

# Rights for

Which rights  
do I have in a  
reception center or  
communal accommodation  
for refugees?

**ALL!**

This booklet was produced by people who are active in the groups Lea-watch Freiburg, Aktion Bleiberecht Freiburg, MediNetz-Freiburg and the Anti-Racist Network Baden-Württemberg.  
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## Foreword

The editors of this brochure are initiatives that support the rights of refugees and advocate the right to stay.

It is important to us to inform you about your rights as a resident of a state reception facility / accommodation for refugees and to stand together with you for better living conditions.

Furthermore, we are happy to support you if your rights have not been or are not respected. Together with you, we will document infringements, refer you to experts or help you to take legal action.

You are welcome to contact us. You will find the address for Freiburg in the Guide on pages 6 and 7. You will find further addresses in the inserted supplementary sheet.

The rights described are based on existing fundamental and human rights. [1]

We have formulated the information in this brochure to the best of our knowledge. However, this brochure does not replace individual (legal) advice. The brochure is based on numerous sources for whose accuracy and completeness we cannot guarantee.

In our research, we have discovered that in many of the individual points addressed in this brochure, no clear case law exists. The brochure can therefore only be used for orientation and argumentation purposes. Each individual case must be considered individually. At best case, every protest can contribute to the observance of fundamental rights.

Residents of a state first reception facility find themselves in a difficult situation. Numerous rights that affect everyday life in the state first reception facility have been restricted by law. Thus, the right to self-determination in daily life is suspended.

If you experience violations of fundamental and human rights in your institution, you can contact us. You can also contact us anonymously. Standing up for your rights is protected by law.

If you become a witness of violations of fundamental rights, but do not know what to do in the concrete situation, note down the violations committed in your opinion.

Write down the day, the time, the cause of the problem, the names of the people involved and the exact sequence of events. Have witnesses confirm the process.

# Useful addresses

If you need help in asserting your rights in the reception centre, please contact us.

## Basic rights within the camp:

**LEA-watch**, Adlerstr.12, 79098 Freiburg, **Aktion Bleiberecht Freiburg**, Adlerstr.12, 79098 Freiburg - [info@aktionbleiberecht.de](mailto:info@aktionbleiberecht.de)

## Legal advice during the asylum procedure

### Südbadisches Aktionsbündnis gegen Abschiebungen (SAGA)

Focus: independent, free-of charge advice on questions regarding asylum law - Tel. 0761-2088408 (Answering machine), Consultations: Wednesdays. 3-6 PM, Fridays 5-8 PM, [saga@rasthaus-freiburg.org](mailto:saga@rasthaus-freiburg.org)

## Medical aid

### Medinetz Freiburg

open office for the arrangement of medical appointments every Tuesday 4,30 -6 pm, Tel. 0761-2088331 8 (answering machine)  
[info@medinetz.rasthaus-freiburg.org](mailto:info@medinetz.rasthaus-freiburg.org)

## Contact and specialised advice office:

### Frauenhorizonte - Gegen sexuelle Gewalt e.V.

#### (Women's horizons - against sexual violence)

Basler Straße 8, 79100 Freiburg, 24 hour emergency telephone 0761 - 2 85 85 85 | [info@frauenhorizonte.de](mailto:info@frauenhorizonte.de)

## German courses

Adlerstr.12, 79098 Freiburg (free of charge, no registration required; Find more information on the Rasthaus website), [www.rasthaus-freiburg.org](http://www.rasthaus-freiburg.org)

## Procedural support

### Freiburger Forum aktiv gegen Ausgrenzung

Focus: Right to stay for roma refugees, legal support, networking with solidarity initiatives, political activities, publicity  
info@freiburger-forum.net | www.freiburger-forum.net

## Advice and information

### Flüchtlingsrat Baden-Württemberg e.V.

Advice and information by mail and phone: info@fluechtlingsrat-bw.de;  
0711-5532835, Hauptstätter Straße 57 - 70178 Stuttgart

## Information platform welcome

<https://w2bw.de/>

## refugees4refugees

Stuttgart - Tel. 0176 278 738 32

## Support for those affected by right-wing violence

There is a new place to go in Baden-Württemberg for those who are directly affected by right-wing violence or are in witness of such an incident – it is called **LEUCHTLINIE**

They counsel anonymous, at no charge and confidential!

Hotline: +49 (0)711 / 888 999 33, <http://www.leuchtlinie.de/>

## Further addresses:

We can put you in touch with many other points of contact, such as lawyers, interpreters, courses etc.

## House rules

### *What rights do I have in a state first reception facility?*

Life in the institution is regulated by the HOUSE RULES. The house rules must formulate clear and understandable basic rules and rights that apply to ALL persons, whether refugees, staff or visitors.

The house rules must be given to you in your language or published in a central place. If no house rules have been handed over to you, take a picture and read the house rules at your leisure. You can also ask for a copy in your own language.

The house rules and other regulations must not violate applicable law. Unfortunately, this happens all too often.

## Security checks on entry

### *What rights do I have during the security check upon entry to the camp?*

The security may inspect bags being carried by those seeking entry to the camp, if this is specified in the house rules. The house rules must state which items you are not allowed to bring into your accommodation. Information about items that may not be brought into the accommodation must also be displayed at the entrance to the accommodation. In addition, the security at the entrance may check your „Heim-Ausweis“. [2]

The recording of personal data or a comparison of identity documents for visitors is not permitted. It is not clear whether it is permissible for the security to inspect the bags of visitors. [3] Security checks must be kept to a minimum.

## ***What is the security guard NOT allowed to do?***

As already mentioned at the beginning, the tasks of security are regulated in the house rules and the operating contract and are transferred to the security within the framework of the house law that applies in your institution.

The security are subject to the civil law and have no more powers than any other people. Fundamentally, it is highly questionable, in the light of the existing laws on refugee accommodation in the state of Baden-Württemberg, whether the security is at all authorized to intervene in fundamental rights, for example by carrying out bag checks or enter rooms.

The security may not carry out any physical searches. They are not allowed to carry out any searches of residents inside the accommodation without prior warning. The measures taken by the Securities must be measured against proportionality and fundamental rights. [\[4\]](#) [see also \[3\]](#)

Security can't record any personal information. The security is not allowed to keep passports.

# Mail

## *Confidentiality of mail and letters*

You must be informed when you receive mail. Your mail may only be opened by you. If a letter to you was opened by a second person, this is a criminal offence. [5] You alone decide who may read the mail and who may not. You are not obliged to discuss the content of your mail with social workers or other staff in the camp

Postal delivery and distribution times must be published for each working day.

Actually, a central mail distribution in shared accommodation at fixed pick-up times restricts the fundamental rights of the persons concerned and must be questioned. This is especially the case when mail distribution collides with German course or working times. [6]

It is not permitted to link the issue of mail to an attendance check.

## Rights in my room

### *What rights do I have in my room?*

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and UNICEF demand locked, lockable and barrier-free accommodation units in shared accommodation facilities. [7]

The room, which you usually have to share with others, is legally protected as a place of residence. This is even stated in the house rules in Freiburg. [8]

This means that you and your roommates have the householder's right to decide who may enter the room and who may not, and when they may enter. [9]

Home workers, security, social workers and the police don't have the right to enter the room without your permission. [10]

It is not permitted to check your rooms on a daily basis against your consent (even if this is stated in the operator contract or in the house rules).

If you are in the room, anyone who wishes to enter must knock and wait whether you want to receive them. Only in acute emergencies, e.g. fire, or if there is concern that someone in your room may be harmed, intrusion is permitted without your permission. [11]

The only exception that allows the police to enter your room against your will is when a judicial search warrant has been issued. [12]

If the house rules clearly define which furniture and electrical appliances are prohibited and which are permitted, superficial controls by the operator of the facility are permitted. However, these superficial room inspections must be announced in advance. The announcement must explain why your room should be searched. The room checks may not be routine and may only be carried out in your absence if you are aware of them. [13]



## **GRUNDRECHTE FÜR GEFLÜCHTETE IN GEMEINSCHAFTSUNTERKÜNFEN.**

**EINGRIFFE BEGRENZEN,  
EINSCHRÄNKUNGEN VERHINDERN**

Antidiskriminierungsberatung  
Brandenburg / Opferperspektive e.V.  
Rudolf-Breitscheid-Straße 164  
14482 Potsdam  
[antidiskriminierung@opferperspektive.de](mailto:antidiskriminierung@opferperspektive.de)  
[www.antidiskriminierung-brandenburg.de](http://www.antidiskriminierung-brandenburg.de)

***May the district government (Regierungspräsidium) or the director of an accommodation facility order a room to be searched?***

No, neither the Regierungspräsidium nor the director of the camp may initiate or carry out searches. Only the police may carry them out and only with a judicial search warrant. [14]

***Is anyone allowed to enter my room when I'm not there?***

Your room may not be entered without your consent or that of your roommates even if you are absent. For example, if something needs to be repaired, you must be informed in advance. Room checks in your absence or without prior notice are not legal and can be reported to the police. This also applies if the rooms are not lockable. [15]

## ***Are dining rooms or canteens protected?***

No, in contrast to the living quarters, dining rooms are not considered places of residence and are therefore not specially protected. Employees, security and police have free access to these rooms. [16]

However, if a separate kitchen is attached to the rooms, this is also considered a place of residence and may not be entered without your consent. [17]

## ***May sanitary facilities be entered?***

Showers, guard rooms and toilets are also subject to special protection and may not be entered by personnel, security or the police without a court order to search them. [18]

## Search warrant

### *What can I do if there is a search warrant?*

If a judicial search order has been issued, your room may be searched by the police. The decision can also be appealed against after the search. [19]

If the police want to enter your room, you have the right to be shown the search warrant and to ask against whom it is directed. You have the right to ask for a copy of the order. You also have the right to ask for the name and identification number of the police officer in charge.

You have the right to prosecute the search. You can contest the search afterwards. An independent person should always be present during the search. The police are only allowed to search your room, cupboards and objects. [20]

If you live in a shared room, the police do not have the right to search the property of your roommates.

After the search, the police will have to give you a search report that records what items have been confiscated. This must be signed by the officers. You do not have to sign the document.

After a police search of your room, it is advisable to contact a lawyer.

## Further rights

### *Bans on alcohol and smoking*

An absolute ban on alcohol and smoking is a violation of basic rights. Smoking is not even banned in prison cells. [21]

### *Lockable cupboards*

In shared accommodation, individually lockable cupboards must be provided in multi-bed rooms. [22]

## Being banned from the camp

### *Can I be banned from the camp?*

You can only be banned for very specific reasons. If you grossly disturb the peace and order of the accommodation or cause considerable nuisance to other residents, you may be banned from occupying the house. [23] You cannot and must not be banned for complaining about the living conditions in your accommodation.

A general ban on entering or being in the camp can also be issued by the security if it has been granted the authority of the administrative management to do so. The ban must be justified in writing. [24]

Such a ban cannot cause someone to become homeless. You can take legal action against it.

If a ban is imposed on you, please contact us immediately.

## The right to receive visits

### *May the house rules forbid visits?*

No! House rules that do not allow visitors should be legally reviewed and challenged.

In principle, you have the right to receive personal visitors in your room, be they family members, friends, acquaintances or supporters and legal advisors. [25] This is covered by various fundamental rights.

If you are staying in a shared room, you should consider the personal rights of the other room occupants. They should not feel disturbed by your visits.

## Rights of visitors

### *Can my visitor be denied entrance?*

Your visit may not be prohibited from entering the camp or the building. You have the right to receive visitors. [26]

The visit may only be banned if there are concrete objective dangers for residents or employees of the facility. [27]

The same applies to other tangible threats to security and order and the suspicion of impending criminal offences.



## **In case of deportation**

### ***May the police enter or search my room in the course of a deportation?***

No, the police may not enter or search your room against your will during a deportation. [28] Even if there is an enforceable obligation to leave the country and you are to be deported, the police may not enter your room without a search warrant. There is a recent ruling by the Hamburg Administrative Court on this. [29] According to the Police Act, deportations may not take place between 9 p.m. and 4 a.m. in the period from April 1 to September 30, and between 9 p.m. and 6 a.m. in the period from October 1 to March 31. [29a]

### ***Can all rooms or floors be entered or searched during a deportation in my accommodation?***

No, this is not permitted. The police may only enter the room of the person who is to be deported, provided a judicial search warrant exists.

## ***What happens if I was absent when the police came to attempt a deportation?***

As you are granted freedom of movement within the district of your immigration office (Ausländerbehörde), you are allowed to stay outside the facility. You also do not have to indicate where you are. [30]

However, we strongly recommend that you report to your accommodation at least every 3 days, so that no one will accuse you of having disappeared. Of course you are also allowed to stay in different rooms of the facilities. If you are not present when an attempt to deport you is made, then you cannot be accused of preventing / avoiding deportation.

The situation is different, however, if the exact deportation date and time was communicated in writing. In this case, if you are absent, your money may be cancelled and you could face deportation custody.

## ***What do I do if the date of my deportation was announced?***

If you have been informed of the date of deportation, contact your lawyer, an NGO or a person trust immediately. Check legal possibilities immediately. You can also contact us.

## ***What can I do if I am forbidden in writing to stay overnight outside the LEA (camp)?***

Nobody can force you to stay at a certain place at a certain time.

You can appeal against this order. If you receive a letter asking you not to leave the LEA at night, please contact us.

The Lüneburg Administrative Court issued a legally binding decision on this matter on 22 November 2017 [31].

## Freedom of opinion Right to information

### *What rights do I have with regard to freedom of opinion and freedom of information in a reception facility?*

In principle, freedom of expression applies in the Federal Republic of Germany. This means that you may freely express and disseminate your opinion. Expressing your opinion must not be detrimental to your asylum procedure or result in a ban from the camp [32].

All people in Germany have the right to freedom of information [33]. For example, you have the right to obtain information about your asylum procedure. In order to obtain information relating to your life in Germany, social workers are available to help you if you wish. This applies, for example, to applications for benefits, housing, schooling for your children, the possibility to get a job or start training.

## ***May I subscribe to newspapers***

Furthermore, you have the right to receive newspapers and magazines without permission and to access the Internet in order to obtain comprehensive information.

## ***Do camp directors and employees have any influence on my asylum procedure?***

Home management, personnel, security and social workers have no influence on the decisions of the Federal Office for Migration and Refugees (BAMF). They do not have the right to pass on information about you to the BAMF, which is responsible for your asylum application. It is irrelevant for your asylum application what the home employees say about you and what they say to you. **See also [32]**

## **Right to complain**

### ***What legal action can I take against violations?***

If caretakers, security staff, social workers, other camp employees, the responsible authorities or the police disregard and violate your rights, you, as residents can take legal action against them. [34]

All people in the Federal Republic of Germany are entitled to this right and therefore so are you.

### ***Where can I get help?***

You can get help through our emergency number! Make an appointment with us, then we will clarify the facts. Where there are clear violations of basic and human rights, we will support you.

## ***Do I have the right to complain about discriminatory behaviour in the accomodation facility?***

Yes! You have the right to criticise discriminatory incidents in the institution, to lodge complaints and to insist that discriminatory behaviour be stopped. These complaints are not allowed to have a negative impact on you. If you or others become victims of discrimination, you have a right to have your complaint heard and resolved. Document the incident for this purpose. [35]

Note: The protection of the „General Equal Treatment Act“ applies to all persons, regardless of their residence status. For people who have not been living in Germany for long, this protection is particularly important in the areas of work, housing and services. However, various investigations by the Anti-Discrimination Agency have shown that it is precisely in these areas of life that refugee experience discrimination particularly frequently.



**The Federal Anti-Discrimination Agency** gives you free and confidential advice. It can also help you to find an advice office close to you:

**+49 (0) 30 18555-1855**

Monday 1-3PM, Wednesday and Friday 9–12 AM [\[36\]](#)

***Do I have the right to complain about procedures that affect my everyday life?***

Yes, in general you always have the right to complain! If, for example, the food is not enough for you or you are not satisfied with the procedures (e.g. distribution times of food and money). You may also be able to take legal or political action against them. Also, these complaints may not affect you negatively.

## Right to health

### *Which rights do I have regarding medical treatment?*

You have the right to any necessary medical treatment, especially if you are in pain, acute discomfort, are pregnant or suffer from a chronic illness. [37]

But it also includes officially recommended vaccinations and precautions. [38]

If you have been staying in Germany for 15 months or longer, you are entitled to regular statutory health insurance. [39]

Especially in the case of psychological suffering and traumatisations, you are entitled to diagnosis, counselling and, if necessary, treatment. [40]

## ***Where can I get help if this right is denied to me?***

If your complaints are not sufficiently diagnosed and treated at the clinic which is run by the University Hospital within the premises of the camp, please contact the Medinetz Freiburg. (see page 6 )

## ***What should I do in the event of a medical emergency outside of the university hospital's care hours?***

If you need medical help or an emergency doctor or ambulance outside of the care hours at the university hospital, the domestic staff or the security staff must ensure that you receive emergency medical care. If the employees refuse, they are liable to prosecution. Security or other camp employees do not have the right to decide what medical care you need. [41]

**In an emergency, you may of course always visit a hospital yourself.**

## **Right to protection**

### ***Which rights do I have if I experience racism within the camp?***

Racism is punishable by law. If you are insulted, defamed or discriminated against because of your origin, religion or skin colour, you can sue the person. It is best to write down the exact wording, date, time and situation. If other people were present, let them witness the incident. [42]

### ***Which rights do I have if I experience violence within the camp?***

If you have been subjected to violence, e.g. sexual assault, you have the right to immediate protection and assistance. This includes personal support, accompaniment and counselling. In the case of sexualised Violence, you can also contact the women's representative of the institution. You and all other social workers are bound to secrecy and may not act arbitrarily.

If you have experienced a sexual assault, you alone decide on all further steps: The police will only be involved if you want them to be. You decide whether to file a complaint or not. Regardless of whether you want to file a complaint, you have the right to have the perpetrator transferred to another institution. You cannot be forced to continue living with the offender in the same facility, nor can you be required to move to another facility against your will.

The institution is obliged to find a settlement acceptable to you. Any action taken by the institution must be agreed with you. You are also, of course, entitled to medical and psychological examinations and treatment. You are also entitled to visit an independent counselling centre. Here you can get advice regarding your rights from independent female counsellors.

The visit is for your information only. The counselling centre is networked with numerous interpreters and can therefore also advise you in your mother tongue.

**[43]**

In Germany sexual harassment is also punishable. Especially if it is done by an employee in the shared accommodation, by the security or by the police.

### **Sexual harassment includes:**

- „unwanted sexual acts“ such as oppressive physical closeness
- „the call to unwanted sexual acts,“ like „sit on my lap!“
- „physical touches with sexual intent“, including (seemingly accidental) touching of the chest or bottom, or unwanted neck massages,
- „remarks of sexual content,“ such as obscene jokes or sexual innuendo,
- „unwanted showing or display of pornographic representations“, such as pornographic magazines on the desk or nude photos on the walls. [\[44\]](#) [\[45\]](#)

For important advice centres in Freiburg see [page 7](#).

## *In which cases am I entitled to special protection?*

**Some refugees are classified as „particularly vulnerable“.** If you have a disability, are ill, over 65 years old, pregnant, a single parent, mentally ill or have experienced violence, you belong to this group and may be entitled to special benefits and appropriate housing. [46]

You have the right to be classified as particularly vulnerable, even though it is not yet clear what the procedure for this is.

In Baden-Württemberg, lesbian, gay, bisexual, transsexual, transgender and intersexual people are explicitly classified as particularly vulnerable. This has been confirmed by the Ministry for Social Affairs. [47]

## **Working in the accommodation facility**

***May my benefits be reduced if I cannot or do not want to take over the ,charitable work‘ assigned to me in the institution?***

If your benefit (personal cash) [48] is reduced in the event of rejection of charitable work, it is your right to have this checked under labour law. These sanctions violate the basic right to a decent subsistence minimum. If anyone has their benefits cut for turning down such work „without a valid reason“, please contact us.

We want to take action against these cuts together with the help of trade unions and lawyers.

## Footnotes:

1] This is based on the rights of the Basic Law (Constitution of Germany), the Geneva Refugee Convention, the European Convention on Human Rights, the Charter of Fundamental Rights, the EU Directive on the Reception of Refugees and many other legal regulations.

2] According to Anna-Marlen-Engler - she researches, among other things, on the subject of security services in refugee shelters.

3] Here §47a AufenthG or §1 Abs.1 S.2 PAusG - An obligation to present identity documents and to compare photographs exists only on request and only vis-à-vis an authority that is entitled to check identity. - Basic rights for refugees in shared accommodation - anti-discrimination advice Brandenburg  
Private security companies in refugee shelters, Anne-Marlen Engler, Asylmagazin 4/2019

According to the state admission laws, there is no provision at all for 'lending out' securities in refugee shelters. Securities are thus merely 'administrative helpers'. Only by a 'lending' Securities may interfere in basic rights and for example carry out bag control or enter rooms. We ask, is this an illegal 'mortgaging' of security companies?

4] Article 2 I GG - „(1) Everyone has the right to the free development of his personality, as far as he does not violate the rights of others and not offend against the constitutional order or the moral law“.

5] Article 10 of the Basic Law - „(1) The secrecy of correspondence and of post and telecommunications is inviolable“.

6] Article 2 GG - see [4]

7] Minimum Standards for the Protection of Refugees in Refugee Accommodations - October 2018, Federal Ministry for Family Affairs, Women and Youth, United Nations Children's Fund (UNICEF).

8] House rules, as at: 01.April 2017 - Freiburg, Lörracher Straße 6 - Basic guidelines and rules for the operation of the initial reception facility for refugees. Paragraph 5. a)

9] The room in which refugees are accommodated is, for legal purposes, a private place of residence. The dwelling is protected by the Basic Law article 13 GG Abs.1 (inviolability of the dwelling). This concerns the premises of privacy and intimacy, i.e. where I stay and sleep.

10] „The householders authority of the residents of the accommodation is protected under criminal law - also vis-à-vis the accommodation providers\* and their staff - by the offence of trespassing in accordance with §123 StGB“ see page 9 - Fundamental rights for refugees in communal accommodation - Anti-discrimination advice Brandenburg

11] See §34 StGB; MüKoStGB/Schäfer, 3rd edition 2017, StGB §123 Rn. 59.

12] According to Wikipedia : „The search serves the following purposes:

1. the seizure of a perpetrator or participant of a criminal offence (search for the purpose of seizure) | 2. the discovery of evidence (search for the purpose of investigation) | 3. the seizure of forfeiture or confiscation objects (cf. § 111b para. 4 Code of Criminal Procedure)“ | Model complaint against search. [https://www.haufe.de/recht/deutsches-anwalt-office-premium/39-strafrecht-c-muster-beschwerde-gegen-durchsuchung-und-beschlagnahme\\_idesk\\_PI17574\\_HI11461178.html](https://www.haufe.de/recht/deutsches-anwalt-office-premium/39-strafrecht-c-muster-beschwerde-gegen-durchsuchung-und-beschlagnahme_idesk_PI17574_HI11461178.html) The complaint is possible according to § 304 ff Code of Criminal Procedure.

13] Circular by the Refugee Council of Berlin, 21 June 2018, Basic right to inviolability of accommodation in refugee accommodation - Flüchtlingsrat Berlin, Greifswalder Str. 4, 10405 Berlin

14] There is no general police or regulatory authority for law enforcement and police officers to enter an apartment without the will of the occupant.

15] See footnote [9].

16] Shaping House Rules according to Human Rights - German Institute for Human Rights - Hendrik Cremer und Claudia Engelmann Page 15 | October 2018

17] see footnote [16]

18] The private space is particularly protected by Article 2 (1) of the Basic Law in conjunction with Article 1 (1) of the Basic Law; Article 8 ECHR).

19] See also footnote [12] The complaint must be substantiated. According to §2 DVO PolG, the competent police authority may request a transcript of the search. According to (BverfGE 141, 220 para. 184), the police must demons-

trate that there was a high probability of damage to important legal interests.

20] A search presupposes a judicial permission, art. 13 GG - source 2 : §105 Abs.2 StPO. Searches may only be ordered by the judge, in case of imminent danger also by the public prosecutor's office and its investigators (§ 152 of the Court Constitution Act).

The judge shall order searches pursuant to § 103 (1) S. 2; the public prosecutor's office shall be authorised to do so if there is imminent danger. If a search of the dwelling, the business premises or the property takes place without the presence of the judge or the public prosecutor, one municipal official or two members of the municipality in whose district the search takes place shall be called in, if possible. The persons called in as members of the municipality may not be police officers or investigators of the Public Prosecutor's Office.

21] According to § 4 para. 1 BgbNIRSchG, there is no smoking ban in rooms of homes and similar facilities which have been made available to residents for private use and in specially designated common rooms. Basic rights for refugees, anti-discrimination consulting Brandenburg p.21

22] Here Art. 14 Para. 1GG Property right and Art. 2 Para. 1 GG Personality rights apply: In particular, the protection of privacy, individually lockable cupboards must be available in multi-bed rooms.

23] More on this in Fundamental Rights for Fugitive Anti-Discrimination Counselling Brandenburg p.13 and in Anne-Marlen-Engler: House Bans in Refugee Accommodations - Asylmagazin Zeitschrift für Flüchtlinge- und Migrationsrecht 5/2018

24] see footnote [23] Ultimately, fundamental rights can only be restricted by the house rules of the operators. A ban to merely keep away unpleasant political opinions is probably disproportionate and an infringement of further fundamental rights. An objection under §70 VwGO and an action for annulment under §42 VwGO can be filed against a house ban. An action for payment according to §§43 Abs.2., 111, 113 Abs.4 VwGO may be possible. The submission of an additional application for suspensive effect pursuant to § 80 para. 5 VwGO must be examined.

25] Article 13 of the Basic Law guarantees the right to allow third parties (visitors) to stay. This also guarantees the right of self-determination of the residents. This is about personal development, which also includes contact and communicative exchange in the room. A ban on visits affects the following

fundamental rights: marriage and family: Article 6 of the Basic Law and Article 8 of the ECHR, lawyers, legal advisors, NGOs: Article 12 of the Basic Law, volunteerst: Article 2 1 of the Basic Law, freedom of the press and freedom of broadcasting: Article 5 (1) of the Basic Law,

26] Residents and persons visiting them belong to the group of persons entitled to access. An arbitrary or general visit ban is an encroachment on the protected area of the dwelling (Article 13 GG) of the residents. Furthermore, a visit ban constitutes a restriction of the general freedom of action of the visitors in accordance with Article 1 GG. According to § 70 VwGO, an objection can be lodged with the administrative court and an action for annulment can be filed according to § 42 VwGO.

27] Under certain circumstances, visitors may be subject to temporary or even permanent bans. It is of essential importance whether other people are affected by the behaviour of visitors. See also: ‚Hausordnungen menschenrechtskonform gestalten‘ - German Institute for Human Rights - October 2018 p.24.

28] „VG Freiburg or VG Stuttgart, for example, expressly stated that entering the apartment of a person obliged to leave the country requires a search warrant in order to find the foreigner sought“. VG Freiburg (Breisgau), decision of 14.11.2006 - 2 K 1949/06; decision of 2.5.2007 - 2 K 633/07, both juris and VG Stuttgart, decision of 7.2.2005 - 10 K 105/05, juris. Prof. Dr. Klaus Herrmann, Potsdam - ‚Enforcement or Search - Enforcement Law - Questions of Delimitation Using the Example of Refugee Deportation.

29] Judgment - Administrative Court Hamburg - Chamber 9 of 15 February 2019, 9 K 1669/18

29a] § 31 PolG - BW - Entry and search of apartments,

(1) The police may enter an apartment against the will of the owner only if this is necessary to protect an individual or the community against urgent threats to public safety or order. During the night, entry shall be permitted only to avert a common danger or a danger to life or limb or a serious danger to the health of individuals. (4) Night time shall comprise the hours from 9 p.m. to 4 a.m. in the period from 1 April to 30 September and the hours from 9 p.m. to 6 a.m. in the period from 1 October to 31 March.

30] „The alien may leave the place determined by the residence requirement temporarily without permission.“ §61 d AufenthG - In Freiburg the regional council is informed after 3 days absence. „After seven days, the person

concerned is considered to be submerged“ Letter from RP-Freiburg dated 16.11.2018.

31] Decision of the Administrative Court Lüneburg of 22 November 2017, OVG Lüneburg 13th Senate Az: 6 B 128/17, decision of 22.01.2018, 13 ME 442/17 - § 46 Abs. 1 AufenHG allows the issuance of a residence requirement, the allocation of special accommodation and the imposition of reporting requirements and reporting obligations, but not measures of a freedom restricting nature, such as the obligation to stay at night in the allocated accommodation.

32] Freedom of expression is protected under Article 5.1 of the Basic Law, Article 11 of the Charter of Fundamental Rights, Article 10 EMDRK. | Do the management of the home and the employees have any influence on my asylum procedure? Source: also available at: [fuechtlingsrat-berlin.de/wp-content/uploads/FR\\_Bewohnerrechte.pdf](http://fuechtlingsrat-berlin.de/wp-content/uploads/FR_Bewohnerrechte.pdf)

33] Right to freedom of information is supported by EU Reception Directive in Art. 5 para. 1 p.2

34] Anti-discrimination Counselling Brandenburg, Fundamental Rights for Fugitives in Community Accommodations S.4, December 2018

35] „The protection of the General Equal Treatment Act applies to all persons, regardless of their residence status. For people who have not been living in Germany for long, this protection is particularly important in the areas of work, housing and services. However, various studies conducted by the Anti-Discrimination Agency show that it is precisely in these areas of life that fugitives experience discrimination particularly frequently“. Thus writes the Antidiskriminierungsstelle of the federation.

The anti-discrimination office of the federation advises you free of charge and confidentially. It can also help you to find an advice centre near you:

+49 (0) 30 18555-1855 (Mon 13-15, Wed and Fri 9-12 hrs)

[36] [www.antidiskriminierungsstelle.de/DE/Beratung/Gefluechtete\\_und\\_Newly\\_migrated/flecked\\_node.html;jsessionid=78F57F5F0F0D220C0D6B76FD-DCBFBCFD06.2\\_cid332](http://www.antidiskriminierungsstelle.de/DE/Beratung/Gefluechtete_und_Newly_migrated/flecked_node.html;jsessionid=78F57F5F0F0D220C0D6B76FD-DCBFBCFD06.2_cid332)

37] Although access to medical care is significantly restricted under §4 and §6, chronic illnesses, for example, are excluded. „The AsylbLG, like any other law, must be implemented in accordance with the constitution. Articles 1, 2 and 20 of the Basic Law (Human Dignity, Right to Life and Physical Integrity, Principle of the Social State), medical ethics and human rights give rise to a right to treat-

ment in accordance with all standards customary in Germany“ (Georg Claasen, Flüchtlingsrat Berlin).

38] Asylum Seeker Benefits Act §§4,6

39] Asylum Seeker Benefits Act §2

[40] According to DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 laying down standards for the reception of applicants for international protection, Article 21 specifies which categories of persons are particularly in need of protection, including „persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as female genital mutilation“. Article 22 also states that this special vulnerability must be taken into account. The Federal Working Community of Psychosocial Centres for Refugees and Victims of Torture proposes low-threshold counselling interviews by specialist personnel for the determination of these cases. According to the EU Reception Directive (2013/33/EU), which is also confirmed in the Refugee Reception Act of Baden-Württemberg (§5), there is an increased need for protection especially for the following groups of persons: Minors, unaccompanied minors, disabled persons, persons with serious physical illnesses, elderly persons (i.e. persons over 65 years of age), pregnant women, single parents with minor children, victims of human trafficking, persons with mental disorders, persons who have suffered torture, rape or other forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

41] also available at: [http://fluechtlingsrat-berlin.de/wp-content/uploads/FR\\_Bewohnerrechte.pdf](http://fluechtlingsrat-berlin.de/wp-content/uploads/FR_Bewohnerrechte.pdf)

42] (§130 StGB Volksverhetzung) [https://www.institut-fuer-menschenrechte.de/fileadmin/user\\_upload/Publications/Other\\_Publications/Practice\\_Recognising\\_and\\_negotiating\\_racist\\_offenses\\_Reader.pdf](https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publications/Other_Publications/Practice_Recognising_and_negotiating_racist_offenses_Reader.pdf)

[43] see also „Minimum standards for the protection of refugees in refugee accommodation.“ <https://www.bmfsfj.de/blob/116834/8115ef88038eb2b10d-7f6e1d95b6d96d/mindesstandards-fluechtlinge-aktualisierte-fassung-juni-2017-data.pdf>

[44] see [43]

[45] General Equal Treatment Act. Source: Anti-discrimination Office of the Federal Republic of Germany.

[46] see [45]

[47] According to information provided by the Refugee Council of Baden-Württemberg

[48] to the level of § 1a Para. 2 AsylbLG

## Sources

Vollstreckung oder Durchsuchung – vollzugsrechtliche Abgrenzungsfragen am Beispiel der Flüchtlingsabschiebung, Prof. Dr. Klaus Herrmann, Postdam \* Operators contract for the accomodation and care of refugees in the reception facility of the state of Baden-Württemberg, LEA Freiburg, Müllheimerstr.7, 79115 Freiburg \* Ihre Rechte als Bewohner\*in einer Sammelunterkunft für Geflüchtete in Berlin, Georg Classen \* Hausordnung der Landeserstaufnahmereinrichtung Freiburg \* Schreiben des Regierungspräsidium Freiburg vom 16.11.2018 \* Wohnung in Asylunterkünften, Ekkehard Hollmann, Asylmagazin 1-2/2003 \* Asylgesetz (AsylG) § 15 Allgemeine Mitwirkungspflichten \* Die Rechte und Pflichten von Asylsuchenden, Informationsverbund Asyl & Migration \* Hausordnungen menschenrechtskonform gestalten, Deutsches Institut für Menschenrechte 2018, Grundrechte für Geflüchtete in Gemeinschaftsunterkünften, Eingriffe Begrenzen, Einschränkungen verhindern, Antidiskriminierungsberatung Brandenburg/Oferperspektive e.V., Dezember 2018 \* Humanistische Union Brief an RP Freiburg 18.02.2016 \* Humanistische Union, Bewegungsprofile von Flüchtlingen in den LEA 13.06.2016 \* Richtlinie 2013/33/EU des Europäischen Parlaments und des Rates vom 26 Juni 2013 \* Hausverbote in Flüchtlingsunterkünften, Anne-Marlen Engler, Berlin, Asylmagazin 5/2018 \* Die Rechtsberaterkonferenz, Pressemitteilung, Stuttgart 02.06.2018,

Rechtsberaterkonferenz warnt vor „AnkER-Zentren“ \* Landeserstaufnahmestelle ab 2016 in Freiburg, Eine politische Auseinandersetzung mit der jetzigen Konzeption der Aufnahmestellen für Flüchtlinge in Deutschland, Januar 2015, Walter Schlecht, Aktion Bleiberecht Freiburg \* Welche Befugnisse haben private Sicherheitsdienste? Zu finden im Internet unter ‚anwaltsauskunft.de/magazin...‘ \* Sicherheitspersonal in Flüchtlingsunterkünften, EJV gemeinnützige AG, Berlin \* Aufenthalts- und Asyl-Zuständigkeitsverordnung – AAZuVO vom 2.12.2008, zuletzt aktualisiert am 02.12.2018 \* Verordnung des Integrationsministerium über die Durchführung des Flüchtlingsaufnahmegesetzes (DVO FlüAG) \* Abkommen über die Rechtsstellung der Flüchtlinge vom 28. Juli 1951 vom 22. April 1954 \* Entwicklung der Menschenrechtssituation in Deutschland Juli 2016 – Juni 2017, Deutsches Institut für Menschenrechte \* Asylgesetz (AsylG) § 44 Schaffung und Unterhaltung von Aufnahmeeinrichtungen \* Gesetz zur Änderung bewachungsrechtlicher Vorschriften vom November 2016 \* Mindeststandards zum Schutz von geflüchteten Menschen in Flüchtlingsunterkünften, Bundesministerium für Familie, Senioren, Frauen und Jugend und UNICEF, Oktober 2018 \* Grundsätzliche Leitlinien und Regeln für den Betrieb der Erstaufnahmeeinrichtung für Flüchtlinge in Freiburg, Lörracher Straße 6 (Hausordnung, Stand 01. April 2017) \* <http://www.baff-zentren.org/eu-vernetzung/eu-richtlinien/>; <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:DE:PDF>;

## Addresses in Baden-Württemberg

Here in the booklet, a separate page with extra information will be inserted



Addresses in  
Karlsruhe, Heidelberg,  
Mannheim, Tübingen,  
Ellwangen, Sigmaringen  
and Donaueschingen  
can be found on the extra page

## Survey regarding living conditions and violations of basic rights in refugee reception centres / camps

Between May and September 2019, we are conducting a survey of residents in all reception centres for refugees in Baden-Württemberg.

For this purpose, the *Antiracist Network Baden-Württemberg* and the *Refugee Council of Baden-Württemberg* have produced a questionnaire. The questionnaire can be filled out anonymously. We will be consulting residents of the camps in Heidelberg, Mannheim, Karlsruhe, Freiburg, Ellwangen, Tübingen, Sigmaringen and Donaueschingen.

If you would like to participate in the survey, please send an Email to:  
[info@stop-deportation.de](mailto:info@stop-deportation.de)



Deutsches Institut für Menschenrechte  
Hausordnungen menschenrechtskonform gestalten  
Hendrik Cremer / Claudia Engelmann - Oktober 2018

## **In very urgent cases you can call our emergency hotline:**

**Tel. 0151 282 112 52**

### **Day X- action (for Freiburg!)**

Report deportations from the Freiburg camp to the following email address:

[Tag-x@freiburger-forum.net](mailto:Tag-x@freiburger-forum.net)

### **Keep in touch after your ,transfer‘**

Feel free to contact us after you have been given a transfer out of the reception centre to a different accomodation facility

### **Contact us via facebook**

<https://www.facebook.com/aktionbleiberecht/>

[https://www.facebook.com/LEA-Watch-Freiburg-290210351688372/?ref=py\\_c](https://www.facebook.com/LEA-Watch-Freiburg-290210351688372/?ref=py_c)

<https://www.facebook.com/AntiRaNetz/>

### **Contact us via WhatsApp**

Informations page 49

### **Websites**

<https://www.aktionbleiberecht.de/>

<http://stop-deportation.de/>

<https://fluechtlingsrat-bw.de/>

<https://refugees4refugees.wordpress.com/>