



The negative asylum decision

What can I do if I have received a negative decision on my asylum application?

1. First and foremost it is important to remain calm. There are many reasons why the Bundesamt für Migration und Flüchtlinge, BAMF for short (Federal Agency for Migration and Refugees) rejects an asylum application. A negative decision does not mean you are not entitled to a protective status!
2. You should immediately seek out a legal advice center or a lawyer if you have received a negative decision on your asylum application.
3. Make sure to keep the yellow envelope and its contents safe. The date of delivery is noted on the envelope, this date is important for the deadline you have to appeal the decision.



The deadline to appeal is the period of time you have to take action against the decision of the BAMF, it is therefore very important to adhere to this deadline.

4. It is possible to take action before the administrative court against a negative asylum decision. In the information on legal remedies it is determined which administrative court is responsible and how much time you have to file an action.
5. Important: The BAMF and the courts must always have your current address. Also if you are living in an initial reception facility it is important to ensure they have the correct address at all times.

Where must I file my action against the decision?

Verwaltungsgericht Berlin (Administrative Court of Berlin)

Postal Address:
Kirchstraße 7
10557 Berlin

Contact:
Tel: 030/9014-0
Fax: 030/9014-8790

Opening times of the legal
claim office:
Mo-Fr: 9:00 a.m.-1 p.m.

The different „types“ of rejection:

Based on what grounds the BAMF has rejected your application for asylum different types of decisions will be issued. These different types of decisions have varying legal consequences:

1. The BAMF considers your asylum application to be unfounded
If the BAMF considers the reasons you brought forth in your interview insufficient to grant you a protective status you will receive a so called **ordinary rejection** (**„einfache Ablehnung“**).



How can I take action against this decision?

The period of time you have to take legal action against this decision is **2 weeks**. You must file your action against the decision before the administrative court. Your legal action has a suspensive effect. This means that the negative decision of the BAMF cannot be executed until

the court has made their decision. A deportation cannot take place until the court has made its judgement.



The lawsuit before the administrative court in Berlin currently takes at least about 1,5-2 years. In the meantime the legal action must be substantiated. This means that either you or your lawyer must write down your reasons for fleeing your home country and send this justification for your legal action to the court.

2. The BAMF considers your application for asylum to be **inadmissible**
If your application for asylum is deemed inadmissible pursuant to § 29 AsylG this usually means either:
 - That the BAMF considers a different European state to be responsible for your asylum procedure on the basis of the Dublin system. You have **one week time to file legal action and a motion for injunction** against this decision. For more information regarding to this see the Fact Sheet: Dublin Procedure.
 - Or that the BAMF has determined that you have already received a protective status in a different EU member state. In this case you also have **one week time to file legal action and a motion for injunction** against the decision. In this case it is important to seek legal consultation regarding the different possible options you have to stay in Germany.



A motion for injunction is filed so that the court suspends the execution of the decision. In contrast to an “ordinary rejection“, the suspensive effect does not enter into force automatically. Through the motion for injunction it can be hindered that the decision of the BAMF is executed in the waiting time before the court appointment. The execution of the decision would mean the transfer to the Dublin state.

3. The BAMF considers your application for asylum to be **obviously unfounded** (“offensichtlich unbegründet“, in short “**OU**“)
If your application for asylum is rejected as obviously unfounded on the basis of § 30 AsylG this means that the BAMF does not consider your reasons for fleeing as sufficient to grant you a protective status. There can be varying reasons for this, for example:
 - The BAMF is of the opinion that you invented your story and your reasons for fleeing.
 - The BAMF is of the opinion that you have deceived them about your origin/identity (for example they might think you have lied about what your home country is).
 - The BAMF is of the opinion that you have obviously only come to Germany due to economic reasons.
 - If you are from a so called safe country of origin pursuant to § 29a AsylG your asylum application can also be rejected as obviously unfounded (safe origin countries are: all EU member states, Albania, Bosnia and Herzegovina, Ghana, Kosovo, North Macedonia, Montenegro, Senegal and Serbia).

What legal action can I take against a “OU” decision?

It is also possible to file a legal action and a motion for injunction before the administrative court. For this you have only **one week** time.

Tip: In regard to all types of rejection the following is relevant: If you do not manage to find a lawyer/legal advice center within the deadline to help you, go to the “**Rechtsantragsstelle**” (**legal claim office**) of the responsible court. There you can show the decision of the BAMF and say that you want to **file legal action and a motion for injunction**. After this you should look for a lawyer as fast as possible.

The court appointment

The court will make an appointment for an oral negotiation and send you a summons to your address. It is therefore very important, that the court always has your current address.

- ⇒ At the court appointment a judge will ask you a few questions. These questions will be similar to the interview at the BAMF.
- ⇒ You should prepare for the oral negotiation together with your lawyer or a legal advice center, in order to be able to properly explain the aspects of your story/reasons for fleeing that the BAMF did not pay sufficient attention to or falsely evaluated.

The judgement

After the court appointment the court will make their judgement. On the basis of this judgement the BAMF will either be forced to grant you a protective status, or the court will, in agreement with the BAMF, consider your reasons insufficient.

- ⇒ If the court obliges the BAMF to grant you a protective status, this means you have won the lawsuit. Sometime after the judgement the Foreigners Authority (also called Ausländerbehörde) will invite you for an appointment and you can pick up your residence permit.
- ⇒ If the court confirms the decision of the BAMF you should decide together with your lawyer if it is worth it to ask to **request to appeal the decision** in front of the higher court. For such a request to be granted special grounds must be brought forth, due to the fact that a decision in the asylum procedure is usually only reviewed once before a court.

Tip: Hiring a lawyer will always cost you money. When looking for a lawyer ask a legal advice center for lawyers specialized in asylum law that they can recommend. You should ask your lawyer upfront about the possibility to pay in installments. Lawyers can also apply for legal aid in front of the court, if the court grants legal aid the state will pay for the costs of the lawsuit.

KommMit/BBZ e.V.

Turmstr. 21, House M, Entrance O, 2nd Floor, 10559 Berlin
Open consultation hours for advice on the asylum procedure: Tuesday 10 a.m.-2 p.m., Wednesday 1 p.m.-5 p.m., Thursday 10 a.m.-2 p.m.

Contact: n.essmat@kommmit.eu

Dieses Factsheet entstand im Rahmen des Projekts „Gut Beraten, gut Ankommen!“, das aus Mitteln des Asyl-, Migrations- und Integrationsfonds (AMIF) der Europäischen Union, sowie Berliner Landesmitteln kofinanziert wird.



Europäische Union

