

Asylum Procedure Act of 26 June 1992

Date of Entry Into Force: 1 July 1992

Note: This is an unofficial translation. Last amendment included here is the Act of 1 November 1996 (Sechstes Gesetz zur Änderung des Verwaltungsgerichtsordnung und anderer Gesetze) which entered into force on 1 January 1997. This act has been amended by the Act of 26 May 1997 (BGBl. I p. 1130) and Act of 18 June 1997 (BGBl. I p. 1430). These amendments are not included here as no English translation is available to date.

Chapter 1 - GENERAL PROVISIONS

Section 1 (Scope of application)

(1) This Act shall be applicable to aliens applying for protection from political persecution pursuant to Article 16a paragraph 1, second sentence, of the Basic Law or from being returned to a state where they are threatened by the dangers mentioned under section 51 paragraph I of the Aliens Act.

Sec.2 (Legal Status of Persons Entitled to Asylum)

(1) In the Federal Territory, persons entitled to asylum shall enjoy the legal status pursuant to the Convention on the Legal Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).

(2) Provisions granting a more favourable legal status to persons entitled to asylum shall remain unaffected.

(...)

Sec.4 (Binding Character of Decisions)

The decision on the asylum application shall be binding in all matters in which the recognition or the presence of the conditions pursuant to Section 51 paragraph I of the Aliens Act are relevant in law. This shall not apply to the extradition procedure.

Sec.5 (Federal Office)

(1) Asylum applications shall be decided by the Federal Office for the Recognition of Foreign Refugees. Under the terms of this Act the Federal Office shall also be responsible for measures and decisions under aliens law.

(2) It shall be for an officer of the Federal Office, who shall in this respect not be bound by instructions, to take a decision on each individual asylum application and to establish whether or not the conditions pursuant to Section 51 paragraph 1 of the Aliens Act are fulfilled. (...)

Sec.6 (Federal Commissioner)

(1) A Federal Commissioner for Asylum Matters shall be appointed to the Federal Office.

(2) The Federal Commissioner may take part in asylum procedures at the Federal Office and in lawsuits that are brought before the administrative courts. He shall be given the opportunity to make comments. He may bring an action against decisions of the Federal Office.

(...)

SUB-CHAPTER 1 - GENERAL RULES OF PROCEDURE

Sec.13 (Asylum Application)

(1) An asylum application shall be deemed to have been made, if it can be drawn from the alien's written, oral or otherwise expressed desire that he is seeking, on the Federal Territory, protection from political persecution or that he requests protection from deportation or other return to a state where he would be subject to the threats defined in Section 60 of the Residence Act.

(2) With an asylum application, the alien applies both for the determination as to whether the requirements of Section 51 paragraph 1 of the Aliens Act are met, and - unless the alien expressly objects - for recognition as a person entitled to asylum.

(3) Any alien who does not have the necessary entry documents shall apply for asylum at the border (Section 18). In the case of an unauthorized entry he shall immediately report to a reception centre (Section 22) or apply for asylum with the aliens authority or with the police (Section 19).

(...)

Sec.15 (General Obligations to Co-operate)

(1) The alien shall be personally obliged to co-operate in establishing the facts of his case. This shall also apply if he is represented by an attorney-in-fact.

(2) He shall be obliged in particular to

1. provide the necessary information orally, and upon request also in writing, to the authorities responsible for the implementation of this Act;
2. inform the Federal Office without delay if he has been granted a residence authorization (Aufenthaltsgenehmigung);
3. comply with the statutory and official orders which require him to report to specific authorities or institutions or to personally appear there;
4. submit, deliver and leave his passport or surrogate passport to the authorities responsible for the implementation of this Act;
5. submit, deliver and leave all necessary certificates and any other documents in his possession to the authorities responsible for the implementation of this Act;
6. co-operate where he does not have a valid passport or surrogate passport, in obtaining an identity document;
7. undergo the required identification measures.

(3) Necessary certificates and other documents within the meaning of para. 2 no. 5 shall include in particular

1. any certificates and documents apart from the passport or surrogate passport which might serve to establish the identity and nationality of the data subject;
2. visas, residence permits and other border crossing documents issued by other states;
3. air tickets and other transport tickets;
4. documents concerning the travel route from the home country to the Federal Territory, the means of transportation used and intermediate stays in other states sequent to the exit from the country of origin and prior to the entry into the Federal Territory;
5. any other certificates and documents on which the alien bases his claim or which are relevant for the decisions and measures to be taken under asylum and aliens law, including the decision and enforcement of a potential deportation to another state.

(4) The authorities responsible for the implementation of this Act may search the alien and the items he carries, if he does not comply with his obligations under paragraph 2, nos. 4 and 5 above, and if there are indications that he has such documents. The alien may only be searched by a person of the same sex.

(5) The withdrawal of the asylum application shall not terminate the alien's obligation to co-operate.

(6) co-operate in obtaining an identity document in case he does not have a valid passport or surrogate passport.

(...)

Sec.17 (Interpreters/Translators)

(1) If the alien does not have an adequate knowledge of the German language, an interpreter, translator or another person versed in foreign languages shall be called in officially to attend the hearing in order to translate into the alien's mother tongue or into another language in which the alien can communicate orally.

(2) The alien shall have the right to call in, at his own expense, a qualified interpreter/translator of his choice.

SUB-CHAPTER 2 - INSTITUTING AN ASYLUM PROCEDURE

Sec.18 (Tasks of the Border Authority)

(...)

(2) The alien shall be refused leave to enter, where

1. he enters from a safe third country (Section 26a);

2. the requirements of Section 27 paras. 1 or 2 obviously apply or

3. where he poses a threat to the general public, because he has non-appealably been punished with imprisonment of at least three years in the Federal Republic of Germany on account of a particularly serious criminal offence and where his leaving the country did not take place more than three years ago.

(3) The alien shall be removed if the border authority find him in the vicinity of the border immediately before or after an illegal entry and if the conditions pursuant to para. 2 apply.

(4) Where an alien enters from a safe third country (Section. 26a), the authorities shall refrain from refusing him the leave to enter or from removing him, in so far as

1. the Federal Republic of Germany is responsible for carrying out the asylum procedure on the basis of an international agreement with the safe third country or

2. the Federal Ministry of the Interior has given orders to such effect for international or humanitarian reasons or in order to safeguard the political interests of the Federal Republic of Germany.

(5) The border authority shall take the alien's photograph and fingerprints.

(...)

SUB-CHAPTER 3 - PROCEDURE BEFORE THE FEDERAL OFFICE

Sec.25 (Hearing)

(1) The alien himself shall explain the facts underlying his fear of political persecution and provide the necessary details. The necessary details shall include information concerning residences, itineraries, stays in other states and information on whether a procedure aimed at obtaining recognition as a foreign refugee or an asylum procedure has already been initiated or completed in other states or on the Federal Territory.

(2) The alien shall indicate all other facts or circumstances which preclude deportation or deportation to a specific state.

(...)

(4) For an alien who is obliged to lodge in a reception centre, the hearing should be arranged to coincide with the filing of the asylum application. It shall not be necessary to issue special summons requiring the alien and his attorney-in-fact to appear. This provision shall apply mutatis mutandis if the date of the hearing is communicated to the alien at the time he files his application or within a period of one week thereafter. If the hearing cannot take place on the same day, the alien and his attorney-in-fact shall be informed without delay of the date of the hearing. If the alien fails to appear at the hearing without a valid excuse, the Federal Office shall decide, on the basis of the record as it stands, taking the alien's failure to co-operate into account.

(5) In the case of aliens who are not obliged to lodge in a reception centre, a personal hearing may be dispensed with, if the alien fails to comply with a summons for a personal hearing without valid excuse. In this case, the alien shall be given opportunity to state his case in writing within a period of one month. If the alien fails to state his case within this period, the Federal Office shall decide on the basis of the record as it stands, taking the alien's failure to co-operate into account. The provisions of Section 33 below shall remain unaffected.

(6) The hearing shall not be public. It may be attended by persons who identify themselves as representatives of the Federation, the Länder, the United Nations High Commissioner for Refugees or the Special Commissioner for Refugee Matters at the Council of Europe. The head of the Federal Office or his deputy may allow other persons to attend.

(...)

Sec.26a (Safe third Countries)

1. Any alien who has entered the Federal Territory from a safe third country within the meaning of Article 16a para. 2, first sentence, of the Basic Law (safe third country) cannot invoke Article 16a para. 1 of the Basic Law. He shall not be recognized as being entitled to asylum. The first sentence above shall not apply where

(...)

3. the alien has not been rejected or removed on account of an order pursuant to Section 18 para. 4 no. 2 above.

Sec.27 (Safety from Persecution Elsewhere)

(1) An alien who was already safe from political persecution in another third state shall not be recognized as a person entitled to asylum.

(2) If the alien holds a travel document issued by a third safe country (Section 26a) or by another third state pursuant to the Convention on the Legal Status of Refugees, he shall be deemed to have been safe from political persecution in such state.

(3) If an alien has resided, for a period exceeding three months before entering the Federal Territory, in another third country where he is not threatened by political persecution, he shall be deemed to have been safe there from political persecution. This shall not apply if the alien provides prima facie evidence that deportation to another state where he is threatened by political persecution could not be ruled out with reasonable certainty.

(...)

Sec.29 (Irrelevant Asylum Applications)

(1) An asylum application shall be irrelevant if it is manifest that the alien was already safe from political persecution in another third state and if his return to this state or to another state where he is safe from political persecution is possible.

(2) If it is impossible to return him within a period of three months, the asylum procedure shall be continued. The aliens authority shall inform the Federal Office without delay.

(3) Furthermore, an asylum application shall be irrelevant if, on account of an international agreement, another Contracting State, which is a safe third country (Section 26a) is responsible for carrying out an asylum procedure or takes over such responsibility. Section 26a para. 1 above shall remain unaffected.

Sec.30 (Manifestly Unfounded Asylum Applications)

(1) An asylum application shall be manifestly unfounded if the prerequisites for a recognition as a person entitled to asylum and the prerequisites pursuant to Section 51 para. 1 of the Aliens Act are obviously not met.

(2) An asylum application shall especially be manifestly unfounded if it is obvious from the circumstances of the individual case that the alien stays on the Federal Territory only because of economic reasons or in order to evade a general emergency situation or an armed conflict.

(...)

Sec.31 (Decision of the Federal Office on Asylum Applications)

(1) The decision of the Federal Office shall be passed in writing. It shall contain a justification in writing and be served, with information on legal remedy, on those concerned. Where the asylum application is only turned down pursuant to Section 26a above, the decision together with the deportation order under Section 34a below shall be served on the alien himself. It may also be served on him by the authority responsible for the deportation or for carrying out the deportation. Where the alien is represented by an attorney-in-fact or where he has named an authorized receiving agent, a copy of the decision shall be passed on to the attorney-in-fact or to the authorized receiving agent.

(2) In decisions on relevant asylum applications and in decisions pursuant to Section 30 paragraph 5 it shall be expressly determined whether the conditions of section 51 paragraph 1 of the Aliens Act are fulfilled and whether the applicant is recognized as a person entitled to asylum; the latter determination shall be dispensed with where the application was restricted to determining whether the conditions of Section 51 paragraph 1 of the Aliens Act are fulfilled.

(3) In cases pursuant to the preceding paragraph and in decisions on irrelevant asylum applications it shall be determined whether there are reasons precluding deportation pursuant to Section 53 of the Aliens Act. This determination may be dispensed with where

1. the alien is recognized as a person entitled to asylum;
2. it is determined that the requirements under Section 51 para. 1 of the Aliens Act apply or
3. where the asylum application is irrelevant pursuant to Section 29 para. 3 above.

(4) Where the asylum application is only turned down pursuant to Section 26a it shall only be determined that the alien on account of his entering the Federal Territory from a safe third country is not entitled to the right of asylum.

(...)

SUB-CHAPTER 4 - TERMINATION OF RESIDENCE

Sec.34 (Notification Announcing Deportation)

(1) Pursuant to Sections 50 and 51 paragraph 4 of the Aliens Act, the Federal Office shall issue a notification announcing deportation if the alien is not recognized as a person entitled to asylum and if he does not hold a residence authorization (Aufenthaltsgenehmigung). A hearing of the alien prior to the issue of the notification announcing deportation shall not be required.

(2) The notification announcing deportation should be issued in conjunction with the decision on the asylum application.

Sec.34a (Deportation Order)

(1) Where the alien is to be deported to a safe third country (Section 26a), the Federal Office shall order his deportation to such state as soon as it has been ascertained that the deportation can be carried out. This shall also apply where the alien has restricted the asylum application to the determination of whether the requirements under Section 51 para. 1 of the Aliens Act apply or where he has withdrawn the asylum application prior to the decision by the Federal Office. It shall not be necessary to previously issue a notification announcing deportation not to set a time-limit.

(...)

Sec.36 (Procedure in Cases of Irrelevant and Manifestly Unfounded Asylum Applications)

(1) In cases where the asylum application is irrelevant or manifestly unfounded, the alien shall be set a time-limit of one week in order to leave the country.

(...)

(3) Complaints against the notification announcing deportation pursuant to Section 80 paragraph 5 of the Rules of the Administrative Courts shall be filed within a period of one week after notification; the notice of the Federal Office should be enclosed with such complaint. The alien shall be notified hereof.

(...)

The decision shall be passed in a written procedure; an-oral court hearing in which the action is heard at the same time shall not be admissible. The decision should be passed within one week after the date of the expiry of the time-limit under paragraph 1 above.

(4) An order to suspend deportation may only be issued if there are serious doubts as to the legality of the administrative act against which a complaint has been filed. Facts and evidence not stated by the persons involved shall not be considered unless they are known to the court or obvious. The production of facts and evidence which were not considered in the administrative procedure pursuant to Section 25 para. 3 and facts and circumstances within the meaning of Section. 25 para. 2, which the

alien did not produce in the administrative procedure may be left unconsidered by the court if the decision would otherwise be delayed.

Sec.37 (Further Procedure in Case of a Complaint Sustained by Court)

(1) The decision of the Federal Office on the irrelevance of the application and the notification announcing deportation shall become ineffective if the complaint pursuant to Section 80 paragraph 5 of the Rules of the Administrative Courts is sustained by the administrative court. The Federal Office shall continue the asylum procedure.

(...)

(3) Paragraphs 1 and 2 shall not apply if, due to the decision of the administrative court, deportation to one of the states mentioned in the notification announcing deportation becomes enforceable.

Sec.38 (Time-limit for Departure in Cases where the Asylum Application is Rejected for other Reasons or is withdrawn by the Applicant)

(1) In other cases where the alien is not recognized by the Federal Office as a person entitled to asylum, he shall be set time-limit of one month for his departure. If action is brought, the time-limit for leaving the country shall end one month after the non-appealable termination of the asylum procedure.

(...)

(3) In cases where the asylum application is withdrawn or where action is brought, the alien may be granted a time-limit of up to three months if he agrees to leave the country voluntarily.

(...)

Sec.40 (Informing the Aliens Authority)

(1) The Federal Office shall immediately inform the aliens authority responsible for the district where the alien is obliged to reside of any enforceable notification announcing deportation and shall immediately submit to it any documents that are required in connection with the deportation. The same shall apply if the administrative court has ruled that the suspensive effect of a complaint based on a reason precluding deportation pursuant to Section 53 of the Aliens Act shall apply only with regard to a deportation to the state concerned and if the Federal Office does not continue the asylum procedure.

(...)

Sec.41 (Statutory Temporary Suspension of Deportation (Duldung))

(1) Where the Federal Office or the administrative court have established that there are reasons precluding deportation pursuant to Section 53 paragraph 6 of the Aliens Act, deportation to the state concerned shall be suspended for a period of three months. In case of a complaint pursuant to Section 80 paragraph 5 of the Rules of the Administrative Courts or in case of an action brought to court the period shall begin once the court decision becomes non-appealable; as for the rest, it shall begin once the decision of the Federal Office becomes non-appealable.

(2) The aliens authority may revoke the suspension of the deportation. Upon expiry of the three month period it shall decide whether temporary suspension of deportation (Duldung) shall be granted.

(...)

Sec.43a (Suspension of Deportation by the Federal Office)

(1) As long as an alien is obliged to lodge in a reception centre he shall not be issued with a residence authorization (Aufenthaltsgenehmigung). Any request for being granted a residence authorization or for having a residence authorization prolonged shall be inadmissible.

(2) As long as an alien is obliged to lodge in a reception centre, Sections 54 and 55 para. 3 of the Aliens Act shall not apply to him.

(3) The Federal Ministry of the Interior, for international or humanitarian reasons or so as to safeguard the political interests of the Federal Republic of Germany, may issue the order that the deportation of aliens to whom Section 54 of the Aliens Act does

not apply pursuant to the preceding paragraph, be suspended for the period of six months at the most. The Federal Office shall suspend the deportation according to such order.

(...)

Sec.47 (Stay in Reception Centres)

(1) Aliens who have to file the asylum application with a branch office of the Federal Office (Section 14 paragraph 1), shall be obliged to live for a period of up to six weeks, but no longer than three months, in the reception centre responsible for receiving them. The same shall apply in cases pursuant to Section 14 paragraph 2 no. 2 if the conditions under this provision cease to exist prior to the decision of the Federal Office.

(2) In cases where the parents of a minor, unmarried child are obliged to live in a reception centre, the child may also live in the reception centre, even if it has not filed an asylum application.

(3) While being obliged to live in a reception centre the alien shall be obliged to ensure that the competent authorities and courts can contact him.

Sec.49 (Release from the Reception Centre)

(1) The obligation to live in a reception centre shall be terminated, if a notification announcing deportation is enforceable and if it is impossible to enforce deportation at short notice; or if the alien is to be issued with a residence title for exceptional purposes (Aufenthaltsbefugnis) pursuant to Section 32a paras. 1 and 2 of the Aliens Act.

(2) The obligation may be terminated for reasons of public health and for other reasons of public security and order or for other compelling reasons.

(...)

Chapter 4 - RIGHT OF RESIDENCE

SUB-CHAPTER 1 - RESIDENCE DURING THE ASYLUM PROCEDURE

Sec.55 (Permission to Reside (Aufenthalts gestattet))

(1) Aliens seeking asylum shall be permitted to reside on the Federal Territory while the asylum procedure is pending (Aufenthalts gestattet). They shall not be entitled to choose a specific Land or a specific place. Where an alien has unauthorizedly entered the Federal Territory from a safe third country (Section 26a), such alien shall acquire the permission to reside upon filing an asylum application.

(...)

(3) To the extent that the acquisition or exercise of a right or a privilege are dependent on the length of the stay on the Federal Territory, the time of residence pursuant to paragraph 1 shall be taken into account only if the alien has obtained non-appealable recognition as a person entitled to asylum.

(...)

Sec.58 (Leaving an Allocated Area of Residence)

(1) An alien who is not or no longer obliged to lodge in a reception centre, may be allowed by the aliens authority to temporarily leave the area for which his permission to reside is valid or to generally stay in the neighbouring district of another aliens authority if there is an urgent public interest therein, if compelling reasons so require or if a refusal of such a permission would constitute an undue hardship. The consent of the aliens authority for whose district the general stay is admitted shall be required for the permission.

(2) Such permission should be granted in order to enable the alien to keep appointments with attorneys-in-fact, the United Nations High Commissioner for Refugees and with organizations providing welfare services to refugees.

(...)

(4) An alien shall be allowed to temporarily leave without permission the area in which he is permitted to reside, if the Federal Office has recognized him as a person entitled to asylum or if a court has imposed an obligation on the Federal Office to recognize him, even if the decision is not yet unappealable; the same shall apply if the Federal Office or a court has established that the conditions pursuant to Section 51 paragraph 1 of the Aliens Act are met or if the deportation of the alien is indefinitely precluded by other legal or factual reasons.(...)

Sec.60 (Conditions)

(1) The permission to reside (Aufenthaltsgestattung) may be subject to conditions.

(2) Any alien, who is not or no longer obliged to lodge in a reception centre, may be required

1. to lodge in a specific municipality or in specific accommodations,
2. to move to a specific municipality or a specific accommodation and to take residence there,
3. to take residence and quarters in the district of another aliens authority of the same Land.

(...)

Sec.61 (Gainful Employment)

(1) While being obliged to lodge in a reception centre, an alien shall not be allowed to take up gainful employment.

(...)

Sec.62 (Medical Check-up)

(1) Aliens who are obliged to lodge in a reception centre or in collective accommodations, shall be obliged to undergo a medical check for communicable diseases including an x-ray of the respiratory organs. The supreme health authority of the Land or an authority designated by it shall determine the extent of the medical check and the physician who is to carry out the examination.

(2) The result of the check-up shall be communicated to the authority responsible for the accommodation of the alien.

(...)

Sec.64 (Obligation to Prove Identity)

(1) For the duration of the asylum procedure the alien shall comply with his obligation to prove his identity by carrying the certificate confirming the permission to reside (Aufenthaltsgestattung).

(2) The certificate shall not authorize the alien to cross the border.

(...)

Sec.67 (Expiry of the Permission to Reside)

(1) The permission to reside (Aufenthaltsgestattung) shall expire

1. if the alien is rejected or removed pursuant to Section 18 paragraphs 2 and 3 above;
2. if the alien has failed to file an asylum application within a period of two weeks after he has asked for asylum;
3. upon the decision of the Federal Office being served on the alien, in cases where the asylum application has been withdrawn;

(...)

5. upon announcement of a deportation order pursuant to Section 34a above;

6. as for the rest, if the decision of the Federal Office has become non-appealable.

(2) If the alien files the asylum application upon expiry of the period under no. 2 of the preceding paragraph, the permission to reside (Aufenthaltsgestattung) shall again become effective.

SUB-CHAPTER 2 - RESIDENCE UPON TERMINATION OF THE ASYLUM PROCEDURE

Sec.68 (Residence Permit (Aufenthaltserlaubnis))

(1) The alien shall be issued with an unlimited residence permit (Aufenthaltserlaubnis), if he has been granted non-appealable recognition as a person entitled to asylum. Until such residence permit has been issued, his stay in the Federal Territory shall be considered to be legal.

(2) The preceding paragraph shall not apply if the alien has been expelled for serious reasons of public order and security.

(...)

Sec.70 (Residence Title for Exceptional Purposes (Aufenthaltsbefugnis))

(1) An alien shall be granted a residence title for exceptional purposes (Aufenthaltsbefugnis), if the Federal Office or a court has come to the non-appealable conclusion that the conditions of Section 51 paragraph 1 of the Aliens Act are met and that deportation of the alien is -not just for a temporary period- precluded by legal or factual grounds.

(2) Paragraph 1 shall not apply if the alien has been expelled for serious reasons of public security and order.

Chapter 5 - FOLLOW-UP APPLICATION, SECONDARY APPLICATION

Sec.71 (Follow-up Application)

(1) If, after the withdrawal or non-appealable rejection of a previous asylum application, the alien files a new asylum application (follow-up application), a new asylum procedure shall only be conducted if the conditions of Section 51 paragraphs 1 through 3 of the Administrative Procedure Act are met; this shall be examined by the Federal Office. (...)

Sec.71a (Secondary Application)

(1) Where, after the unsuccessful termination of an asylum procedure in a safe third country (Section 26a), with which the Federal Republic of Germany has concluded an international agreement governing the responsibility for carrying out asylum procedures, an alien files an asylum application (secondary application) on the Federal Territory, such new asylum procedure shall only be carried out where the Federal Republic of Germany is responsible for carrying out the asylum procedure and the requirements of Section 51 paras. 1 through 3 of the Administrative Procedure Act are met; the examination shall rest with the Federal Office.

(2) For the determination of whether a new asylum procedure is to be carried out, sections 12 through 25, 33 and 44 through 54 shall apply mutatis mutandis. A hearing may be dispensed with where it is not required so as to determine that a new asylum procedure is not to be carried out

(3) The deportation of the alien shall temporarily be suspended. Sections 56 through 67 shall apply mutatis mutandis.

(4) Where a new asylum procedure is not carried out, Sections 34 through 36 and 41 through 43a shall apply mutatis mutandis.

(5) Where the alien lodges another asylum application after the withdrawal or the unappealable rejection of his secondary application, Section 71 shall apply.

Chapter 6 - EXPIRY OF THE LEGAL STATUS

Sec.72 (Expiry)

(1) The recognition as a person entitled to asylum and the statement that the conditions of Section 51 paragraph 1 of the Aliens Act are fulfilled shall expire if the alien

1. voluntarily or by accepting or renewing a national passport or by any other action subjects himself anew to the protection of the state whose nationality he holds;
2. after losing his nationality has voluntarily regained it;
3. has obtained a new nationality upon application and enjoys the protection of the state whose nationality he has obtained or
4. renounces them or withdraws his application before the decision of the Federal Office becomes non-appealable.

(...)

Sec.73 (Revocation and Withdrawal)

(1) The recognition as a person entitled to asylum and the statement determining that the conditions of Section 51 paragraph 1 of the Aliens Act are met shall be revoked without delay if the conditions on which they are based cease to exist. (...)

A revocation shall be dispensed with if the alien has compelling reasons, based on earlier persecution, for refusing to return to the state whose nationality he holds, or, if he is a stateless person, in which he had his habitual residence.

(2) The recognition as a person entitled to asylum shall be withdrawn if it was granted on the basis of incorrect information or as a result of the concealment of essential facts and if the alien could not be recognized on other grounds either. Sentence 1 shall be applied mutatis mutandis to the statement that the conditions of Section 51 paragraph 1 of the Aliens Act are met.

(3) The decision that there is a reason precluding deportation pursuant to Section 53 paragraphs 1, 2, 4 or 6 of the Aliens Act, shall be withdrawn if it is incorrect and revoked if the conditions are no longer fulfilled.

(4) The head of the Federal Office or an officer instructed by him shall decide on revocations and withdrawals. The alien shall be informed in writing about the planned decision and he shall be given the opportunity to comment. He may be requested to give a written comment within a period of one month. If the alien fails to comment within this period, the decision shall be taken on the basis of the record as it stands; the alien's attention shall be drawn to the legal consequences.

(5) Communications or decisions of the Federal Office, which start a time-limit, shall be served upon the alien.

(6) Where the revocation is non-appealable or where the recognition as a person being entitled to asylum and the statement that the requirements of Section 51, para. 1, of the Aliens Act are met have been withdrawn, Section 72, para. 2, shall apply mutatis mutandis.

Chapter 7 - COURT PROCEEDINGS

Sec.74 (Period within which Action must be Brought; Rejection of Action that is Brought too Late)

(1) Action against decisions pursuant to this Act shall be brought within a period of two weeks after the decision has been served; in cases where an application pursuant to Section 80, paragraph 5, of the Rules of the Administrative Courts must be filed within a period of one week (Section 36 paragraph 3 sentence 1) action shall also be brought within one week.

(2) The plaintiff shall submit the facts and evidence on which the action is based within a period of one month after the decision was served upon him. Section 87b, paragraph 3, of the Rules of the Administrative Courts shall apply mutatis mutandis. The plaintiff shall be informed about the obligation pursuant to sentence 1 and the consequences resulting from non-observance of the time-limit. The submission of new facts and evidence shall remain unaffected.

Sec.75 (Suspensive Effect of the Action)

Action brought against decisions pursuant to this Act shall have suspensive effect only in cases pursuant to Section 38, paragraph 1 and Section 73 above.

(...)

Sec.77 (Decision of the Court)

(1) In disputes resulting from this Act, the court shall base itself on the factual and legal situation as it stands at the time of the last oral proceedings; if the decision is passed without oral proceedings, it shall be based on the situation as it stands at the time the decision is taken. Section 74 paragraph 2, second sentence, shall remain unaffected.

(2) The court shall dispense with a further description of the facts and of the reasons for its decision, provided that it follows the statements and justification of the administrative act against which the appeal was lodged and states so in its decision or provided that the parties concerned unanimously renounce such description.

Sec.78 (Legal Remedy)

(1) A sentence of the administrative court by which an action brought in connection with legal disputes resulting from this Act is rejected as manifestly inadmissible or manifestly unfounded, shall be non-appealable. The same shall apply if only the plaintiff's claim against the decision on the asylum application has been rejected as being manifestly inadmissible or manifestly unfounded, while the remainder of the plaintiff's claim has been rejected as inadmissible or unfounded.

(2) In the remaining cases, the parties concerned shall be entitled to lodge an appeal against the sentence of the administrative court if it is admitted by the Higher Administrative Court. There shall be no revision of the sentence of the administrative court.

(3) An appeal shall be admitted only if

1. the legal matter is of fundamental significance or

2. the sentence deviates from a decision of the Higher Administrative Court, the Federal Administrative Court, the Common Senate of the Supreme Courts of the Federation or the Federal Constitutional Court and if it is based on this deviation or

3. one of the parties pleads that there has been a defect in the proceedings pursuant to Section 138 of the Rules of the Administrative Courts and if such a defect does indeed exist.

(4) The admission of the appeal shall be applied for within a period of two weeks after the sentence was served. The application shall be filed with the administrative court. It shall contain a reference to the sentence against which the appeal is to be lodged. The application shall state the reasons why an appeal should be admitted. The filing of the application shall impede the legal force of the sentence.

(5) The decision on the application shall be taken by the Higher Administrative Court; such decision shall not require any justification. With the rejection of the application the sentence shall become final. If the Higher Administrative Court admits the appeal, the application procedure shall be continued in the form of appellate proceedings; there shall be no need to lodge an appeal.

(...)

(7) Any appeal pursuant to Section 84, paragraph 2 of the Rules of the Administrative Courts shall be lodged within a period of two weeks after the Court decision was served.

Sec.79 (Special Provisions Governing the Appeal Procedure)

(...)

(3) The Higher Administrative Court may decide to grant the alien's appeal, provided it unanimously regards his case as well-founded and deems an oral court hearing unnecessary. Section 125, paragraph 2, sentence 3 through 5 of the Rules of the Administrative Courts shall apply *mutatis mutandis*.

Sec.80 (Inadmissibility of Appeal)

Subject to the provisions of Section 133, paragraph 1 of the Rules of the Administrative Courts, an appeal against decisions on cases brought under the present Act shall be inadmissible.

Sec.80a (Suspension of Proceedings)

(1) (...) The suspension shall not influence the running of time-limits for lodging or justifying appeals.

(2) The action is deemed to have been withdrawn if the plaintiff does not notify the court, within the period of one month after the expiry of validity of the residence title for exceptional purposes (Aufenthaltsbefugnis) pursuant to Section 32a of the Aliens Act, of the fact that he intends to continue the legal action.

Sec.81 (Failure to Pursue the Proceedings)

In legal proceedings pursuant to this Act, the action shall be deemed to have been withdrawn if the plaintiff, despite a request by the court, has failed for a period exceeding one month to pursue the proceedings. The plaintiff shall bear the costs of the proceedings. The request by the court shall inform the plaintiff of the consequences resulting from the first and second sentences above.

(...)

Sec.83 (Special Arbitration Bodies)

(1) Disputes under the present Act should be aggregated at special arbitration bodies.

(2) The Land governments are authorized to form, by virtue of statutory ordinances, special arbitration bodies at the administrative courts to deal with disputes under the present Act and to determine the seat of such bodies. The Land governments may confer this authorization to other authorities. The arbitration bodies formed pursuant to the first sentence above should have their seat close to the respective reception centres.

(...)

Sec.85 (Other Criminal Offenses)

Whoever

1. fails, despite the provisions of Section 50, paragraph 6, also in conjunction with Section 71a, para. 2, first sentence above, to report immediately to the authority to which he has been referred;

2. repeatedly acts in contravention of the restrictions of residence pursuant to Section 56, paras. 1 or 2, either paragraph also in conjunction with Section 71a, para. 3 above;

3. acts in contravention of an enforceable obligation pursuant to Section 60, para. 1, also in conjunction with Section 71a, para. 3, which bans or restricts gainful employment;

4. fails to comply in due time with an enforceable order pursuant to Section 60, para. 2, first sentence, also in conjunction with Section 71a, para. 3; or

5. is gainfully employed, despite the provisions of Section 61, para. 1, also in conjunction with Section 71a, para 3

shall be liable to a term of imprisonment not exceeding one year or to a fine.

Sec.86 (Provisions on Fines)

(1) Any alien who acts in contravention of a restriction of residence pursuant to Section 56, paragraphs 1 or 2, either paragraph also in conjunction with Section 71a, para. 3, commits an administrative offence.

(2) The administrative offence may be liable to a fine not exceeding five thousand Deutschmarks.

(...)

Sec.88 (Statutory Ordinance Authorization)

(1) The Federal Ministry of the Interior, by virtue of a statutory ordinance with the consent of the Bundesrat, shall determine the authorities which are responsible for the execution of international agreements governing the responsibility for carrying out asylum procedures, as regards

1. the transmission, to another Contracting State, of a request to take over an alien so as to process his asylum request;

2. the decision on the request of another Contracting State that an alien be taken over in order to process his asylum request;
3. the transmission of a re-acceptance request to another Contracting State;
4. the decision on the re-acceptance request of another Contracting State; and
5. the exchange of information.

(...)

Sec.89 (Restriction of Basic Rights)

(1) The basic rights to physical integrity (Article 2, paragraph 2, first sentence, of the Basic Law) and to the liberty of the individual (Article 2, paragraph 2, second sentence, of the Basic Law) shall be restricted in accordance with this Act.

(2) The procedure to be applied in case of deprivation of liberty shall comply with the provisions of the Act on the Court Proceedings in Case of Deprivation of Liberty in the revised version published in the Federal Law Gazette Part III, item 316-1, last amended by virtue of Article 7, Section 21 of the Act of 12 September 1990 (Federal Law Gazette I page 2002).

(...)