



June 07, 2023

Application

the parliamentary groups of the SPD, BÜNDNIS 90/ DIE GRÜNEN and the FDP

to a resolution of

4th Committee of the German Bundestag

- Committee on Home Affairs and Homeland -

Passport refusal when participating in foreign events, the content of which contradicts the principles of free democratic basic order of the Basic Law

I. The Committee on the Interior and Homeland of the German Bundestag states:

In the past, right-wing extremist events were increasingly banned within the Federal Republic of Germany with reference to general legal powers to avert danger. This affected, for example, combat events aimed at teaching the participants combat techniques in order to be able to use them in the fight against the free democratic basic order and against people with different opinions.

The consistent and sustained approach to such events meant that these were increasingly relocated abroad and were therefore not accessible to the domestic authorities.

In order to prevent German nationals from being able to take part in right-wing extremist events abroad, the competent authorities subsequently banned people from leaving the country and refused passports on the basis of Sections 7 and 10 of the Passport Act (PassG) against any participants. Some of the persons concerned took legal action against this.

The administrative courts often decided as part of the provisional legal protection that the respective refusals to leave the country and passport were probably unlawful. In particular, they pointed out that the authorities had not provided sufficient factual basis for the assumption of a concrete threat to the international reputation of the Federal Republic of Germany and thus another significant interest of the Federal Republic of Germany within the meaning of Section 7 (1) number 1 variant 3 PassG may be. In these cases they gave up

the applications of any participants in such events.

Taking into account this decision-making practice of the administrative courts, there is a need to give the authorities further information on how to interpret Section 7 (1) number 1 variant 3 PassG. Because if you take part in extremist events abroad, the content of which runs counter to the free democratic basic order, a threat to the international reputation of the Federal Republic of Germany and thus to another significant concern must be assumed.

At the same time, the decision-making practice of the administrative courts described shows that only if there is a sufficient flow of information from the security authorities to the passport authorities can a viable factual basis be created that can lead to definitive refusals to leave the country and to refuse a passport. In another case, a German national who wanted to travel to Afghanistan in order to be able to carry out activities for her local non-profit association lost in two instances with her complaint against the ban on her leaving the country and the restriction of the area of validity of her passport to the Federal Republic of Germany. Because the passport authority had always obtained an up-to-date assessment of the risk situation from the security authorities. Based on the extensive and detailed information from the security authorities, it was possible to prove that there was a risk that the passport holder would be kidnapped in Afghanistan and that the Federal Republic of Germany would be forced to pay a ransom with this kidnapping.

II. Against this background, the Committee on Home Affairs and Homeland calls for German Bundestag the Federal Government on:

1. To work towards specifying the passport management regulation in such a way that the international reputation of the Federal Republic of Germany and thus another significant concern of the Federal Republic of Germany within the meaning of § 7 para. 1 No. 1 Var. 3 PassG is to be accepted and
2. Work towards improving the flow of information from the security authorities to the passport authorities, so that when deciding on a passport refusal, the passport authorities have a sufficient factual basis to be able to refuse a passport that will stand up in court.