



Federal Office
for Migration
and Refugees

Germany's Asylum Procedure - in Detail

Responsibilities, Procedures, Statistics, Legal Consequences



Insert to the brochure
by the Federal Office for Migration and Refugees,
entitled “Germany’s Asylum Procedure – in Detail”
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We would like to point out that the brochure before you by the Federal Office for Migration and Refugees entitled “Germany’s Asylum Procedure – in Detail”, of November 2014, contains fundamental information on the stages of the German asylum procedure. Please note here that guidelines of the common European asylum system came into force as per 20 July 2015, but have not yet been transposed into national law by an Act. These guidelines however already have an impact on the asylum procedure in practice.

Since more changes are anticipated to ensue from the Federal Government’s current legal initiatives by the end of 2015, the brochure will not be updated until these legal amendments have come into force. Until then, you will find up-to-date information about the asylum system on our website at:

<http://www.bamf.de/DE/Migration/AsylFluechtlinge/asylfluechtlinge-node.html>

You will find recent figures and statistics in our flyer entitled:
“Schlüsselzahlen Asyl - 1. Halbjahr 2015” (Key figures on asylum – 1st half of 2015, in German only)

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Responsibilities during the Asylum Procedure

INITIAL DISTRIBUTION OF ASYLUM SEEKERS (“EASY”), ROOM AND BOARD

The **Federal States** (“Laender”) are responsible for placing asylum seekers in accommodations. They are particularly required to establish and maintain reception centres for that purpose. At these facilities, asylum seekers primarily receive benefits in kind to cover their basic subsistence needs.

In response to a judgment from the Federal Constitutional Court of 18 July 2012, which found that the amount of cash benefits under the Asylum Seekers’ Benefits Act was unconstitutional, asylum seekers will receive in addition a monthly cash payment of EUR 130 to cover their personal needs in daily life until a new amount is set by legislation.

If an asylum seeker registers at a reception centre, an EASY distribution will be made in observance of the various Federal States’ reception quotas, to determine which reception centre is responsible for receiving the individual.

APPLICATION, INTERVIEW, DECISION

The **Federal Office** conducts the asylum procedure. The application for asylum should be made to the Federal Office, which will also conduct a personal interview. On the basis of an overall assessment of all relevant findings, the Federal Office will decide whether to grant the applicant asylum, refugee status, or subsidiary protection, or to deny the application.

APPEALS

The **Federal States** maintain the Administrative Courts. An applicant may appeal against a rejection by the Federal Office to an Administrative Court. The complainant should lodge the complaint against the Federal Republic of Germany, with the Federal Office as its representative.

RIGHT TO RESIDE AFTER DECISION

The right to reside in Germany following the Federal Office’s decision is governed by the **Federal States**, which as a rule act through their aliens office. Depending on the results of the asylum procedure, the foreigners office in charge will grant a residence title or take steps to end residence.

SIDE NOTE: APPLYING FOR ASYLUM AT THE BORDER

For applications for asylum made at the border, the **Federal Police** decide on whether to direct the person to a reception centre, or to refuse entry. In an airport procedure, the **Federal Police** will pass the asylum seeker into the custody of the Federal Office inside the transit area.

OTHER PARTICIPATING AGENCIES

The Federal Office works closely with the **federal and state security agencies**; for example, the Federal Criminal Police Office will analyse asylum seekers' fingerprints. The United Nations High Commissioner for Refugees (UNHCR) monitors compliance with the Geneva Convention on refugees.

Distribution of Asylum Seekers

1. EASY DISTRIBUTION

Foreigners who lodge an application for asylum are generally housed during the first weeks of the asylum procedure in what is known as a reception centre. These are provided by the Federal States. Each state is assigned a precisely defined quota for asylum seekers (the Koenigsteiner quota), so that the burdens associated with reception are distributed fairly.

The responsible reception centre is determined using the nationwide distribution system “**EASY**” (Erstverteilung der Asylbegehrenden; Initial Distribution of Asylum Seekers). Responsible for registering is the reception centre where the asylum seeker shows up, having free place for housing according to the above mentioned quota, and if the Federal Office's branch office associated with the reception centre processes asylum applications from the applicant's country of origin. If either of these conditions is not met, EASY assigns the asylum seeker to the nearest reception centre that satisfies the criteria.

2. CONSEQUENCES OF DISTRIBUTION

Asylum seekers are normally required by law “to live for a period of up to six weeks, but no longer than three months, in the reception centre responsible for receiving them” (section 47 (1) first sentence, Asylum Procedure Act). They will then be placed elsewhere within the same state; in this case the state authorities decide whether to place them in what are known as “collective accommodations,” or whether to grant the applicant a permit to take an apartment. This discretionary decision must take account of both the public interest and the asylum seeker’s personal concerns. The residence obligation ends, inter alia, as soon as the Federal Office grants asylum or refugee status.

In special cases, for example in cases of family reunification, asylum seekers may also be assigned to a different reception centre at their own request.

Documentation and Establishment of Identity

Under section 16 of the Asylum Procedure Act, the identity of any foreigner who applies for asylum must be established by means of identification measures unless the foreigner is under 14 years of age. Only photographs and prints of all ten fingers may be taken. Under section 24 of the same Act, the Federal Office must clarify the facts of the case and compile the necessary evidence. Under section 15 of the Act, foreigners are required to cooperate in establishing the facts of the case. This also applies to foreigners represented by a legal adviser. In particular, foreigners must present passports or passport substitutes, as well as all necessary certificates and documents that might aid in establishing the foreigner’s identity and nationality.

According to section 16 of the Asylum Procedure Act, to determine the foreigner's country or region of origin, the foreigner's oral statements may be recorded on audio or data media other than at the person's formal interview. If there is any doubt, a **language analysis** may be performed. The applicant's personal speech profile can be used for a more specific determination of a country or region of origin. As a general rule, this cannot be fundamentally altered or falsified in a spontaneously spoken text of some duration, because producing language is subject to an unconscious process. The voice recordings will be analysed only by trained linguists (there are currently 45 expert analysts for 80 languages). For languages that are spoken in more than one country, the region of origin can be determined. The analytical method is used by other authorities (such as the foreigners office, Federal Police, district office) through administrative assistance (on the basis of section 49 (7) of the Residence Act).

The authenticity of the certificates and documents submitted in the asylum procedure will be checked by the Federal Office's **physical technical documents office** (PTU, physikalisch-technische Urkundenstelle), which checks some 6,000 documents from about 70 countries of origin each year. Under section 16 (1 a) of the Asylum Procedure Act, data (fingerprints, photographs and iris scans) stored on electronic storage media in a document may be read out to verify the authenticity of the foreigner's document or identity, the necessary biometric data may be obtained from the foreigner, and the two may be compared.

Certificates are reviewed by certificate experts specially trained by the Federal Criminal Police Office. The PTU has a certificates laboratory equipped with such facilities as high-resolution microscopes, cold light sources and a high-performance computer-based document testing system. The results of the certificate examination are recorded in an investigation report, and contributed toward the asylum decision. Cases with court implications (criminal proceedings for counterfeiting of documents) are presented by the PTU's certificate experts as expert witnesses.

In 2013, documents were confirmed as authentic in about 70% of the submitted cases. Manipulation was found in about 10% of the submitted cases. The remainder could not be finally assessed because of a lack of materials for comparison.

The PTU has an extensive collection of documents for comparison, and has very specific documents from many different countries. Knowledge gained from new “versions” of documents is processed as document information and forwarded to the security authorities, and is also made available to the Federal Criminal Office’s Document Information System. The PTU provides support for the aliens offices, registry offices and residents’ registration offices in determining documents’ authenticity on matters of asylum proceedings and immigration law.

EURODAC

Eurodac consist of a computerised central fingerprint database with a National Access Point for each. The central unit resides in organisational terms with the Commission of the European Union. The technical location is in Luxembourg. In Germany, the National Access Point is at the Federal Criminal Police Office. The system stores fingerprints of asylum seekers, third-country nationals who are found to have illegally crossed the external border of a Member State, and other third-country nationals who are staying illegally within the territory of a Member State. Comparing fingerprints makes it significantly easier to apply the Dublin III Regulation, which includes criteria as to what European State is responsible for examining an asylum application, and under what circumstances. If an asylum seeker or a foreigner staying illegally within a country’s territory has already applied for asylum in another EU Member State, this will usually result in a match in the Eurodac database, and the person will be transferred to that Member State to conduct the asylum procedure.

VISA - INFORMATION SYSTEM

The Visa Information System (VIS) is a system for exchanging visa data among the Schengen States. It went into operation on 11 October 2011. It comprises a central information system that has interfaces in every Member State (in Germany, through the Federal Administration Office) and establishes a connection to the national authorities of each Member State, and it also includes a communications infrastructure between the central Visa Information System and the national interfaces.

The primary objectives of the VIS are to simplify visa application procedures, to prevent evasion of the criteria for determining the Member

State responsible for examining an application, and to make it easier to combat fraud. Visa applicants' ten fingerprints are taken, together with a photo, and these are stored in the VIS. The VIS database contains information about visa applications and the resulting decisions of all Schengen States. The data may be used for reviewing visa applications and for the associated decisions, for carrying out controls at border control points, for checking the visa holder's identity and/or the authenticity of the visa, for identifying and returning illegal immigrants, and for simplifying decisions by the Member State responsible for examining an asylum application. The case officer of the Federal Office for Migration and Refugees have been able to consult VIS data since March 2013.

Airport Procedure (Section 18a of the Asylum Procedure Act)

THE AIRPORT PROCEDURE

In 1993, Article 16 of Germany's constitution, the Basic Law, was amended, and as part of that process asylum law was revised in Article 16a of the Basic Law. At the same time, the airport procedure (section 18a Asylum Procedure Act) was introduced.

For foreigners from a safe country of origin (section 29a Asylum Procedure Act) who want to enter the country via an airport and apply for asylum with the border authority, the asylum procedure is to be conducted prior to the decision on entry. The same applies to foreigners who request asylum from the border authorities at an airport and who are unable to prove their identity with a valid passport or equivalent means of identification.

Frankfurt am Main Airport is Germany's largest Schengen foreign border. But the airport procedure is also conducted in Hamburg, Düsseldorf, Munich and Berlin (and will also be conducted in Berlin-Brandenburg).

HOW DOES THE PROCEDURE WORK?

The airport procedure must be initiated immediately upon being applied for. The Federal Office must interview the persons within two days after the formal receipt of the application for asylum, in connection with the opening of a file, and must decide whether to grant entry or to deny the application for asylum as “manifestly unfounded.”

The Federal Police will refuse entry only if the application is rejected as “manifestly unfounded.” Otherwise, the person can enter the country.

If the application is denied as “manifestly unfounded,” the individual has three days to seek injunctive relief in an Administrative Court. He or she will receive legal advice at no charge from (independent) lawyers. The Administrative Court may grant a further 4 days for the presentation of grounds, upon application.

If injunctive relief has been requested, the Administrative Court that has jurisdiction has 14 days to decide. Consequently, the airport procedure will end in 19 days (plus any suspensions of the running of the period).

If the Federal Police must still obtain papers substituting for a passport after the procedure reaches a negative conclusion, any further arrangements for staying in the transit area are subject to the judicial review (sections 15 (5) and (6) of the Residence Act).

Without the airport procedure, the “non-refoulement” principle under the Geneva Convention would require the Federal Police to grant entry to the Federal Republic to anyone who has destroyed their passport and expresses the wish for asylum.

Dublin Procedure

The Dublin procedure determines which European State is responsible for examining an asylum application. It was established to ensure that the content of every asylum application lodged in the European Union, Norway, Iceland, Switzerland and Liechtenstein is examined. It also makes sure that only one Member State will examine the application.

THE PROCEDURE

If a Member State finds that an asylum application should be processed in another Member State, it submits a “request to take charge” to the Member State concerned. If that State consents, the applicant will receive a decision to that effect from the Federal Office. An urgent appeal against that decision may be lodged, with the consequence that the individual cannot be transferred to the other Member State before a court has decided the matter.

If the decision is enforceable, the Member States will agree on the modalities of the transfer. If the transfer is not carried out within six months, responsibility for the procedure shifts to the Member State that had requested the takeover. This period may be extended if the applicant disappears or is in criminal custody.



NEW DUBLIN REGULATION EFFECTIVE 1. JANUARY 2014

The “Regulation establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national” (Regulation (EC) 343/2003 – the Dublin Regulation) has been replaced by the new Dublin Regulation III (Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013, which took effect on 1 January 2014. The Member States in which this Regulation is immediately applicable law are all Member States of the EU, together with Norway, Iceland, Switzerland and Liechtenstein.

You can find out more about the Dublin procedure and the current figures for requests to take charge and transfers under the Dublin Convention in the “Asylum in Figures” brochure, available for download at www.bamf.de (currently only in German).

Lodging an Application

THE PRINCIPLE OF PERSONALLY LODGING AN APPLICATION

To lodge an application for asylum in Germany, the person seeking protection must be staying in the Federal Republic of Germany, or must request asylum at the German border. If the person does not express the wish for asylum directly at an initial reception centre, he or she will be referred to the nearest initial reception centre in the applicable federal state. Using the “EASY” nationwide distribution system, which takes account of the various states’ legally defined reception quotas, that centre will determine the reception centre that is responsible for housing the applicant. The applicant must appear at that location within a given period. He or she can then apply for asylum in person at a branch office of the Federal Office that is associated with the reception centre in charge.

An application may be lodged in writing at the Head Office of the Federal Office if the foreigner:

- holds a residence title with a total validity period of more than six months,
- is under arrest or in other government custody, in hospital, in a sanatorium or mental hospital, or in a youth welfare institution, or
- has not yet reached the age of 16 and his or her legal representative is not obligated to reside in a reception centre.

CREATION OF THE FILE

An appointment to make the personal application will be set in consultation with the initial reception centre. A suitable interpreter will also be invited to that meeting. While lodging the application for asylum, an electronic file will be opened in the MARiS system by an employee of the asylum procedure secretariat. At that time a check will be run as to whether this is a first application, a follow-up application, or a multiple application. Data will be matched, or an initial registration will be filed-, in the Central Register of Foreigners (Auslaenderzentralregister).

PROCESSING FOR IDENTIFICATION PURPOSES

The identity of all asylum applicants age 14 and above must be documented by identification measures. Photographs will be taken for the purpose and fingerprints will be recorded via live scan, and these will be sent to the Federal Criminal Police Office. Fingerprints will be compared with national (AFIS) and European (EURODAC) databases. This makes it possible to quickly detect multiple identities, to discover multiple applications for asylum both nationally and at the European level, and to initiate the necessary consequences, such as a Dublin procedure.

LEGAL BRIEFING

The asylum seeker will be briefed on his or her rights and obligations in the asylum procedure. He or she will be given appropriate information sheets in German and in the language of his or her home country.

Then a date will be set for a personal interview of the applicant.

Interview

BASIS IN LAW

The legal basis for the conduct of the interview are the sections 24 and 25 Asylum Procedure Act.

- Obligations of the Federal Office (section 24 subs. 1 sentence 3 Asylum Procedure Act): The Federal Office must interview the foreigner in person.
- Interview (section 25 subs. 1 Asylum Procedure Act): The foreigner himself or herself must present the facts justifying his or her fear of persecution or the danger of serious harm with which he or she is threatened, and provide the necessary details. The necessary details also include information concerning residences, travel routes, time spent in other countries and information on whether a procedure aimed at obtaining asylum has already been initiated or completed in other countries or in the federal territory. The foreigner must also relate all other facts or circumstances which preclude deportation to a specific country (section 25 subs. 2 Asylum Procedure Act). If such facts are proceduced only at a later stage, they may be ignored (section 25 subs. 3 Asylum Procedure Act).

INVITATION

The interview date should be as soon as possible after the application is lodged, but may be several weeks later if there are large numbers of applications.

The applicant, optionally the applicant's authorised agent for the proceedings, the case officer and an interpreter will take part in the interview. A guardian or any responsible person is regularly involved with unaccompanied minors.

The interview may be attended by representatives of the Federation, of a State or of the United Nations High Commissioners for Refuges (UNHCR). The head of the Federal Office may allow other persons to attend (section 25 subs. 6 Asylum Procedure Act).

The typical content of an interview includes such matters as the individual's life history and living circumstances, travel route, and history

of persecution, including the question of what the applicant fears upon returning to his or her home country. The case officer has the task of thoroughly clarifying the reasons why the applicant fled. The applicant must answer truthfully and present any evidence that he or she has obtained or can obtain. The duration of an interview depends heavily on the applicant himself or herself, and his or her history of persecution.

A record is made of the interview containing the essential statements made by the applicant. A copy of this record shall be given to the foreigner or sent to him with the Federal Office's decision (section 25 subs. 7 Asylum Procedure Act).

DETAILS OF THE PROCEDURE

The case officer will pick up the applicant together with an interpreter at the waiting area and accompany him or her to his office. The interpreter will be introduced, and language comprehension will be checked. After the interview's importance and its process are explained, the applicant will be thoroughly briefed on his or her rights and duties, and will be asked whether his or her health permits him or her to go through with the interview. Then the applicant will be given an opportunity to describe the reasons for the asylum application. Only after the applicant has fully explained the reasons the phase of follow-up inquiries by the case officer will start, both to obtain a deeper knowledge and to clarify contradictions or illogical aspects. The participants' words will be translated and recorded. Following the interview, the record will be translated back to the applicant, and the



applicant will have a chance to correct the record or add to it, if applicable. Finally, the record will be submitted to the applicant for approval by his or her signature.

Special officers are available to act as case officer for especially vulnerable individuals.

Making the Decision

The case officer will decide on the asylum application on the basis of an overall assessment of all relevant findings, especially the personal interview. The Federal Office's decision will be communicated in writing. In principle the person's own individual history will be the deciding factor. It may be necessary to investigate further to clarify the facts before a decision is made. For this purpose, it is possible to access the Federal Office's Asylum and Migration Information Centre and its "MILo" database system. Further research options are available through individual queries to the German Foreign Office, language and text analyses, physical-technical document examination (PTU), and obtaining medical or other expert advices, as well as other resources. Guidelines for the most important countries of origin provide assistance in reaching a decision. Reasons for the decision will be given, and will be delivered to the parties together with instructions for appeal and a translation of the operative part of the decision. If the application must be denied, the Federal Office must also decide whether there is a prohibition of deportation under section 60 (5) or (7) of the Residence Act because of danger in the country of origin.

POSSIBLE DECISIONS:

1. Granting refugee status under the Geneva Convention, pursuant to section 3 (1) of the Asylum Procedure Act.
2. Recognition as entitled to asylum under article 16a (1) of the Basic Law.
3. Granting of subsidiary protection under section 4 (1) of the Asylum Procedure Act.

4. Establishment of a prohibition of deportation under section 60 (5) or (7) of the Residence Act.
5. Rejection of the application for asylum (entitled to asylum and international protection) as unfounded; no apparent prohibition of deportation under section 60 (5) or (7) of the Residence Act.
6. Rejection of the application for asylum (entitled to asylum and international protection) as manifestly unfounded; no apparent prohibition of deportation under section 60 (5) or (7) of the Residence Act.
7. Inadmissibility of the asylum application because another Member State is responsible.
8. Termination of the asylum procedure because of withdrawal of the application.
9. Refusal to conduct a further asylum procedure after a new asylum application following the final and absolute denial in a previous asylum procedure (in the event of a positive decision in a subsequent application procedure, the operative part of the decision will be as in items 1 through 4 above).

Substantive Refugee Law

THE DEFINITION OF A REFUGEE

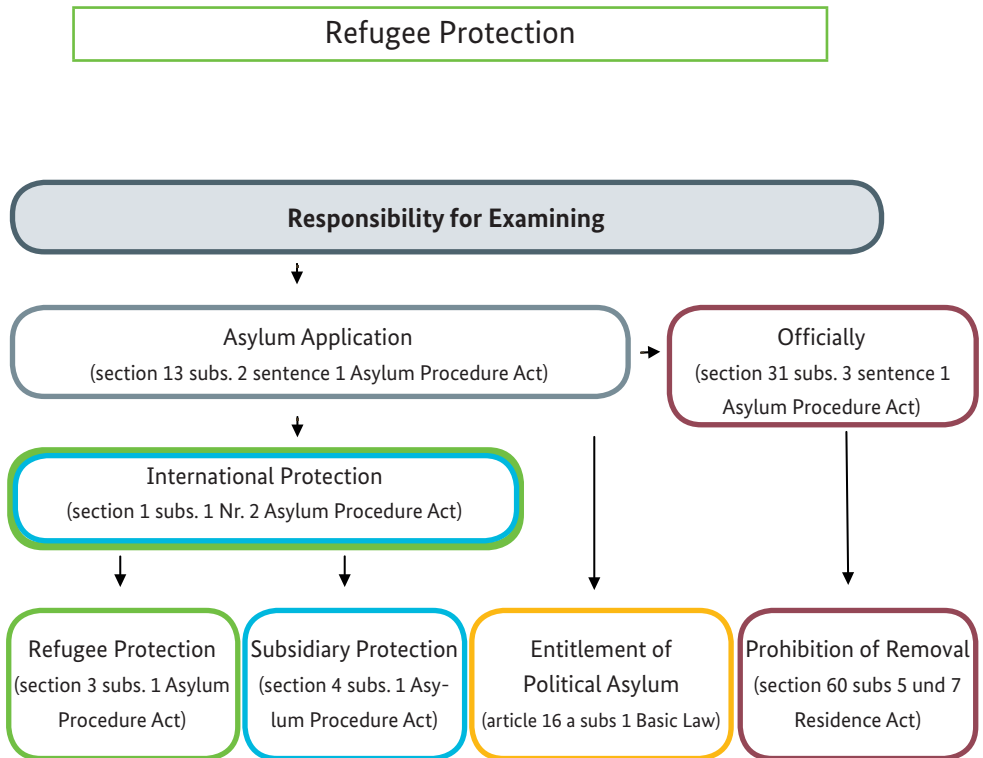
In general usage, a refugee is someone who has fled from his or her home country for various reasons.

Article 1 of the Geneva Convention defines a refugee as any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality, and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her habitual residence, is unable or, owing to such fear, is unwilling to return to it.

The substantive refugee law permits persons seeking protection to be accepted for humanitarian reasons, and in addition to the criteria for protection to be examined by the Federal Office in an asylum procedure, it also includes a broad range of other humanitarian rights to stay that fall within the responsibility of the states, especially the foreigners offices and the hardship commissions.

THE RESPONSIBILITY OF THE FEDERAL OFFICE FOR EXAMINING APPLICATIONS FOR ASYLUM

Within the asylum procedure, the Federal Office examines whether the criteria are met for:



and

Entitlement to Political Asylum

and

Subsidiary Protection

and

Prohibitions of Removal

A refugee, according to section 3 (1) of the Asylum Procedure Act, is someone who

- owing to well-founded fear of being persecuted “by anyone whomsoever” for reasons of race, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality, or who, not having a nationality, is outside the country of his or her habitual residence, and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, when there are no grounds for exclusion.

A person entitled to political asylum, and accordingly a “politically persecuted person” within the meaning of article 16 a (1) of the Basic Law, is anyone who in the event of a return

- to the country of his or her nationality or, not having a nationality, to the country of his or her habitual residence
- will be exposed to serious violations of human rights for reasons of race, nationality, membership of a particular social group or political opinion,
- and the action is attributable to the state,
- and the person has no alternative refuge within the home country or other protection elsewhere against persecution.

A person who entered the Federal Republic of Germany from a “safe third country” will not be entitled to political asylum. A “safe third country” is considered to be one of the Member States of the European Union and (as provided by law) Norway and Switzerland.

A person entitled to subsidiary protection, according to section 4 (1) of the Asylum Procedure Act, is anyone who is

- threatened in their country of origin
- with serious harm
- “by anyone whomsoever”
- and who cannot avail himself or herself of the protection of his or her home country, or is unwilling to do so owing to the threat,
- and there are no reasons for exclusion.

Serious harm =

- the imposition or execution of a death penalty,
- torture or inhuman or degrading treatment or punishment or
- a serious individual threat to the life or limb of a civilian as a result of indiscriminate violence in an international or internal armed conflict.

A foreigner may not be deported (**prohibitions of deportation**) if

- the deportation is inadmissible under the terms of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) (section 60 (5) of the Residence Act)

or

- there is a substantial and definite danger to his or her life, limb and liberty in the country of destination (section 60 (7) of the Residence Act).

LEGAL CONSEQUENCES

Refugee status and the entitlement to political asylum are the same in terms of their legal consequences. The granting of protection results in an entitlement to a three-year residence permit. After three years, the aliens office must grant a settlement permit if the reasons for recognition of the previous status have not ceased to exist. This is reviewed in a revocation procedure at the Federal Office.

Persons entitled to subsidiary protection are granted a residence permit for one year, which can be extended for two further years by the aliens office.

If there is a prohibition of deportation, a residence permit is to be granted for at least one year. The review of possible reasons for exclusions for granting a residence permit falls within the jurisdiction of the aliens offices.

The Deciding Case Officers

DUTIES

Deciding case officers have the task of examining asylum applications. Their activities include both questioning applicants for asylum about their reasons for asylum (interviewing) and deciding on asylum applications (decision). In performing their work, the case officers must follow internal instructions and the guidelines for the applicant's country of origin.

LEGAL REQUIREMENTS

The European Procedure Directive (Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status) defines not only fundamental procedural guarantees for asylum applicants but also some of the requirements for officials at asylum authorities who are engaged in examining asylum applications. The terms of the Procedure Directive were transposed into German law under the Asylum Procedure Act. On 26 June 2013. The EU adopted a new version of the Procedure Directive, which the Member States must transpose into national law by 20 July 2015.

FORMAL AND PROFESSIONAL QUALIFICATIONS

The minimum formal qualification is certification for general non-technical administrative service.

Practical professional qualifications for a deciding case officer include extensive, up-to-date knowledge of asylum and immigration law and of asylum applicants' countries of origin; extensive experience, a mastery of interviewing techniques, and a high level of empathy are also indispensable. Case officer may also not disregard intercultural aspects.

The Federal Office's concept for fundamental and continuing training ensures that new case officers become familiarised with this complex activity. Experienced case officers also benefit from the regular training programmes, especially because asylum procedure in Germany is subject to constant change – in part because of increasing Europeanisation.

“SPECIAL QUALIFIED OFFICERS” FOR SENSITIVE CASES

The Federal Office has assigned specially trained case officers for

- unaccompanied minor refugees
- victims of torture and traumatised individuals
- victims of gender-specific persecution
- victims of human trafficking

After consultation, special case officer take over the interviewing and decision-making process in cases of victims of gender-specific persecution, unaccompanied minors, victims of torture and traumatised applicants, as well as victims of human trafficking. They are also available as contact persons for their colleagues and supervisors.

Support for Decision-Making in the Asylum Procedure

PREPARING, TRANSMITTING, PRESENTING AND DOCUMENTING INFORMATION AT THE ASYLUM AND MIGRATION INFORMATION CENTRE (IZAM)

The IZAM acts as a service unit to provide the Federal Office – as well as external users – with information about asylum, migration, integration and return migration. Significant results from information gathering and analysis are provided via the MILO database, the Federal Office's information and communication platform. The public content of MILO is available to everyone via the Internet and the Federal Office's website. External users include courts, lawyers, authorities of the Federal States, other federal authorities, and partner agencies in other countries both within and outside the European Union.

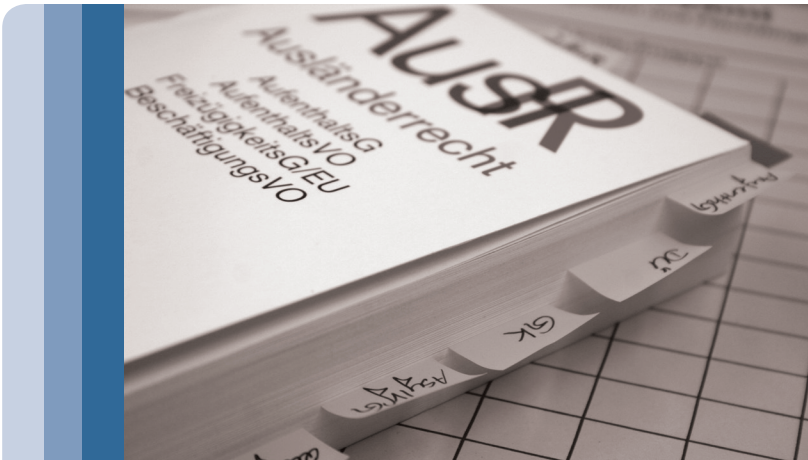
PRESS DOCUMENTATION, LIBRARY AND INFORMATION OFFICE

Besides operating a professional library of more than 30,000 units of media concerning all spheres of activity of the Federal Office, it is important to supply all departments quickly with up-to-date news by analysing reports from the German Press Agency (dpa) and numerous daily newspapers, so that the Office can respond promptly to new situations. The press database contains more than a million news reports on the Federal Office's areas of activity. In addition to the rapid press service there are additional press compilations. Information is made available electronically via a portal.

An information service answers some 400 individual inquiries for information each month, both from within the Federal Office and from outside. The answers often necessitate extensive research.

DOCUMENTATION ON COUNTRIES AND CASE LAW

The country documentation unit, with more than 60,000 data records at present, obtains, collects and makes available through its own active investigation information about countries from more than 250 agencies that deal with asylum, immigration law and migration, and who assess political, cultural and religious conditions in migrants' countries of origin (for example, information from the Foreign Office and international partner agencies, or reports from experts, universities and nongovernmental organisations). The information in particular is also used not only for qualification of personnel, but to study migratory movements, to integrate foreigners, and to encourage return migration.



Documentation of case law, with some 20,000 decisions at present, gathers information and makes available reports about selected case law from German and European courts on questions of asylum, residence and migration. Third parties may also use this documentation through such channels as the Legal Information System of the Federal Republic of Germany (juris GmbH, Saarbrücken).

ANALYSES OF COUNTRIES OF ORIGIN

The country analysis unit works on the situation in countries of origin and countries of transit, on the basis of all available sources. These sources also include liaison persons employed by the Federal Office at German embassies in selected countries with relevance for asylum. The country analysis unit prepares country information and reports on topics relevant to policies on asylum, migration and integration. Its purpose is to support decision-making and to provide information for the Federal Office's departments through consistently up-to-date reports, guidelines and text modules. With its country-specific reports, the department also takes proper account of the growing need for information in the area of the Federal Office's integration work. In the context of the debate about Islamism and terrorism, it also takes account of aspects relevant to security. The unit is a member of the Islam Knowledge Association (Wissensverbund Islam). Work on analysing countries of origin changes emphasis as needed.

IZAM IN THE EUROPEAN NETWORK

Through its Asylum and Migration Information Centre (IZAM), the Federal Office is an initiator and member of a European sponsorship system. The participating European states make their country-specific reports about one or more countries of origin available to their partners for purposes of pooling information under the "one for all" principle. This system is also used for the European Asylum Support Office (EASO). The Federal Office has already implemented the goals of the Hague Programme, and has connected its partner agencies from 32 European states and the European Commission to its country-of-origin database, MILO. In return, the Federal Office receives information about countries of origin from its partner agencies.

INTERNATIONAL ACTIVITIES

D-A-CH: This is the acronym for the cooperative arrangement between the Federal Office in Germany (D) and the asylum authorities in Austria (A) and Switzerland (CH). D-A-CH places a special emphasis on co-operation concerning country of origin information (COI). The agencies develop joint products and activities. These include reports (e.g., on the security situation in Afghanistan) and fact finding missions (e.g., to Georgia), as well as workshops (e.g., on Iraq, Iran). This cooperation is to be strengthened and intensified in the future. Luxembourg has also participated in the D-A-CH meetings.

The cooperative arrangement eases work loads by dividing up the handling of topics of joint interest. In addition, it expands and strengthens the participating authorities' COI capabilities in their work both internally and with outsiders.

The Federal Office furthermore benefits from an exchange of liaison personnel among European partner authorities.

Pan-European collaboration – especially through the European Asylum Support Office (EASO) – also gives important impetus to the Federal Office. This applies as well for the cooperative work that extends beyond Europe through Intergovernmental Consultations (IGC).

ADVICE FROM THE EXPERTS'FORUM

To advise and open up the Federal Office still further in its efforts, IZAM can draw on the assistance of an Experts' Forum, made up of members from institutions, organisations and social groups engaged with developments in asylum and migration. Their expert knowledge also provides the Federal Office with additional suggestions for its work.

Unaccompanied Minors in an Asylum Procedure

THE DEFINITION OF AN “UNACCOMPANIED MINOR”

Unaccompanied minors are persons below the age of 18 who enter a Member State of the EU without being accompanied by an adult who is responsible for them. They also include minors who are left unaccompanied after entering the country. In 2013, 2,486 unaccompanied minors applied for asylum in Germany; 638 of them were under the age of 16 and 1,848 were 16 or older.

CUSTODY AND CLEARING PROCEDURE

After they enter the country, unaccompanied minors are transferred to the Youth Welfare Office responsible for their location. According to section 42 of Book VIII of the Social Code, that office is responsible for placing young people in care with a suitable person, in a youth welfare institution, or in some other form of residence, and for appointing a guardian. In a subsequent “clearing” procedure, the unaccompanied minor’s situation is thoroughly investigated. This includes such matters as determining the young person’s identity and his or her age in case of doubt, searching for family members, assessing his or her health situation, determining his or her educational needs, clarifying residency status, and deciding whether an application for asylum should be submitted.

DETERMINING AGE

Many young people enter the country without documentation that could verify their age. For that reason, an age determination is necessary, which the authorities of the Federal States (generally the Youth Welfare Offices) carry out as part of taking the young person into their care. The applied methods vary, ranging from simple age estimates to physical examinations and even radiological examinations of the carpus, bite or collar bone.

As a rule, the Federal Office accepts the determined age.

TREATMENT OF UNACCOMPANIED MINORS IN THE ASYLUM PROCEDURE

All asylum procedures for unaccompanied minors are processed by the Federal Office's more than 80 case officers who specialise in cases of unaccompanied minors. These case officer are continuously updating their training and have specialised legal, cultural and psychological knowledge that helps them work sensitively and empathetically with young people, and thus to take due account of the concept of child welfare.

Asylum procedures for unaccompanied minors are given priority processing. Interviews with unaccompanied minors have the following special features:

- The interview is held only after a guardian has been appointed. The appointed guardian is given the opportunity to attend the interview. If the guardian does not attend, the interview may still be held.
- The young person may appear for the interview in the company of someone to provide assistance (generally a person of care and custody).
- The guardian and a person of care and custody may also speak to the individual case during the interview and ask questions of the minor.
- The interview gives special attention to indications of certain reasons for persecution that may be specific to young people (as well as others), such as former child soldiers, genital mutilation, forced marriage, domestic violence or human trafficking.

Medical Concerns

The Federal Office may obtain medical advice in the following cases.

- **PROHIBITION OF DEPORTATION WHERE THERE IS RISK OF A DETERIORATION OF HEALTH (SECTION 60 (7) OF THE RESIDENCE ACT)**

If an asylum seeker states that he or she cannot return to his or her coun-

try of origin for health reasons, the Federal Office must examine whether the person is at risk of a substantial deterioration of health after a return. If that is the case, the asylum seeker cannot be deported even if he or she is not granted refugee status, owing to the absence of persecution. Often, however, such illnesses are not claimed until the asylum procedure has already been concluded with a negative outcome.

In particular, psychological conditions like post-traumatic stress disorder are frequently reported as related to the described events in the home country and/or en route to Germany.

As part of the obligation to cooperate, the asylum seeker must submit a comprehensible diagnosis of his or her illness – as a rule, a doctor's attestation showing the serious possibility of such a danger. The Federal Office is then obligated to investigate such matters, and may engage a physician or psychologist to prepare an expert opinion of the medical case.

- **PHYSICAL TRACES OF ABUSE UP TO AND INCLUDING TORTURE**

If abuse or torture is claimed, the Federal Office may engage physicians to assess physical traces.

- **DETERMINATION OF CAUSE OF UNREADABLE FINGER PRINTS**

If the fingerprint analysis reveals that the fingerprints cannot be assessed for reasons that are not evident, the Federal Office may likewise consult a physician.

Evolution of Inflow

1. EVOLUTION OF PROCEDURES NATIONALLY

	2009	2010	2011	2012	2013
First and follow-up application	33,033	48,589	53,347	77,651	127,023
Initiated applications for resumption	2,195	1,876	1,689	3,896	1,815
Initiated reviews of revocations	10,534	11,362	17,439	7,672	13,633
Request for opinion under section 72 II of the Residence Act	840	885	929	1,208	1,716
Total	46,602	62,712	73,404	90,427	144,187

(Source: MARiS)

New cases of first and follow-up applications, at 77,651 (+45.6%), increased substantially in 2012 from the 2011 level, which was already high (53,347).

A total of 127,023 asylum applications were received in 2013, a substantial increase of 63.6% from 2012.

2. INFLOW FROM PRINCIPAL COUNTRIES OF ORIGIN IN 2012 (FIRST-TIME AND FOLLOW-UP APPLICATIONS)

Country of origin	Total	First applicants	Follow-up applicants
Serbia	12,812	8,477	4,335
Afghanistan	7,838	7,498	340
Syria, Arab Republic	7,930	6,201	1,729
Iraq	5,674	5,352	322
Macedonien	6,889	4,546	2,343
Iran, Islamic Republic	4,728	4,348	380
Pakistan	3,553	3,412	141

Country of origin	Total	First applicants	Follow-up applicants
Russian Federation	3,415	3,202	213
Bosnia u. Herzegovina	2,371	2,025	346
Kosovo	2,535	1,906	629
Total 1-10	57,745	46,967	10,778
Total 2012	75,651	64,539	13,112

(Source: MARiS)

INFLOW TRENDS IN 2012:

The three countries of origin with the heaviest inflow changed from 2011: Afghanistan, with 7,838 applicants for asylum (- 1.5%) moved from first to second place, while Serbia, with an inflow of 12,812 (+ 83.3%) became the country of origin with the largest inflow by far. Asylum applications by Syrians, with 7,930 first and follow-up applications, rose from fifth place in 2011 to third place in 2012 (+130.8%).

Macedonia, with 6,889 (+293%) asylum procedures in 2012, rose from tenth place in 2011 (1,753 procedures) to fifth place, making it one of the countries of origin with the heaviest inflow in 2012. The number of applications from Bosnia-Herzegovina and Montenegro also grew in 2012: Bosnia-Herzegovina, with a total of 2,371 applications for asylum (+ 482.6%) became one of the top ten countries of origin for the first time. Montenegro saw an increase of + 211% in 2012, to 395 asylum procedures.

Asylum applications from the Russian Federation grew significantly, to 3,415 (+ 81.7%), while Turkey, with an inflow of 1,759 asylum applications for the year (- 7.1%), was no longer one of the top ten.

3. INFLOW FROM PRINCIPAL COUNTRIES OF ORIGIN IN 2013 (FIRST-TIME AND FOLLOW-UP APPLICATIONS)

Country of origin	Total	First applicants	Follow-up applicants
Serbia	18,001	11,459	6,542
Russian Federation	15,473	14,887	586
Syria, Arab Republic	12,863	11,851	1,012
Macedonien	9,418	6,208	3,210
Afghanistan	8,240	7,735	505
Iran, Islamic Republic	4,777	4,424	353
Pakistan	4,248	4,101	147
Iraq	4,196	3,958	238
Somalia	3,875	3,786	89
Eritrea	3,638	3,616	22
Total 1-10	84,729	72,025	12,704
Total 2013	127,023	109,580	17,443

(Source: MARIS)

INFLOW TRENDS IN 2013:

The composition of the top ten countries of origin did not change significantly from 2012. Bosnia-Herzegovina and Kosovo are no longer among the top ten; Somalia and Eritrea have taken their place in the list. Otherwise, all top ten countries from 2012 are still on the list of the top ten for 2013, although in a different order. It is notable that in 2013, three European countries of origin were among the first five of the top ten.

Serbia, with 18,001 first and follow-up applications, was in first place as in 2012, followed by the Russian Federation with 15,473 applications (2012: 8th place) and Syria with 12,863 applications (2012: also 3rd place).

4. COMPARISON OF INFLOW IN EUROPE (FIRST AND FOLLOW-UP APPLICATIONS)

	2009	2010	2011	2012	2013
Germany	33,035	48,590	53,345	77,650	126,995
France	47,625	52,725	57,335	61,455	64,765
Sweden	24,260	31,940	29,710	43,945	54,365
United Kingdom	31,695	24,365	26,940	28,895	30,090
Italy	17,670	10,050	40,355	17,350	27,930
Belgium	22,950	26,560	32,270	28,285	21,230
Total *	266,395	260,835	309,825	336,015	415,000

* starting in 2013, including Croatia but excluding Spain, Poland and Slovak Republic Status:
7 March 2014
(Source: Eurostat)

For the Member States of the European Union, inflow figures rose 55.8% from 2009 to 2013. The increase from 2012 to 2013 was 23.5%.

As in 2012, Germany was in first place in 2013, with an increase of 63.5% in application figures. Application figures rose 5.4% in France, 23.7% in Sweden, 4.1% in the United Kingdom and 60.1% in Italy. By contrast, the number of asylum applications recorded in Belgium decreased substantially from the year before, to 21,230 asylum procedures (- 24.9%).

ASYLUM COMPARED INTERNATIONALLY

The figures from Eurostat, the European statistics agency, are used as the data source for international figures on applications for asylum. These figures are gathered on the basis of article 4 of the EU Statistics Regulation, Regulation (EC) No. 862/2007 on Community statistics on migration and international protection. To compare Eurostat's asylum statistics with German national business statistics, several differences between the two statistics systems must be taken into account:

- For reasons of data privacy, the Eurostat figures are rounded up or down to steps of five,

- The figures are the total number of asylum applications lodged (first and follow-up applications), because not all EU Member States break these figures down separately, Refugee status recognised under the Geneva Convention includes recognitions of status under article 16 a of the Basic Law and section 60 (1) of the Residence Act,
- In the Eurostat statistics (unlike the national business statistics), grants of subsidiary protection refer only to subsidiary protection under EU law pursuant to article 15 of the Qualification Directive – i.e., only section 60 (2), (3) and (7) sentence 2 of the Residence Act,
- Grants of humanitarian protection include the prohibitions of extradition and deportation under section 60 (4), (5) and (7) sentence 1 of the Residence Act; in accordance with article 4 (2) (e) of Regulation (EC) No. 862/2007, these are identified as grants of residence “under national law concerning international protection,”
- Decisions on the Dublin procedure that are declared “inadmissible” under section 27 a of the Asylum Procedure Act are counted as refusals and not as formal decisions,
- Discontinuations and withdrawals of procedures are not counted as decisions.

Development of Interviews and Decisions

1. DEVELOPMENT OF THE FEDERAL OFFICE’S DECISIONS

	2009	2010	2011	2012	2013
First applications	23,184	40,385	36,394	48,663	67,989
Follow-up applications	5,632	7,802	6,968	13,163	12,989
Applications for resumption	1,552	1,850	1,752	4,005	1,953
Reviews of revocations	15,286	15,420	13,813	10,677	11,125
Total cases handled	45,654	65,457	58,927	76,508	94,056

(Source: MARIS)

The 67,989 first applications decided in 2013 represent significantly more decisions (+ 39.7%) than in the year before. Decisions on follow-up applications decreased slightly to 12,989 (- 1.3%).

2. DEVELOPMENT OF INTERVIEWS / DECISIONS (FIRST AND FOLLOW-UP APPLICATIONS)

	Interviews	Decisions	Pending
2009	19,699	28,816	22,710
2010	28,633	48,187	23,289
2011	32,798	43,362	33,773
2012	36,200	61,826	49,811
2013	46,415	80,978	95,743

(Source: MARIS)

The Federal Office again significantly increased the number of its interviews and decisions in first and follow-up applications in 2013. Because inflow was quite high, however, the number of cases pending at the end of 2013 still increased by 45,932, to 95,743, in spite of the increase in the number of interviews (+ 10,215) and decisions (+ 19,152).

3. OPINIONS UNDER SECTION 72 (2) OF THE RESIDENCE ACT EXISTENCE OF A PROHIBITION OF DEPORTATION TO THE STATE OF DESTINATION

	2009	2010	2011	2012	2013
Opinions per sec. 72 (2) of the Residence Act	772	826	686	1,294	1,459

(Source: MARIS)

4. DECISIONS COMPARED TO THE REST OF EUROPE (FIRST AND FOLLOW-UP APPLICATIONS)

	2009	2010	2011	2012	2013
Germany	26,855	45,400	40,365	58,765	76,165
France	35,295	37,610	42,220	59,800	61,455
Sweden	23,985	27,715	26,760	31,570	45,005
Italy	23,015	11,325	24,150	22,160	22,160
United Kingdom	31,100	26,690	22,970	22,045	22,340
Belgium	15,310	16,665	20,025	24,640	19,805
Total EU 27	232,345	223,790	237,975	289,035	326,310

(Source: Eurostat)

In 2013, Germany decided the most asylum cases, ahead of France. As in previous years, Germany and France were far in the lead, in first and second places.

Development of Rates of Recognition

1. DEFINITION AND CALCULATION

As described on the preceding pages, there are several different types of decisions:

- Granting of refugee status under the Geneva Convention, pursuant to section 3 (1) of the Asylum Procedure Act
- Recognition of a right to asylum under article 16a (1) of the Basic Law
- Granting of subsidiary protection under section 4 (1) of the Asylum Procedure Act
- Establishment of a prohibition of deportation under section 60 (5) or (7) of the Residence Act
- A denial of the application for asylum (right of asylum and international protection) as unfounded; no apparent prohibition of deportation under section 60 (5) or (7) of the Residence Act

- A denial of the application for asylum (right of asylum and international protection) as manifestly unfounded; no apparent prohibition of deportation under section 60 (5) or (7) of the Residence Act
- Formal decision¹

Definition:

The total rate of recognition is calculated from the number of grants of asylum, grants of refugee status, and grants of subsidiary protection, as well as findings of prohibitions of deportation, referred to the total number of decisions during the period concerned.

2. DEVELOPMENT AND INFLUENCING FACTORS

3.

The total rate of recognition for 2009 through 2013 is as follows:

	Total rate of recognition
2009	33,8 %
2010	21,6 %
2011	22,3 %
2012	27,7 %
2013	24,9 %

(Source: MARIS)

The development of the rate of recognition was influenced by a number of factors:

One significant factor was the applicant's country of origin; another was the number of decisions made on applications. If the situation in the applicants' country of origin means the applicants will be especially endangered in the event of a return, more applications are recognised and the rate of recognition will be higher.

¹ In essence, formal decisions are decisions under the Dublin procedure because another Member State has responsibility, or discontinuations of procedures because the applicant withdrew the application, or decisions that no further asylum procedure will be conducted in a follow-up procedure.

On the other hand, if many applications are lodged by people from a single country of origin for whom no reasons for protection can be recognised on the basis of the situation on location, the rate will be correspondingly lower.

Furthermore, changes in social policy in the applicants' country of origin may also affect the rate of recognition – such as slow improvements in medical care or the collapse of a political system. The assessment of new findings by other institutions (Foreign Office, UNHCR, etc.) may also lead to changes in decision practices and therefore in the rate of recognition.

4. RATE OF RECOGNITION IN 2012

A. DISTRIBUTION OF RATE OF RECOGNITION AMONG INDIVIDUAL TYPES OF DECISIONS FOR 2012

Country of origin	Decisions	Persons granted protection	Rate of recognition in %
Serbia	13,807	23	0,2 %
Afghanistan	4,624	1,803	39 %
Syria, Arab Republic	7,801	7,467	95,7 %
Iraq	4,626	2,780	60,1 %
Macedonia	6,639	10	0,2 %
Iran, Islamic Republic	3,061	1,658	54,2 %
Pakistan	1,658	300	18,1 %
Russian Federation	1,208	171	14,2 %
Bosnia u. Herzegovina	2,131	24	1,1 %
Kosovo	2,768	54	2,0 %
Total 2012 (TOP TEN)	48,323	14,294	29,6 %
Total 2012 (all countries)	61,826	9,664	27,7 %

Ranking from TOP TEN list for first applications during the reporting period Jan.-Dec. 2012 (Source: MARIS)

B. DISTRIBUTION OF RATE OF RECOGNITION AMONG VARIOUS TYPES OF DECISION, 2012

Typ of decision	Absolute	Per cent
Art. 16 a Basic Law	740	1,2 %
Sec. 60 (1) Residence Act	8,024	13 %
Subsidiary protection per sec. 60 (2), (3), (5) and (7) Residence Act	8,376	13,5 %
Total rate of recognition	17,140	27,7 %

5. RATE OF RECOGNITION IN 2013

A. DISTRIBUTION OF RATE OF RECOGNITION AMONG VARIOUS TYPES OF DECISION 2013

Country of origin	Decisions	of witch: Positive decisions	Rate of recognition in %
Serbia	12,229	25	0,2 %
Russian Federation	12,301	271	2,2 %
Syria, Arab Republic	9,235	8,702	94,2 %
Macedonia	6,400	17	0,3 %
Afghanistan	6,126	2,937	47,9 %
Iran, Islamic Republic	3,501	1,944	55,5 %
Pakistan	2,383	809	33,9 %
Iraq	4,218	2,275	53,9 %
Somalia	1,459	720	49,3 %
Eritrea	591	427	72,3 %
Total 2013	80,978	20,128	24,9 %

In 2013, as in 2012, the rate of recognition for applicants from Syria was nearly one hundred percent. Since March 2012, because of developments in the situation in Syria, the Federal Office has generally granted at least subsidiary protection to all Syrian nationals, unless they could be granted full refugee status or asylum.

B. DISTRIBUTION OF RATE OF RECOGNITION AMONG VARIOUS OF DECISION, 2013

Type of decision	Absolute	Per cent
Art. 16 a Basic Law	919	1,1 %
Sec. 60 (1) Residence Act	9,996	12,3 %
Subsidiary protection per sec. 60 (2), (3), (5) and (7) Residence Act	9,213	11,4 %
Total rate of recognition	20,128	24,9 %

*Note: Since 1 December 2013, subsidiary protection is governed not by the Residence Act, but by section 4 of the Asylum Procedure Act (Act of transposing Directive 2011/95/EU of 28 August 2013). Grantings of subsidiary protection under section 4 of the Asylum Procedure Act and findings that there is a prohibition of deportation under section 60 (5) or (7) of the Residence Act are nevertheless shown separately only beginning with the statistics for the month of January 2014 so as to ensure comparability within calendar years.

Total number of decision 80,978

The total rate of recognition, at 24.9% for 2013, was below the previous year's figure of 27.7% for a wide variety of reasons.

Length of Procedure and Total Duration of Procedure

1. DEFINITION AND CALCULATION

The Federal Office distinguishes between the “length” and the “total duration” of a procedure.

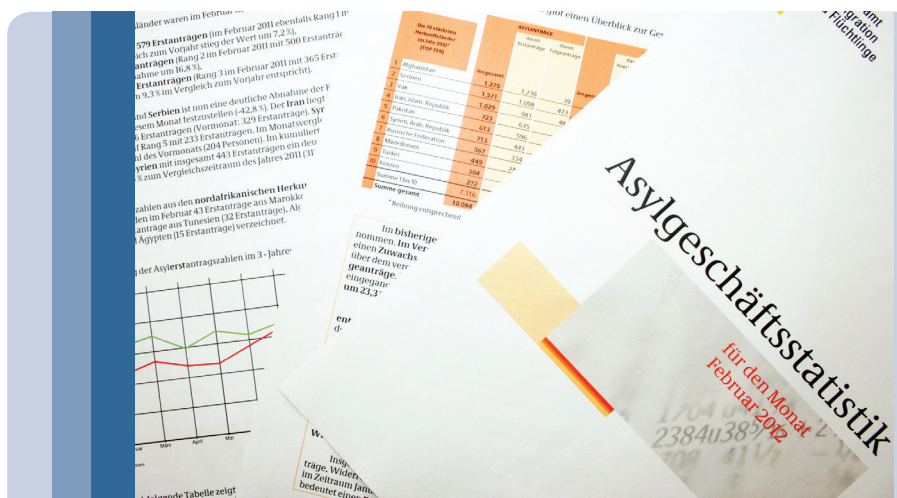
The “length” of a procedure refers to the length of time taken for the Federal Office to process the case, and represents the period from when the case file is established to when the decision is delivered.

The “total duration” of a procedure refers to the period from the time when the case file is established to the final and absolute conclusion of the procedure. This approach emphasises the migration-policy aspect – i.e., the total time for which an applicant for asylum is engaged in the asylum procedure. Consequently the calculation includes the duration of court proceedings and periods for which decisions are stayed. The crucial aspect of this approach is how much total time passes between lodging an application for asylum (first and follow-up application) and the final, unappealable decision on the application.

2. LENGTH OF ASYLUM PROCEDURE (PROCESSING TIME FOR FIRST AND FOLLOW-UP APPLICATIONS)

In 2013, procedures at the Federal Office took less than six months for 59.7% of applicants for asylum (2012: 70.4%, 2011: 68.0%)

Length of procedure	2009	2010	2011	2012	2013
Less than 1 month	10,9%	15,8 %	15 %	22,6 %	18,4 %
Less than 3 month	35,2 %	41,9 %	44,7 %	52,9 %	43,9 %
Less than 6 month	55,1 %	61,6 %	68 %	70,4 %	59,7 %



3. DEVELOPMENT OF TOTAL DUARTION OF PROCEDURE (BOTH ADMINISTRATIVE AND COURT PROCEEDINGS)

For asylum seekers whose application was decided beyond appeal in 2011, the average total duration of the procedure was 12.2 months (arithmetic mean).

Most procedures (43.8%) were completed in six months or less. The procedure took less than a year for 67.5% (2009: 63.0%, 2010: 66.2%) of asylum applicants. The total duration was less than two years for 87.8% of all applicants. The total duration was more than five years for 1.2% of applicants.

Total duration of procedure	2010	2011	2012
Settled within 6 months	45,2 %	43,8 %	46,2 %
Settled within 12 months	66,2 %	67,5 %	64,9 %
Settled within 24 months	85,6 %	87,8 %	77,8 %
Average total duration of procedure	12,9 months	12,2 months	12,1 months

In 2012, the total duration of a procedure averaged 12.1 months, which was less than in previous years (2011: 12.2 months, 2010: 12.9 months).

The majority of procedures (46.2%) were completed in six months or less. The procedure took less than one year for 64.9% of applicants. The total duration was less than two years for 77.8% of all asylum applicants.

4. FACTORS AFFECTING LENGTH AND DURATION

How long a procedure takes depends on a large number of different factors. We can mention several here as representatives for many more:

- **Country of origin:** If, for example, an application is plainly without prospects for success, a decision can be reached much faster than in cases in which the facts must be explored further, for example by obtaining information elsewhere.
- **Special situations, illness:** As a rule, these require further investigation of the facts and possibly even obtaining extensive medical opinions.
- **High rates of influx:** Elevated influx, for example those from western Balkan countries in the second half of 2012, require more interviews, leaving less room in the schedule for making decisions. At the same time, depending on the distribution of applicants, it may cause higher interview schedules at branch offices. That may necessarily result in longer times between the lodging of an application and the interview itself.

Legal Consequences of Decisions

1. RECOGNITION OF RIGHT OF ASYLUM OR REFUGEE STATUS UNDER THE GENEVA CONVENTION

An applicant whose right of asylum is recognised will be issued a three-year residence permit (Aufenthalt-serlaubnis) by the alien office. The same applies if refugee status is granted. After those three years, a settlement permit (Niederlassungserlaubnis) with no time limit will be granted if the Federal Office for Migration and Refugees has notified the alien office that the right of asylum or refugee status is not to be revoked or withdrawn. A

positive decision may still be revoked or withdrawn later if the necessary conditions arise, that decision will be made at the discretion of the Federal Office (if there are no serious criminal related grounds). Recognised refugees and those with a right of asylum are normally entitled to the same social security benefits as German nationals. They have unrestricted access to the job market, and therefore do not need to apply for a work permit. Family members (spouse or children) can be brought to Germany from abroad under facilitated conditions. There is also an entitlement to attend an integration course.

2. GRANTS OF SUBSIDIARY PROTECTION

Anyone with a recognised right to subsidiary protection will receive a one-year residence permit (Aufenthaltserlaubnis) from the aliens office; it can be extended for two years at a time. After seven years, an unlimited settlement permit (Niederlassungserlaubnis) may be granted if other requirements (such as the ability to earn a living and an adequate knowledge of the German language) have been met. Persons with subsidiary protection receive the same benefits to ensure subsistence as German citizens. They have unrestricted access to the job market, and therefore do not need to apply for a work permit. They may be joined by family members subject to certain conditions. They are also entitled to attend an integration course. Subsidiary protection must be revoked if the conditions on the basis of which it was granted have ceased.

3. NATIONAL PROHIBITIONS OF DEPORTATION

If a prohibition of deportation has been found, the person cannot be deported to the country to which that prohibition applies. The person is to be granted a residence permit (Aufenthaltserlaubnis) by the foreigners office unless he or she is able to emigrate to another country and can reasonably be expected to do so, or if he or she has not met obligations to cooperate as required, or if there are reasons for exclusion (he or she has committed a crime against peace, a war crime, or acts contrary to the objectives and principles of the United Nations). A residence permit is

granted for at least one year, and can be extended repeatedly. Grants of a settlement permit (Niederlassungserlaubnis) and the ability to ensure a living are governed by the same requirements as for persons having subsidiary protection (see above).

4. FULL DENIAL OF APPLICATION FOR ASYLUM

In the event that the asylum seeker is not recognised as entitled to asylum or as a refugee, is not granted subsidiary protection, no prohibition of deportation is found, and he or she has no residence title for some other reason, the Federal Office will issue a notice to leave the country together with the decision on the asylum application, and will inform the individual that he or she may be returned to the home country even without his or her consent. The period to leave the country is 30 days if the asylum application is denied as (only) unfounded. If the asylum application is denied because it is to be disregarded or “manifestly unfounded,” the period to leave the country is one week.

The execution of a deportation warning is no longer within the jurisdiction of the Federal Office; it lies with the Federal States, which as a rule act through their aliens offices.

Revocation Procedure

According to the Geneva Convention (article 1 (C)) and the EU Directive on protection of refugees (Directive 2011/95/EU of the European Parliament and of the Council, articles 11 and 14), refugee status exists only until the conditions that gave rise to that status cease. The same applies for subsidiary protection (Directive 2011/95/EU of the European Parliament and of the Council, articles 16 and 19).

CONCERNS IN REVOCATION PROCEDURES ARE DEFINED BY LAW

The Federal Office is required by law to review its positive decisions in revocation procedures. Such procedures determine whether the person

is still threatened with considerable danger if he or she were to return, or whether reasons for exclusion now apply. The Federal Office does not make decisions about continuing residence.

Recognition as having a right of asylum (article 16a (1) Basic Law) and recognition of refugee status (section 3 Asylum Procedure Act) must be revoked, first of all, if the conditions on which that recognition was based cease to exist, and second, they must be withdrawn if they were granted on the basis of incorrect information or a withholding of essential facts (section 73 of the Asylum Procedure Act). A review of whether the conditions still exist must be conducted no later than three years after the positive decision becomes final beyond appeal. If the review indicates that the conditions still persist, there will be no revocation or withdrawal. In that case, if the foreigner has already held a residence permit (Aufenthaltserlaubnis) for three years, he or she is entitled to receive an unlimited residence title (settlement permit, Niederlassungserlaubnis) from the state's aliens office.

Recognition of subsidiary protection (section 4 Asylum Procedure Act) must be revoked if the conditions that resulted in that recognition have ceased, or have changed to such a degree that protection is no longer needed (section 73b (1) and (2) Asylum Procedure Act). It must be withdrawn if there are reasons for exclusion, or if false information played a decisive role in granting recognition (section 73 (3) Asylum Procedure Act). Reasons for exclusion include, for example, serious crimes subject to punishment with more than three years of imprisonment, or crimes against peace.

A finding of prohibitions of deportation (section 60 (5) and (7) Residence Act) must be revoked if the conditions no longer exist, and must be withdrawn if it was mistaken (section 73c Asylum Procedure Act).

CLARIFICATION OF RESIDENCE RIGHTS

Contrary to what is often assumed, the Federal Office makes no decisions as to an individual's continuing residence when it revokes or withdraws a positive decision. As in all other cases, it is the state's aliens office that decides on residence.

Appeals

Special rules for appeal apply in procedures under the Asylum Procedure Act, in comparison to the general terms of the Code of Administrative Court Procedure (sections 74 et seq. Asylum Procedure Act).

There is no right to appeal directly to the Federal Office for Migration and Refugees against its negative decisions (section 11 Asylum Procedure Act). Asylum seekers may bring a complaint before an Administrative Court. The deadline for lodging the complaint is 14 days after service of the Federal Office's decision (section 74 Asylum Procedure Act). The complaint generally has no suspensive effect unless the application has been denied as (merely) unfounded, or in the case of a revocation or withdrawal of a positive decision (section 75 (1) sentence 1 Asylum Procedure Act). An asylum seeker need not be represented by a lawyer in an Administrative Court proceeding (section 67 (1) Code of Administrative Court Procedure). No court costs are imposed in litigation under the Asylum Procedure Act (section 83b Asylum Procedure Act).

If an application is denied as manifestly unfounded, a complaint may be lodged with the Administrative Court within one week, and the court may be asked to order that the complaint will have a suspensive effect on the execution of deportation. The Administrative Court will decide on the suspensive effect of the action in expedited proceedings.

If the Administrative Court refuses to hear the complaint because it is manifestly inadmissible or manifestly unfounded, no further appeal is possible (section 78 Asylum Procedure Act). Other decisions of the Administrative Court may be appealed to the Higher Administrative Court (Oberverwaltungsgericht (OVG), or in some Federal States, Verwaltungsgerichtshof (VGH)), but only if permission to appeal is granted by the Higher Administrative Court at the request of the asylum seeker or the Federal Office. The deadline for lodging this request is one month after service of the decision. The request must be lodged with the Administrative Court, must indicate the decision and state the grounds on which the appeal must be allowed. The final and absolute effect of the decision is suspended by the application for leave to appeal.

Decisions of a Higher Administrative Court (whether OVG or VGH) may be appealed to the Federal Administrative Court (Bundesverwaltungsgericht) only if permission for such an appeal is granted by the Higher Administrative Court in its decision, or by the Higher Administrative Court or Federal Administrative Court in response to a complaint by the asylum seeker or the Federal Office (section 132 (1) Code of Administrative Court Procedure). The deadline for lodging the request is one month after service of the decision; the request must be made to the Higher Administrative Court in writing, and must indicate the decision (section 133 (2) Code of Administrative Court Procedure).

There is no appeal against a judgment of the Federal Administrative Court within the ordinary court system; options for legal remedy are exhausted. A complaint may be filed with the European Court of Human Rights in Strasbourg, France (article 34 European Convention on Human Rights). If the fundamental right of asylum is concerned, it is possible to lodge a constitutional complaint with the Federal Constitutional Court (Bundesverfassungsgericht) (sections 90 et seq. Federal Constitutional Court Act).



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