



## **Information about subsidiary protection, legal objection and legal advice for refugees and supporters. (current as of June 2016)**

*This paper informs about the properties and disadvantages of subsidiary protection, what needs to be considered at the hearing at the BAMF and how you can object against decision of the BAMF.*

In the past weeks we were informed that the Federal Office for Migration and Refugees (BAMF) repeatedly grants subsidiary protection to refugees. On the document that is titled »BESCHIED« in capital letters it says something like: »Subsidiary protection is granted. Other than this, the application for political asylum is refused«. Furthermore, the document informs about the possibility to object to this decision within a given time-frame.

### **What is subsidiary protection?**

Subsidiary protection is granted whenever the BAMF assumes that while a person is not being persecuted in their home country, they are facing death penalty, torture or »arbitrary violence as part of an armed conflict« (war) in that country.

Generally, subsidiary protection is a strong protection. People who are granted this have rights to certain social security benefits as well as access to the job market. But especially in comparison with other protection titles there are distinct constrictions. Subsidiary protection is weaker than the protection grant in article 16a of the German constitution and the protection within the Geneva Convention on refugees.

### **Constrictions compared to other protection titles**

People that are granted subsidiary protection have a residence permit of one (1) year. After this year, the reasons for the protection are being revised. If they are still valid, the permit is being prolonged for another two (2) years. People, whose approval of subsidiary protection has been granted after March 17<sup>th</sup> of 2016 are being declined the possibility to bring their family-members into Germany until March 18<sup>th</sup> of 2018.

Should there be a residence obligation in a certain place, consult with a consulting centre or a lawyer. Many experts argue that residence obligations for holders of subsidiary protection are not legitimate.

### **If you are still in the asylum process:**

#### **Preparation of the hearing:**

The hearing at the BAMF is the most important part of the asylum process and should definitely be well prepared. Take a process counselling session before the hearing and evaluate in your specific case, which causes of your flight are relevant to your case. It is important to unveil the individual flight reasons and declare to the BAMF why you are threatened with persecution upon return to your home country.

More suggestions in context of the hearing you can find here in several languages:

[www.asyl.net/index.php?id=337](http://www.asyl.net/index.php?id=337)

**You have progressed through the asylum process and have been granted subsidiary protection:**

### **When should you object to this status?**

Generally said: If you are threatened with persecution upon returning to your home-country you are entitled to protection in accord with the Geneva Convention on refugees. Also: If you have family-members that you want to come to Germany, subsidiary protection is not sufficient to ensure the direct possibility to get your family here (see: Constrictions compared to other protection titles). If one of these cases applies to you or you are not sure about it, consult with a consulting centre or a lawyer.

### **How can you object and what do you have to consider?**

If you decide to legally challenge the decision of the BAMF, you have to consider the following:

1. Refer to a process consulting centre before you object officially.
2. On the notification you will find a time-frame for the objection – normally two weeks.
3. The objection can be made in written form by your lawyer.
4. Alternatively, you can object verbally at the administrative court. The address of the responsible court can be found in the notification (»BESCHEID«). Show your notification to the administrative court and state that you want to legally object to this notification and that you want to be acknowledged as a refugee after the Geneva Convention on refugees. Say that you request financial aid for the process and a lawyer.  
*In German: »Ich möchte gegen diesen Bescheid klagen. Ich möchte eine Anerkennung als Flüchtling nach der Genfer Flüchtlingskonvention. Ich beantrage Prozesskostenhilfe und möchte eine Anwältin/einen Anwalt.«*
5. Many experts think that during the lawsuit you have to be granted a **residence** permit (Aufenthaltserlaubnis). But we are aware of cases in which only a permission to **reside** (Aufenthaltsgestattung) has been granted. If this happens to you, inform your lawyer or the consulting centre.

### **Which support can I get additionally?**

The organization PRO ASYL supports lawsuits, covering the costs. For applications to PRO ASYL, your lawyer has to contact the office of the refugee council (Flüchtlingsrat) of Sachsen-Anhalt in Magdeburg.

You can get contact details for consulting centres from the Flüchtlingsrat as well.