

16.05.2007

Information on the **Bleiberechtsregelung** der Innenminister (IMK) and the **Gesetzliche Altfallregelung 2007**

Since 17/11/2006, the so-called **Bleiberechtsregelung IMK** is in effect. Additionally, presumably in summer 2007, a **Gesetzliche Altfallregelung** with new paragraphs will be inserted into the **Aufenthaltsgesetz** (§ 104 a und § 104 b). Therefore, in the near future two different rules will be valid which are partly identical but also differ a great deal.

This paper is meant to inform all possibly concerned women and men and to encourage them, to apply for a right of residence for themselves (and, if necessary, for their children) and to call on advice.

The **Bleiberechtsregelung IMK** is actually in effect. It is not a law, but a special ordinance, concluded by the Ministers of the Interior of the Federal Republic and is executed somewhat differently in each of the federal Lands. On this, the Ministry of the Interior of Schleswig-Holstein has issued a Directive on 17/11/2007, giving instructions to the Aliens Department on the execution of the **Bleiberechtsregelung IMK**.

The **Gesetzliche Altfallregelung** is a statutory amendment of the Law. It is meant to be inserted into the **Aufenthaltsgesetz** and to be valid for the Federal Republic on the whole. Although the Law is not in effect yet (as of 15/5/2007), the Ministry of the Interior of Schleswig-Holstein has already ordered on 2/4/2007 that instantly a stop of deportation is valid for all persons with a **Duldung** "...who presumably will fulfil all criteria of the legal Altfallregelung". These persons will receive a **Duldung nach § 60 a Abs. 4 Aufenthaltsgesetz**, valid up to 30/9/2007.

Key-date and residence permit:

Both regulations are based on a so-called key-date. For the **Bleiberechtsregelung IMK**, the 17/11/2006 was the key-date. For the **Gesetzliche Altfallregelung** it will be the 1/7/2007.

Only if all claimed requirements are fulfilled at the key-date, the **Aufenthaltserlaubnis § 23 Abs.1 Aufenthaltsgesetz** will be issued in both cases.

If, for example, self-sufficiency is not complete at the key-date or the language proficiency in German is not yet sufficient, according to the **Bleiberechtsregelung IMK** a **Duldung** up to 30/9/2007 will be issued. According to the **Gesetzlichen Altfallregelung, Aufenthaltserlaubnis § 104 a Abs.1 Aufenthaltsgesetz**, with the deadline 31/12/2009, is to be issued.

Deadline for the application:

The time-limit for the application according to the **Bleiberechtsregelung IMK** in Schleswig-Holstein actually runs until May, 18th, 2007. But according to an information of the Ministry of the Interior, the **Ausländerbehörden** will also accept later applications. You can file your application according to the **Gesetzlichen Altfallregelung** only when the Law has entered into force (probably starting in July 2007). You can file an application according to the **Bleiberechtsregelung IMK** and for your security refer to the stop of deportation of 2/4/2007 at the same time.

If you have chances to receive a right of residence- file an application!!

**In any case: applications must always be filed in writing!!!
Seek advice at a counselling office or of your lawyer!**

The most important requirements for a right of residence:

- **Duration of residence**

According to the **Bleiberechtsregelung IMK** all adults without children must have been living uninterruptedly in the Federal Republic since 17/11/1998. (**Gesetzliche Altfallregelung** since 01.07.1999)

Adults with minor children form a family. If at least one child is more than three years old and attends a kindergarten or a school, one of the parents must have been in the Federal Republic consecutively since 17/11/2000. (**Gesetzliche Altfallregelung** since 1/7/2001, also valid if children are younger than 3 years old.)

- **Independent income**

In order to receive a right of residence according to the **Aufenthaltsurlaubnis § 23 Abs.1 AufenthG** it is most important that an autonomous, long-term self-support is secured by an independent income. This means that the net-income must at least cover the total amount of rent plus operating costs plus the amount of the unemployment benefit II for each member of the family. On top, a health insurance must exist. This is guaranteed by a socially-insured employment.

Only on the basis of a **Aufenthaltsurlaubnis § 23 Abs.1 AufenthG** you may claim child benefit. This is then considered as independent (own) income. But housing benefit, payments according to the Law on support for asylum-seekers, social assistance or unemployment benefit II are not independent (own) income. Exceptions are only made temporarily for families with young children or juveniles during a job training period.

- **Job-seeking**

If the family-income does not yet suffice to secure the complete self-sufficiency by own income or if you have not yet found an employment, apply for a so-called **Duldung zur Arbeitssuche** according to the **Bleiberechtsregelung IMK** at the Aliens Department. This will be limited up to 30/9/2007 and gives you time for job-seeking. (**Gesetzliche Altfallregelung Aufenthaltsurlaubnis § 104 a AufenthG**, limited up to 31/12/2009.).

- **Further requirements**

Family-members must have oral language proficiency in German of level A2 at the least. Added are requirements as to the size of the accommodation; a **Pass** must be at hand, and so on.

- **For whom will it be difficult?**

Excluded are persons who, for example, are criminally convicted to more than 50 daily units or whom German security authorities reproach for „connections with terrorist groups“. Most of the problems arise because of the so-called **Mitwirkungspflicht**. For example, the **Ausländerbehörde** will reproach you for not having helped sufficiently by getting a new passport in the past. You intentionally delayed or prevented your **Abschiebung**. You deceived the authorities, declared a wrong identity, and so on. Apply for the right of residence nevertheless - sometimes the problem is solvable – perhaps by the **Gesetzlichen Altfallregelung**.

We advise you:

File a written application at the **Ausländerbehörde**. Keep a complete copy of the application yourself. You can file an application according to the **Bleiberechtsregelung IMK** and at the same time refer to the stop of deportation of 2/4/2007 for your security. Do not let the **Ausländerbehörde** reject you. In case of doubt send the application by post as **Einschreiben mit Rückschein**. If your application is refused: Insist on a written notification. Only then can you proceed against it.

If you have chances to get a right of residence - file an application immediately!

Look for advice – ring us up, we can give you the address of a near, competent counselling office. A list is to be found in the internet <http://infonet-frsh.de/adressen/>

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