

## Information Sheet for Refugees to prepare for the official hearing at the Federal Office for Migration and Refugees<sup>1</sup>

(If possible, please read this before your hearing or ask someone to translate it for you. It will prepare you for your official hearing about your reasons for seeking asylum. This document does not address the so-called “personal conversation”, which determines whether Germany is responsible for handling your asylum request.)

### 1. Preliminary remarks

You may have learned that it is impolite to answer a question directly. It may also seem strange to you to tell a person whom you don't even know about very personal experiences. In the asylum procedure, however, both are expected of you: If someone asks you a question that can be answered with “yes” or “no”, it is expected that you do so. It is the same for questions that can be answered with only a few words. For example, when you are asked “please give your date of birth”, you are expected to answer with three words: The day, month, and year. If you do not answer such questions briefly and directly, but go into other points first, you may be accused of trying to deflect and conceal something. In German there even exists a proverb meaning “to beat around the bush”. So how you answer such short, clear questions can be crucial to whether or not people believe you.

It may not be easy for you, especially if you have just arrived, to deal with this communication problem. But the better you understand it, the easier it will be for you to communicate successfully in the asylum procedure – but also in everyday life in Germany.

Two additional notes:

Just because you are expected to give short, clear answers to questions this does not mean that you have to answer every question you are asked. You are not required to answer questions that are indecent or impolite. This is also true for questions that accuse you of a crime. If you are asked for example: “Did you steal this towel?”, you do not need to answer. For questions like that, don't “beat around the bush”. Instead, say that and why you will not answer.

If you are asked questions that you cannot give a short answer to, then you should say so. That is not impolite! If, for example, you were asked to describe your fate as a refugee “in three sentences”, then that would not be possible. Your counterpart will and must understand that. So if you explain to him that you need more time to explain, he can adjust to that.

### 2. Purpose of the hearing

You will be asked about your personal fate so that the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*) can determine whether you are being persecuted, or cannot return to your country of origin for other reasons.

To simplify things slightly, a person can be considered persecuted if he or she is – or has the fear of being – persecuted by state authorities or forces comparable to state authorities, due to race, religion, nationality, belonging to a certain social group, gender, or political beliefs. You can also be considered to be persecuted even if you are only threatened by individuals. This can be the case

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when the authorities in your country cannot or will not protect you. It is also possible that you have fled a civil war situation or that you face inhumane punishment if you return to your country of origin. Finally, it is also conceivable that you could not survive in your country of origin due to a serious illness or lack of family support. These points must be determined by the Federal Office through your interview.

In Germany, you do not have to prove that you are in danger of persecution. However, you will have to give a logical and comprehensible explanation that is free of contradictions so the authorities believe your personal story. This principle should work in your favour, as normally it is difficult to prove political persecution. Sometimes this principle can be dangerous though: If the authorities find any contradictions or “lies”, they will not believe anything else you say. Do not follow advice from fellow countrymen or any other “advisors” who tell you to describe something in a way that is different from how it actually happened. If the truth is found out later, the authorities won’t believe you anymore and your application will be denied.

Here, too, there is a saying in Germany: “If you tell a lie once, you won't be believed even if the rest is the truth”. Do not assume that people will not notice if you do not tell the truth. Only a few people are so good at “lying” that they can maintain this even in an intense interview situation.

Of course you have the right not to mention things that might endanger you or other persons. In such situations you should explain this, and also give the reasons why. But don’t say anything that is incorrect. Don’t pretend to be certain of things that you are not certain of. The authorities in Germany have many ways and means to obtain information about events abroad. Through the internet and other sources, the Federal Office has a lot of information about your home country and will compare it with your information. Often the Federal Office will try to construct a “lie” out of even a small inaccuracy. For this reason, please say everything that has happened to you or what you fear.

It generally is not enough if you simply say you belong to a certain minority group. Usually, you will have to describe your personal story of persecution to be acknowledged as a refugee. It is also not enough to say that there is no democracy in your home country. You must be personally affected by consequences of the lack of democracy and be able to describe this to the Federal Office.

Please remember: Germans are very strict about dates and facts. You should have concrete answers to questions such as “who”, “where”, “what”, “when”, “how”, “why”, and “how long”. Please don’t be shy, even it might be embarrassing for you. Even if the persons interrogating you are not very friendly, you should tell them everything that happened and what you are afraid of. It might help you to imagine that you are telling a good friend everything that has happened since the beginning of the persecution (which may have started some time ago). Even if the person you are speaking to isn't your friend, this might help you to do what is necessary: You have to report everything in a lively, humanly comprehensible and comprehensive way. The persons listening to you must be able to imagine everything well through your report, they must be able to “get the picture”. So don't try to pull yourself together in the hearing. You may have experienced terrible things. It is understandable for everyone that you are emotionally affected. So if you feel like crying, you don't have to hold back. It would be much stranger from the Federal Office's point of view if you described terrible experiences that happened to you, but did not show any emotion. The Federal Office will then think that you did not experience these events at all and are not telling the truth.

### 3. Before your hearing

Before your hearing, you may be asked for some documents or they may even conduct a body search. The authorities will be trying to determine how you entered Germany and whether your information about your country of origin is correct. However, you are not obliged to bring your mobile phone to the hearing. You can also refuse to hand it over. If you keep your mobile phone, please turn it off so that you do not receive any disturbing calls.

It is also possible that your identity papers, passports or other documents will be taken from you. You should therefore always ask for photocopies of these documents. This is your right. It is best if they confirm in writing which documents you have handed over.

Unfortunately, it sometimes also happens before or after the hearing that some officials ask refugees to sign a request for a passport from their home countries. They may even use the official forms from your home country's embassy. Under no circumstances, no matter how much they may threaten you, should you sign any such document. At this point in time, you are not obligated to do this. You are asking for refugee status in Germany and not to return to your home country!

Again: Do not sign anything at this point that requests official documents from your home country.

You will be asked about your travel route at the beginning of the hearing at the latest. As a rule, however, this has already happened in the so-called "personal conversation" before the interview about the reasons for fleeing. Especially if you came to Germany via a country that belongs to the European Union, there is a risk that they will want to send you back to that country. This applies regardless of whether you have applied for asylum in that country or have given fingerprints. There exists an agreement with almost all EU states, but also with Norway, Iceland, Switzerland and Liechtenstein: The "Dublin Regulation". This also applies if you had a visa from one of these countries with which you came to Europe. The fingerprints that you submitted to the embassy of this country in the visa procedure enables the Federal Office to find out that you have received a visa from another state.

The law requires you to explain truthfully how you travelled to Germany. Nobody may tell you to do anything else. You should in any case try to get advice from lawyers, social workers or refugee counsellors before the hearing if you entered Germany via one of the above-mentioned states or in possession of a visa from these states. This is because sometimes there are alternatives to applying for asylum, so that there is no risk of being transferred to these states.

If you travelled to Germany by airplane, you will be asked to prove this. Examples of proof could be a stamp in your passport, airline ticket, or a boarding pass. Also items from the airplane itself, such as the airline's magazine, a safety notice with the airline's corporate logo, napkins, utensils, a toy, etc.

Family members are often interviewed separately and you may be asked questions such as where you sat on the aircraft (aisle, middle, or window seat), what kind of food you were served, what film was shown, what kind of uniforms the flight attendants wore, the colour of the airline's logo, etc. This is how they want to find out whether you really entered the country directly by plane.

#### 4. The hearing

At the beginning, you should be asked if you feel healthy. If this is not the case, you must definitely say so. It is possible that the interview will then be stopped. However, it is very important that you are fit enough to answer the questions.

After this, you will often be asked for your personal details and identity papers. Please think carefully, because these questions can be very important for your later stay in Germany. They will also want to know your last address in your home country. Be careful here, because confusion often arises. For example, in Germany you have to register at the address where you actually live. So that would be the official address. Perhaps there is no such registration in your home country. So if they want to know your official address, you have to make this clear. As a rule, the Federal Office wants to know your last actual place of residence. For example, if you normally lived with your parents but hid in another place after persecution, your last address is there. Often you will also be asked about relatives in your home country. This question is also important for your residence later. If you are recognised in the asylum procedure and you then want to bring your family to Germany, they will sometimes check whether you have already mentioned your marriage or your children in the interview.

If you do not have identity papers, you may also be asked general questions about your home country. Sometimes you have to sing the national anthem, name the currency in your home country or know the names of important personalities or newspapers and TV stations. In this way, the Federal Office wants to find out whether you really come from the country you stated.

Then, finally, the Federal Office will ask you about the reasons that led to your departure. Here you really have to tell them everything that happened to you in your home country or what you are afraid of. This is especially important if you have no evidence of your persecution (such as newspaper articles about your arrest, documents about criminal proceedings against you). The Federal Office then only has the option of believing you – or not.

If you or a lawyer has submitted written reasons for the asylum application on your behalf, you should definitely read them through again before the hearing. However, do not let them put it into your mouth that these papers contain all the reasons for your asylum request. The staff of the Federal Office must give you the opportunity to say everything (even new things). All written documents only serve for preparation purposes. The interview is the most important part of the asylum procedure.

Avoid contradictions in your presentation. Insist – if necessary very clearly – that you can say everything you want. Everything you say at the interview must also be recorded in the minutes. You should point this out even if you are told the opposite.

Often you will only be asked questions. If these questions do not address everything you want to say, you must insist on being able to tell what you want to say in context at the latest before the end of the hearing. Especially if you are asked questions that cannot be answered with yes or no, you should take the opportunity to tell as much as possible in context. When explaining the reasons for your fleeing, you should not wait to be asked questions, but try to describe everything in as much detail as possible.

If you have health problems and think that your life is in danger because of them if you returned home, you should also report this to the Federal Office, even if they do not explicitly ask you about it. You can also take certificates about your health situation with you to the hearing and present them. Sometimes the Federal Office will then ask you to submit more detailed medical reports within a certain period of time.

If you continue political or religious activities here in Germany, which led to your persecution at home or if you have started such activities here, you must also report this. The Federal Office does not usually ask for this on its own, although it is very important.

If you have fled your home country because of your sexual orientation, you need not be afraid: In Germany homosexuality is not a punishable offence. So you should be open about it, even if this will probably be very difficult for you because you could not do so in your home country. If questions in this context are too intimate for you, you should say so.

If necessary, an interpreter from the Federal Office will be present at the hearing. Make sure that you can understand this interpreter and that he or she can understand you. If this is not possible, you must use all means available to you to make it clear that you are not able to adequately communicate. Do not have any false shame because the interpreter comes from your culture or your country. It is your fate that is at stake, and not the interpreter's.

Also, do not think that the interpreter is automatically your ally. It is important that you ask the interpreter for his or her name and also what qualifications he or she has for this task. After all, the Federal Office will not want to reveal his or her identity afterwards if there have been problems with the interpreter.

The interpreter has to translate everything you have said into German. Afterwards, he or she must translate everything spoken into the dictation machine back into your language. After the hearing, the dictated material is then to be transcribed and translated back to you again after a waiting period.

Sometimes the interpreter will join the interview via video. Do not let that confuse you. It is important that you can understand him or her well even via video. If this is not the case, please say so immediately!

You often have to be at the Federal Office very early in the morning. Unfortunately, however, you are often not interviewed immediately, but may have to wait several hours. The waiting rooms are not always equipped for this. So remember to bring enough food and drinks. If you take children with you, think of toys, because waiting can be very boring. If your children are not being heard themselves and therefore have not received an own invitation, it is best to arrange childcare for your hearing day. It is not necessary for your child to come with you to the Federal Office. You can also ask your initial reception centre whether your child can be looked after in the day care centre on that day. If you do not have childcare and come to the hearing appointment with your partner, you can take turns looking after your child. In some facilities of the Federal Office there are also play corners for children.

In any case, especially if you have very small children, try to have them looked after by others during the hearing. You must be able to concentrate well yourself. If your child is restless and you have to

take care of your child, you will be distracted and will not be able to listen well to the questions or may want the hearing to go by faster. This is not good for the proceedings.

### 5. Your rights during the hearing

If you have a good reason to feel comfortable telling certain parts of your story only in front of certain people, notify the Federal Office prior to your hearing. For example: A woman only wanting to tell her story to another woman. But the same can also happen if a man only wants to say things in front of a man. Likewise, if one has experienced very bad things that mean that the hearing must be conducted with special sensitivity, e.g. in the case of traumatization.

At the Federal Office there are specially trained persons, they are called “decision-makers for special tasks”. They exist for unaccompanied minors, victims of torture, traumatized and gender-specific persecuted persons as well as for victims of human trafficking. If necessary, you can and should ask very specifically to be heard by such a person (or only by a woman and a female interpreter, or only by a man and a male interpreter). If your request is refused, you have the right not to participate in the hearing. I strongly advise you to exercise this right as well.

You can bring an interpreter of your own choice to every hearing: You can also bring an authorised representative of your choice (this can also be a friend): This is expressly stated in the law. However, it is best to announce this to the Federal Office in advance (give name and address) so that there are no problems on this day which is so important for you. Of course, a lawyer may also accompany you.

I advise you to take an interpreter or a representative with you if at all possible. It has been shown that the hearing is more thorough in such a case. Moreover, you will have a witness if there are any irregularities.

Of course, the representative or your interpreter is not allowed to speak for you. After all, he or she was not usually present during your persecution. But it is good to have a trusted person with you. Moreover, this person can also pay attention to or even insist that ambiguities are cleared up or that misunderstandings are clarified.

If they do not allow you to have an interpreter or representative present, refer to this leaflet and insist that they do. Also explicitly state that you are “authorising the person concerned for the duration of the hearing”.

If you are still refused the presence of your interpreter/authorised representative, you have two options: Either you leave the hearing – you can do this without fearing any disadvantages. Or you at least insist that the non-participation of the interpreter/authorised representative you requested be noted in the minutes – you must do this in any case!

Further, you have the right to say everything that you want. And everything that you say must be included in the minutes of the hearing. Do not allow anybody to prevent you from telling your story in context. Everything that you tell in context also must be written down, even if it was (partially) addressed in an answer to an earlier question.

You can write down notes for yourself on difficult subjects ahead of time. You cannot be forbidden from writing facts down and bringing the paper to your hearing. The person conducting the hearing does not have the right to view or take your notes away from you. However, it is always better if you can tell your story vividly without written notes.

Should you ever be questioned about or confronted with a document from your file or somewhere else, you have the right to review their records. This is written in § 29 of the Administrative Proceedings Law (*Verwaltungsverfahrensgesetz*). An asylum hearing is not a secret proceeding; you must be allowed to review these documents and, if necessary, they must provide you with a translation before you can be questioned about them.

If you do not speak German, you have the right to have everything that is said translated back to you. Do not give up this right! Under no circumstances should you sign any document that says you renounce your right to have everything translated back to you. Insist that every word is translated back to you. Do not allow the translator to provide you only with a summary of the contents of a page or a paragraph. Often, you will be told something along the lines of “*here is what you just said about ...*”. Under no circumstances should you accept this. You must check to make sure that everything was written down correctly; therefore, you should make sure every word is translated back to you. The minutes are of great importance for the further proceedings. You will be held to the information written down there, it is very difficult to deviate from this information. Don't let the interpreter rush you either.

You have the right that everything taken down in the minutes of the hearing is what you actually said. Sentences often appear in the minutes that were never said, such as:

- *“The applicant stated that she had no problems communicating with the translator.”*
- *“The applicant stated that he has said everything that he had to say.”*

Insist that sentences such as these be stricken if you did not say them. You should make it clear that you will not sign the minutes of the hearing unless those sentences are erased, because the minutes must contain what you said and not what the Federal Office wants you to have said.

If you notice that they do not want to present the minutes to you for signature at the end of the hearing, insist that changes be made as you wish. Do not sign the minutes until they have been retranslated; sometimes, due to time constraints, the minutes are presented to you for signature beforehand and the translation is done later or not at all.

Furthermore, you have the right to have everything written down as you have said it. Often, errors happen in the translation process, during dictation, or when writing down the dictation.

Here is an example:

You said that you left your home country on 10 January. In the minutes of the hearing, it says “*The applicant stated she left her home country on 1 January.*” Make sure that this is corrected. Do not allow them to add a sentence to the minutes such as: “*The applicant corrected the date while having the minutes translated back.*”

In the example, you did not correct the date; the error occurred when they were listening to you, translating your statement, or writing your statement down. Such “corrections” are often used by the Federal Office to justify rejections as “inconsistent”!

Can you see how important it is to bring someone to your hearing whom you trust?

## 6. Other important things you should keep in mind:

At the very beginning of the hearing, make it clear that you wish to take a copy of the minutes with you when you leave and that before the end of the hearing, you wish to have the minutes translated back to you.

If you had any papers that were taken from you, you should request that copies be provided to you. If this is not done, demand that this be noted in the minutes.

You should never sign anything that is incorrect, that you didn't say, or that you do not understand. It is better to sign nothing than to sign something that is wrong or that was not translated back to you word for word. You cannot be sanctioned if you refuse to sign. Remember the following advice: **If there is even the slightest doubt as to whether everything is correctly written in the minutes, you should not sign them!**

The hearing will seem foreign and unusual for you, maybe even frightening. Don't be intimidated. You are the most important person at the hearing; everything you would like to say can and must be said.

If your translator or trusted person has questions or would like to offer clarification, make sure that they are allowed to ask questions or provide explanations. If this is not allowed, insist that this be noted in the minutes; when in doubt, do not sign the minutes of the hearing.

Regularly the hearing is an exceptional situation for you. The quality and friendliness of the people who interview you varies. Some are very friendly, some are very unfriendly, and some are "neutral" and difficult to judge. No matter how your interviewer acts, you must insist that all of your rights are respected. You should also be friendly, determined, or "neutral". Even if your interviewer is friendly, you still should not give up even one of your rights!

Don't let yourself be led into making any statements that you haven't already discussed with your lawyer, if you should have one. Never make any declarations like that you waive the right to apply for asylum for your children. If you are asked to make this type of statement, say that you need to discuss it first. Any additional statements can be submitted later in writing.

Under no circumstances should you give any kind of statement that you have said everything you need to about your persecution. For one, your whole story can probably not be told in one sitting. Besides, you may remember other things later that you forgot to mention because you were nervous during your hearing.

Do not allow yourself to be rushed during the hearing. You have the right to take as much time as you need to tell the story of your fate.

I wish you success with your hearing. Please do not be afraid. If you take the suggestions from this information sheet to heart, not much can happen to you. At least you can be certain that you receive a fair hearing. And another thing: Do not be afraid to insist that your rights described in this information sheet be observed. Exercise your rights. Germany aspires to be a democratic country and part of democracy is recognizing that every person has rights. You should think of this as an important exercise in democracy and freedom.

## 7. After the hearing

You should receive a copy of the minutes from the Federal Office. If not, insist on it. Make a copy of the minutes and be sure to give them to your lawyer or advisor, if you have one.



After the hearing, you should sit down with someone who speaks both German and your language to translate the minutes of the meeting into your language a second time. This is not something your lawyer can do for you. You need to find a translator yourself. It is common that when you have the minutes re-translated you will find additional misunderstandings and problems that you should notify your lawyer or the Federal Office about.

If there were irregularities during your hearing, you should sit down and write down as many of the events of the hearing as you can remember, such as:

- If you think of anything after the hearing that you wanted to say.
- If your translator or trusted friend was not allowed into your hearing.
- If there were problems with the Federal Office's translator.
- If something incorrect was included in the minutes.
- If you were denied a copy of the minutes.
- If and why you did not sign the minutes.
- If you have the feeling that you were not understood.
- If there is anything unusual that you feel you should mention.

Your written version of the minutes should be given to your lawyer or advisor as soon as possible so that they can take the necessary steps.

If you have any irregularities to report or comments to add to the minutes, you should tell your advisor or lawyer as soon as possible. If more time is necessary for this, call your lawyer / advisor and say that you will be sending them something in writing. This will allow your lawyer / advisor to immediately notify the Federal Office that you wish to submit an additional statement to clarify or expand on your testimony.

If you have any comments on the minutes of the hearing, you should submit them as follows: Take a copy of the minutes and mark each place where you have a comment with a number. On a separate sheet of paper, write out a numbered list of your comments or objections in German or a language that your lawyer or advisor can understand. Each number in your list should correspond to the numbers you wrote on the copy of the minutes.

### **8. What to do if your application is rejected**

Negative decisions by the Federal Office can be reviewed by the Administrative Court. However, it is essential to observe deadlines. If you do not do this, your case will not be heard by the court and negative decisions will become final without further review. For this reason, it is essential that you read or have translated the so-called "Rechtsmittelbelehrung" (instruction on right of appeal), which must appear at the end of every decision. If you have not yet had a lawyer, you should immediately try to find one. You should also keep the (usually yellow) envelope in which you received the decision. There is an important date on it, which is indispensable for calculating the deadlines. Sometimes a time limit begins even before you hold the decision in your hands!

There are different forms of rejection of an application. In detail:

The most complicated situation is when the Federal Office decides that you should be sent to another country because it is responsible for your asylum procedure. In such a case, you only have a period of one week to appeal against that. The following is particularly important here: Even if you have a lawyer, a negative decision will be sent to you directly and the one-week time limit will start to run from that day. Your lawyer is often only informally notified of the decision. It often reaches him or her long after you.

You must therefore bring the decision to your lawyer immediately or find a lawyer immediately so that legal remedies can be filed in time.

You also only have one week if the Federal Office finds out or you have been informed that you have already been recognised as a refugee in another state of the European Union or have had so-called subsidiary protection there. In this case, the Federal Office will also inform you that you must return to this state. In both cases, in addition to the complaint, you must also file a so-called urgent application within one week.

If your application was rejected as “manifestly unfounded”, you also only have one week for an appeal. In addition to filing a complaint, you must also file a so-called “urgent application” during this time. This is to prevent you from being deported before a decision is made on your complaint. Here, too, it is important that you find a lawyer immediately if you do not already have one.

If your application was rejected as “unfounded”, only one action must be filed. A period of two weeks applies for this. This is also quite short. Inform your lawyer or find one immediately so that s/he can support you.

If you cannot find a lawyer in the short time available, you can also go to the court named in the notice of appeal within the time limit. There is always a so-called legal application office, which will take up the necessary legal remedies for you. You should take a translator with you for this, but in any case a copy of the decision of the Federal Office.

**Good luck!**