



Federal Office
for Migration
and Refugees

The stages of the German asylum procedure

An overview of the individual procedural steps
and the legal basis



Who is a “refugee”?

The term “refugee” is often used in everyday language as a general synonym for people who have been displaced, but the law on asylum only understands it as covering recognised refugees in accordance with the Geneva Refugee Convention, that is individuals who are given refugee protection once their asylum proceedings have been completed. There are however three more forms of protection where a right to asylum can be granted, if they are applicable. As the authority responsible for implementing the law on asylum, the Federal Office distinguishes more precisely, that is between the following groups of individuals:

Asylum-seekers: individuals who intend to file an asylum application but have not yet been registered by the Federal Office as asylum applicants.

Asylum applicants: asylum applicants whose asylum proceedings are pending and whose case has not yet been decided on.

Persons entitled to protection and persons entitled to remain: individuals who receive an entitlement to asylum, refugee protection or subsidiary protection, or who may remain in Germany on the basis of a ban on deportation.

Foreword

Asylum is a right that is protected by the Constitution in Germany. People who are displaced from other parts of the world, fleeing from violence, war and terror, are to find protection in our country.

When they arrive in Germany, displaced persons reach safe ground, frequently after been in danger for years. Having said that, they only have certainty as to whether they and their families may remain here permanently and work when their asylum application has been finally decided on.

The examination of asylum applications is one of the most important tasks performed by the Federal Office for Migration and Refugees. This is a responsible, demanding task, given that decisions are taken on people, in complex procedures, taking diverse competences and stringent legal frameworks into account.

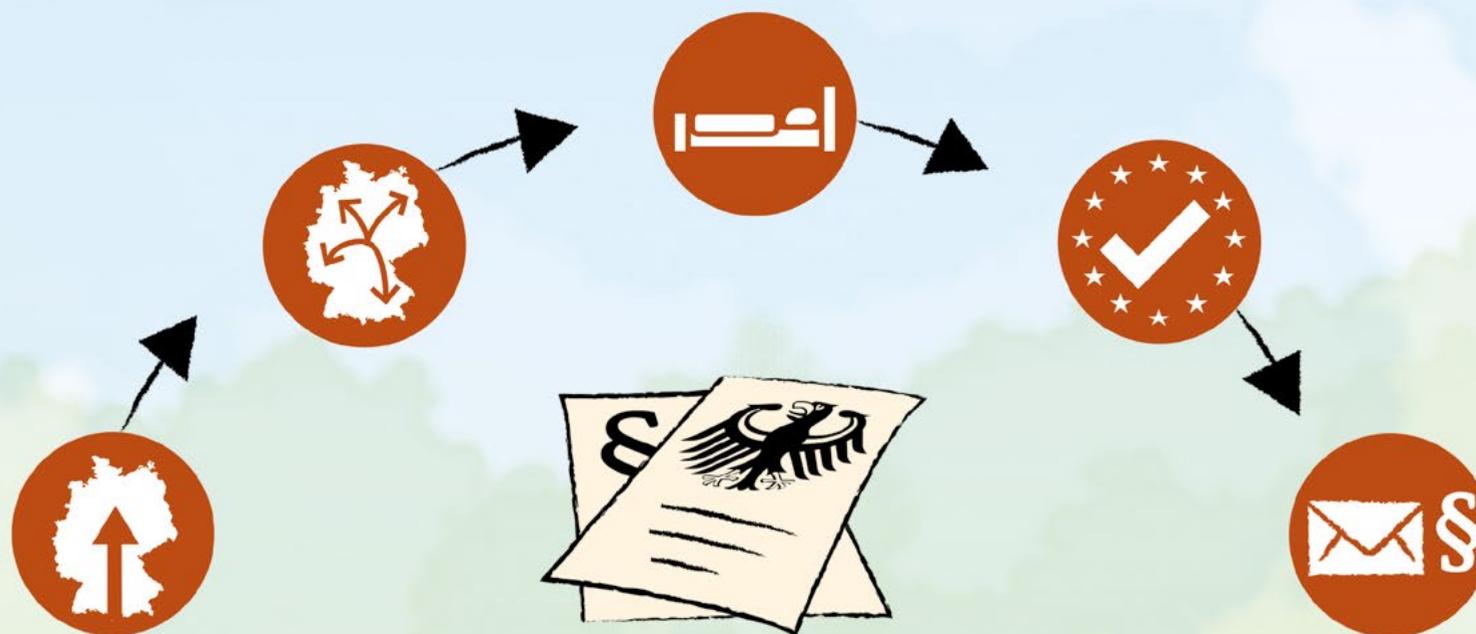
In each individual case, highly-trained decision-makers from the Federal Office with considerable skills and experience decide whether an asylum application is justified, and whether one of the four grounds for protection enabling a person to remain in Germany applies.

This brochure will provide you with an overview of the most important aspects of the asylum procedure, such as applicants’ personal interview, the steps taken in the decision-making process, recent activities to optimise procedures, as well as the place which the activities take up within a European context.

More detailed information regarding procedures, statutory instruments and the legal basis, recent asylum data or studies on the topic of asylum and refugee protection, can be found on the web at www.bamf.de/asyl+fluechtlingsschutz.

Contents

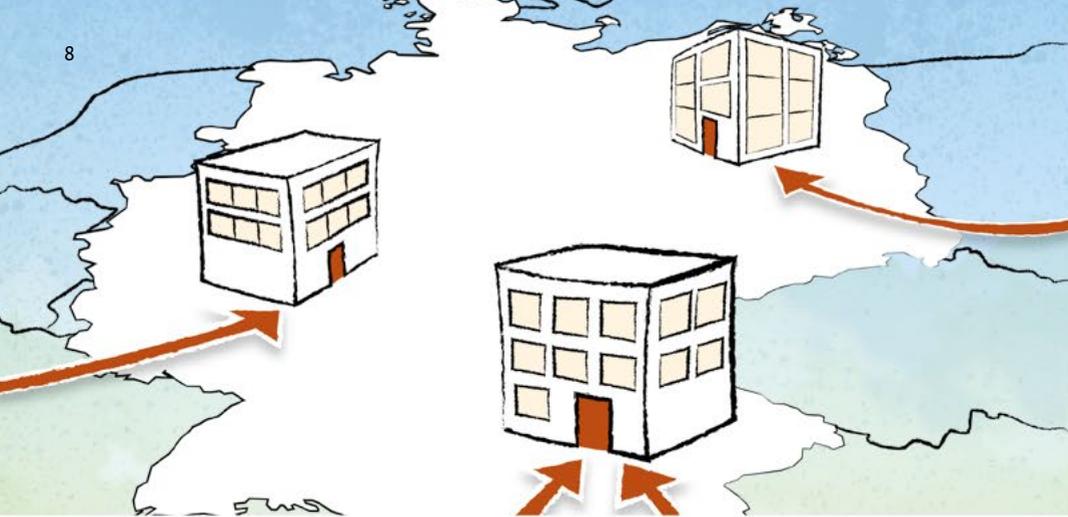
Foreword	3
1. From arrival to the asylum procedure	6
1.1 Arrival and registration	8
1.2 Initial distribution and accommodation	9
1.3 The responsible reception facility	10
1.4 Personal asylum applications	11
1.5 Examining the Dublin procedure	13
1.6 The personal interview	14
1.7 The decision of the Federal Office	16
1.8 Appeals against the decision	22
1.9 The outcome of the asylum proceedings	23
2. Processing the application at the Federal Office	26
2.1 Arrival centres	28
2.2 Decision-makers	30
2.3 Procedure management and quality assurance	32
3. Unaccompanied minors	34
4. Particularities of the asylum procedure	38
4.1 Safe countries of origin	40
4.2 The airport procedure	41
5. European cooperation	42
5.1 The Common European Asylum System – CEAS	44
5.2 The European Asylum Support Office – EASO	44



1

From arrival to the asylum procedure

All asylum-seekers arriving in Germany must report to a state organisation directly on arrival or immediately thereafter. They can do this as soon as they reach the border or later within the country. Anyone already reporting as seeking asylum on entry approaches the border authority. This authority then sends asylum-seekers on to the closest initial reception centre. Anyone who does not make a request for asylum until they are in Germany can report to a security authority (such as the police), an immigration authority, a reception facility or directly to an arrival centre. Only then can the asylum procedure begin.



1.1 Arrival and registration

All individuals reporting as seeking asylum in the Federal Republic of Germany are registered. The opportunity is taken here to centrally store personal data, and a photograph as well as fingerprints. All public agencies which need them for their respective tasks later have access to these data.

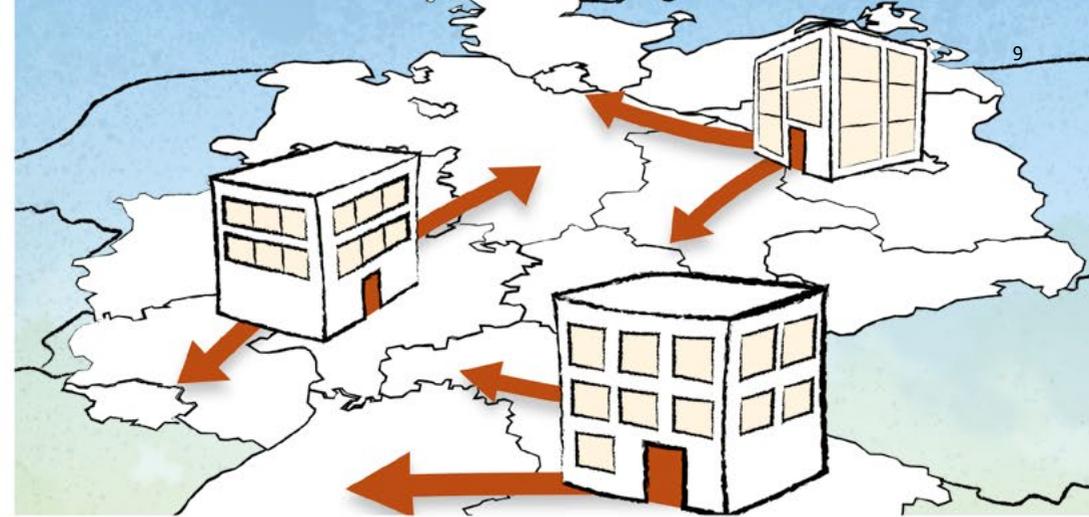
Asylum-seekers receive a proof of arrival (*Ankunftsnachweis*) at the reception facility, arrival centre or branch office of the Federal Office which is responsible for them to prove that they have registered. They can however also receive in advance a certificate directing them to the nearest reception facility (*Anlaufbescheinigung*). This contains both personal data as well as the address of the reception facility which is responsible for them and where they will receive their proof of arrival.

As the first official document, the proof of arrival serves to document the entitlement to reside in Germany. And what is equally important is that it constitutes an entitlement to draw state benefits, such as accommodation, medical treatment and food.



The Central Register of Foreigners (*Ausländerzentralregister*)

The data that are collated are entered in the Central Register of Foreigners (AZR) by the Federal Office when an asylum application is made. The AZR is a nationwide, personal file which is centrally managed by the Federal Office. It contains information on people from abroad who are or were resident in Germany. All the immigration authorities work with these data in performing their tasks.



1.2 Initial distribution and accommodation

The first step is for all asylum-seekers to be received in the closest reception facilities of the Federal *Land* in question. Such a facility may be responsible for temporary as well as longer-term accommodation.

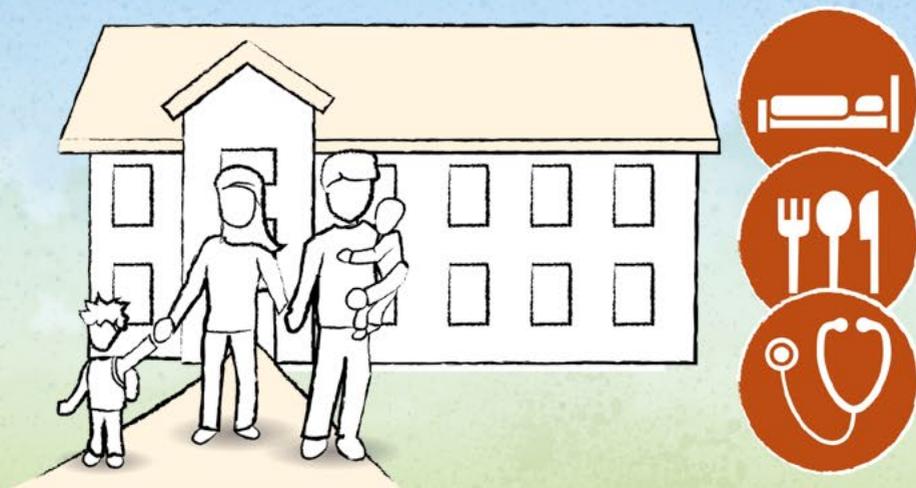
Allocation to a specific reception facility is decided according to the current capacities. It also makes a difference in which branch office of the Federal Office or in which reception centre the respective country of origin of the asylum-seeker is processed: The “competence according to country of origin” principle is applied. Depending on the country of origin, asylum-seekers can be accommodated in reception facilities for up to six months, or until their application is decided on. They can also be allocated to another facility during this period under certain circumstances, for instance for family reunification.



EASY – The quota system for fair distribution

The EASY quota system (Initial Distribution of Asylum-Seekers) is orientated in line with the “Königstein Key”. The distribution quota is calculated on an annual basis by the Federation-*Länder* Commission, and determines what share of asylum-seekers are received by each Federal Land. This ensures suitable, fair distribution among the Federal-*Länder*.

The current distribution quotas can be found on the web at www.bamf.de.



1.3 The competent reception facility

The competent reception facility is responsible for providing food and board for asylum-seekers. They receive benefits in kind at subsistence level during their stay and a monthly amount of money to cover their everyday personal needs. The nature and amount of the benefits are regulated by the Asylum-Seekers' Benefits Act (*Asylbewerberleistungsgesetz*). These include basic benefits for food, housing, heating, clothing, healthcare and personal hygiene, as well as household durables and consumables, benefits to cover personal daily requirements, benefits in case of sickness, pregnancy and birth, as well as individual benefits which depend on the particular case.

Benefits for asylum applicants are also provided in the follow-up accommodation (such as collective accommodation or even a private apartment). More information is available from the responsible municipal administration.



1.4 Personal asylum applications

A personal application is filed with the branch office of the Federal Office or at an arrival centre. An interpreter is available for this appointment to help applicants understand their rights and duties within the asylum procedure. They furthermore receive all the important information in writing in their native language.

The personal data are recorded during the application procedure, if this has not already taken place. Applicants are obliged to prove their identity if they are able to do so. Documents accepted include a national passport, as well as other personal documents such as birth certificates and driving licences. The Federal Office uses physical and technical document examination to assess the original documents.

Applicants are photographed; the fingerprints are also taken of people aged over 14. These data are compared with those in the Central Register of Foreigners, as well as with those of the Federal Criminal Police Office, in order to ascertain whether the application is an initial application, a follow-up application or possibly a multiple application. It is also investigated using a Europe-wide system (Eurodac) whether another European state might be responsible for carrying out the asylum procedure.

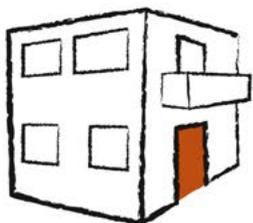
The application is made in person as a rule. A written asylum application may only be filed in special cases, for instance if the individual in question is in a hospital or has not yet reached the age of maturity.

Residence obligation (*Residenzpflicht*)

Once their asylum application has been filed, applicants receive a certificate of their permission to reside (*Aufenthaltsgestattung*). This certificate serves as documentation vis-à-vis state agencies that they are asylum applicants, and proves that they are in Germany lawfully. Permission to reside is territorially restricted to the district (residence obligation) in which the responsible reception facility is located.

Persons with poor prospects to remain are obliged to live in the reception facilities until the decision is taken. If their asylum application is turned down as “manifestly unfounded” or “inadmissible”, this obligation for people to reside in a particular place then applies until they leave the country. They are not permitted to work during this period, and they may only temporarily leave the area designated in their permission to reside if they have permission from the Federal Office.

Persons with good prospects to remain may initially also only remain in the area designated in their permission to reside. They too need permission if they would like to temporarily leave this area. The residence obligation ceases to apply after three months. The residence area is then expanded to cover the entire country.



1.5 Examining the Dublin procedure

The Dublin procedure is a procedure for determining the Member State responsible prior to the actual examination of the asylum application. It is used to establish which European country is responsible for examining an asylum application. The purpose of the “Dublin Regulation” is for the content of each asylum application which is lodged in the Dublin area to only be examined on the merits by one state. This area includes the Member States of the European Union, Norway, Iceland, Switzerland and Liechtenstein. If protection has already been granted under the law on asylum in one Dublin state, no further examination of the asylum application is possible in Germany.

If a Member State establishes that asylum proceedings are to be processed or completed in another Member State, it files a “transfer request” with the State in question. If the latter consents to the transfer, the Federal Office issues a notice ordering it. It also informs the person concerned and asks them whether there may be any reasons conflicting with the transfer.

The person concerned can file a court action against this decision, and can put forward an emergency motion. It is not permissible for them to be transferred to the Member State until the ruling has been handed down in the emergency court proceedings.

If the transfer is not carried out within six months, responsibility for the proceedings is transferred to the Member State which has requested the transfer. If the individual is in detention, the transfer period may be extended to a maximum of one year. It can be extended to 18 months at most if the person concerned is not traceable.



1.6 The personal interview

The personal interview is the applicant's most important appointment within his/her asylum procedure. Advice is therefore available from organisations providing aid when it comes to preparing for the interview.

It is the "decision-makers" who are responsible for holding the interviews at the Federal Office. They invite applicants to attend this appointment, where an interpreter will also be on hand.

Applicants absolutely must attend this appointment, or they must state in good time and in writing why they are unable to attend (for instance for health-related reasons). If they do not do so, their asylum application can be turned down or the proceedings discontinued.

The interviews are not public, but they may be attended by an attorney or by a representative of the United Nations High Commissioner for Refugees (UNHCR), and by a guardian in the case of unaccompanied minors. The permission of the Federal Office must be obtained in advance if another person enjoying the applicant's trust is to attend.

The objective of the interviews is to learn of the individual reasons for flight, to obtain more information and to resolve contradictions. To this end, the decision-makers are familiar with the circumstances prevailing in the applicants' countries of origin.

Applicants are afforded sufficient time during the interview to present their respective reasons for taking flight. They describe their biographies and situations, tell of their travel route and of the persecution which they have personally suffered. They also assess what would await them were they to return to their country of origin. They are obliged to state the truth at all times and to provide any evidence which they have been able to obtain. These may be photographs, documents from the police or other authorities, and possibly also medical reports.

The descriptions are interpreted and minutes are taken, and are then translated back for the applicant after the interview. This enables them to add to what they have said, or to make corrections. They are then presented with the minutes for them to approve them by signing them.



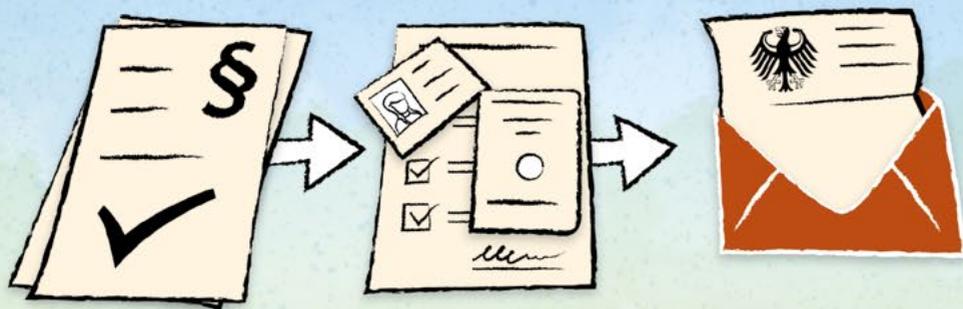
Participation by the UNHCR

The United Nations High Commissioner for Refugees (UNHCR) monitors in order to ensure compliance with the Geneva Refugee Convention. If the UNHCR requests information for his work, the Federal Office provides it. The UNHCR may also attend interviews in the asylum procedure. He may furthermore inspect the decisions of the Federal Office and their reasoning in order to perform his tasks.



Identity checks

Should there be any doubts as to applicants' identity, the Federal Office carries out an examination using language and text analyses with the involvement of language experts. Such cases are reported to the Federal Office's own Security division. The division works closely with the Joint Extremism and Counter-Terrorism Centre (GETZ) and with the Joint Counter-Terrorism Centre (GTAZ). What is more, it carries out an automatic data comparison with the security authorities within the bounds imposed by privacy laws.



1.7 The decision of the Federal Office

The Federal Office decides on the asylum application on the basis of the personal interview and of a detailed examination of documents and items of evidence. The decision rests on the fate of the individual applicant. It is reasoned in writing, and is served on the person concerned, the applicant or the legal representative, as well as on the competent immigration authorities.

Possibilities for decision-making

The Federal Office examines each asylum application on the basis of the German Asylum Act (*Asylgesetz*) as to whether one of the four forms of protection – entitlement to asylum, refugee protection, subsidiary protection or a ban on deportation – applies. Only when none of these forms of protection can be considered is the asylum application rejected.



The four forms of protection

Entitlement to asylum

Accordingly, persons who would be subject to a serious human rights violation should they return to their country of origin are entitled to asylum and deemed to have been persecuted on political grounds because of their race¹, nationality, political opinion, fundamental religious conviction or membership of a particular social group.

§ The legal basis and consequences

Article 16a para. 1 of the Basic Law

- residence permit for three years
- settlement permit possible after three or five years if other preconditions are met, such as the ability to make a secure living and adequate knowledge of German.
- unrestricted access to the labour market – gainful employment permitted
- entitled to privileged family reunification (see p. 21)



🗺 Safe third countries

Recognition of entitlement to asylum is ruled out if an individual enters via a safe third country. The German Asylum Act (*Asylgesetz*) defines the Member States of the European Union, as well as Norway and Switzerland, as safe third countries.

🗺 The right of asylum

In accordance with Article 16a of the Basic Law (*Grundgesetz – GG*) of the Federal Republic of Germany, persons persecuted on political grounds have the right of asylum. The right of asylum is not only granted in Germany on the basis of the international obligation emerging from the Geneva Refugee Convention of 1951, but has constitutional status as a fundamental right. The right of asylum serves to protect human dignity in a more comprehensive sense, and is the only fundamental right to which only foreigners are entitled.

¹ The term “race” is used in accordance with the wording of the Geneva Refugee Convention.

Refugee protection

Refugee protection is more extensive than entitlement to asylum, and also applies to persecution by non-state players. On the basis of the Geneva Refugee Convention, people are regarded as refugees who, because of a well-founded fear of being persecuted by state or non-state players for reasons of race, nationality, political opinion, fundamental religious conviction or membership of a particular social group, are outside their country of origin and nationality, or as stateless individuals are outside of their country of habitual residence. These criteria also apply if they are unable or, because of a well-founded fear, are unwilling to avail themselves of the protection of their country of origin.

§ The legal basis and consequences

Section 3 subs. 1 of the Asylum Act (AsylG)

- residence permit for three years
- settlement permit possible after three or five years if other preconditions are met, such as the ability to make a secure living and adequate knowledge of German.
- unrestricted access to the labour market – gainful employment permitted
- entitled to privileged family reunification (see p. 21)



Subsidiary protection

People are entitled to subsidiary protection who put forward substantial grounds for the presumption that they are at risk of serious harm in their country of origin and that they cannot take up the protection of their country of origin or do not wish to take it up because of that threat. Serious harm can originate from both governmental and non-governmental players.

The following are regarded as constituting serious harm: the imposition or enforcement of the death penalty, torture, inhuman or degrading treatment or punishment, a serious individual threat to the life or integrity of a civilian as a result of arbitrary force within an international or domestic armed conflict.

§ The legal basis and consequences

Section 4 subs. 1 of the Asylum Act (AsylG)

- residence permit for one year
- if extended: two more years in each case
- settlement permit possible after five years (the duration of the asylum procedure is included) if other preconditions are met, such as the ability to make a secure living and adequate knowledge of German.
- unrestricted access to the labour market – gainful employment permitted
- not entitled to privileged family reunification (see p. 21)



! Reasons for not qualifying for protection

An entitlement to protection for the three forms of protection mentioned above – entitlement to asylum, refugee protection and subsidiary protection – cannot be considered if reasons for not qualifying apply. These include: If an individual has committed a war crime or a serious non-political criminal offence outside Germany, has breached the goals and principles of the United Nations, is to be regarded as a risk to the security of the Federal Republic of Germany, or constitutes a danger to the public because he/she has been finally sentenced to imprisonment for a felony (*Verbrechen*) or a particularly serious misdemeanour (*Vergehen*).

¹ The term "race" is used in accordance with the wording of the Geneva Refugee Convention.

National ban on deportation

A person who is seeking protection may not be returned if return to the destination country constitutes a breach of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), or a considerable concrete danger to life, limb or liberty exists in that country.

A considerable concrete danger can be considered to exist for health reasons if a return would cause life-threatening or serious diseases to become much worse. This is not contingent on the healthcare provided in the destination state being equivalent to that available in the Federal Republic of Germany. Adequate medical treatment is also deemed to be provided as a rule if this is only guaranteed in a part of the destination country.

If a national ban on deportation is issued, a person may not be returned to the country to which this ban on deportation applies. Those concerned are issued with a residence permit by the immigration authority.

A ban on deportation can however not be considered if the person concerned could depart for another country, and it is reasonable for them to be called on to do so, or if they have not complied with their obligations to cooperate.

§ The legal basis and consequences

Section 60 subs. 5 of the Residence Act (*AufenthG*)

Section 60 subs. 7 of the Residence Act

- residence permit for at least one year
- repeated extension possible
- settlement permit possible after five years (the duration of the asylum procedure is included) if other preconditions are met, such as the ability to make a secure living and adequate knowledge of German,
- employment possible – permission must be obtained from the immigration authority
- not entitled to privileged family reunification (see p. 21)



Family asylum

Members of a family can be granted family asylum. What this means is that if a “principal person entitled” has been recognised as entitled to asylum, he or her family members who are in Germany are also granted asylum on application. Spouses and registered partners, minor, unmarried children, the parents of a minor, unmarried person for the purpose of care and custody, another adult who has personal custody of a minor, unmarried person as well as the minor, unmarried siblings of a minor, are regarded as family members for the purposes of family asylum. This arrangement also applies to persons entitled to protection to whom refugee protection or subsidiary protection has been granted.

Born in Germany

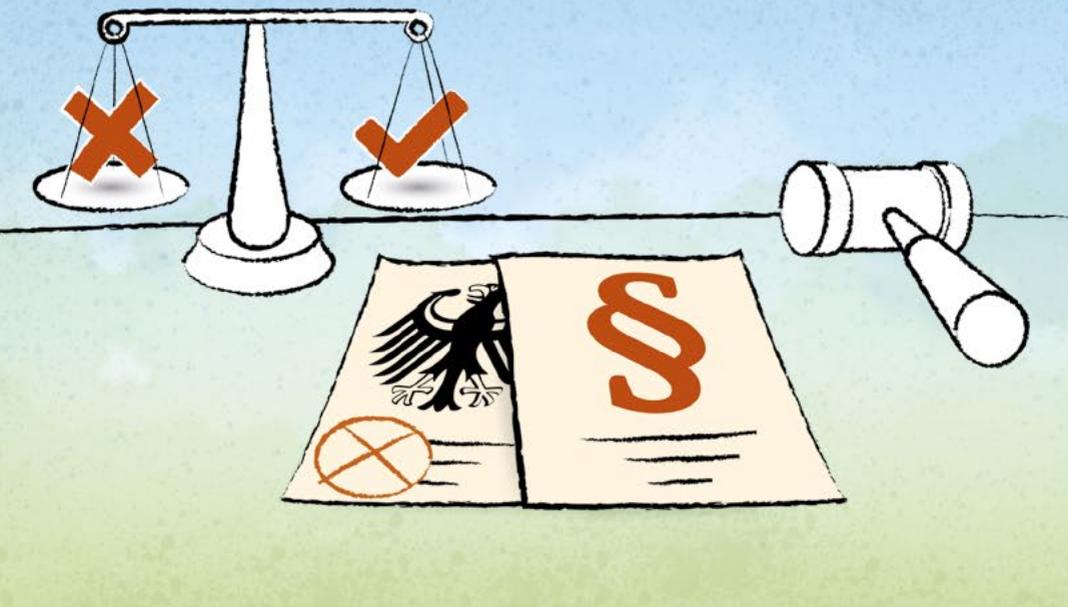
If a child is born in Germany after the parents have filed an asylum application, the legislature provides for the possibility of a separate asylum procedure in order to protect the children. For this purpose, the parents or the immigration authority inform the Federal Office that the birth has taken place. The asylum application is hence automatically regarded as having been filed in the interest of the newborn child. The parents can submit separate grounds for asylum for their child. If they do not do so, the same grounds apply as to the parents.



Family reunification

Persons to whom entitlement to asylum or refugee status has been granted are entitled to privileged family reunification: This covers spousal as well as child reunification. The appropriate application for this must be filed with the Federal Foreign Office (*Auswärtiges Amt*) within three months after the entitlement to protection has been granted.

A transitional period of up to March 2018 applies to persons entitled to subsidiary protection. They are not entitled to privileged family reunification during this period. Individuals who are still in the asylum procedure, as well as those with regard to whom a national ban on deportation was established in the asylum procedure, are excluded from privileged family reunification.



1.8 Appeals against the decision

Applicants only receive a negative notice together with a notice of intention to deport if the conditions for none of the four forms of protection apply. In this case, appeals are available to those concerned. They can take court action against the decision of the Federal Office.

The court then examines the decision which the Federal Office has taken. If it concludes that the preconditions for granting protection actually do apply, it rescinds the notice and obliges the Federal Office to provide protection. If the rejection is confirmed with regard to all forms of protection, the action is rejected and the foreigner remains obliged to leave the country.

If the individual does not voluntarily comply with their obligation to leave the country, this can also take place coercively, the respective immigration authority being responsible for the return. This also applies if no court action is brought.



1.9 The outcome of the asylum proceedings

The final decision of the Federal Office – the conclusion of the asylum proceedings – is followed either by a right of residence or by a right to remain, or by an obligation to depart. The respective immigration authorities are responsible for matters related to termination of residence.

Issuing residence permits

Persons who are entitled to asylum receive a residence permit from their immigration authority for three years. The same applies if refugee status has been granted. An indefinite settlement permit can be issued after three years at the earliest under certain circumstances, such as the ability to make a secure living and adequate knowledge of German, if the Federal Office does not initiate the revocation procedure.

Persons who are entitled to subsidiary protection receive a residence permit which is valid for one year and can be extended for two more years in each case. A settlement permit can be issued after five years at the earliest (the duration of the asylum procedure is included) if other preconditions are met, such as the ability to make a secure living and adequate knowledge of German.

If a national ban on deportation has been handed down, a person may not be returned to the country to which this ban on deportation applies. Those concerned receive a residence permit if the conditions for this are satisfied (see National ban on deportation). The residence permit is issued for at least one year, and can be repeatedly extended. The same rules apply to issuing a settlement permit as to people who are entitled to subsidiary protection.

The revocation and withdrawal procedures

The law requires the Federal Office to revoke the recognition of entitlement to asylum and the award of refugee status if the preconditions for them no longer apply. This is the case for instance if the persecution situation has permanently changed and those concerned would no longer face danger should they return. The possibility of revocation must furthermore be examined if there are reasons for not qualifying, such as because of criminal offences or if there are domestic German security reservations. The protection status can also be withdrawn if it was granted on the basis of incorrect information or failure to reveal essential facts. The Federal Office examines after three years at most within the “standard assessment” whether the preconditions for revocation or withdrawal are satisfied. It is the respective immigration authority which decides on the continued residence.

Termination of residence

When an asylum application is turned down, a distinction is made between two types of rejection: outright rejection and rejection as “manifestly unfounded”. If the rejection is outright, the individual in question is set a deadline of 30 days in which to leave the country, whereas if the asylum application is rejected as “manifestly unfounded”, the deadline period for leaving is only one week. The respective immigration authorities are responsible for returns. The latter can however temporarily suspend a return and issue a temporary suspension of deportation (Duldung) or a time-limited residence permit if there are obstacles to the return which the Federal Office was not able to take into account in its decision.

Bans on entry and residence for asylum applicants whose applications have been turned down

A statutory ban on entry and residence – the “re-entry ban” – comes into force for asylum-seekers who do not leave the country voluntarily after their asylum applications have been turned down. The job of the Federal Office here is to set a time limit on bans on entry and residence for rejected asylum applicants. The individual circumstances (genuine interests) are taken into account here. The immigration authorities are responsible for implementing bans on entry and residence.

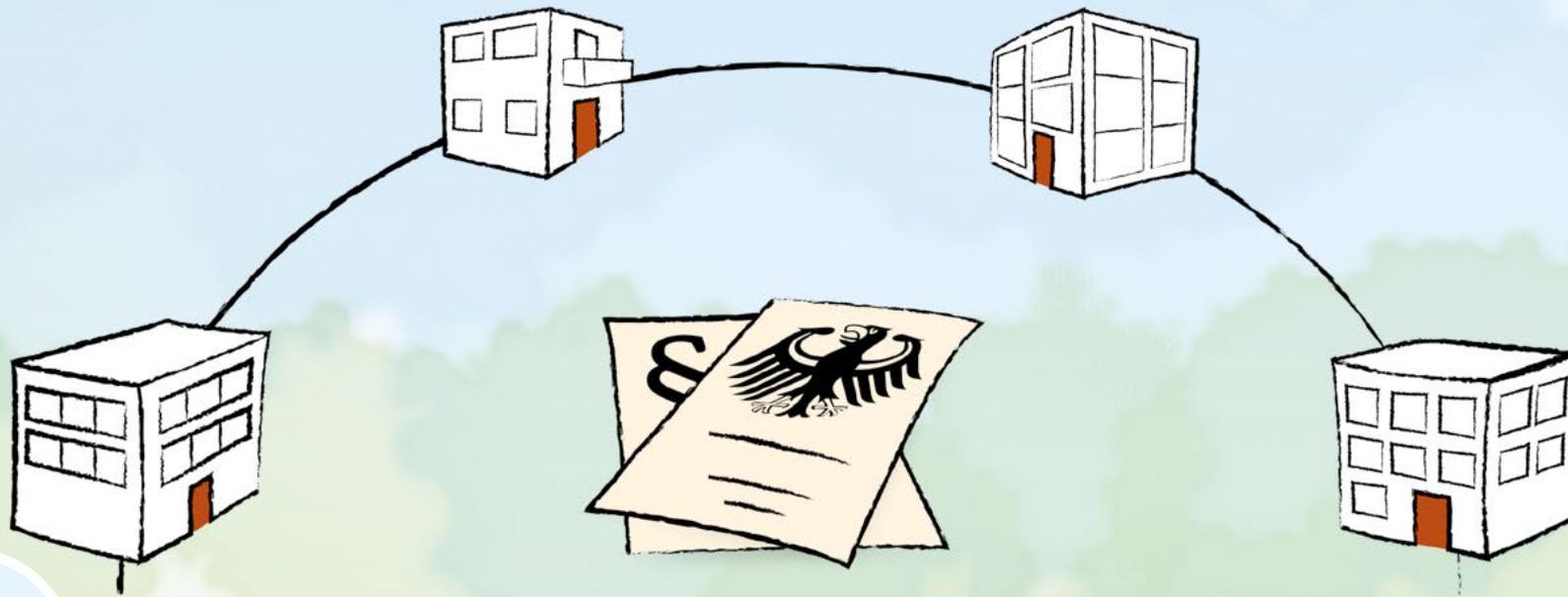
Nationals of safe countries of origin and follow-up applications

A special feature applies to nationals from “safe countries of origin”. If their asylum applications are turned down, the Federal Office additionally orders a ban on entry and residence and decides on its duration. It also becomes effective if the individual leaves the country voluntarily.

The consequences of a ban on entry and residence

If a ban on entry and residence starts to apply to an individual, this is entered in the INPOL national police information system and in the Central Register of Foreigners for the individual in question. When individuals are checked on entry, entry can be refused. Persons who are found to be illegally resident in Germany can even be detained. As a matter of principle, the ban on entry and residence does not apply only to Germany, but to the entire Schengen area.

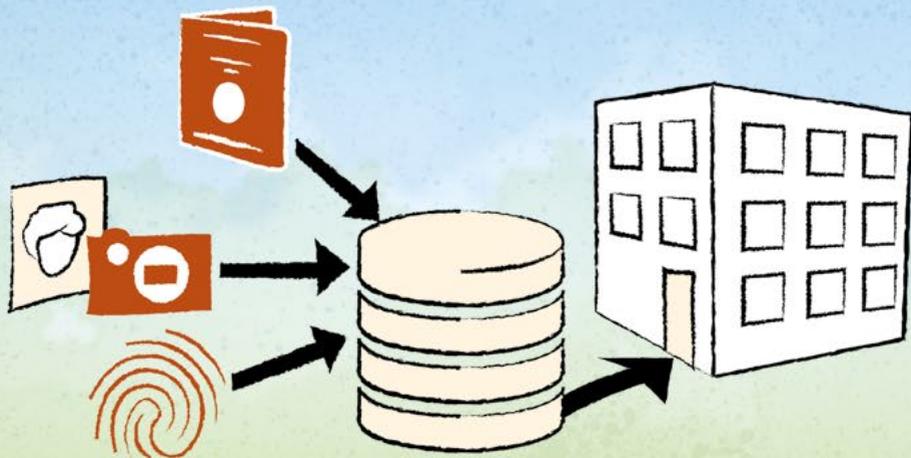




2

Processing the application at the Federal Office

Efficient workflows at the locations all over the country, specialist skill-building for staff, cooperation with other authorities, procedure management as well as quality assurance in processing the applications at the Federal Office, help continually improve quality and the observance of legal certainty.



2.1 Arrival centres

The arrival centres are the central entry point when it comes to the asylum procedure. It is in the arrival centres that all the steps are carried out which are necessary for the asylum procedure. This includes the medical examination by the *Länder*, the recording of the personal data and the identity check, the application, the interview and the Federal Office's decision on the asylum application, as well as the initial advice from the local employment agency on access to the labour market.

Integrated refugee management is used to store the processes of the authorities involved – from registration in the respective Federal *Land*, examining the state of health through to the notice on the decision – in a nationwide core data system, and hence to improve cooperation.

The cluster procedure

The Federal Office has reduced the duration of the procedure for individuals from specific countries of origin to only a few weeks since the summer of 2015 by applying a systematic cluster procedure. This concentrates on breaking asylum-seekers down into four groups before they file their applications. In order to allow them to be precisely categorised, criteria are established according to the country of origin, the level of complexity expected to be encountered in processing the application and the route travelled.

Interviews have been processed for older cases in the arrival centres since the summer of 2016 as well as processing new applications. This reduces the strain on the branch offices in the respective regions



Clusters A to D

Cluster A: Countries of origin with a high protection rate (from 50 % upwards)

Cluster B: Countries of origin with a low protection rate (up to 20 %)

Cluster C: Complex cases

Cluster D: Dublin cases

Integration courses and access to the labour market

Asylum-seekers are counselled whilst their applications are being processed with regard to attending the Federal Office's integration courses where they live.

They also receive advice on the potential for access to the labour market. Counsellors from the Federal Employment Agency collect the applicants' personal data on the spot in the arrival centres. These data are then available to the employment agencies and job centres all over the country.



Skill-building and technical prerequisites

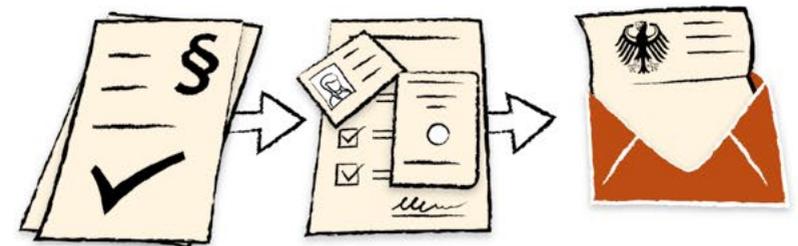
A contemporary basic and further training concept is deployed in the Federal Office's Centre for Qualification. Staff are comprehensively trained by experienced instructors and prepared for the asylum procedure. Once the fundamentals of the law on asylum and interviewing and questioning techniques have been imparted, new decision-makers are trained in real-life situations. Because the asylum procedure in Germany is subject to constant change, including as a result of constant changes in policy, both the new colleagues and experienced staff members are obliged to attend regular training. This is also where the "specially-commissioned case-officers" are trained.

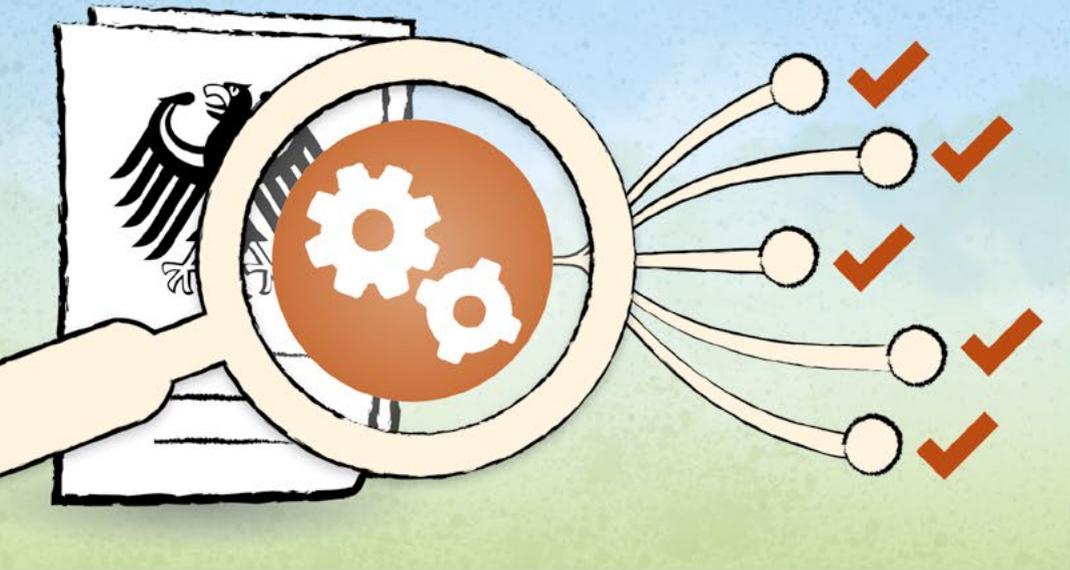
Specially-commissioned case-officers

Specially-commissioned case-officers are specially-trained decision-makers for interview procedures among particularly vulnerable groups of individuals. These include unaccompanied minors, victims of torture, victims of trauma and persons persecuted because of their gender, as well as victims of trafficking in human beings. The specially-commissioned case-officers are at the disposal of their superiors and colleagues as contacts over and above their own tasks in processing applications.

2.2 Decision-makers

The decision-makers at the Federal Office are part of the general, non-technical administrative service. Their task, namely to examine asylum applications, comprises both the important personal interview, as well as the subsequent decision on the asylum applications. The technical prerequisites for performing this task include both comprehensive knowledge of the law on asylum and on immigration, as well as detailed knowledge of the political situation in the applicants' countries of origin. Furthermore, certain soft skills such as a mastery of customary interview techniques, culturally-sensitive empathy and intercultural skills, are included in the fundamental prerequisites for deployment as a decision-maker.





2.3 Procedure management and quality assurance

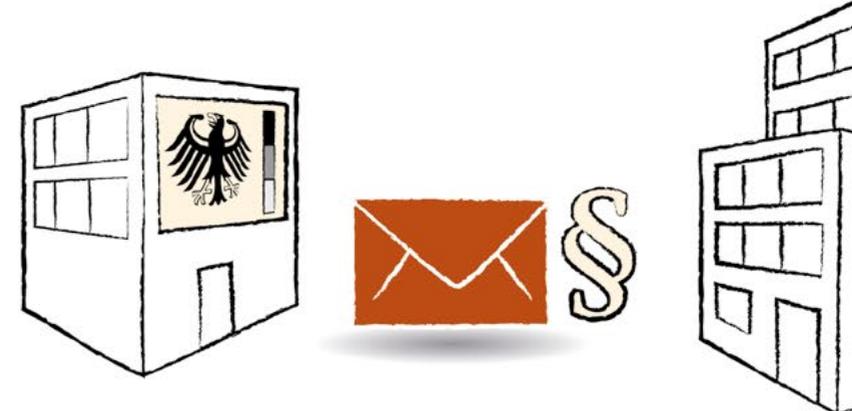
Ongoing procedure management and quality assurance are needed to ensure uniform workflows.

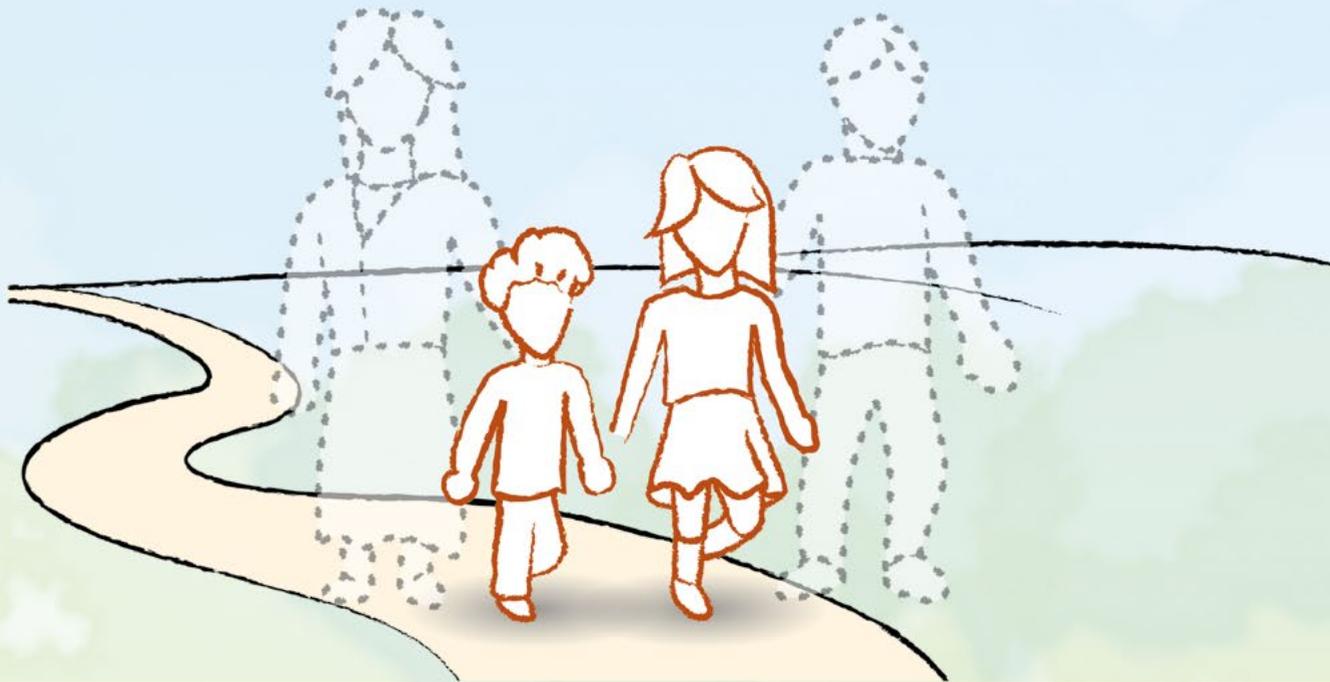
Procedure management

The procedures are managed via various instruments such as official instructions and work guidelines. In the shape of guides, these also include internal orientation aids for asylum-seekers' main countries of origin. These for instance make it easier to assess the situation where circumstances are comparable. The guides also cover topics such as domestic flight alternatives, group persecution and family liability. They however never replace an individual examination and assessment of the asylum applications. This is carried out in each individual case by the decision-makers.

Quality assurance

The Federal Office cooperates closely with the UNHCR and European partner authorities in quality assurance. It is carried out on a holistic basis given that the entire asylum process is examined, from the application through to the service of the notice. Quality control is exercised amongst other things in the shape of inspecting interview reports and the notices. Furthermore, all decisions under the law on asylum are submitted in the shape of brief overviews to the Federal Office's staff who are responsible for quality promotion in the interest of uniform decision-making practice. A large number of aids are used and continually updated in order to maintain the quality standards. These include official instructions, text manuals, work guidelines as well as quality manuals. The set of tools also includes further training opportunities in quality assurance for decision-makers.





3

Unaccompanied minors

Special rules therefore apply to unaccompanied minors when they apply for asylum and in processing.

Children and juveniles aged under 18 are regarded in the German asylum procedure as being minors. If they enter a Member State of the EU without being accompanied by an adult who is responsible for them, or if they are left there unaccompanied, they are regarded as unaccompanied minors.

Initial taking into care and initial screening

Unaccompanied minors who entered Germany after 1 November 2015 are first of all taken into care by the youth welfare office that has local responsibility. This provisional taking into care ensures that they are accommodated with a suitable person or in a suitable facility. Suitable persons can be relatives or foster families, whilst suitable facilities are as a rule “clearing houses” specialising in caring for unaccompanied minors, or youth welfare facilities. They are to ensure that the young people can grow up in a stable situation.

“Initial screening” is also carried out when such minors are provisionally taken into care. As well as the general examination of the state of health, the age of the minors is established. The methods that are used for this range from simply estimating age through physical examinations to X-ray tests. The responsible youth welfare office also estimates whether the implementation of the subsequent distribution procedure might endanger the child’s best interests in physical or psychological terms. The possibility of family reunification with relatives living in Germany is also examined in this context. If close social ties exist with other unaccompanied minors, the youth welfare office examines whether it makes sense to accommodate them together.

Distribution and further taking into care

A nationwide distribution procedure exists in order to ensure that the unaccompanied minors are accommodated, supplied, cared for and supported in a manner that is suited to the child’s best interests. After this distribution, the youth welfare office to which the minors have been assigned is responsible for their further taking into care. Here too, they are either accommodated with a suitable person – relatives or foster families – or in a suitable facility – such as a clearing house. It is then ensured that guardianship is applied for, further medical tests are performed and the calculation of the need for education and clarification of the residence status is carried out.

The appointment of a guardian

A guardian or curator must be appointed for unaccompanied minors. The Family Court decides who ultimately assumes the guardianship. Guardianship as a rule lasts until the person attains majority. The age of majority is orientated in this process towards the law in the minor’s country of origin, and not towards German law. If therefore a minor does not attain the age of majority under this law until after turning 18, as is the case for instance in Togo (majority at 21), the guardianship also does not end until this time.

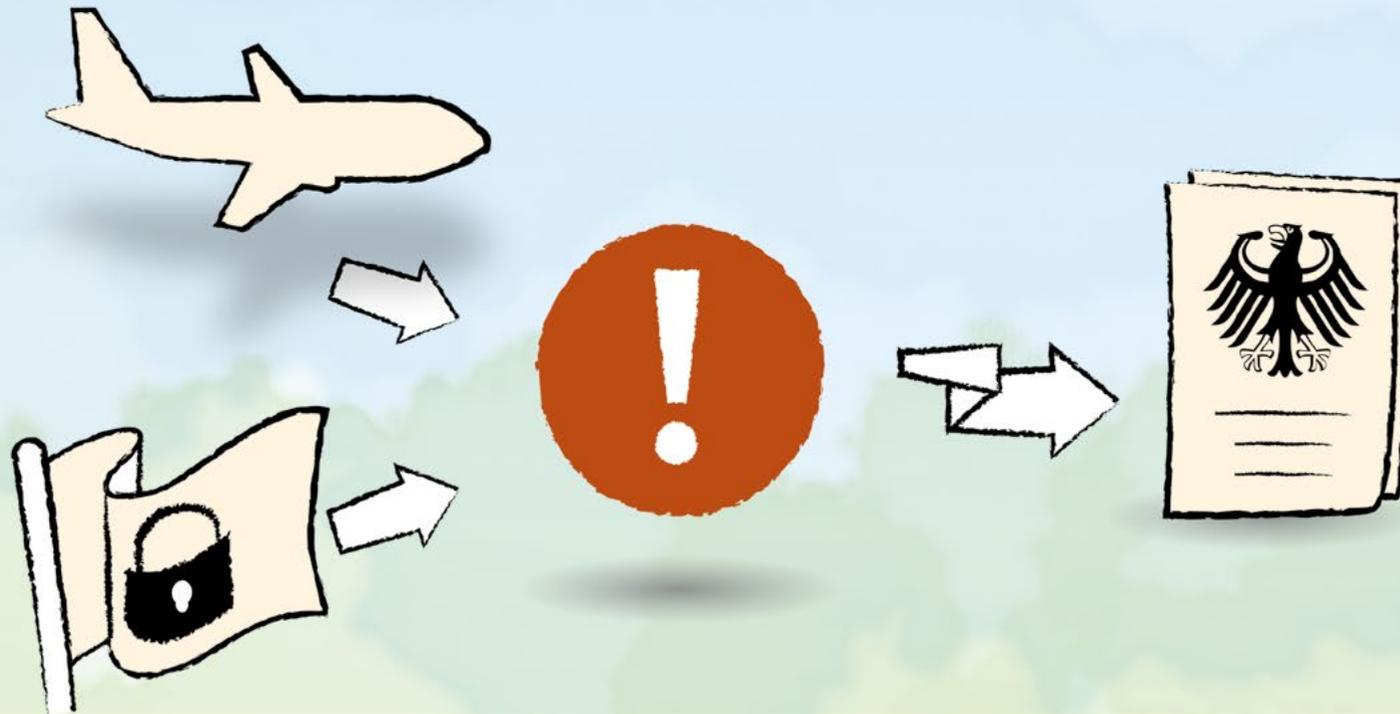
The subsequent clearing procedure entails the initiation of further steps under the law on youth assistance or on residence. This includes clarifying the residence status. It is decided on this basis whether an asylum application is lodged. If such an application would not be promising, the competent immigration authority may also issue a temporary suspension of deportation (*Duldung*). If this cannot be considered, the immigration authority will discuss other possibilities under the law on residence. If an asylum application is to be lodged, the Federal Office is responsible for the implementation of the asylum procedure.

The asylum application

The national provisions apply to determining the age of majority within the asylum application. This means that once they have reached the age of 18, asylum-seekers need to lodge their own asylum application as they are regarded as being of age, irrespective of the law applying in their country of origin. The guardian can however continue to accompany the asylum application in this case. Asylum-seekers aged under 18 are regarded as not having legal capacity within the asylum application. This means that unaccompanied minors may not file an asylum application with the Federal Office by themselves. In such cases, the asylum application has to be filed in writing by the youth welfare office or guardian. If it is lodged by a guardian, a “certificate of appointment” (*Bestallungsurkunde*) needs to be forwarded.

The interview and the decision in the asylum procedure

Since unaccompanied minors are regarded as a particularly vulnerable group of individuals enjoying special guarantees for their asylum procedure, their asylum applications are taken care of by specially-commissioned case-officers who have been specially trained to take a sensitive approach. Their procedural guarantees include for instance the determination that the interview does not take place until after a guardian has been appointed and is held as a matter of principle in the presence of the latter.



4

Particularities of the asylum procedure

Special procedures apply in the asylum proceedings to asylum applicants from safe countries of origin and those who enter the country by air.

4.1 Safe countries of origin

The law defines countries as safe countries of origin if it is possible to prove on the basis of the democratic system and of the general political situation that no state persecution is to be feared there as a rule, and that the state in question can provide protection against non-state persecution as a matter of principle. Protection against non-state persecution means for instance that there are legal and administrative provisions in place to provide protection for the population, and that these are also made accessible to all and are actually effective. The “default presumption” then applies that there is no risk of persecution.

Even if applicants come from a safe country of origin, the personal interview is no different than those with other countries of origin. It is also by no means ruled out that they can be granted protection.

Applicants from safe countries of origin are afforded the opportunity during the interview to submit facts or evidence documenting that they are nonetheless at risk of persecution in their home country, in derogation from the default presumption. If this documentation is successful, they may assert their entitlement to asylum. If the new information is inadequate to refute the default presumption, the asylum application is to be denied as “manifestly unfounded”. The appeal deadlines for such rejections are curtailed, which has the effect of accelerating the proceedings. This also has the effect of accelerating the proceedings for court actions that are lodged with the administrative courts.



Safe countries of origin

Germany currently considers the following countries to be safe countries of origin:

- the Member States of the European Union
- Albania
- Bosnia and Herzegovina
- Ghana
- Kosovo
- Macedonia, former Yugoslav Republic of
- Montenegro
- Senegal
- Serbia

4.2 The airport procedure

A special procedure, known as the “airport procedure”, applies should people attempt to enter the country by air and apply for asylum.

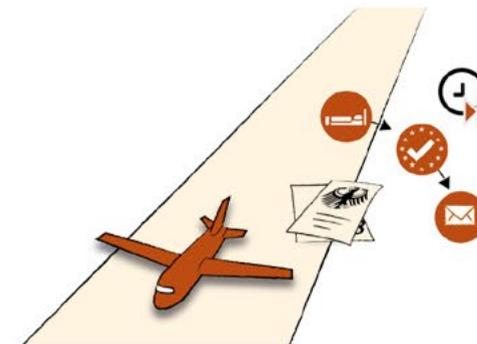
This entails the asylum procedure being carried even out before the Federal Police decide whether an individual may enter the country, that is while they are still in the transit area, if the applicants are unable to identify themselves with a valid passport or replacement passport after having orally requested protection, or if they come from a safe third country.

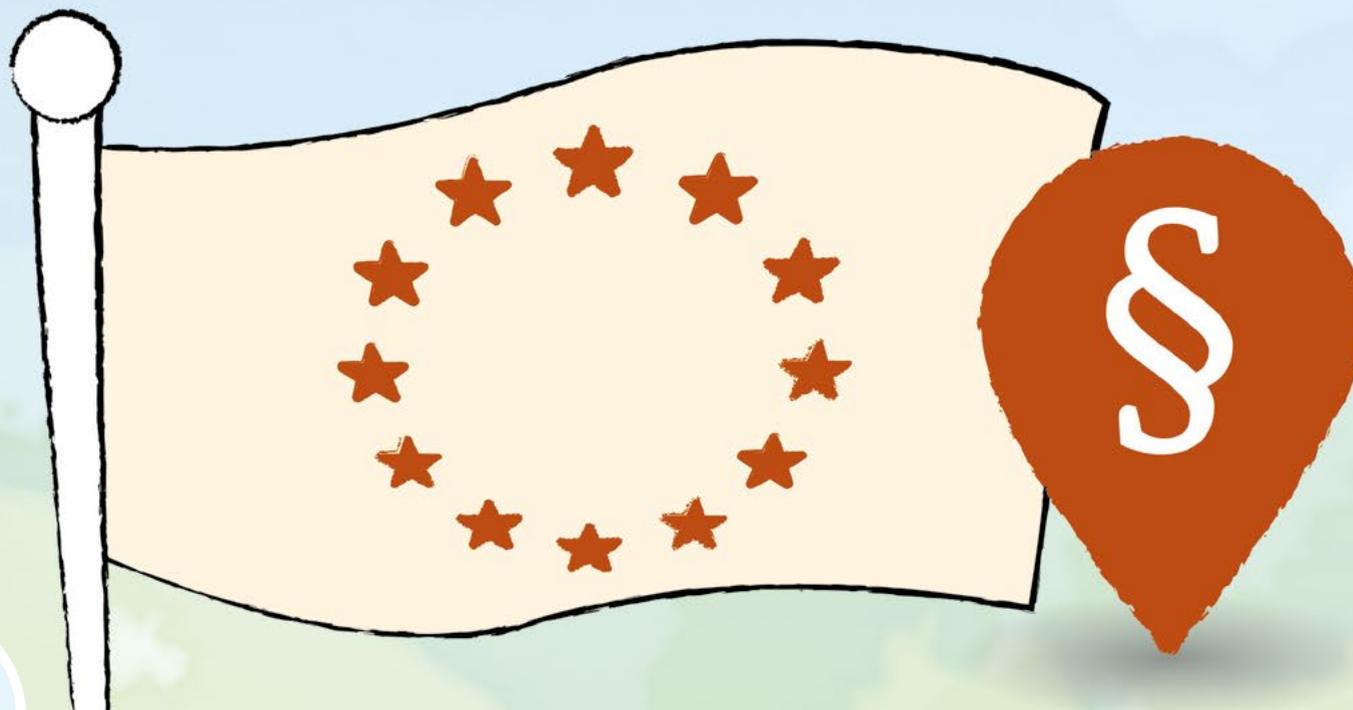
Special arrangement

Since the airport procedure is operated subject to the “principle of immediacy”, the Federal Office must interview applicants within two days of receiving the asylum application. It is then decided whether they are to be permitted to enter the country or the asylum application is to be rejected as “manifestly unfounded”. If it is turned down, the Federal Police can refuse to permit them to enter.

Following on from a rejection, applicants have three days’ time to submit an application for temporary legal protection to an administrative court. They then receive legal advice from an independent lawyer free of charge. The administrative court can grant a further four days in which to submit grounds on request. If the administrative court approves the emergency application or has not ruled on it within 14 days, the asylum applicant may enter the country. This means that the airport procedure has a potential total duration of 19 days. The asylum applicants must however remain in the airport transit area until a final ruling has been handed down. If the appeal is turned down, they are sent back either to the place where their flight originated, or to their country of origin.

The airport procedure is only implemented at airports which can accommodate asylum applicants on the airport complex. This currently applies at Berlin-Schönefeld, Düsseldorf, Frankfurt/Main, Hamburg and Munich airports.





5

European cooperation

Many people travel to the European Union in order to escape from war and persecution or for economic reasons. The EU's obligation to help those in need of protection is entrenched in the Charter of Fundamental Rights as well as in the Treaty on the Functioning of the European Union. Joint legal provisions and practical support measures for the Member States have been developed in order to counter this challenge as well as possible: The Common European Asylum System (CEAS). The European Asylum Support Office (EASO) is furthermore to strengthen practical cooperation among the EU Member States on asylum.

5.1 The Common European Asylum System – CEAS

The EU has been working on the Common European Asylum System (CEAS) since 1999. A number of legal acts have been adopted in asylum and refugee policy since then which today form the basis for a region of refugee protection and solidarity in the EU. The core element of the Common System today is the harmonisation of the standards of protection and reception across the EU. The latter are intended to ensure that asylum-seekers are given international protection under the same conditions in the entire EU.

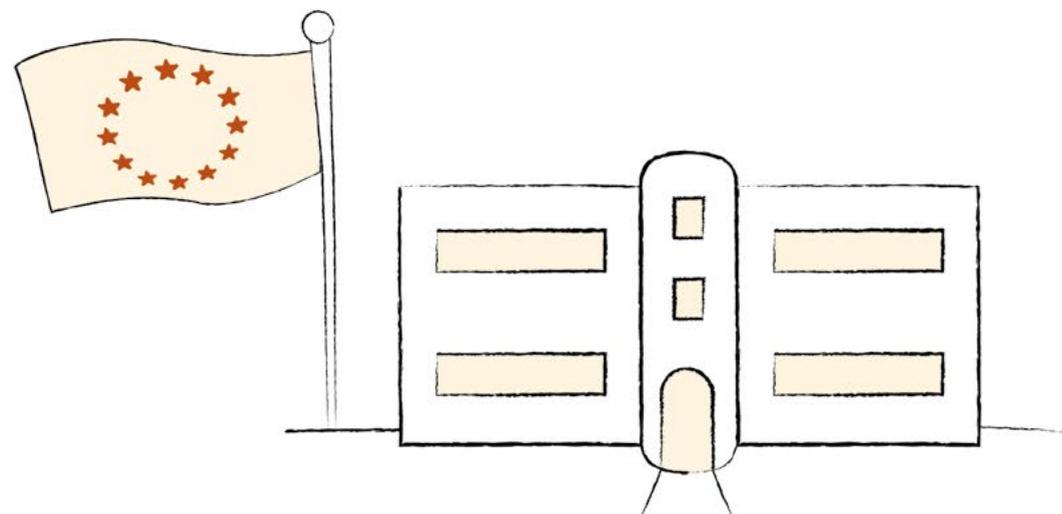
Since the number of people who apply for asylum in the EU every year is however not spread evenly among the Member States, it is a major concern to jointly shoulder responsibility for protecting displaced persons. A contribution towards a fair distribution among the Member States is also made by the reform proposals within the Dublin regulations, which are adjusted to the changing situation where necessary.

5.2 The European Asylum Support Office – EASO

The European Asylum Support Office (EASO) is to strengthen practical cooperation among the EU Member States on asylum and help implement the Common European Asylum System. It especially supports Member States whose asylum and reception systems are under particular pressure. The EASO has developed an early warning system allowing it to analyse trends in asylum at regular intervals and to enable Member States to prepare better for migration by asylum-seekers. It coordinates asylum support teams and measures aimed at rapidly analysing asylum applications or providing necessary reception capacities.

The EASO also eases the flow of information on asylum-related issues between the Member States. The collection of information on asylum-seekers' countries of origin is coordinated in a joint portal. This also includes a central analysis of the information and reporting on information that has been collected. Another important task is to provide support in the re-settlement of individuals who are under international protection outside and within the EU (resettlement and relocation). The Office furthermore offers courses for staff from asylum, justice and administrative authorities of the Member States.

Further information on the EASO is available on the web at easo.europa.eu.



Imprint

Editor

Federal Office for Migration and Refugees
Frankenstraße 210
D-90461 Nürnberg
e-mail info@bamf.bund.de
Internet www.bamf.de

Reference source

Publications office of the Federal Office for Migration and Refugees
www.bamf.de/publikationen

Overall responsibility

Public relations, internal communication Division

Conceptualisation

Saliha Kubilay, Public relations, internal communication Division

Printed by

Silber Druck oHG, Niestetal

Design

KonzeptQuartier® GmbH, Fürth

Diagrams

Materna GmbH, Dortmund

Editorial office

Saliha Kubilay, Public relations, internal communication Division;
Directorate-General 2, International tasks, policy on the asylum procedure and migration;
OOMMEN OH! HOPPE – Büro für Kommunikation, Köln

Valid as of

October 2016

