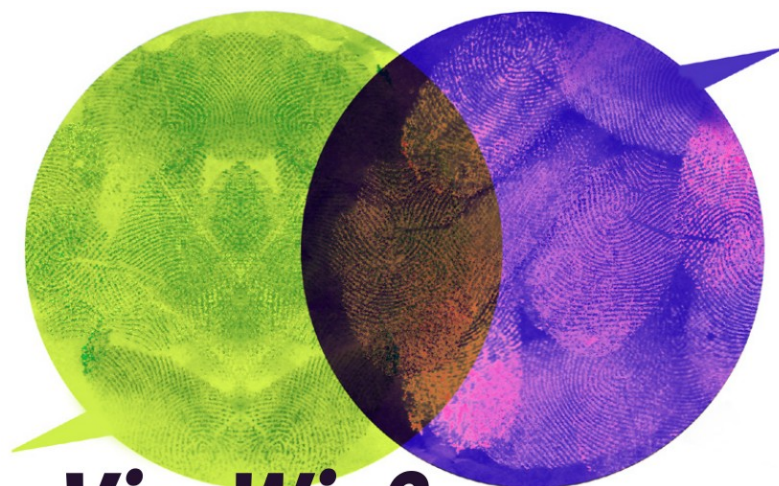


Position Paper

on the German procedure of visa issuance



VisaWie?

Gegen diskriminierende Visaverfahren!

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About us

The “*VisaWie?*” campaign is a joint project to promote comprehensive changes in the German and European procedure of visa issuance. Initiated by the association *Zugvögel, interkultureller Süd-Nord-Austausch e.V.* many individuals and organizations with a background in development policy and anti-racism activism have become supporters of the campaign.

As a common goal of our different backgrounds and motivations we see the will to an active contribution to society and the abolition of post-colonial structures. Our political work starts with critical self-reflection and leads to specific activities like public events addressing post-colonial structures.

The daily scandal – the problem beneath

The common procedure of visa issuance

Most people in the world have to get a visa in order to enter Germany. The visa is issued by the particular German embassy. The applicant has to fulfil the requirements of that embassy. In addition to the travel documents this can imply financial reserves, plausibility of the purpose of travel, a written invitation and an assessment of the so called “intent to return”.

The problem

In Germany visa issuance is generally perceived as unproblematic. In a global context however, the current procedure of visa issuance causes exclusion for a majority of people.

What is happening? The visa applications of residents from economically underprivileged countries – countries of the Global South – are being denied above-averageⁱ. The exclusion of people is not only caused by rejection of an application: The common requirements for the application prevent most people from applying for a visa in the first place. This established procedure of the German authorities affects all people who want to cross the German borders for either private or professional reasons.

The insufficient “intent to return” is the most frequent reason for the denial of visa applications from certain countries. The applicant has to convince the authorities that he/she will return to his/her home country after the visa has expired. Since the “intent to return” cannot be measured by objective criteria, a visa application can be denied without naming an objective reason, even though all the formal requirements have been met. Consequently, the common visa issuance is based on administrative arbitrariness, which is referred to as “discretionary power”. The applicant is met with the prejudgement that he/she intends to extend his/her residency illegalizedⁱⁱ or to post a follow-up-application for a long-term residency after the visa has expired.

“[...] The whole tedious bureaucratic procedure acts as an economic, political and cultural filter”ⁱⁱⁱ The visa issuance therefore does its part in manifesting the power and privileges of the Global North by maintaining inequalities and injustice. Racist and power-motivated exclusion is practiced, legitimized and disguised by means of general clauses (§5 German Residence Act) and euphemisms like “intent to return”.

Our demands

1.) *We demand a transparent and fair procedure of visa issuance*

- **Satisfiability:** The authority's requirements have to be comprehensible and attainable for everybody. A plausible explanation must be given in case of a rejection. Constraints like the proof of employment, private property, social and familial-based roots in the home country, a written invitation and a declaration of commitment cause a non-acceptable exclusion.
- **Foundation of trust:** In order to stop the common prejudgemental procedure, trust should be placed in all statements of the applicant. Instead of the applicant, the responsible embassy has to argue a rejection with verified reasons.
- **Limitation of the discretionary power:** Due to the vast discretionary power of German embassies regarding the assessment of the intent to return and other criteria, the true condition of the applicant is not examined sufficiently. This leads to immense differences in rejection rates of visa applications with similar conditions from one embassy to another. We therefore demand that the discretionary power of embassies will be limited.
- **Submission of the applications:** In order to divert unnecessary travel expenses, applications should be accepted if sent with postal delivery or brought by an authorized representative.
- **Processing status:** Applicants get to be informed about the processing status of their application at any time. In the case of rejection, the applicant is to be informed immediately. A detailed and comprehensible justification should be attached to the rejection letter.
- **Reachability:** The applicant should have a reachable contact person, who is also able to give information about the current processing status.
- **Time frame:** The time frame of the visa issuance (from application to issuance) has to be regulated distinctly. The delay of the process is intolerable for everyone involved. It leads to planning uncertainties for all involved actors concerning the stay in Germany and further developments after returning to the home country.

2.) *We demand that the criteria "intent to return" as a requirement for the issuance of a national visa is abolished, since it can neither be proven nor disproven comprehensively. In addition to that the allegedly "insufficient intent to return" can not be seen as a threat to the "interests of the Federal Republic of Germany" as described in the §5 of the German Residence Act. The current method is therefore not justifiable.*

- **Determination:** It is not possible to unequivocally determine an "insufficient intent to return" hence it is a blunt allegation toward the applicant. Reasons based on assumption must not be ground for the rejection of a visa application.
- **Principle of equal footing:** We want to enable an intercultural exchange in all directions and dismantle the hurdles for people who are willing to get to know Germany and are keen on making new experiences here. Intercultural exchange and learning experiences such as international volunteer programs sponsored by the government are *in the best interest* of the Federal Republic of Germany. We want to have a positive welcoming atmosphere in Germany and do not want to exclude and reject people due to their heritage or because of prejudices we created ourselves.

We recognize

Apart from these demands, we recognize that we ourselves are part of the existing power structures and that we profit from them. Even though it is our goal to break with these power patterns we are conscious of the fact that we form part of the structures that were constructed by the privileged. That includes for example the acceptance of financing through global institutions like the BMZ and a number of different foundations, which implies that we tolerate global imbalances. We aim to highlight these problems from our position as part of the existing structures as well as to propose possible solutions and by that initiate a change in society.

Glossary

Racism

Against common belief, racism is not a phenomenon of the extreme political right in society but instead it is, in a nutshell, the combination of prejudices and institutional power, which permeates society as a whole^v. Understood like that, racism describes a historically evolved system, which becomes apparent in economic, social, cultural and political relations. Supposedly given physical features are being connected to character traits and behavioral patterns, which are then generalized, presented as absolute and ordered in a hierarchical fashion^{vi}. The so established hierarchy constructs a power relation that is reflected daily, among others also in the practice of issuing visa. The manifestation of the privileges of *white* people is a consequence of racism, which becomes apparent in withholding these privileges to people from the Global South within the current visa practice.

Post-colonialism

The theory of post-colonialism focuses on the situation of formally colonized countries after the end of the colonial rule. It emphasizes that the history of colonialism did not end with the formal declaration of sovereignty of the respective countries but that a number of imperial structures influence these countries until today. This can not only be observed in the economic field. On the contrary, the theory highlights that "the most important factors of colonization are not to be found in technical-industrial superiority, economic exploitation or international competition. Even more fundamental are cultural dispositions, which have made colonial expansion and rule attractive and acceptable – and even more fundamentally: thinkable."^{vii}. In other words, occupation of a lot of colonies has forced upon them the image and functioning of the western world. In the discriminating practice of visa issuance post-colonial structures still have a considerable influence.

Global North/Global South

Instead of the hierarchical division of the world in developed and developing countries, or First and Third World, we here refer to the pair "Global South" - "Global North", which do not have any values attached to them. The capital letters are intended to imply that we refer to socio-political concepts and not to geographical concepts. Global South in that sense describes a disadvantaged economic and political position in the current world order. Global North on the other hand, describes an advantaged, privileged position.

Voluntary service

A voluntary service is a service to society that is voluntarily offered and initiated by the volunteer him/herself. It encompasses among other the work in social, ecological and cultural institutions combined with a longer stay in the respective location. This work makes it possible for the volunteers to contribute to the improvement of interpersonal relations and to reflect on their experiences in order to further develop their personally. A lot of programs like the federal voluntary service, „weltwärts“ or „kulturweit“ are government funded.

- i Claudia Finotelli & Giuseppe Sciortino (2013): Through the Gates of the Fortress. European Visa Policies and the Limits of Immigration Control. Perspectives on European Politics and Society. DOI:10.1080/15705854.2012.732390
- ii We don't support the concept of an "illegal stay" but mean an illegalized stay
- iii Gaibazzi, Paolo (2013): "Die Reisefreiheit der anderen", Le Monde Diplomatique [translated from original]
- iv §5 German Residence Act regulates the general conditions for the issuance of a national visa. Among others, the foreigner's stay must not jeopardize the "interests of the Federal Republic of Germany". According to current interpretation by German embassies, the insufficient intent to return jeopardizes the "interests of the Federal Republic of Germany".
- v Sow, Noah (2011): *Rassismus*. In: Wie Rassismus aus Wörtern spricht. (K)Erben des Kolonialismus, Wissensarchiv deutsche Sprache, S.37
- vi Attia, M. (2012): Konstruktion mit realen Folgen. In: Wer anderen einen Brunnen gräbt, S.12
- vii Bundeszentrale für politische Bildung (2012): Kolonialismus und Postkolonialismus. Schlüsselbegriffe der aktuellen Debatte, <http://www.bpb.de/apuz/146971/kolonialismus-und-postkolonialismus?p=all> (Approach on 3.1.2015) [translated from original]