

FLÜCHTLINGSRAT BERLIN e.V.

Human rights know no borders



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Up-to-date information from the Refugee Council Berlin

Newsletter in August 2023

www.fluechtlingsrat-berlin.de/fr_newsletter_august2023english

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Dear friends,

Enclosed you will receive our newsletter on the following topics:

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We are looking forward to your experiences and suggestions, hints and criticism!

If you want to join our mailing list, please send us an email with the subject "**Inclusion mailing list**".
If you don't want to have the emails anymore, just send an email with the subject "**Unsubscribe**".

Best wishes

The team of the Refugee Council Berlin

Problems in accessing medical care for newly arriving asylum seekers in Berlin

For many months, we have been receiving reports of problems with the access to medical care for asylum seekers newly arriving in Berlin. It is reported that there is a **waiting period of up to six months** before asylum seekers receive the health **card** (eGK) provided for them under Berlin's contract with the AOK and three other health insurance companies in accordance with § 264 (1) SGB V in conjunction with §§ 4 and 6 AsylbLG.

The **2016 contract** on the eGK according to § 264 para 1 SGB V in connection with the AsylbLG was a great step forward, because at least in Berlin it ended the constant struggle and bureaucracy with the discriminatory paper sickness certificates, and asylum seekers were largely put on an equal footing with the care according to AsylbLG with regularly insured persons (for the few exceptions see page 13 in the PDF):

https://fluechtlingsrat-berlin.de/wp-content/uploads/Vertrag_SenGS_Berlin_GKV-Karte_AsyLbLG.pdf

However, the state of Berlin apparently **terminated** a contract for the use of IBM **software** for the transmission of personal data and a photo of newly arriving asylum seekers for the eGK from the Reinickendorf arrival center to the commissioned health insurance company as early as autumn 2021 - allegedly for cost reasons.

Since then, the data has been transmitted by the LAF **by paper letter to the health insurance company**, which is then supposed to enter the data manually. Since then, the unprocessed letters have been piling up, especially at the AOK. In addition, the asylum seekers are now supposed to take a photo themselves and upload it to the health insurance company's website. The state of Berlin intends to use its own software, but this does not seem to be working.

We do not know the costs for **emergency medical interventions, rescue services and the use of rescue services** due to the lack of an eGK. But we know that these places are already overloaded.

From the principle of **human dignity** and the principle of the **welfare state** of the Basic Law, but also from the AsylbLG itself, there is an **immediate entitlement to medical care** in the event of **material need** (lack of health insurance and lack of financial resources) - from the first day in Germany, without any waiting period!

The competent authority - in Berlin for asylum seekers the LAF - has to ensure this according to the AsylbLG, even without a formal application.

- The statement that **refugees without an eGK** are "not **covered by health insurance**" and are therefore not entitled to health care is legally incorrect.
- At the very least, the relevant **social welfare authority** must immediately issue proof of **registration with a health insurance company**.
- The health insurance company must immediately provide an **insurance number**.

- **Doctors** in private practice who nevertheless do not treat should be reported to the Association of Statutory Health Insurance Physicians:
buero-der-beratungsaerzte@kvberlin.de

It may be helpful to file an **urgent application with the Social Court**. This is free of charge and also possible without a lawyer. As a rule, summary proceedings are purely written proceedings without oral proceedings. It is therefore very important to respond immediately in writing to questions from the court and to the opinion of the social welfare authority sent to the court.

- We have prepared a **sample for an urgent application** :
www.fluechtlingsrat-berlin.de/mustereilantrag_gesundheitsversorgung
- And instructions **for an urgent application**:
<https://fluechtlingsrat-berlin.de/wp-content/uploads/Antragstellung.pdf>
- Brief overview of lawyer Volker Gerloff: **Health care for refugees**
www.fluechtlingsrat-berlin.de/ppt_gerloff_gesundheit

Problems with access to medical care for newly arriving refugees from Ukraine in Berlin

Problems were also reported from the **Ukraine arrival center UA-TXL**, where refugees (including pregnant women) are said to have received no support in accessing urgently needed **specialist care** because they "**do not have health insurance**".

Problems were reported to us both in the waiting period of newly arrived arrivals until the first benefit is granted according to the AsylbLG and in the waiting period for the approval of the benefits of the job center to which they are entitled after the residence permit has been issued.

We asked the Senate Social Administration questions about this. They want to take care of it, but we don't have a substantive answer yet:

1. *Do the contracts of the State of Berlin with KV, the hospital association and the pharmacy association for the treatment of UKRpatients who present a UKR ID still apply?*
2. *a. in the processing time of the JC application. Do you see a legal possibility that e.g.B.the AsylbLG continues to provide the institution until the JC has approved the application?*
3. *Due to the isolated structure and the precarious accommodation in the UA TXL, we see the state and the commissioning LAF as having a special duty of care. Is it possible to result from this or, if necessary, from this? also derive claims against the LAF from the competence of the LAF for the first accommodation and care under the ASOG and AZG?*

Landro, the State Secretary responsible for integration, explains in Aghs.-Drs. 19/15846
<https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15846.pdf>

on the transition of UKR refugees from the AsylbLG to SGB II/XII:

*When the application is submitted to the social welfare office, a registration for the electronic health card in accordance with § 264 para. 1 SGB V takes place at the same time, **which is valid until a registration for health insurance membership has been made via the job centre or sickness assistance is granted via the social welfare office.***

Unfortunately, according to our observations, this does not correspond to reality. In practice, the social welfare offices seem to block the eGK immediately upon the end of the AsylbLG withdrawal, without waiting for a health insurance registration by way of the SGB II/XII reference.

The **contract** concluded in April 2022 between the State of Berlin and the Association of Statutory Health Insurance **Physicians** for the treatment of UKR patients who present a **UKR ID** or do not have a provisional certificate of care from a health insurance company or electronic health card can be found here :

www.fluechtlingsrat-berlin.de/vertrag_berlin_kv_behandlung_ukr

Information page of the KV can be found here

www.kvberlin.de/fuer-praxen/aktuelles/themen/thema/ukraine

Corresponding contracts are also to be concluded with the Berlin Hospital Association and the Berlin Pharmacists' Association.

- Also for these cases, our if necessary. appropriately adapted model can be used **for an urgent application:**

www.fluechtlingsrat-berlin.de/mustereilantrag_gesundheitsversorgung

- Likewise, our instructions **for an urgent application:**

<https://fluechtlingsrat-berlin.de/wp-content/uploads/Antragstellung.pdf>

LAF declares UA TXL personnel and infrastructure expenditure a "trade secret"

On the www.frag-den-staat.de platform, on 10.02.2023, we asked the State **Refugee Office LAF** to send us the current operating concept with schedules, the concepts for protection against violence, child protection and the protection of women as well as the house rules to the **Ukraine Arrival Center** at the former Berlin-Tegel Airport (UA TXL) in accordance with the **Freedom of Information Act** of the State of Berlin (IFG). In addition, we have asked for information on the expenditure made for the UA TXL so far for a) infrastructure and b) support.

The LAF's answer of 22.03.2023 to our questions is frightening: **Concepts for protection against violence, child protection and protection of women do not exist in the UA TXL** (this is required of all other LAF accommodations in Berlin). The process and operating concept is a trade and business secret of the LAF and the contractors of the UA TXL. A **trade secret** is also the expenditure made for the UA TXL so far for **infrastructure and support:**

www.fluechtlingsrat-berlin.de/laf_antwort_ifg_22mrz2023

On 6.7.2023, the LAF rejected our objection to this, citing trade secrets of the operator:

www.fluechtlingsrat-berlin.de/laf_widerspruchsbescheid-ifg_060723

Since a lawsuit takes years, we have waived it. We assume, however, that the public has a **legitimate interest** in the costs spent, especially since the UA TXL has created a new emergency shelter, for which amounts in the order of more than **100 million euros** have now been spent, and for the operation of which - as far as can be seen - no tender has been issued (cf. Tagesspiegel v. 18.11.2022, www.tagesspiegel.de/berlin/handlungsdruck-weiterhin-enorm-hoch-ukraine-ankunftszenrumkosten-berlin-bis-jahresende-mindestens-70-millionen-euro-8894650.html).

The **price-performance ratio of the UA TXL is likely to be catastrophic**. In addition to the **personnel deployment of approx. 1500 people** for the accommodation and care of **2000 to 4000 refugees**, there are also the costs for the infrastructure (lightweight halls, etc.). While daily rates of up to 35 euros are paid for other accommodations in Berlin, the daily rate for the UA TXL is likely to be in the triple digits. Elsewhere, 6 to 9 m²/person is considered an absolute minimum. In the UA TXL there is no privacy with only 2.6 m² of living space/person, see also our report below.

Despite the high number of staff, we constantly receive complaints about the **inadequate quality of social counselling at UA TXL**, lack of support in accessing social benefits and medical care, filling out forms and finding other accommodation, and a lack of psychological counselling. This also raises the question of the qualification and task descriptions for the personnel deployed in the UA TXL as well as the underlying process and operating concept of the UA TXL.

After all, the LAF has sent us the current **house rules** for the UA TXL:

www.fluechtlingsrat-berlin.de/hausordnung_txl_15dez2022

In comparison to the currently valid **house rules of all other AEs and GCs of the LAF** (current version Dec 2020, taken from the LAF announcement of January 2023)

www.fluechtlingsrat-berlin.de/hausordnung_aegu_07dez2020

It is striking that the **preamble**, which is based on the principle of equality of Article 3 of the Basic Law, with reference to the **prohibition of discrimination** on grounds of sex, descent, language, homeland and origin, faith, religious or political views, sexual orientation, age or racial reasons or disability, is included in the house rules **for the UA TXL** has been **deleted without replacement**.

The **visiting regulations** contained in § 4 for other LAF accommodations have been replaced for the UA TXL by the threat of a **charge of trespassing**.

In addition, there are problematic **restrictions on personal rights** made especially for the UA TXL, such as the **bag checks** by security, which are rightly prohibited in all other accommodations, as well as an absolute **ban on alcohol** (§§ 1 and 5).

Research by the Refugee Council on the UA TXL

On the **problematic structures and accommodation conditions** of the UA TXL, problems with access to health, etc., see also our **detailed report on the UA TXL** from April 2023:

www.fluechtlingsrat-berlin.de/berichtzustaendetxl

We are looking forward to your **reports and experiences** with the UA TXL, hints and criticism!

Deficiencies in the reception, care and care of unaccompanied minor refugees (umF) in Berlin

On 3.8.2023, the TAZ reports on **illegal conditions** in the reception of unaccompanied minor refugees in Berlin:

"Placed on a siding. Refugee children and adolescents have to wait up to seven months for an "initial interview". Before that, it is not possible to apply for asylum and attend school."

<https://taz.de/Unbegleitete-minderjaehrige-Fluechtlinge!/5948077/>

Moabit hilft e.V. criticizes the conditions in detail in a press release dated 31.07.2023:

"Nothing is good! Doesn't child and youth protection count for minors who have fled alone?"

www.moabit-hilft.com/2023/07/31/nichts-ist-gut-zählt-kinder-und-jugendschutz-für-alleine-geflüchtete-minderjährige-nicht/

On the occasion of the catastrophic situation, we present here some legal frameworks. The statement of the TAZ that asylum application and school attendance are not possible before the initial interview at the Senate Youth Administration describes an unfortunately **illegal practice** of the Berlin Senate Department for Youth and Education.

However, according to §§ 2 and 42 of the Berlin School Act, umF's **legal entitlement to access to education and regular school attendance** and, if applicable, compulsory schooling exist from the first day in Berlin. This also applies to the right and, if applicable, the duty of the **Youth Welfare Office** or the guardian to apply for **asylum** immediately upon arrival in promising cases in the interest of the child's well-being, cf. § 42 para. 2 S. 5 SGB VIII.

If necessary, both can be enforced with the help of the Youth Welfare Office or, if available, the guardian. If necessary, you should try to contact the responsible youth welfare office (in Berlin: the Senate Department for Youth, Department III B, see below!) If necessary, third parties may also apply to the competent court for the appointment of a suitable person as guardian.

For more information on the admission and rights of umF in Berlin, see also our

Guidelines for counselling unaccompanied minor refugees in Berlin

Responsibility for the authorities, taking into custody, clearing, guardians, asylum and residence procedures, livelihood and med. Supply, June 2022.pdf-download:

www.fluechtlingsrat-berlin.de/unbegleitete_minderjaehrige

The procedure for taking unaccompanied minor refugees into custody (umF)

Since the described conditions and the handling of the authorities in Berlin with umF violate numerous legal provisions, we present the legal **situation** here .

Within the framework of the procedure introduced in 2016 with the new §§ 42a – 42f SGB VIII for the "***provisional taking into custody***" of umF, an age determination is to be carried out, as far as possible, first by inspecting the identity documents or, alternatively, by a qualified visual inspection. In cases of doubt, a medical examination must be arranged (§ 42f SGB VIII). As far as reasonable in individual cases, a **nationwide distribution** can also be carried out according to the Königsteiner Schlüssel, § 42b and 42c SGB VIII.

The responsible youth welfare office for the whole of Berlin during the provisional custody is the **Senate Department for Youth, Department III B**, which only hands over responsibility to the **youth welfare office of a Berlin district** after the clearing and custody procedure has been completed, see also our guide

www.fluechtlingsrat-berlin.de/unbegleitete_minderjaehrige

In the context of provisional custody, it must be checked immediately whether a **relative** suitable for admission is in Germany or abroad and whether the best interests of the child require joint custody with **siblings** or other umF § 42a para. 2 SGB VIII, if applicable. the merger must be made possible.

Nationwide distribution is only permitted **within one month** after the start of the provisional taking into custody (§ 42b para. 4 SGB VIII). Thereafter, the provisional taking into custody ends and a regular **taking into custody follows in accordance with § 42 SGB VIII**, in the context of which a guardian is to be appointed and the assignment of a suitable youth welfare institution or, if necessary, the assignment of a suitable youth welfare institution or, if necessary, the assignment of a suitable youth welfare institution or, if necessary, the assignment of a suitable youth welfare institution or, if necessary, the assignment of a suitable **youth welfare institution**. a suitable foster **home** with relatives or other foster parents, etc. must also be provided. The **best interests of the child/adolescent** always take precedence.

Until a guardian is appointed, the **Youth Welfare Office must carry out all legal acts** that are necessary for the well-being of the child/adolescent (§ 42a para. 3 SGB VIII). This may also include

the submission of a (promising) asylum application required in the best interests of the child (to be submitted in writing to the BAMF in the case of umF, § 14 AsylG), otherwise the registration (written **application** for a **humanitarian stay alternatively toleration**) at the Foreigners' Registration Office, the registration of a **place of residence** and the **registration for school**. According to § 12 AsylG and § 80 AufenthG, minors are not capable of acting independently, but of course they must always be heard on the procedure.

The **Dublin Regulation** contains separate rules of jurisdiction for umF, so the travel route, etc., is not relevant for umF. In principle, the umF can remain in Germany, but according to the Dublin Regulation he has the right to be reunited with a family member living in another Dublin state.

The Senate Department for Youth shall ensure accommodation in a **suitable youth welfare facility** as well as the granting of the necessary **livelihood** and sickness assistance during the provisional taking into custody , § 42a para 1 sentence 3 in conjunction with § 42 para 1 sentence 2 and para. 2 sentence 3 SGB VIII in conjunction with § 39 (subsistence) and § 40 (**sickness assistance**) SGB VIII). The **same standards apply here as for German young people**.

The **Asylum Seekers' Benefits Act** or any other restrictions and sub-standards on subsistence and health care benefits are **not applicable!** According to § 40 SGB VIII in conjunction with § 264 (2) SGB V, a health card (eGK) of a health insurance company of the choice of the umF or his guardian must be issued, the card includes the full scope of treatment of persons with statutory health insurance, with the exception of only long-term care insurance.

§ 42 SGB VI II regulates: During the period of taking into custody, the Youth Welfare Office must immediately inform the child or adolescent comprehensively and in an understandable, comprehensible and perceptible form about this measure, clarify the **situation** that led to the taking into custody **together with the child or adolescent and point** out possibilities for help and support. The child or adolescent must be given the opportunity to notify a **person he or she** trusts without delay.

The Youth Welfare Office must ensure the well-being of the child or adolescent during the period of custody and ensure the necessary maintenance and medical assistance. If the custodians or legal guardians cannot be reached, the Youth Welfare Office must **immediately arrange for the appointment of a guardian** and immediately initiate an **assistance plan procedure** in accordance with § 36 SGB VIII.

A recent legal opinion by the **German Institute for Youth Welfare and Family Law (DIJuF)** doubts the **competence of the Senate Administration**. In any case, according to the applicable Land regulations, the Senate Department for Youth is responsible for taking into custody for a maximum of 3 months, after which the youth welfare offices of the districts are responsible:

https://dijuf.de/fileadmin/Redaktion/Hinweise/DIJuF-Rechtsgutachten_AV-UMF_8.1.2021_SN_2023_0702_GA_Web_2023-08-07.pdf

The Berlin **Implementing Regulation on the Granting of Youth Welfare for Minor Refugees Not Accompanied by Custody Persons (AV-UMF)** of 8.1.2021

www.berlin.de/sen/jugend/jugend/unbegleitete-minderjaehrige-fluechtlinge/

is in any case unlawful to the extent that the Senate Department for Youth declares it to be competent even beyond 3 months.

Advice for umF, guardians and supporters

Federal Association of Unaccompanied Minor Refugees

<https://b-umf.de/beratung/>

BBZ - Berlin Office for Children and Adolescents in the Network for Particularly Vulnerable Refugees (BNS)

<https://www.bbzberlin.de/portfolio/fachstelle-fuer-kinder-und-jugendliche/>

As an ombudsman's office for Berlin in accordance with § 9a SGB VIII, the following is responsible for complaints:

www.bbo-jugendhilfe.de

For lawsuits and urgent applications, if necessary, the support of the Berlin Legal Aid Fund for Youth Welfare can be requested: <https://www.brj-berlin.de>

> **For further addresses** , see chapter 6 of our **umF guideline**:

www.fluechtlingsrat-berlin.de/unbegleitete_minderjaehrige

Current legislation on asylum and residence law

News from the legislation can be found on our homepage under "Law and Council"

www.fluechtlingsrat-berlin.de/recht-und-rat and currently for 2023 under

https://fluechtlingsrat-berlin.de/recht_und_rat/asylg2022/

There you will find information, legal materials and comments on the

- * Residence and social rights for war refugees from Ukraine
- * Law on the Introduction of an Opportunity Right of Residence
- * AsylbLG, SGB II and SGB XII
- * Act on the Further Development of the Immigration of Skilled Workers – "FEG 2.0"
- * Amendment of the Nationality Act StAG
- * Reform of the Common European Asylum System (CEAS)
- * "Discussion draft" of the Federal Ministry of the Interior to improve repatriation

The BMI's "discussion draft" for a law to improve repatriation

As a result of the "Refugee Summit" Minister-Presidents' Conference (MPK) on 10.5.2023, the **Federal Ministry of the Interior (BMI)** presented a "[discussion draft](#)" on **1.8.2023** [with extensive tightening of asylum and residence law](#). It includes extensive extensions of detention pending deportation and specific sanctions and criminal provisions for non-Germans. The draft is based on proposals by the MPK, which is not even provided for in the Basic Law as a constitutional body. It has not been coordinated with the Federal Cabinet or with the parliamentary groups of the traffic light coalition and is therefore only referred to as a "discussion draft".

- In the case of **deportations from collective** accommodation, the police will in future be allowed to "enter" all living and other rooms of the accommodation (not only the room of the person to be deported) without a judicial search warrant, whereby this "entry" should also include the authority to break open the doors according to the explanatory memorandum to the draft (Section 58 of the Residence Act).
- The violation of an **entry and residence ban** (Section 11 of the Residence Act) is to become an independent **reason for detention**, even if there is no risk of absconding. Detention pending deportation is also to be permitted if deportation only appears possible within the next 6 (previously 3) months (Section 62 of the Residence Act). The detention period is to be extended from 10 to 28 days (Section 62b of the Residence Act).
- **Asylum seekers** who meet the requirements for detention pending deportation at the time of their asylum application should be able to be detained despite applying for asylum. According to this regulation, **all newly arriving asylum seekers could in principle be detained** in the future (§ 14 AsylG). The list of asylum applications to be rejected as "manifestly unfounded" is extended (Section 30 of the Asylum Act).

Regulations on the **assumption of the costs of** social benefits, etc. for refugees **by the federal government** – the **core demand of the states at the MPK refugee summit** – are sought in vain in the BMI draft.

Included are only minor simplifications of the administrative burden for immigration authorities. For example, residence permits are to be extended for up to 12 months, and residence permits for persons with subsidiary protection are to be issued for 3 years at a time.

According to the planned amendment, the new reason for expulsion is to be the support of a criminal organization according to § 129 of the Criminal Code, but the **well-founded suspicion**, i.e. an investigation without a court ruling, should be sufficient. The project, which has been critically discussed in public as a means of expelling "**clan families**", contradicts the constitutional principle of the presumption of innocence.

According to § 129, there are many investigations in practice, but only rarely convictions. **Political groups** are often affected, such as the "Last Generation" and the "Center for Political Beauty".

Anyone who merely "supports" such an association without committing a criminal offence is also liable to prosecution. The **offence of "support"** remains diffuse and is often broadly defined by investigators. Section 129 is popular with law enforcement agencies because investigators have significantly expanded powers when this suspicion arises. Section 129 of the Criminal Code is therefore also called the "snooping paragraph".

Critics also refer to § 129 as a **paragraph** of conviction that can be used to condemn **simple contacts** and **criminalize entire political** attitudes. In the future, an investigation under § 129 could lead to the expulsion of people living here for a long time **without evidence or criminal conviction**.

The **BMI's discussion draft does not include** the other projects of the long-planned **Migration Package II**. Originally, the traffic light government already had a "Migration Package II" for **autumn 2022**, including facilitation of **family reunification** with refugees and German spouses living here, the lifting of the **ban on work** for asylum seekers and tolerated persons, as well as facilitation of deportation (so-called "repatriation offensive"). Apparently, all that remains is the repatriation offensive.

- For **family reunification** (sibling reunification, reunification with beneficiaries of subsidiary protection, etc.), cf. [Position paper JUMEN e.V./Terre des Hommes](#), Oct. 2022.
- On the "repatriation offensive" cf. Statement of the [German Bar Association DAV on improving the protection of seriously ill foreigners](#) when **taking illness into account as a ban on deportation** and as a reason for toleration (Section 60a (2c) and (d) and Section 60 (7) of the Residence Act), June 2023.

Federal government plans to massively cut funding for migration counselling

The welfare associations are alarmed by the cuts planned by the traffic light coalition in the 2024 federal budget. Because of the flight of 1.2 million. People from Ukraine to Germany had been provided with additional special funds in 2022 and 2023. Now these special funds are to be abolished and instead a reduction of about 30% is to be made in the area of **migration counselling for adult immigrants** (MBE).

For the nationwide authority-independent **asylum procedure advice** (AVB), the loss of 50% of the funds required for next year will be torpedoed by the development that has just begun and promised in the coalition agreement.

Another affected federal program is that of the **Psychosocial Centers** (PSZ). Instead of an increase, the psychosocial centres will be cut from 17 million to 7 million euros. The scandalous undersupply and the threat of discontinuation of numerous therapies are devastating.

Siege, the press release of the **Federal Association of the Central Associations of Independent Welfare Services** (BAGFW) of 19.07.2023

www.bagfw.de/fileadmin/user_upload/Veroeffentlichungen/Pressemeldungen/PM_2023/PM_FW_zu_m_Bundeshaushalt_2024_190723.pdf

Current case law on social and tenancy law for refugees

LSG Niedersachsen-Bremen: Refusal of medical services according to §§ 4 and 6 AsylbLG for minors only with special justification

Order of 20 June 2023, [L 8 AY 16/23 B ER](#), press release [of 27 July 2021](#)

The Georgian applicant, who was born in 2006, has been suffering from a chronic progressive disease since birth. The consequences are short stature, severe bone growth disorders, deformation of the chest as well as a pronounced multidimensional axial deformity in the knee joints as well as permanent severe pain. He is confined to a wheelchair. Doctors and the health department spoke out in favor of his timely operation in a special clinic. As a result, he can become painless to painless and, under certain circumstances, walk without aids. The estimated cost of the operation is around EUR 17,600. The responsible district refused to cover the costs. In view of the applicant's obligation to leave the country and the foreseeable temporary stay in Germany, the operation was not necessary and was not indispensable to ensure health or to cover the special needs of children.

The LSG obliged the district to cover the costs of the surgery. It emphasizes that, especially in the case of children, in the light of the fundamental right to guarantee a minimum subsistence level in line with human dignity and taking into account the UN Convention on the Rights of the Child, special justification must be given if a treatment measure that is medically necessary according to the local living conditions is to be rejected as not indispensable for safeguarding health. In addition to the circumstances of the individual case, the authority must also take into account the quality of the (fundamental) right concerned, the extent and intensity of the actual impairment in the event of a refusal to provide benefits, and the foreigner's expected and previous length of stay in Germany.

The restriction of entitlement under § 1a AsylbLG due to so-called re-entry (entry solely for the purpose of receiving social benefits or medical treatment) is not applicable because this would regularly require a prior lawful administrative procedure (hearing and written administrative act) (with evidence of further case law). For constitutional reasons, irrespective of this, the restriction of entitlement under § 1a AsylbLG is not applicable to the minor applicant.

Note:

For adult beneficiaries in the asylum procedure, the LSG Hessen already came to the conclusion in 2018 that the medical treatment must in principle correspond to the scope of the statutory health insurance (LSG Hessen, decision of 11.07.2018 - [L 4 AY 9/18 B ER](#)). The LSG also justified this by stating that poorer health care would be unconstitutional (Article 1.1 in conjunction with Article 20.1 of the Basic Law). An interpretation of § 4 and 6 AsylbLG in conformity with the Constitution means that the entitlement to medical treatment must correspond to the level of the statutory health insurance.

Nuremberg Social Court affirms entitlement to integration assistance under § 100 SGB IX

It was affirmed with detailed justification that Ukrainians were entitled to help despite the temporary residence permit according to Section 24 of the Residence Act www.der-paritaetische.de/fileadmin/user_upload/2303_Beschluss_Sozialgericht_Nürnberg_EGH.pdf

Berlin Regional Court affirms "legitimate interest" in a subletting permit

The tenant wanted to sublet a room to a refugee from Ukraine for humanitarian reasons, but the landlord wanted to prohibit her from doing so:

www.lto.de/recht/nachrichten/n/lg-berlin-65s3923-untervermietung-ukraine-gefluechtete-vermieter-berechtigtes-interesse-zustimmung/

Guide to SGB II, SGB XII and AsylbLG published

The current new edition of the self-published guide by Tacheles e.V. was first published by Nomos. At €25.90 for 1000 pages, the price is still relatively cheap. Comprehensive entitlements to **citizen's allowance, social assistance** and benefits under the **Asylum Seekers' Benefits Act** are comprehensive. Under the editorship of Harald Thomé from the unemployment association Tacheles e.V., a total of 16 experts in social law (lawyers, debtors and refugee counsellors, social workers, etc.) are among the authors.

The guideline takes into account the **legal situation as of July 2023**. It can be ordered in **bookstores** or directly from the publisher: <https://www.nomos-shop.de/nomos/titel/leitfaden-alg-iisozialhilfe-von-a-z-id-101151/>

The **accompanying free newsletter** from Harald Thome is also highly recommended: <https://harald-thome.de/newsletter.html>

Answers to written questions in the Berlin House of Representatives

Perspective of the "Fit for School" program <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-16082.pdf>

Access to support services for refugee women affected by violence in Berlin: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-16000.pdf>

Deportations from Berlin: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15939.pdf>

Accommodation in bridge services for unaccompanied minor refugees: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15944.pdf>

Construction projects MUFs: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15805.pdf> *(Since the answers of the Senate administrations are of interest, we have also linked inquiries from the AFD here)*

For MUF, see also: Modular Shelters for Refugees (MUF) – Social Infrastructure <https://www.parlament-berlin.de/ados/19/IIIPlen/vorgang/d19-0776.pdf>

Naturalizations in Berlin: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15886.pdf>

Transitional phase Centralization of naturalization in Berlin: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15703.pdf>

Apartments instead of accommodation. Which type of accommodation ensures a self-determined life and is the most cost-effective?

<https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15883.pdf>

Statistics on third-country nationals from Ukraine in Berlin: <https://pardok.parlament-berlin.de/starweb/adis/citat/VT/19/SchrAnfr/S19-15804.pdf>

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