# YOUR RIGHTS refugees



This brochure was elaborated for inhabitants of the canton of Bern. Therefore, most of the listed counseling centers are based in the region of Bern. If you live in another canton, you will find a corresponding counseling center in your region. Apart this, most of the contents of this brochure apply in the whole of Switzerland.

# YOUR RIGHTS refugees



# TABLE OF CONTENTS

POLICE CHECKS AND DETENTION	
Police and identity checks	8
Searches by the police	11
Train station / railway police	14
Private security guards	15
Confiscation	16
The right to remain silent	17
Translation	20
Expulsion / restrictions	20
Arrests	22
ASYLUM PROCEDURE	
Engaging with the authorities	27
Questioning grounds for asylum	28
Mandatory measures and deportation	30
Preparatory detention	32
Detention pending deportation	33
Detention in the Dublin procedure	38
Coercive detention	39
Maximum length of detention	39

#### YOUR RIGHTS IN COLLECTIVE CENTERS

Health	40
Problems with other residents or with staff	41
Room searches in the center	43
Particularly vulnerable people	44
Social allowance	46
Sans-Papiers	48

#### **COUNSELING CENTERS**

Foreigners	51
Human rights/Repression	53
Victim support	55
PartnersHIP and family	56
Women	57
Children and teenager	57
Legal counseling	58
Medical issues	60

### YOUR RIGHTS for asylum seekers

This brochure is intended for asylum-seekers, persons with a provisional admission, recognized refugees, and those without a regular residence status. It contains information about the rights related to encounters with the police, the asylum procedure, and life in an asylum shelter. Since these topics are not fully covered in this brochure, you can find a list of counseling centers at the end of this document to help you.

Further information and a digital version of this brochure can be found on www.rights-asylum.ch.



#### POLICE CHECKS AND DETENTION Police and identity checks

 The police have the right to check your identity. Although you are not obliged to have an ID with you, to avoid trouble or lengthy checking, it is always better to take it with you.

- Always ask for the reason for the identity check. The police must be able to give you a reason when you ask.
- Police officers must give you their name upon request. Police officers in plain clothes must identify themselves with a badge.
- In the case of police assault (such as violence or verbal abuse) or discriminatory controls (e.g., police checks due to your skin color), note names of the police officers, location, date, time, and addresses of people who have observed the incident. This is important for a complaint or criminal charge against the police. At the end of this brochure, you will find addresses you can contact.
- As soon as possible, write down the incident as you remember it so you do not forget important things. (Download or request a form from augenauf Bern, www. augenaufbern.ch).

 If you have observed an assault, also write the information down immediately and send it to the person concerned.



## Searches by the police

- The police are allowed to search your baggage if they deem you suspicious of a criminal offense. Always ask what crime you are being searched for. Ask why you are suspected of this offense.
- Extended personal searches (stripsearch, for example) are not permitted in public. Emptying pockets or palpation, however, is allowed.
- In case of extended searches, insist the police search you in their car or at the police station.
- Only doctors or physicians are allowed to examine body openings.
- Insist that, as a woman, you be searched by women, or, as a man, by men.
- If you consider refusing a search, you should know that this may result in a criminal charge.

- The police are allowed to take a DNA sample from you (oral smear). In general, law enforcement and courts are entitled to order this. However, the prosecution or the court of justice are responsible for arranging the analysis and creating a DNA profile.
- If you get a summons from the police for DNA collection, it does not mean that you are obligated to do so.
- After a DNA extraction, or upon receiving a summons to a DNA extraction, please always report to one of the counseling centers in the address section in chapter "Human rights/Repression" on page 53.
- Recognition measures can be ordered by the police, the prosecution, or the courts. This usually includes determination of the body characteristics of a person and taking prints of body parts. If you refuse such police orders, the prosecution decides.



# Train station / railway police

- Many things are forbidden at Bern central station. (Note the prohibition signs) The railway police enforce these rules. The SBB railway police can check your ID, arrest you temporarily, or hand you over to the police. In addition, the railway police are allowed to confiscate items. Private security services, such as Securitas, are not permitted to do so. According to the law, however, the railway police must hand over confiscated items and temporarily arrested persons "as quickly as possible to the police."
- The authority of the railway police is limited to railway stations and trains.
- Pay attention to the kind of uniform people wear.

# Private security guards

- In addition to the police, more and more uniformed personnel are also involved who are not police officers. They are employees of private security companies (e.g. "Protectas" or "Securitas"). They have no more rights than you have.
- If private security guards catch you while committing a criminal offense, they are allowed to arrest you. However, they must hand you over to the police immediately. They are not authorized to request an identity card, ask and search you, scan you, search your pockets, ask you for name and place of residence, or take things from you.



## Confiscation

- If the police want to confiscate something – take your phone away, for example
   always ask for a receipt. Confiscation is only allowed if an object can be used as evidence regarding a criminal offense or if it constitutes a threat to the public order. If confiscated objects are legal and are not being used as evidence, you can reclaim them later (with the receipt).
- If you are an asylum seeker in asylum proceedings, do not carry more cash on you than you absolutely need. Sometimes the police confiscate large amounts of cash. If they do so, do ask for a receipt.
- You can contact one of the legal counseling center in the address section in chapter "Foreigners" on page 51 or "Human rights/Repression" on page 53.



#### The right to remain silent

 If you are taken to the police station and questioned, you have the right to remain silent. This is not a trick but your right as being accused. This is useful when you or an acquaintance of you are accused of a criminal offense.



- You only have to give the following information:
  - Surname
  - Given name
  - Address where you are registered
  - Date of birth
  - Profession (not the employer)
  - Name of parents
  - Nothing else!
- Answer to all other questions with "No statement" or "I refuse to answer the question," even if they want to talk with you only "about the weather." Every statement endangers you and others.
- Do not sign anything you do not understand or disagree with.

In certain situations, however, it may be useful to make a statement to defuse the situation. If you decide to make statements, then consider the following:

- Please make sure that your statements are recorded correctly. (Are the recorded statements your own or those of the police?)
- Read the protocol carefully before signing.
- You are not obligated to sign protocols.



### Translation

- It is your fundamental right to request a translator when with the police, immigration services ("Fremdenpolizei"), or other authorities. You are strongly advised to use this right. If you are requested to sign a protocol, insist on a transcript in a language you understand well.
- Do not sign anything you do not understand.

## Expulsion / restrictions

• The police can expulse you from a place or detain you, e.g. if "there is reason to suspect" that you endanger public security and order, or that you hinder or disrupt the police in their work.

- This allows the police to forbid you to enter a certain area (station, city center, etc.) or leave a specific area (e.g., a canton).
  A breach of such an arrangement may have criminal consequences or consequences in the asylum procedure.
- You have the right to due process against such measures.
- Contact a legal adviser listed in the address section under "Foreigners" on page 51 or "Human rights/Repression" on page 53.



### Arrests

Administrative Detention ("Administrativhaft")

 Information about administrative detention ("Administrativhaft"), detention pending deportation ("Ausschaffungshaft"), etc. are found below in section "Mandatory measures and deportation."

Rights during imprisonment

(because of a criminal offense)

 The police can hold you for a maximum of 24 hours (or 48 hours on weekends), after which they have to send you to an investigator.



 The police must let you go after identification identity if there is no reason for a provisional arrest and no order to be send to the judge. If you are accused of a crime, you have the right to a lawyer.



 If you are held for more than 24 (or 48) hours, demand a lawyer immediately. If you cannot afford a lawyer, you have the right to free legal aid ("unentgeltliche Rechtsflege"). It will then be checked whether you are eligible for free legal aid. Demand information.  Always ask for the reason for the arrest. Ask about the offense of which you are suspected. Ask which behavior made you a suspect.



- If you are a minor, demand that your parents or your legal representative is contacted.
- If you have received a definitive removal decision and the deadline for your departure is exceeded, mandatory measures may result. The enforcement authorities can keep you short-term, restrict or expulse, as well as order preparation detention, immigration detention, or enforcement detention.

- Vulnerable people, minors, and families can insist to be accommodated separately.
- Always contact a legal counseling center! Check the address section of this brochure under "Foreigners" on page 51 or "Human rights/Repression" on page 53.

Attacks and injuries



 If you were a victim of an attack or you have been injured during detention, always demand that this is recorded in the interrogation protocol.

- Take a picture of visible injuries.
- After your release, always visit a doctor and have a medical certificate issued.
- Addresses can be found under "Medical issues" on page 60.

### ASYLUM PROCEDURE Engaging with the authorities

- If you receive a letter from the authorities as part of the asylum procedure, always immediately inquire about the matter. You can do this at the asylum shelter or at a legal counseling center. Make sure that you really understood what is ordered or asked in the letter.
- Keep every letter from the authorities and take your entire file with you when you ask someone for advice. Always make copies of your documents.
- If you receive an asylum decision, you must act very quickly. The deadlines for appealing against a decision are very short.





ASK AT THE ASYLUM SHELTER OR AT A LEGAL COUNSELING CENTER

**KEEP DOCUMENTS** 

ACT VERY QUICKLY

 Always contact a legal counseling center in the address section under "Foreigners" on page 51.

### Questioning grounds for asylum

- You applied for asylum. By doing this, you say that you (you personally) are at risk or in a life-threatening situation in your home country.
- You have the obligation to demonstrate or make credible that you are at risk. Financial or economic reasons are not accepted.
- You also are obligated to cooperate in verifying your identity. However, you cannot be forced to contact the authorities of your home country.
- The authorities usually question you twice. During both interviews, you must be able to convince the authorities that you are threatened in your home country.

- Prepare very carefully for these interviews. Try to put together pieces of evidence (arrest warrants, periodicals, etc.) in advance of the interview. Get in touch with people who can help you.
- Remember exactly what you said at the first interview. Contradictions between your statements can have negative consequences for you.
- Often pieces of evidence (for example an arrest warrant) do not exist. In this case, you do not need to prove anything, but the credibility of your information is examined in depth. You must appear authentic.
- You will be asked about the persecution, your journey to Europe, your life in your home country, etc. Always try to answer as precisely as possible, do not come up with exaggerations or simplifications.

- Make sure that the interviewers have really understood your report. If you sense distrust, try to explain your story as accurately as possible.
- If you have the impression that the translation is not correct or not in your favor, let them know.
- If you are a minor, make sure that your age is recorded correctly. If the authorities do not record your real age, please contact a legal adviser in the address section under "Foreigners" on page 51. As a minor, you receive more protection than an adult.

#### Mandatory measures and deportation

• If you receive a letter from the authorities giving you a time limit for leaving the country or announcing a deportation ("Wegweisungsvollzug"), always contact a legal counseling center in the address section under "Foreigners" on page 51.

- If your asylum application has been rejected, you are obliged by law to leave Switzerland. However, you have the option to request a re-evaluation of your application ("Wiedererwägungsgesuch").
   For such an admission, strict requirements apply.
- If you want to leave Switzerland voluntarily, you can claim return assistance and return programs.

#### TIME LIMIT FOR LEAVING A COUNTRY/ ANNOUNCING A DEPORTATION



• If you stay in Switzerland after the deadline is expired, you risk mandatory measures, a complaint of an illegal stay, and an entry ban for Switzerland.

# Preparatory detention ("Vorbereitungshaft")

To keep you from escaping a deportation, preparatory detention for a maximum of six months can be ordered. Preparatory detention is permissible if

- you refuse to disclose your identity or follow official orders,
- you violate an exclusion or restriction,
- enter the territory of Switzerland despite an entry ban and cannot be immediately expelled,
- you apply for asylum after a residence permit has been withdrawn or has not been renewed because of a threat to public security and order,

- you apply for asylum after you have been expelled,
- you apply for asylum to avoid an imminent expulsion,
- you have been convicted or prosecuted because you are seriously threatening other persons or lives,
- you have been convicted of a crime.

# Detention pending deportation ("Ausschaffungshaft")

As soon as your expulsion is ordered by the State Secretariat for Migration (SEM) or by a criminal court, detention pending deportation can be ordered. Such an order is permitted if

- you are already in preparatory detention,
- the law concerning foreigners ("Ausländergesetz") applies (as under preparatory detention),
- it is indicated that you want to escape the deportation,

- your previous attitude suggests rejection against official orders,
- the definitive removal decision is issued in a federal center for asylum seekers and the deportation is foreseeable. In this case detention may not exceed 30 days.

Detention pending deportation is also permissible if an enforceable decision has been made, the deadline has expired without you leaving Switzerland, and the cantonal authority must get travel documents for you. In this case, detention may not exceed 60 days.



Deportation can take place on 3 different levels:

- In level 1, the police will escort you to the plane. The deportation is carried out without handcuffs or police assistance.
- If you refuse, a level 2 deportation is carried out. You are handcuffed and escorted by a police officer on a regular flight.
- If this form is not possible due to your behavior, the deportation is carried out on level 4 with stronger restraints and with a special flight. This can already be the case if you do not cooperate with the authorities regarding your leave.
- Note that level 4 deportations are not conducted to all countries. Please contact a legal counseling center in the address section under "Foreigners" on page 51.


Families with children enjoy special protection under the Children's Rights Convention. If detention pending deportation is ordered for you or your family, insist that you and your family are not placed separately. Please contact a legal counseling center in the address section under "Foreigners" on page 51.



## Detention in the Dublin procedure

- If you have come to Switzerland via a Dublin state, and if Switzerland denies responsibility for processing your application for asylum, you are subject to the Dublin procedure.
- In this case, you may only be arrested if there is a considerable risk of escaping, if detention is appropriate, and less restrictive measures cannot be applied effectively. Imprisonment may be ordered already during the preparation of the decision.
- The maximum length of Dublin custody depends on many conditions. Please, get some advice on this matter.
- Unlike the forms of detention discussed above, the Dublin custody does not need to be automatically reviewed by a court. You yourself must ask, in writing, for a review of detention. This appeal is free of charge and does not entail any disadvantages for you.

# Coercive detention ("Durchsetzungshaft")

- If a legally binding expulsion cannot be carried out – for example because you are resisting or if detention pending deportation is legally not possible – coercive detention can be ordered.
- Coercive detention can last one month and may repeatedly be extended by a two months period with the consent of the judicial authority.

#### Maximum length of detention

 Preparatory detention, detention pending deportation, or detention in the Dublin procedure all together may not exceed 6 months. However, with cantonal legal consent this period may be extended by another 12 months (six months for minors). You must be released after a maximum of 18 months.

#### YOUR RIGHTS IN COLLECTIVE CENTERS Health

- If you need medical assistance, make sure the staff center knows. Be very clear about this.
- If the staff refuses to arrange a doctor's appointment, let them know that this might be criminal offense.

If medical attention is refused:

- You always have the right to visit the emergency room (hospital, "City-Notfall").
- Always contact a legal counseling center in the address section under "Human rights/Repression" on page 53, or, in the case of medical emergencies, contact one of the numbers in the section "Medical issues" on page 60.



Problems with other residents or with staff

• The staff of the center has a duty of care regarding problems between residents. This means that they must intervene in the case of conflicts among residents and, if necessary, protect residents from threats or danger.



- In case of bullying, theft, discrimination, or other problems, always contact the staff.
- If the staff does not act in case of conflicts, or if you have mental or physical health problems due to the conditions in the center, please contact the organization responsible for the center (for example the Salvation Army's refugee center).
- Regardless of the kinds of problems with other residents, always contact the staff. There are no taboos.
- If you have any problems with the center staff, please contact a counseling center.

 If the problems persist: contact a legal counseling center from the address section under "Foreigners" on page 51 or "Human rights/Repression" on page 53.

#### Room searches in the center

- Room searches in asylum centers occur frequently. When the police arrive in your room and you are not the target of the search, let the officers know which boxes and items belong to you.
- If you hinder the search, this can have criminal consequences.
- If objects are confiscated by the police, always demand a receipt.
- Confiscation by the center staff is not permitted.

## Particularly vulnerable people

- Always insist that women and families get a room separate from men.
- If you feel pressured for any reason, please contact the staff or the relevant counseling center in the address section.



 Asylum-seeking children have the right to attend school until the end of compulsory education (9th grade in Switzerland). Likewise, they have the right to go to secondary schools, or to begin an apprenticeship. Unfortunately, asylum-seeking children do not always get enrolled in school, the cantons seem to manage this issue differently.





#### Social allowance

- If your social benefits are confiscated by the police, ask for a receipt from them to reclaim the money later.
- Go to the center management and ask for confirmation that you have been paid social allowance and when.



- Never have more than CHF 400 on you since the police can take it from you.
- Contact a legal counseling center in the address section under "Foreigners" on page 51 or "Human rights/Repression" on page 53.



## Sans-Papiers

 If you live and work in Switzerland without a residence permit and if you have questions about health, work, school education or housing, you can contact the Sans-Papiers office, in the address section under "Foreigners" on page 51.



HEALTH WORK EDUCATION HABITATION



ADVISORY CENTER FOR UN-DOCUMENTED MIGRANTS / SANS-PAPIERS

#### For further information visit

www.rights-asylum.ch

## **COUNSELING CENTERS**

## FOREIGNERS

Asylhilfe Bern (support for asylum seekers and refugees) Bahnhöheweg 44, 3018 Bern 031 382 52 72 www.asylhilfe.ch info@asylhilfe.ch

Berner Beratungsstelle für Sans-Papiers (counseling for sans papiers) Effingerstrasse 35, 3008 Bern 031 382 00 15 www.sanspapiersbern.ch beratung@sans-papiers-contact.ch

Berner Rechtsberatungsstelle für Menschen in Not (legal support) Eigerplatz 5, 3007 Bern 031 385 18 20 (asylum seekers) 031 385 18 27 (Sans-Papiers) www.rechtsberatungsstelle.ch rbs.bern@bluewin.ch FASA – Fachstelle Sozialarbeit der kath. Kirche Region Bern, Asylbereich (catholic church's center for social work) Mittelstrasse 6a, 3012 Bern 031 300 33 65/66 www.kathbern.ch fasa.bern@kathbern.ch

isa – Informationsstelle für Ausländerinnen und Ausländerfragen (information center for foreigners) Speichergasse 29, 3011 Bern 031 310 12 72 www.isabern.ch beratung@isabern.ch

Kirchliche Anlaufstelle (christian center mandatory measures) Zwangsmassnahmen Kanton Bern Postfach 465, 3000 Bern 22 031 332 00 50 www.refbejuso.ch mathias.tanner@refbejuso.ch Kirchliche Kontaktstelle für Flüchtlingsfragen KKF (christian contact center for refugee problems) Effingerstr. 55, 3008 Bern 031 385 18 11 www.kkf-oca.ch info@kkf-oca.ch

Solidaritätsnetz Sans-Papier Bern (solidarity network) Bümplizstrasse 23, 3027 Bern 031 991 39 29 www.sans-papiers-be.ch info@solidaritaetsnetzbern.ch

#### HUMAN RIGHTS/REPRESSION

Amnesty International Speichergasse 33 3001 Bern 031 307 22 22 www.amnesty.ch AntiRep Bern (anti-repression activists) Postfach 2038, 3001 Bern www.antirep-bern.ch info@antirep-bern.ch

Demokratische Juristinnen und Juristen Bern (djb) (democratic jurists) Postfach 5850, 3001 Bern www.djs-jds.ch djb@djs-jds.ch

Menschenrechtsverein augenauf Bern (Human Rights organisation) Quartiergasse 17, 3013 Bern 031 332 02 35 www.augenauf.ch bern@augenauf.ch

#### VICTIM SUPPORT

Frauenhaus Bern (women's refuge) Postfach 2126, 3001 Bern 031 332 55 33 www.frauenhaus-bern.ch info@frauenhaus-bern.ch Lantana – Fachstelle Opferhilfe beisexueller Gewalt (center for support of victims of sexual assault) Aarbergergasse 36, 3011 Bern 031 313 14 00 www.lantana-bern.ch info@lantana-bern.ch

Opferhilfe Bern (victims assistance) Seftigenstrasse 41, 3007 Bern 031 370 30 70 www.opferhilfe-bern.ch beratungsstelle@opferhilfe-bern.ch

## PARTNERSHIP AND FAMILY

Ehe- und Familienberatung Bern, Fachstelle für Beziehungsfragen des Kantons Bern (counseling for marriage and family, cantonal center for relationship issues) Aarbergergasse 36, 3011 Bern 031 312 10 66 www.eheundfamilienberatung-bern.ch info@eheundfamilienberatung-bern.ch

frabina – Beratungsstelle für Frauen & binationale Paare (center for women and binational couples) Kapellenstrasse 24, 3011 Bern 031 381 27 01 www.frabina.ch info@frabina.ch

#### WOMEN

Infra Bern – Information centre for women Zentrum 5 Flurstrasse 26b, 3014 Bern 031 311 17 95 www.infrabern.ch

Terre des femmes Schweiz Standstrasse 42, 3014 Bern 031 311 38 79 www.terre-des-femmes.ch info@terre-des-femmes.ch

#### CHILDREN AND TEENAGER

Kinderanwaltschaft Schweiz (legal support for children) Zürcherstrasse 41, 8400 Winterthur 052 260 15 55 www.kinderanwaltschaft.ch info@kinderanwaltschaft.ch

## LEGAL COUNSELING

hab – homosexuelle Arbeitsgruppen Bern (lgbt groups in Bern) Villa Stucki, Seftigenstrasse 11, 3007 Bern 031 311 63 53 www.ha-bern.ch info@ha-bern.ch

Humanrights.ch – Rechtsberatungsstelle für Menschen im Freiheitsentzug (Legal advice centre for people under arrest) Hallerstr. 23, CH-3012 Bern 031 302 01 61 info@humanrights.ch www.humanrights.ch

Kirchliche Gassenarbeit Bern (christian street work) Speichergasse 8, 3011 Bern 031 312 38 68 www.gassenarbeitbern.ch mail@gassenarbeitbern.ch Ombudsstelle der Stadt Bern (ombudsman's office in Bern) Gemeindeaufsichtsstelle für den Datenschutz (center for data protection) Junkerngasse 56, Postfach 537, 3000 Bern 8 031 312 09 09 ombudsstelle@bern.ch

Pink Cross Schwulenorganisation Schweiz (national gay organization) Monbijoustrasse 73, 3007 Bern 031 372 33 00 www.pinkcross.ch office@pinkcross.ch

Queeramnesty Postfach CH, 3001 Bern www.queeramnesty.ch

Transgender Network Switzerland Monbijoustrasse 73, 3007 Bern www.tgns.ch legal@transgender-network.ch

## SEX WORKERS

XENIA – Fachstelle Sexarbeit (support for sex workers) Langmauerweg 1, 3011 Bern 031 311 97 20 40 www.verein-xenia.ch info@xeniabern.ch

#### MEDICAL ISSUES

Schweizerisches Rotes Kreuz Ambulatorium für Folter- und Kriegsopfer (ambulatory for torture and war victims) Werkstrasse 16, 3084 Wabern 058 400 47 77 www.redcross.ch

City Notfall Bern The doctor's office for emergencies Schanzenstrasse 4A, 3008 Bern 031 326 20 00 www.citynotfall.ch Gynecological hospital Bern Effingerstrasse 102, 3012 Bern 031 632 10 10 www.frauenheilkunde.insel.ch

Schweizerisches Rotes Kreuz Gesundheitsversorgung für Sans-Papiers (medical support for sans papiers) Werkstrasse 16, 3084 Wabern 058 400 47 77 www.redcross.ch gesundheit-sanspapiers@redcross.ch

Inselspital Notfall (emergency room in Bern) Freiburgstrasse 16, 3010 Bern 031 632 24 02 www.insel.ch

Kriseninterventionszentrum KIZ (crisis intervention centre) Murtenstrasse 21, 3008 Bern 031 632 88 11 www.upd.ch Notfallzentrum für Kinder und Jugendliche NZKJ (emergency room for children and teenagers) Freiburgstrasse, 3010 Bern 031 632 92 77 www.kinderkliniken.insel.ch

Many thanks to Printlayout: Manuel Kämpfer Weblayout: Simon Bärtschi, urukai.ch Pictograms: Tom Hänsel

#### PUBLISHED BY

Menschenrechtsverein augenauf Bern (Human Rights organisation) Quartiergasse 17 3013 Bern 031 332 02 35 www.augenauf.ch www.rights-asylum.ch bern@augenauf.ch PC: 46 - 186 462 - 9