

# Abolish „Chain Tolerances“

## Right to stay for everyone

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In Germany about 230,000 do not live in a stable residence permit. They do not hold a German passport but instead have a "Duldung", i.e. they are tolerated by the state. Up to now, it has nearly been impossible to get rid of a Duldung. Again and again, refugees have protested against the degrading living conditions and demands for a more secure status of residence. Members of the parties in power have stressed repeatedly that with the new "Immigration Act" the practice of "Kettenduldungen" (chain tolerances) will come to an end. But the reality is: the vast majority of the people holding a Duldung do not get a permanent residence permit. This means that even after for instance 15 years there is no chance to get rid of the Duldung. Even if they have been employed for years these refugees don't receive Unemployment Benefit I. Many of them have been living here for years, for example members of minority groups from Kosovo who in part have been here for more than a decade. Refugees get a "Duldung" (tolerance or tolerated status) if they have to leave Germany, but there are reasons because of which they can't be deported. Such obstacles to a deportation can be e. g. lacking papers or a deportation stop because of the situation in their countries of origin. The refugees are just "tolerated" in Germany - below this there is only illegality. The new law on "immigration" According to the Residence Act (formerly: Foreigners Act) which belongs to the package of laws called "Immigration Act" the number of so called residence titles has been restricted to two: a (temporary) residence permit (Aufenthaltserlaubnis) and a (permanent) settlement permit (Niederlassungserlaubnis).

A "Duldung" is not a residence title but a "temporary suspension of deportation". The situation is characterized by uncertainty and the lack of rights. Duldungen are granted for short periods of time: sometimes for a day, sometimes for a week, sometimes for a few months - this is the reason for the term "chain tolerances" (Kettenduldungen). Finding a job with a Duldung - which has to be renewed at very frequent intervals - is very difficult. Additionally, the possibility to get the required work permit is very much limited. An apprenticeship or another industrial training is de facto impossible with a Duldung as is the attendance of a government sponsored "integration course". There are no child benefits or child raising benefits, social benefits are often (according to the Act on Benefits for Asylum Seekers) reduced and the refugees have to live in dilapidated homes, under crowded conditions.

The new Residence Act says in section 25 paragraph 5: "The residence permit should be issued if the deportation has been suspended for 18 months", but only "if the foreigner is prevented from leaving the Federal territory through no fault of his or her own". This means that everybody whose deportations have been suspended for more than 18 months (i.e. who have a Duldung) for reasons for which they can't be held responsible should get a residence permit which is more secure and connected with more social rights. In fact, even the Federal Minister

of the Interior, Otto Schily, has announced the abolition of the "Kettenduldungen" through the Immigration Act. "These people will get a proper residence status, chain tolerances we will abolish" (in "Die Zeit" dated 18/01/05). While in a few federal states such as Lower Saxony or Rhineland-Palatinate refugees with a Duldung in fact get a residence permit, in NRW this is prevented by the decree of the Ministry of the Interior of NRW of 28 February 2005. On the one hand, according to this decree no residence permit shall be granted if it is possible to leave the country voluntarily - and this is, of course, always possible even if there is a de facto deportation stop and also for Kosovo and Afghanistan.

On the other hand, according to the explanatory statement to the new law it has to be examined whether the requirement to leave is "reasonable". Here, the respective decree of the Ministry of the Interior of Rhineland-Palatinate, for example, says that "the transfer of those who have been holders of tolerances for many years into a right to stay according to s. 25 par. 5" has to be considered especially in case of a "long stay" and an "integration into the living conditions". Also, if they have become "de facto residents", e.g. by attending school only in Germany, residence permits should be granted. In contrast, in NRW this examination of the reasonableness of a departure looks like this: with the exception of a severe illness "other aspects" which "may seem to make a departure unreasonable (e.g. long periods of stay in the Federal territory, aspects of "de facto" integration because of the duration of the stay)" shall be ignored.

But that's not all: in NRW, employment bans have been imposed by the foreigners authorities (Ausländerbehörden) on refugees with Duldungen who up to now had work permits. A work permit can be refused pursuant to section 11 of the Employment Procedure Regulation, if "for reasons for which the foreigner is responsible measures to terminate his or her stay cannot be carried out". So here the explanation is again that they could always have terminated their stay voluntarily. As they are not available for the labour market because of the employment ban. According to Book Two of the Social Code (Hartz IV), they are excluded from receiving Unemployment Benefit II. Consequently, they are forced to live on social benefits. Here, according to a special law for refugees (Act on Benefits for Asylum Seekers) they not only receive reduced benefit (in kind) and their access to medical care is limited, but they also have to give up their own apartments and move into "transitional accommodation centres" again. And living on social benefits greatly reduces the chances of a secure right of residence - for instance within the scope of so called "Altfallregelungen" (regulations for those with a long stay in Germany). And so we are at the starting point again.

Of course, all discriminating special laws and regulations for people without German passport have to be abolished. We request that the official announcements connected with the "Immigration Act" regarding the abolition of the Kettenduldungen are realized. The reasons, which up to now led to an unacceptability of the deportation or departure have to be sufficient for a transformation of the Duldungen into residence permits!

**Right to stay for everyone!**