

Criticism legal entitlement

For the reasons itemised below, the autonomous women's refuges have cause to believe that an individual legal entitlement would significantly increase the bureaucratic hurdles faced by women affected by violence in finding a place in a refuge:

I. No legal entitlement without burden of proof

If the funding of women's refuges depends on women affected by violence and their children having to assert an individual legal entitlement to claim a social benefit to fund their stay in a refuge, there are concerns that, to save costs, funding agencies would set up new hurdles for admission, such as the following:

- The women's refuge may only admit women who have asserted a legal entitlement to the corresponding social benefits for themselves and their children.
- The burdens of proof required in order to assert a legal entitlement and draw the appropriate benefits under the German Social Codes correspond to those set out in SGB I. 1 *cf. SGB I, sections 38, 40, 60. It follows that those who wish to assert a legal entitlement to social benefits must meet the corresponding requirements (section 40). To determine whether these requirements are met, all the facts that are of significance for the benefit must be specified. At the request of the competent service provider, consent must be given to the disclosure of the necessary information by third parties. Items of evidence must be identified and, at the request of the competent service provider, such evidence must be submitted or agreement to its submission must be given (section 60).*
- Anyone unable to submit (objective) evidence for the violence suffered cannot assert a legal entitlement for themselves or their children and so cannot be admitted to the women's refuge or must leave the refuge after the situation has been clarified.

The admission of women affected by violence and their children is already being made more difficult in some local authorities, districts and federal states for reasons of cost. Women's refuges are, for instance, complaining that they are not supposed to admit women from outside their area or state. In many local authorities and districts women are having to leave the refuge as quickly as possible for reasons of cost. Women who have an uncertain residence status are not even to be admitted in the first place because the costs are not reimbursed. It is a similar picture for women not entitled to social benefits. The situation is exacerbated by disputes on the reimbursement of costs right through to court proceedings between individual local authorities.

II. Individual legal entitlement = individual funding?

The demand for an individual legal entitlement does not address the question of how the women's refuges are funded. As explained above, however, if refuges were funded by means of a monetary payment act, i.e. on a case-by-case basis, this would make it more difficult for women affected by violence and their children to access prompt and unbureaucratic protection and the help they need in their situation.

It has since been amply demonstrated that funding on a case-by-case basis excludes whole groups of women, e.g. migrants without (assured) residence, EU citizens, wives with joint assets, students and apprentices. Women with their own income or property are compelled to draw social benefits because they are generally unable to pay the high day rates from their own earned income. In order to fund their stay in the refuge, these women have to apply for social benefits which they would otherwise not need to support themselves. This means they are having to pay for their own protection and support and even get into debt so they can afford to stay in the refuge.

For political reasons, too, we believe funding on a case-by-case basis to be the wrong path. It identifies the woman who is affected by violence as the problem, while the social causes of violence against women are ignored.

III. Full implementation of the Istanbul Convention instead of a legal entitlement

Our goal is the full implementation of the Istanbul Convention, which – among other things – demands rapid and unbureaucratic access for women affected by violence and their children to demand-led protection and professional support, regardless of their residence status, place of residence, income, assets, educational or occupational situation. This goal can only be achieved effectively and comprehensively by departing from case-by-case funding and opting instead for the reliable and demand-led funding of women's refuges on a statutory basis regardless of the individual case.

We therefore continue to demand the following:

- Free, rapid and unbureaucratic access for women affected by violence and their children to a women's refuge of their choice, regardless of their residence status, place of residence, income, assets, educational or occupational situation or possible impairments.
- A departure from the day rate (case-by-case) funding model, and instead – together with the CEDAW Alliance and the German Women's Council – a mechanism for the funding of women's refuges that is demand-led and independent of individual cases and is enshrined in federal law, so that it applies to all states.
- A binding, permanent and appropriate apportionment of the necessary financial resources between federal, regional and local government. This is the only way delivery of the demand-led services of women's refuges can be protected. It is essential for the support organisations, however, that the necessary resources come from one source.
- Federal legislation on funding, because only that will allow equal access to the refuge system to be enshrined in binding regulation across the country.