (copy)! Go to the advice centre! File a »Widerspruch« (appeal) if necessary! Seek legal assistance!

Possible reasons for benefit reductions, sanctions, measures, etc.

Important: Just because one or more of the reasons for a benefit reduction are valid, it does not mean that the »Leistungsbescheid« (benefit notice) is correct and must be accepted. The basis for the reductions are laws which often change. Various laws are not clearly formulated, and therefore employees in public authorities use them differently. The best way to find out more is to contact an advice centre. The staff at the advice centre are familiar with these differences.

In Germany, people with different residence permits are treated differently. For example, people with residence permits get some benefits that people with a »Duldung« (exceptional leave to remain) do not get.

The authority must give you a letter for each change to your benefits (for example, if you receive fewer benefits than before). This letter is then also called a »Leistungsbescheid« (notice of benefits). You should always check it, as explained above.

If something has changed in your life, it is a good idea to consider whether you should inform the authorities about it; for example, a new child, a new job, a new marriage, a court case, a serious illness or if you have not been able to fulfil your »Mitwirkungspflichten« (duty to cooperate). If you are not sure whether a change in your life will make a difference to your benefits, ask an advice centre or your lawyer!

When can benefits be reduced?

Possible reasons for benefit reductions, sanctions or measures may be:

– If you don't understand this part or don't know whether you belong to one of these groups, talk to an advice centre –

- ! **The authority says you must leave Germany. You have been given a date for departure. The date has passed and you are still in Germany. You are now, what the authorities call »vollziehbar ausreisepflichtig« (legally obliged to leave) (§ 1a Abs. 1 AsylbLG).**
 - › Benefits may not be reduced if you are not responsible for not leaving the country.
- ! **The authorities say that you only came to Germany in order to get benefits (§ 1a Abs. 2 AsylbLG)**
 - › This concerns people with a »Duldung« (exceptional leave to remain), people who are stated as »vollziehbar Ausreisepflichtige« (legally obliged to leave) as well as their family members.
- ! **They tried to deport you. The deportation did not take place. The »Ausländerbehörde« (foreigners registration office) says that you are responsible for this, e.g. because you were not home (at your registered address) although you were informed of the date. Or because you resisted the deportation. This is officially called: »measures terminating your stay could not be carried out for reasons for which you are responsible ('selbst verschuldeten Gründen')« (§ 1a Abs. 3 AsylbLG). The authority says that you have to comply with your »Mitwirkungspflicht« (duty to cooperate).**
 - › This concerns people with a »Duldung« (exceptional leave to remain), people who are stated as »vollziehbar Ausreisepflichtige« (legally obliged to leave) as well as their family members.
 - => A consequence of this: The benefits may be reduced. This is possible from one day after the date of the attempted deportation.

! **Dublin regulations apply. The authority says that another EU state is responsible for your asylum procedure.**

- ▶ This is valid from the day on which you were threatened with deportation. Officially, deportation to another EU state is called »Überstellung« (transfer) (§ 34a AsylG and § 1a, Abs. 7 AsylbLG).
 - A reduction is not possible if a court orders that deportation must be temporarily suspended (in legal German: »Anordnung der aufschiebenden Wirkung der Klage gegen die Abschiebungsandrohung«)
 - Various courts have considered this regulation to be problematic if no evidence of wrongdoing by the affected persons is included in the case, therefore it is especially worth it to have such reductions reviewed!

! **The authorities say that you are not fulfilling your »Mitwirkungspflicht« (duty to cooperate) (§ 1a Abs. 5 AsylbLG).**

There are often different evaluations of this. You have to prove that you are doing everything possible to »cooperate« (»mitzuwirken«).

- ▶ If you want to apply for asylum, but have not yet done so: you should apply for asylum as soon as possible. If you have a date for your asylum application, you must appear at that date. If you are unable to do so, you must inform the authorities in advance. You must have a good reason for not coming. If you are ill, you need a confirmation from your doctor (as detailed as possible).
- ▶ By law, you must present your passport or a passport replacement. If you do not have a passport, the law says you must do everything possible to get one. It is therefore important that you document all attempts.
A consequence of this: If you present a passport, the reductions in benefits must be reversed. However, the authorities may then be able to carry out the deportation.

- ▶ If the authority says it doesn't know exactly who you are. This is officially called: »Ihre Identität ist nicht geklärt« (your identity is not clarified). The law says you must do everything possible to »clarify your identity« (»Ihre Identität zu klären«). To do this, you must give the authority all the documents and certificates you have or can get.
- ▶ The authorities may demand that you have to attend a meeting with representatives of your embassy, for example. If the authority believes that you are a national of another country, you may also have to go to a hearing at that embassy. It is possible that »identification measures« (»erkennungsdienstliche Maßnahmen«) will be carried out (e.g. taking fingerprints). These must be »proportionate« (»verhältnismäßig«). Speak to your lawyer or an advice centre before the appointment.
- ▶ If the authority says that you are not fulfilling your »Mitwirkungspflicht« (duty to cooperate) this can also mean that you are no longer allowed to work, for example. This is called »Entzug der Arbeitserlaubnis« (withdrawal of work permit).

! **The authority says you have to take a particular job. This is called an »Arbeitsgelegenheit« (job opportunity). But you have turned it down. The authority says you can't turn down the offer. In official language: »the job opportunity is reasonable« (»die Arbeitsgelegenheit ist zumutbar«) (§ 5 Abs. 4 iVm § 1a Abs. 1 AsylbLG).**

- ▶ If the job is not reasonable, e.g. because you are ill or have to look after your children, the reduction is not allowed.
- ▶ The authority also considers so-called »refugee integration measures« (»Flüchtlingsintegrationsmaßnahmen«) as a »job opportunity« (§ 5a Abs. 3 AsylbLG).

! **Your obligation to attend an integration course is refused or interrupted or prevented (§ 5b Abs. 2 iVm § 1a Abs. 1 AsylbLG)**

! **Total reduction of benefits until the proof of arrival is issued (§ 11 Abs. 2a AsylbLG).**

- › The authority says that you have to live in a certain place. Benefits may be reduced to a travel allowance (»Reisebeihilfe«) if you live elsewhere or have left your place of residence without authorisation (§ 11 Abs. 2 AsylbLG).

! **The authority believes or has evidence that you have income, secondary income or assets about which you have not informed the authority.**

- › Sometimes benefits are stopped completely until it can be clarified whether there is/are undeclared work, accounts, credit cards or similar. The authorities then ask for documents. If you give the authority the necessary documents, the authority checks these documents. Until then, you will not receive any benefits. You will also have to pay for the renewal of your identity papers. Rent and insurance costs can also be frozen.
- › If you no longer receive benefits and are therefore no longer able to pay for your basic needs (for example, food and rent), you can make an urgent application (»Eilantrag«) to the relevant social court (»Sozialgericht«). It helps if you get a lawyer or other legal support.

The authority decides how and whether benefit reductions, sanctions and measures are applied. The authority must justify its decision by law. How the law is understood and applied may differ between authorities.

Normally, benefits are greatly reduced in the event of reductions or sanctions. There is a difference between a »necessary need« (»notwendigen Bedarf« – food and clothing) and a »necessary personal need« (»notwendigen persönlichen Bedarf« – tickets, telephone, toiletries). The »necessary need« is the minimum. This part can also be given to you in »Sachleistungen« (in kind) or vouchers. Payment in »Sachleistungen« (in kind) means that you will receive, for example, ready-made food and not money to buy food. If you have obligations to make payments, you can apply to the authorities to have these costs covered. This also applies to costs for health treatment that you pay for yourself.

Benefits for children must not be reduced. However, it may happen that parents receive some of the benefits for their children in »Sachleistungen« (in kind) or vouchers.

Important: Check the »Leistungsbescheid« (notice of benefits)! Keep to deadlines! Seek advice! Report irregularities! Be aware of the possible consequences of the »Mitwirkungspflicht« (obligation to cooperate)! Involve a lawyer! Remain in solidarity!



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Der Flüchtlingsrat Sachsen-Anhalt bedankt sich für die Förderung bei PRO ASYL. Die Erstellung dieses Informationsblattes wurde durch die finanzielle Unterstützung unserer Arbeit durch PRO ASYL möglich.