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Commission for Cases of Hardship for the State of Brandenburg

What is the Commission for Cases of Hardship?

The mandate of the Hardship Commission is to review whether there are urgent humanitarian or personal reasons to exceptionally justify a prolonged stay in Germany for individual cases of foreigners who are obliged to leave the country based on an enforceable decision. § 23a of the German Residence Act (Aufenthaltsgesetz, AufenthG) and the Regulation for Commissions for Cases of Hardship (Härtefallkommissionsverordnung, HFKV) form the legal basis for the activities of the Commission for Cases of Hardship of the State of Brandenburg.

The Commission for Cases of Hardship is a body established by the government that operates independently of administrative authorities. The committee consists of ten members who are proposed and appointed by the churches, welfare organisations, refugee organisations, the communal umbrella organisations and then state government (see list of members in this leaflet).

How does a Hardship Case review process proceed?

Cases of hardship may only be presented by members of the Commission for Cases of Hardship. Thus, affected individuals should contact a member of the Commission directly. If a member comes to the conclusion that an application is justified and has a chance of success, the member will then prepare the documentation and present the application to the Commission for deliberation. The respective member remains the contact person for the applying individual throughout the entire process. Any new in-

formation, in particular changes in accessibility, must be communicated immediately to the member. Legal assistance is not required through the process.



The Commission for Cases of Hardship is only able to address cases in which there is otherwise no longer opportunity to issue a residency permit according to regulations governing the rights of foreigners. Moreover, it must be convincingly demonstrated that the deportation would entail particular hardship due to urgent humanitarian or personal factors for the individual concerned, even when compared to other affected individuals. It is also imperative that a Foreigner's Registration Office in Brandenburg is responsible for the opportunity for residency.

The Commission for Cases of Hardship generally meets once per month. The applications are discussed in detail. If a minimum of two thirds of the commission members who are eligible to vote determine that the specifics of an individual case justified hardship, the commission files a hardship petition to the Minister of the Interior and Municipal Affairs.



The Minister of the Interior and Municipal Affairs decides whether he agrees with the petition. If he is in agreement, a residency permit is then issued in arrangement with the responsible Foreigner's Registration Office in accordance with § 23a of the German Residence Act.

Can deportation take place during the consultation process by the Commission for Cases of Hardship?

§ 4 Paragraph 4 of the HFKV specifies that the responsible Foreigner's Registration Office, on order of the Minister of the Interior and Municipal Affairs, desists from issuing a deportation for the duration of the consultation process by the Commission for Cases of Hardship. This does normally not apply to cases in which there is already a deadline for repatriation.

When is a procedure for a case of hardship excluded?

A procedure for a case of hardship is excluded if a residency permit can still be obtained through another process for residency or asylum or if only grounds are established that have already been reviewed or will still be reviewed as obstacles to deportation that relate to the country of destination.

Please refer to the website for the Commission for Cases of Hardship of the State of Brandenburg

www.mik.brandenburg.de/de/haertefallkommission

for other reasons for preclusion of a procedure that are specified by the HFKV. The member who reviews the application will assess the case for potential grounds for exclusion and will advise you if there are such grounds.

What information is required for a review by the Commission for Cases of Hardship?

Name, first name, date of birth, citizenship/ethnicity, marital status, current address (accessibility during the entire procedure is very important), responsible Foreigners' Registration Office

Information on the legal situation for the foreigner, in particular the deadline for deportation.

Correspondence with the authorities, written pleadings to a legal entity, documents relating to residency or asylum, court rulings and decisions

Presentation of the humanitarian or personal reasons that show probably hardship as a result of deportation (submit copies of any documents). Evidence of successful integration is very important (language skills, volunteer work, employment contract or offer, social relationships, etc.).

Declaration of consent from the person concerned and, if relevant, declaration of consent from relatives to deal with personal information and to inspect records and files.