

Article 16 of the Basic Law of the Federal Republic of Germany (1993)

Abstract

On May 26, 1993, three days before the arson attack on the Genç family home in Solingen, the Bundestag passed an amendment to Article 16 of the Basic Law that restricted the right to political asylum. The old and new versions of Article 16 are reproduced below.

Source

Article 16a:

1. Persons persecuted in political grounds shall have the right of asylum.
2. Paragraph 1 of this article may not be invoked by a person who enters the federal territory from a member state of the European Community or from another third state in which the standards of the Convention Relating to the Status of refugees and of the Convention for the Protection of Human Rights and Fundamental Freedoms are assured. States outside the European Communities to which the criteria of the first sentence of this paragraph apply shall be accordingly specified by a law subject to approval by the Bundesrat. In the cases specified in the first sentence of this paragraph, measures to terminate an applicant's stay may be set in motion without regard to any legal challenge that may have been raised against said measures.
3. By a law requiring the consent of the Bundesrat, states may be specified in which, on the basis of their laws, enforcement practices, and general political conditions, it can be safely concluded that neither political persecution nor inhumane or degrading punishment or treatment exists. It shall be presumed that a foreigner from such a state is not persecuted, unless he presents evidence justifying the conclusion that, contrary to this presumption, he is indeed persecuted on political grounds.
4. In the cases specified by paragraph 3 of this article and in other cases that are plainly unfounded or considered to be plainly unfounded, measures to terminate an applicant's stay may be suspended by a court only if serious doubts exists as to their legality; the scope of review may be limited, and tardy objections may be disregarded. Details shall be determined by further legislation. [...]

Source of the German original: https://www.gesetze-im-internet.de/gg/art_16a.html

Source of English translation: *Germany in Transit. Nation and Migration 1955–2005*, ed. Deniz Göktürk, David Gramling, and Anton Kaes. Berkeley: University of California Press, 2007, pp. 120–21. English translation by David Gramling with edits by GHI staff.

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