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Chapter One

General Provisions

Section 1 Scope of Application

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

(2) This Act shall not be applicable

1. to displaced aliens as defined in the Act on the Legal Status of Displaced Aliens in the Federal Territory in its updated version published in the Federal Law Gazette Part III, item 243-1, last amended by Article 4 of the Act of 9 July 1990 (Federal Law Gazette I, p. 1354);

2. to aliens as defined in the Act on Measures in Aid of Refugees admitted under Humanitarian Relief Programmes of 22 July 1980 (Federal Law Gazette I, p. 1057), last amended by Article 5 of the Act of 9 July 1990 (Federal Law Gazette I, p. 1354).

Section 2 Legal Status of Persons Entitled to Asylum

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

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

(3) Aliens who have been granted asylum in the territory defined in Article 3 of the Unification Treaty before the accession of this territory to the Federal Republic of Germany became effective, shall be regarded as persons entitled to asylum.

Section 3 Legal Status of Other Politically Persecuted Persons

An alien is a refugee within the meaning of the Convention on the Legal Status of Refugees if the Federal Office or a court have passed the unappealable verdict that he would be threatened by the dangers mentioned under Section 51, paragraph 1 of the Aliens Act if he were to return to the state whose nationality he has or where he habitually resided as a displaced person.

Section 4 Binding Character of Decisions

The decision on the asylum application shall be binding in all matters in which the recognition or the presence of the conditions pursuant to Section 51, paragraph 1 of the Aliens Act are relevant in law. This shall not apply to the extradition procedure.

Section 5 Federal Office

- (1) Asylum applications shall be decided by the Federal Office for the Recognition of Foreign Refugees. Under the terms of this Act the Federal Office shall also be responsible for measures and decisions under aliens law.
- (2) It shall be for an officer of the Federal Office, who shall in this respect not be bound by instructions, to take a decision on each individual asylum application and to establish whether or not the conditions pursuant to Section 51, paragraph 1 of the Aliens Act are fulfilled. The officer shall be a civil servant of at least the higher intermediate service level or a comparable salaried employee. The Federal Ministry of the Interior may, by means of a statutory ordinance and with the consent of the Bundesrat, also admit senior civil servants of the intermediate service level who distinguish themselves by their suitability, qualification and professional performance and who possess, above all, particular professional experience.
- (3) The Federal Ministry of the Interior shall appoint the head of the Federal Office. The latter shall ensure the proper organisation of the asylum procedures.
- (4) The head of the Federal Office is to set up a branch office at each Central Reception Facility for Asylum Applicants (reception centre) with an accommodation capacity of 500 places or more. In concertation with the Länder he may establish additional branch offices.
- (5) The head of the Federal Office can conclude arrangements with the Länder on the basis of which material and staff resources are made available to him so as to enable him to fulfil his tasks in the branch offices. The staff made available to him shall to the same extent as the staff of the Federal Office be bound by his technical instructions. The details shall be regulated by means of an administrative agreement between the Federation and the Land.

Section 6 Federal Commissioner

- (1) A Federal Commissioner for Asylum Matters shall be appointed to the Federal Office.
- (2) The Federal Commissioner may take part in asylum procedures at the Federal Office and in lawsuits that are brought before the administrative courts. He shall be given the opportunity to make comments. He may bring an action against decisions of the Federal Office.
- (3) The Federal Commissioner shall be appointed and recalled by the Federal Ministry of the Interior. He shall be qualified to hold judicial or higher administrative office.
- (4) The Federal Commissioner shall be bound by the instructions of the Federal Ministry of the Interior.

Section 7 Collection of Personal Data

- (1) The authorities responsible for the implementation of this Act may, for the purpose of implementing this Act, collect personal data to the extent that this is necessary for them to fulfil their tasks.
- (2) The data shall be collected from the data subject. They may also be collected from other public authorities, foreign authorities and non-public agencies without involving the data subject, provided that

1. this is provided or expressly required by this Act or another legal provision;
2. it is obvious that this is in the interest of the data subject and provided that there is no reason to assume that he would refuse his/her consent if he were aware of his personal data being collected;
3. the co-operation of the data subject is not sufficient or would require an undue expense in terms of time and money;
4. the task at hand, by its very nature, makes it necessary to collect data from other persons or agencies or
5. it is necessary in order to verify the statements of the data subject.

Data may only be collected on the basis of sentence 2, items 3 and 4 and from foreign authorities or non-public agencies if there are no indications suggesting that prevailing interests of the data subject that warrant protection, might be affected.

Section 8 Transmission of Personal Data

- (1) Upon request (Section 7, paragraph 1), public authorities shall inform the authorities responsible for the implementation of this Act of any circumstances that have come to their knowledge, provided that this does not conflict with particular legal provisions on the use of such information or with prevailing interests of the data subject that warrant protection.

(2) The competent authorities shall immediately inform the Federal Office of any formal extradition request submitted by a foreign state and any request for arrest received in conjunction with the announcement of an extradition request and of the conclusion of the extradition procedure, if the alien concerned has filed an asylum application.

(2a) The authorities entrusted with implementing this Act shall inform the competent authorities under Section 10 of the Act on Benefits for Asylum Seekers of any circumstances or measures under this Act that are required for the payment of benefits to those entitled to benefits under the Act on Benefits for Asylum Seekers as well as of any granting of work permits to these persons that said authorities have been informed of and information on the expiry, revocation or rescinding of work permits.

(3) The data collected under this Act may, for the purposes of carrying out the Aliens Act and for the health care of asylum seekers as well as for criminal prosecution measures and, upon request, for the prosecution of administrative offences, be transmitted to the public bodies in charge of these measures and be processed and used by them, in so far as this is necessary for them to perform the tasks they are responsible for. The data may be transmitted to the bodies mentioned in Section 35, paragraph 1 of the Code of Social Law, Volume One, and processed and used by them in so far as this is necessary to identify and prosecute the unjustified receipt of benefits under the Federal Social Security Act, of benefits of the health and accident insurance and unemployment funds or of unemployment benefits or unemployment assistance and where there are actual indications as to such unjustified receipt of benefits. Section 77, paragraphs 1 through 3 of the Aliens Act shall be applied *mutatis mutandis*.

(4) The transmission of data on the basis of other legal regulations shall remain unaffected.

Section 9 United Nations High Commissioner for Refugees

(1) The alien may contact the United Nations High Commissioner for Refugees.

(2) The Federal Office shall, upon his request, transmit to the United Nations High Commissioner for Refugees its decisions and the relevant justifications in order to enable the United Nations High Commissioner for Refugees to fulfil his tasks under Article 35 of the Convention on the Legal Status of Refugees.

(3) Other information, in particular the reasons stated by the individual to be the cause for his fear of political persecution, may, unless presented in an anonymous form, be transmitted only if the alien himself has turned to the United Nations High Commissioner for Refugees or if the consent of the alien is otherwise documented. The consent of the alien shall not be required if he is no longer staying on the Federal Territory and if there is no reason to assume that interests of the alien warranting protection would be negatively affected.

(4) The data may be used only for the purpose for which they were transmitted.

Section 10 Provisions Concerning Service

(1) The alien shall ensure during the asylum procedure that communications of the Federal Office, the competent aliens authority and any court he has resorted to can reach him at all times; in particular, he shall inform the aforementioned agencies of any change of address without delay.

(2) The alien shall have to accept any notifications and informal communications at the most recent address which he indicated in his asylum application or of which he informed the agency in question if he has neither appointed an attorney-in-fact nor designated an authorised receiving agent for the procedure or if notifications or communications cannot be served upon these. The same shall apply if the address last known, at which the alien resides or is obliged to reside, has been communicated by a public agency. The alien shall accept notifications and informal communications of public bodies other than those mentioned in paragraph 1 which are mailed to the address at which he shall accept notifications and informal communications of the Federal Office pursuant to the first and second sentences above. If the communication cannot be served, it shall be deemed to have been served at the time of mailing even if the communication is returned as being undeliverable.

(3) Where both parents or one parent pursue asylum procedures with their minor, unmarried children or their spouses and where the same address is valid for all family members pursuant to paragraph 2, certain decisions and communications for them may be aggregated in one notice or one communication and be addressed to one spouse or parent. In the address all family members who are above age 16 and to whom the decision or the communication concerns shall be mentioned. The decision or communication shall say explicitly vis-à-vis whom it is applicable.

(4) In any reception centre, the centre shall serve any notification and informal communication to the aliens who shall accept, subject to paragraph 2 above, any notification and informal communication mailed to the address of the reception centre. Mail delivery and distribution hours for each working day shall be displayed in a notice. Any alien shall ensure that incoming mail can be passed on to him at the reception centre within the mail delivery and distribution hours. On being passed on to the alien, any notification and informal communication shall be served; in other cases they shall be deemed to have been served three days after being delivered to the reception centre.

(5) Any provision on substituted service shall remain unaffected.

(6) Should it be necessary for a communication to be served outside the Federal Territory, service shall be made by public notification. The provisions of Section 15, paragraphs 2 and 3, paragraph 5, second and third sentences, and paragraph 6 of the Act on Administrative Notices Service shall apply.

(7) At the time of application, the aliens authority shall inform the alien of these service provisions in writing and the alien shall acknowledge the receipt of this information.

Section 11 Inadmissibility of Protest

There shall be no protest against measures and decisions taken in accordance with this Act.

Chapter Two Asylum Procedure

Sub-Chapter One General Rules of Procedure

Section 12 Legal Capacity of Minors

(1) Any alien who is 16 years of age shall be able to perform procedural acts in accordance with this Act, unless he has no legal capacity according to the terms of the Civil Code or unless he would have to be offered assistance or be subject to a reservation of consent in this matter if he were of full age.

(2) For the purposes of this Act, the provisions of the Civil Code shall determine whether an alien is to be regarded as a minor or as a person of full age. The capacity to contract and the general legal capacity of an alien who, under the law of his home country, is of full age, shall remain unaffected.

(3) In the asylum procedure, except as provided by a contrary decision of the guardianship court, either parent is authorised to represent a child below age 16, if the other parent does not stay on the Federal Territory or if his place of residence on the Federal Territory is not known.

Section 13 Asylum Application

(1) An asylum application shall be deemed to have been made, if it can be drawn from the alien's written, oral or otherwise expressed desire that he is seeking, on the Federal Territory, protection from political persecution or that he requests protection from deportation or other return to a state where he would be subject to the threats defined in Section 51, paragraph 1 of the Aliens Act.

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

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

Section 14 Filing an Asylum Application

(1) The asylum application shall be made at the branch office of the Federal Office which is assigned to the reception centre which is responsible for receiving the alien.

(2) The asylum application shall be made at the Federal Office, if the alien

1. holds a residence authorisation (Aufenthaltsgenehmigung) with a total validity of more than six months;

2. is under arrest or official custody, in a hospital, a sanatorium or an asylum or in a youth welfare institution or

3. is not yet 16 years of age and if his statutory representative is not obliged to live in a reception centre.

The aliens authority shall immediately transmit any written application it has received to the Federal Office.

(3) Aliens who as war or civil war refugees hold a residence title for exceptional purposes (Aufenthaltsbefugnis) pursuant to Section 32 a of the Aliens Act cannot apply for asylum.

(4) If, in the case of para. 2 sentence 1 no. 2, the alien is in

1. remand in custody pending trial,

2. prison,

3. preparatory custody pursuant to Section 57 para. 1 of the Aliens Act,

4. detention pursuant to Section 57 para. 2 sentence 1 no. 1 of the Aliens Act because he has stayed in Federal Territory for longer than one month without a residence permit after entering the country illegally,

5. detention pursuant to Section 57 para. 2 sentence 1 nos 2 to 5 of the Aliens Act, the application for asylum shall not stand in the way of an order for or maintenance of remand awaiting deportation. The alien is to be given an opportunity without undue delay to contact a legal advisor of his choice unless he has already secured legal advice. Remand awaiting deportation ends with delivery of the decision of the Federal Office, however no later than four weeks after submission of the asylum application at the Federal Office unless the asylum application was rejected as insignificant or obviously unjustified.

Section 15 General Obligations to Co-operate

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

(2) He shall be obliged in particular to

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

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

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

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

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

Section 16 Establishing Identity

(1) The identity of any alien who applies for asylum shall be established by means of identification measures unless he holds an unlimited residence authorisation (Aufenthaltsgenehmigung) and unless he is not yet 14 years of age. Pursuant to sentence 1 above only photographs and prints of all ten fingers may be recorded.

(2) The responsibility for the identification measures shall rest with the Federal Office and, to the extent that the alien applies there for asylum, also with the authorities under Sections 18 and 19 as well as with the reception centre where the alien registers.

(3) The Federal Criminal Police Office shall grant assistance in evaluating the fingerprint records obtained pursuant to para. 1 for the purpose of establishing identity. For this purpose it may also use identity records that it has stored in order to fulfil its mission. The Federal Criminal Police Office shall not inform the authorities under para. 2 about the reason why these records are being stored, unless other regulations provide otherwise.

(4) The Federal Criminal Police Office shall store records obtained pursuant to para. 1 separately from other identification records and mark them in a special fashion. The same shall apply for the processing in files.

(5) The processing and use of records obtained pursuant to para. 1 shall also be admissible for the purpose of establishing the identity of an individual or in order to relate him to criminal evidence, if specific facts justify the assumption that this will lead to the clearing up of a criminal offence or if it is necessary in order to avert a substantial threat to public security. The records may furthermore be used in order to identify unknown or missing persons.

(6) Records obtained pursuant to para. 1 shall be destroyed

1. upon final recognition;

2. upon issue of a travel document pursuant to the Convention on the Legal Status of Refugees;

3. upon granting of an unlimited residence authorisation (Aufenthaltsgenehmigung);

4. after three years where entry has been denied (Section 18, para. 2) or where the alien is removed (Section 18, para. 3),

5. as for the rest eight years after the final conclusion of the asylum procedure;

the relevant data shall be deleted.

Section 17 Interpreters/Translators

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

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

Sub-Chapter Two Instituting an Asylum Procedure

Section 18 Tasks of the Border Authority

(1) Any alien requesting asylum with an authority charged with police control of transborder traffic (border authority) shall immediately be referred, for the purpose of registration, to the competent reception centre, or, if that is not known, to the nearest one.

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

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

2. the requirements of Section 27, para. 1 or 2 obviously apply or

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

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

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

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

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

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

Section 18 a Procedure in the case of Entries by Air

(1) In the case of aliens from a safe country of origin (Section 29 a) who intend to enter via an airport and apply for asylum with the border authority, the asylum procedure shall be conducted prior to the decision on entry, in so far as the alien can be accommodated on the airport premises during the procedures or cannot be accommodated on the airport premises merely because of a necessary hospital stay. The same shall apply to aliens who apply for asylum with the border authority at an airport and who do not prove their identity by way of a valid passport or surrogate passport. The alien shall immediately be given the opportunity to lodge an asylum application with the branch office of the Federal Office assigned to the border control post. The Federal Office should immediately hear the alien in person. Subsequently the alien shall immediately be given the opportunity to contact a person of his own choice authorised to practice law, unless he has previously ensured the services of a lawyer for himself. Section 18, para. 2 shall remain unaffected.

(2) Where the Federal Office turns down the asylum application as being manifestly unfounded, the Federal Office shall, as a precautionary measure, pursuant to Sections 34 and 36, para. 1, notify the alien of the fact that he will be deported should he enter the country.

(3) If the asylum application is turned down as being manifestly unfounded, the alien shall be refused leave to enter. The decisions of the Federal Office together with the refusal of leave to enter shall be served by the border authority. The border authority shall immediately transmit a copy of its decision and the administrative file of the Federal Office to the competent administrative court.

(4) Any application for being granted temporary relief pursuant to the Rules of the Administrative Courts shall be filed within three days after the date of service of the decisions of the Federal Office and of the border authority. The application may be filed with the border authority. The alien shall be informed thereof. Section 58 of the Rules of the Administrative Courts shall be applied mutatis mutandis. The decision should be issued in writing. Section 36, para. 4 below shall be applied. Where an application is filed in due time, the refusal of leave to enter shall not be enforced prior to the court decision (Section 36, para. 3, ninth sentence).

(5) Any application pursuant to the preceding paragraph shall be aimed at the entry being granted and, in the case of entry, against the notification announcing deportation. The

court order to give the alien leave to enter shall at the same time be deemed to be the suspension of deportation.

(6) The alien shall be permitted to enter the country, if

1. the Federal Office informs the border authority that it is not able to decide the case within a short time;
2. the Federal Office has not taken a decision on the asylum application within two days after the date of its being filed;
3. the court has not taken a decision on an application pursuant to the preceding paragraph within the period of two weeks.

Section 19 Tasks of the Aliens Authority and the Police

(1) Any alien requesting asylum with an aliens authority or with the police of a Land shall, in cases pursuant to Section 14, para. 1 above, for the purpose of registration, immediately be referred to the competent reception centre, or, where this is not known, to the nearest one.

(2) The aliens authority and the police shall subject the alien to identification measures (Section 16, para. 1).

(3) Any alien who has unauthorizedly entered the country from a safe third country (Section 26 a) may be removed to such country without previously being referred to a reception centre subject to the provisions of Section 61, para. 1 of the Aliens Act. In such case the aliens authority shall issue the order to remove the alien as soon as it has been ascertained that the removal can be carried out.

(4) Provisions on arrest and apprehension shall remain unaffected.

Section 20 Referral to a Reception Centre

(1) The authority which refers the alien to a reception centre shall inform the latter without delay of the referral.

(2) The alien shall be obliged to comply with the referral without delay.

Section 21 Custody and Transmission of Documents

(1) Any authority referring an alien to a reception centre shall take the documents pursuant to Section 15, para. 2, nos. 4 and 5 into custody and transmit them without delay to the reception centre. Any identification records shall be enclosed.

(2) Where an alien reports directly to the reception centre responsible for receiving him, the documents shall be taken into custody by the reception centre.

(3) The reception centre responsible for receiving the alien shall transmit the documents without delay to the branch office of the Federal Office which is assigned to it.

(4) Upon request, copies of the documents that have been taken into custody, shall be handed over to the alien.

(5) The documents shall be returned to the alien if they are no longer needed for the asylum procedure or for measures terminating residence.

Section 22 Obligation to Register

(1) Any alien who has to file his asylum application with a branch office of the Federal Office (Section 14, para. 1), shall personally register with a reception centre. The latter shall receive him or refer him to the reception centre that is competent for receiving him; where the alien is referred, his fingerprints and photograph shall be taken where possible.

(2) The Land Government or the agency designated by it may determine that

1. registration pursuant to para. 1 shall be effected at a specific reception centre,

2. an alien who has been referred from another Land shall initially report to a specific reception centre.

During his stay in the specific reception centre referred to in sentence 1 the alien's fingerprints and photograph shall be taken. In cases where the provisions of Sections 18, para. 1 and 19, para. 1 above apply, the alien shall be referred to this reception centre.

Section 22 a Taking over of Aliens to Conduct Asylum Procedures

Any alien who has been taken over for his asylum procedures to be conducted on account of an international agreement shall be treated in the same way as an alien seeking asylum. The former is obliged to proceed, upon or immediately after entry, to the agency which has been named by the Federal Ministry of the Interior or by the agency designated by it.

Sub-Chapter Three Procedure before the Federal Office

Section 23 Filing an Application at the Branch Office

Any alien who has been received by the reception centre shall be obliged to appear in person and without delay or at the date determined by the reception centre at the branch office of the Federal Office for the purpose of filing his asylum application.

Section 24 Obligations of the Federal Office

(1) The Federal Office shall clarify the facts of the case and compile the necessary evidence. It shall hear the alien personally. The hearing may be dispensed with if the Federal Office intends to recognise the alien as a person entitled to asylum or where the alien claims to have entered the Federal Territory from a safe third country (Section 26 a). The hearing shall be dispensed with if an asylum application has been lodged for a child below age 6 born on the Federal Territory and if the facts of the case have been sufficiently cleared up on account of the contents of the procedure files of the parents or of one parent.

(2) Once the application has been filed, it shall be for the Federal Office to determine whether there are any obstacles precluding deportation pursuant to Section 53 of the Aliens Act.

(3) The Federal Office shall immediately inform the aliens authority of its decision, of the reasons which call for a suspension of deportation, whether such reasons have been presented by the alien himself or whether they have been identified by other means, and in particular of the need to procure the documents that are required for returning the alien.

Section 25 Hearing

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

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

(3) If the applicant produces such facts only at a later stage, they may be left out of account, if the decision of the Federal Office would otherwise be delayed. The alien's attention shall be drawn to this provision and to Section 36, para. 4, third sentence below.

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

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

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

(7) A record containing the essential information produced by the alien shall be kept of the hearing.

Section 26 Family Asylum

(1) The spouse of a person entitled to asylum shall be recognised as a person entitled to asylum if

1. the recognition of the alien as a person entitled to asylum is incontestable,
2. the marriage already existed in the state where the person entitled to asylum is politically persecuted,
3. the spouse filed an asylum application before or at the same time as the person entitled to asylum or immediately after entry and
4. there is no reason to repeal or withdraw the recognition of the person entitled to asylum.

(2) Paragraph 1, nos. 3 and 4 shall apply mutatis mutandis for any children of the person entitled to asylum who, at the time of filing their asylum application, are under age and unmarried. For any children born on the Federal Territory after the recognition of the person entitled to asylum, the asylum application shall be filed within a period of one year after birth.

(3) Paragraph 2 shall not apply for children of an alien who was recognised as a person entitled to asylum pursuant to the preceding paragraph.

Section 26 a Safe Third Countries

(1) Any alien who has entered the Federal Territory from a safe third country within the meaning of Article 16 a, para. 2, first sentence, of the Basic Law (safe third country)

cannot invoke Article 16 a, para. 1 of the Basic Law. He shall not be recognised as being entitled to asylum. The first sentence above shall not apply where

1. the alien was in possession of a residence authorisation (Aufenthalts-genehmigung) for the Federal Republic of Germany at the time of his entering the safe third country;
2. the Federal Republic of Germany is responsible for conducting an asylum procedure on account of an international agreement with the safe third country;
3. the alien has not been rejected or removed on account of an order pursuant to Section 18, para. 4, no. 2 above.

(2) Safe third countries are, apart from the Member States of the European Communities, those named in Appendix I.

(3) The Federal Government shall resolve by statutory ordinance without the consent of the Bundesrat that a state named in Appendix I is no longer deemed a safe third state if changes in its legal or political situation pose a reason for presuming that the requirements mentioned in Article 16 a, para. 2, first sentence, of the Basic Law have ceased to exist. The ordinance shall expire no later than six months after its taking effect.

Section 27 Safety from Persecution Elsewhere

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

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

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

Section 28 Reasons Arranged after the Flight

As a rule, an alien shall not be recognised as a person entitled to asylum if the threat of political persecution is based on circumstances resulting from a deliberate decision taken by the alien after he left his country of origin, unless this decision is in line with firm convictions which he manifestly expressed while he was still in his country of origin. Sentence 1 shall in particular not apply if the alien, due to his age and the stage of his personal development in the country of origin, was not yet in a position to form a firm opinion of his own.

Section 29 Irrelevant Asylum Applications

- (1) An asylum application shall be irrelevant if it is manifest that the alien was already safe from political persecution in another third state and if his return to this state or to another state where he is safe from political persecution is possible.
- (2) If it is impossible to return him within a period of three months, the asylum procedure shall be continued. The aliens authority shall inform the Federal Office without delay.
- (3) Furthermore, an asylum application shall be irrelevant if, on account of an international agreement, another Contracting State, which is a safe third country (Section 26 a), is responsible for carrying out an asylum procedure or takes over such responsibility. Section 26 a, para. 1 above shall remain unaffected.

Section 29 a Safe Country of Origin

- (1) The asylum application of any alien from a state within the meaning of Article 16 a, para. 3, first sentence, of the Basic Law (safe country of origin) shall be turned down as being manifestly unfounded, unless the facts or evidence produced by the alien pose a reason for the presumption that he faces political persecution in his country of origin in spite of the general situation there.
- (2) Safe countries of origin are the states named in Appendix II.
- (3) The Federal Government shall resolve by statutory ordinance without the consent of the Bundesrat that a state named in Appendix II is no longer deemed a safe country of origin if changes in its political or legal situation pose a reason for presuming that the requirements mentioned in Article 16 a, para. 3, first sentence, of the Basic Law have ceased to exist. The ordinance shall expire no later than six months after its taking effect.

Section 30 Manifestly Unfounded Asylum Applications

- (1) An asylum application shall be manifestly unfounded if the prerequisites for a recognition as a person entitled to asylum and the prerequisites pursuant to Section 51, para. 1 of the Aliens Act are obviously not met.
- (2) An asylum application shall especially be manifestly unfounded if it is obvious from the circumstances of the individual case that the alien stays on the Federal Territory only because of economic reasons or in order to evade a general emergency situation or an armed conflict.
- (3) Any unfounded asylum application shall be turned down as being manifestly unfounded where

1. the statements produced by the alien, in major aspects, are either not substantiated or contradictory or where they obviously do not coincide with the facts or are based on forged or falsified evidence;
2. the alien misleads in the asylum procedure as to his identity or nationality or where he refuses to state his identity or nationality;
3. he has stated different personal data and launched another asylum application or asylum request;
4. he lodged an asylum application so as to avert an imminent termination of residence although he had previously had sufficient opportunity to file an asylum application;
5. he has grossly violated his obligations to co-operate pursuant to Section 13, para. 3, second sentence, Section 15, para. 2, nos. 3 through 5 or Section 25, para. 1 above, unless he is not responsible for the violation of his obligations to co-operate or he was not in a position, for important reasons, to comply with his obligations to co-operate or
6. where he has enforceably been expelled pursuant to Section 47 of the Aliens Act.

(4) Furthermore, any asylum application shall be turned down as manifestly unfounded where the requirements of Section 51, para. 3 of the Aliens Act apply.

(5) An application filed with the Federal Office shall also be turned down as being manifestly unfounded if, due to its content, it does not constitute an asylum application in the sense of Section 13, para. 1 above.

Section 31 Decision of the Federal Office on Asylum Applications

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

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

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

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

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

(5) If an alien is recognised as a person entitled to asylum pursuant to Section 26 above, the statements pursuant to Section 51, paragraph 1 and Section 53 of the Aliens Act should be dispensed with.

Section 32 Decision in Case of a Withdrawal of the Asylum Application

If the asylum application is withdrawn, the Federal Office shall state in its decision that the asylum procedure has been discontinued and shall determine whether there are reasons precluding deportation pursuant to Section 53 of the Aliens Act; in cases pursuant to Section 33 below a decision shall be taken on the basis of the record as it stands.

Section 32 a Suspension of the Procedure

(1) The asylum procedure of any alien who is granted a residence title for exceptional purposes (Aufenthaltsbefugnis) pursuant to Section 32 a of the Aliens Act after having filed an asylum application, shall be suspended as long as he holds the residence title for exceptional purposes. As long as the procedure is suspended, the legal status of the alien shall not be determined by this Act.

(2) The asylum application shall be deemed to be withdrawn if the alien does not inform the Federal Office, within one month after the date of the expiry of his residence title for exceptional purposes, of the fact that he intends to continue the asylum procedure.

Section 33 Failure of the Applicant to Pursue the Procedure

(1) An asylum application shall be deemed to have been withdrawn if the alien, despite a request by the Federal Office, has failed to pursue it for a period exceeding one month. The request by the Federal Office shall inform the alien of the consequences resulting from the preceding sentence.

(2) The asylum application shall furthermore be deemed to have been withdrawn if the alien has visited his country of origin during the asylum procedure.

(3) The alien shall be turned back at the border if upon entry into the country it is determined that he travelled to his country of origin during the asylum procedure and the asylum application is therefore deemed to have been withdrawn pursuant to para. 2. A decision of the Federal Office pursuant to Section 32 shall not be required. Section 51 para. 1, Section 53 paras 1, 2 and 4 and Sections 57 and 60 para. 4 of the Aliens Act shall apply mutatis mutandis.

Sub-Chapter Four Termination of Residence

Section 34 Notification Announcing Deportation

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

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

Section 34 a Deportation Order

(1) Where the alien is to be deported to a safe third country (Section 26 a), the Federal Office shall order his deportation to such state as soon as it has been ascertained that the deportation can be carried out. This shall also apply where the alien has restricted the asylum application to the determination of whether the requirements under Section 51, para. 1 of the Aliens Act apply or where he has withdrawn the asylum application prior to the decision by the Federal Office. It shall not be necessary to previously issue a notification announcing deportation nor to set a time-limit.

(2) Deportation to a safe third country shall not be suspended pursuant to Sections 80 or 123 of the Rules of the Administrative Courts.

Section 35 Notification Announcing Deportation in Case of Irrelevant Asylum Applications

In the cases under Section 29, para. 1 above the Federal Office shall notify the alien of the fact that he will be deported to the state where he was safe from persecution. In the cases under Section 29, para. 3, first sentence, it shall notify the alien of the fact that he will be deported to the other Contracting State.

Section 36 Procedure in Cases of Irrelevant and Manifestly Unfounded Asylum Applications

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

(2) The Federal Office shall serve on the persons involved a copy of the contents of the asylum file along with the decision. The administrative file shall be transmitted without delay to the competent administrative court along with proof of the service.

(3) Complaints against the notification announcing deportation pursuant to Section 80, paragraph 5 of the Rules of the Administrative Courts shall be filed within a period of one week after notification; the notice of the Federal Office should be enclosed with such complaint. The alien shall be notified hereof. Section 58 of the Rules of the Administrative Courts shall be applied mutatis mutandis. The decision shall be passed in a written procedure; an oral court hearing in which the action is heard at the same time shall not be admissible. The decision should be passed within one week after the date of the expiry of the time-limit under paragraph 1 above. The Chamber of the administrative court may extend the time-limit under sentence 5 above by one more week respectively. It shall only be permissible to extend the time-limit two times or more often if there are serious reasons therefore, especially so if the court is not able to take an earlier decision on account of its extraordinary workload. Any deportation prior to a court decision is not admissible if the complaint has been lodged in due time. A decision has been passed when the operative provisions of the decision have been signed by the judge or the judges and are available at the registry of the Chamber.

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

Section 37 Further Procedure in Case of a Complaint Sustained by Court

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

(2) Where, in the case of an asylum application which was turned down as being manifestly unfounded, a complaint pursuant to Section 80, paragraph 5 of the Rules of the Administrative Courts is sustained by court, the period for leaving the country shall end one month after the non-appealable conclusion of the asylum procedure.

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

Section 38 Time-limit for Departure in Cases where the Asylum Application is Rejected for other Reasons or is Withdrawn by the Applicant

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

(2) If the asylum application is withdrawn prior to the decision of the Federal Office, the alien shall be set a time-limit of one week in order to leave the country.

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

Section 39 Notification Announcing Deportation Served upon Revocation of the Recognition

(1) If the administrative court has revoked the recognition, the Federal Office shall issue the notification announcing deportation without delay once the decision has become non-appealable. The alien shall be set a time-limit of one month in order to leave the country.

(2) If the revoked decision of the Federal Office does not contain any statement concerning the existence of potential reasons precluding deportation pursuant to Section 53 of the Aliens Act, this statement shall be made upon revocation of the decision.

Section 40 Informing the Aliens Authority

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

(2) The Federal Office shall immediately inform the aliens authority if the administrative court rules that the action brought against the notification announcing deportation is to have a suspensive effect in cases pursuant to Sections 38, paragraph 2 and 39 above.

(3) Where the deportation order pursuant to Section 34 a above is served on the alien by the Federal Office, the latter shall immediately inform the authority responsible for the deportation of such service.

Section 41 Statutory Temporary Suspension of Deportation (Duldung)

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

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

Section 42 Binding Effect of Decisions under Aliens Law

The aliens authority shall be bound by the decision of the Federal Office or the administrative court concerning the existence of reasons precluding deportation pursuant to Section 53 of the Aliens Act. It shall be for the aliens authority to decide whether a reason precluding deportation pursuant to Section 53, paragraph 3 of the Aliens Act has occurred or ceased to exist at a later stage; such decision shall not require a revocation of the decision taken by the Federal Office.

Section 43 Enforceability and Suspension of Deportation

(1) If the alien was in the possession of a residence authorisation (Aufenthaltsgenehmigung), a notification announcing deportation which is enforceable under the terms of this Act may be enforced only if the alien is also obliged to leave the country pursuant to Section 42, paragraph 2, sentence 2 of the Aliens Act and if this obligation is also enforceable.

(2) If the alien has filed a request for the prolongation of a residence authorisation with a total validity of more than six months, the notification announcing deportation shall become enforceable only once the request has been rejected. As for the rest, Section 69 of the Aliens Act shall not preclude deportation.

(3) Where spouses or parents and their minor, unmarried children have filed an asylum application simultaneously or in each case immediately upon their entry, the aliens authority may, in derogation of Section 55, paragraph 4 of the Aliens Act, suspend deportation on a temporary basis in order to make it possible for the family to leave the country together.

Section 43 a Suspension of Deportation by the Federal Office

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

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

(3) The Federal Ministry of the Interior, for international or humanitarian reasons or so as to safeguard the political interests of the Federal Republic of Germany, may issue the order that the deportation of aliens to whom Section 54 of the Aliens Act does not apply pursuant to the preceding paragraph, be suspended for the period of six months at the most. The Federal Office shall suspend the deportation according to such order.

(4) As long as an alien is obliged to lodge in a reception centre, the Federal Office shall temporarily suspend the deportation where such deportation proves to be factually impossible or where there is a reason for suspension pursuant to Section 43, para. 3 above.

(5) The aliens authority shall be responsible for revoking the suspension and the decision on another temporary suspension of deportation, as soon as the alien is no longer obliged to lodge in a reception centre.

Section 43 b Obtaining of Passports

The Federal Ministry of the Interior or the agency designated by it shall ensure, by way of administrative assistance, that travel documents for the transport back to the home countries for such aliens are obtained who are obliged to lodge in a reception centre. The necessary measures shall be taken as early as possible.

Chapter Three Accommodation and Distribution

Section 44 Setting up and Maintaining Reception Centres

(1) The Länder shall be obliged to set up and maintain the reception centres necessary to provide accommodation to the asylum applicants and to make available the necessary number of places in the reception centres to absorb the newly arrived asylum applicants allocated to them on the basis of their respective admission quotas.

(2) The Federal Ministry of the Interior or the authority designated by it shall inform the Länder on a monthly basis of the number of newly arrived asylum applicants, the prospective development and the prospective accommodation requirements.

(3) Section 45 of Volume Eight of the Social Law Code (Article 1 of the Act dated 26 June 1990, Federal Law Gazette I, page 1163) shall not be applicable for reception centres.

Section 45 Admission Quotas

The Länder may fix, by means of an agreement, a key for the distribution of asylum applicants to the individual Länder (admission quota). Until such an agreement has been concluded or in case such an agreement should cease to exist, the following key shall be applicable:

Baden-Württemberg	12.2%
Bavaria	14.0%
Berlin	2.2%
Brandenburg	3.5%
Bremen	1.0%
Hamburg	2.6%
Hesse	7.4%
Mecklenburg-Western Pomerania	2.7%
Lower Saxony	9.3%
North-Rhine/Westphalia	22.4%
Rhineland-Palatinate	4.7%
Saarland	1.4%
Saxony	6.5%
Saxony-Anhalt	4.0%
Schleswig-Holstein	2.8%
Thuringia	3.3%

Section 46 Determining the Competent Reception Centre

(1) Responsibility for the reception of the alien shall rest with the reception centre where he has reported provided that the latter can accommodate him within the framework of the quota pursuant to Section 45 and provided that the branch office of the Federal Office which is assigned to the reception centre concerned, processes asylum applications from the country of origin of the alien concerned. Where these prerequisites are not met, the reception centre determined pursuant to paragraph 2 shall be responsible for receiving the alien.

(2) A central distributing agency designated by the Federal Ministry of the Interior shall, upon request of a reception centre, designate to the latter the reception centre responsible for receiving the alien. The designation shall be based on the admission quotas pursuant to the preceding Section, the available vacant places within the framework of these quotas and finally the processing capacities of the competent branch office of the Federal Office with regard to the countries of origin of the aliens concerned. Where several reception centres are eligible pursuant to the aforementioned criteria, the nearest one shall be designated to be responsible for receiving the alien.

(3) The requesting reception centre shall inform the central distributing agency only of the number of the aliens, indicating their respective countries of origin. Spouses and parents with their minor, unmarried children shall be reported as a group.

(4) The Länder shall ensure that the information required in order to determine the competent reception centre, in particular information on the number of newly arrived aliens and aliens who have left, on the occupation status and on the total available accommodation capacities of each reception centre, is available at any time to the central distributing agency.

(5) In cases where there are no more vacancies in the reception centres of a Land, which is nevertheless obliged under the quota system to accept the alien, it shall be for the Government of the Land concerned or for an authority designated by it to designate to the central distributing authority the competent reception centre.

Section 47 Stay in Reception Centres

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

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

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

Section 48 Termination of the Obligation to Live in a Reception Centre

The obligation to live in a reception centre shall terminate before the expiry of the three month period if the alien

1. is obliged to take residence in another place or in other quarters;

2. has obtained non-appealable recognition as a person entitled to asylum or
3. if he meets the requirements for the legal entitlement to being granted a residence authorisation (Aufenthaltsgenehmigung) pursuant to the Aliens Act on account of having got married on the Federal Territory after having lodged an application.

Section 49 Release from the Reception Centre

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

Section 50 Distribution of Asylum Applicants within the Länder

- (1) Aliens shall be immediately released from the reception centre and distributed within the Land concerned if the Federal Office informs the competent Land authority that
 1. it is impossible to decide or to decide at short notice whether the asylum application is irrelevant or manifestly unfounded and whether there are reasons precluding deportation pursuant to Section 53 of the Aliens Act which relate to the alien, his spouse or his minor, unmarried child, or that
 2. the administrative court has ruled that the action brought against the decision of the Federal Office shall have suspensive effect or that
 3. the Federal Commissioner has brought a complaint against the recognition of the alien.

A distribution may also be effected if the alien, for other reasons, ceases to be obliged to live in the reception centre.

- (2) The Land Government or the authority designated by it shall be authorised to regulate the distribution by means of a statutory ordinance to the extent that this is not regulated by Land law.
- (3) The competent Land authority shall inform the Federal Office within a period of three working days of the district of the aliens authority where the alien shall take residence after the distribution procedure.
- (4) The competent Land authority shall issue the allocation decision. The allocation decision shall be issued in writing and it shall include information on legal remedy. A justification shall not be required. A hearing of the alien concerned shall not be required.

The allocation shall take account of the domestic community of spouses and their children who are under the age of 18.

(5) The allocation decision shall be served to the alien himself. If the alien is represented by an attorney-in-fact or if he has designated an authorised receiving agent, the attorney-in-fact or the authorised receiving agent shall also receive a copy of the allocation decision.

(6) The alien shall immediately proceed to the authority designated in the allocation decision.

Section 51 Distribution of Asylum Applicants Among the Länder

(1) If an alien is not or no longer obliged to live in a reception centre, the domestic community of spouses and parents with their minor, unmarried children or other humanitarian reasons of comparable weight shall be taken into account also by allocating the aliens among the Länder.

(2) Allocation pursuant to the preceding paragraph shall be effected at the request of the alien. The decision on the request shall be taken by the competent authority of the Land where the alien requests to live in future.

Section 52 Deduction from the Admission Quota

Asylum applicants admitted pursuant to Section 14, paragraph 2, no. 3 and Section 51 shall be deducted from the quotas under Section 45 above.

Section 53 Collective Accommodations

(1) Aliens who have filed an asylum application and are not or no longer obliged to live in a reception centre, should, as a rule, be accommodated in collective accommodations. In this context, both the public interest and the interests of the alien shall be taken into account.

(2) An alien shall no longer be obliged to live in a collective accommodation when the Federal Office has recognised him as a person entitled to asylum or where a court has imposed an obligation on the Federal Office to recognise him, even if an appeal has been made, provided that the alien is able to prove that he has found accommodation elsewhere and that this will not result in additional costs for a public authority. The same shall apply where the Federal Office or a court has determined that the conditions of Section 51, paragraph 1 of the Aliens Act are met. In cases pursuant to sentences 1 and 2 above the obligation shall also terminate for the spouse and the children of the alien who are still under age.

(3) Section 44, paragraph 3 shall apply mutatis mutandis.

Section 54 Informing the Federal Office

The aliens authority in whose district the alien is obliged to stay, shall immediately inform the Federal Office

1. of the address under which summons may be served on the alien;
2. if an alien has been reported for the purpose of ascertaining his whereabouts.

Chapter Four Right of Residence

Sub-Chapter One Residence During the Asylum Procedure

Section 55 Permission to Reside (Aufenthaltsgestattung)

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

(2) The filing of an asylum application results automatically in the expiry of any exemption from the obligation to hold a residence authorisation (Aufenthaltsgenehmigung), in the expiry of any residence authorisation with a total validity of up to six months and in the expiry of the effects of an application for a residence authorisation listed in Section 69 paragraphs 2 and 3 of the Aliens Act. Section 69, paragraph 3 of the Aliens Act shall remain unaffected if the alien has held a residence authorisation with a total validity of more than six months and applied for its prolongation.

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

Section 56 Geographic Restrictions

(1) The permission to reside (Aufenthaltsgestattung) shall be geographically restricted to the district of the aliens authority where the reception centre is located, which is responsible for receiving the alien. In cases pursuant to Section 14, paragraph 2, first sentence, the permission to reside shall be geographically restricted to the district of the aliens authority where the alien is staying.

(2) If the alien is obliged to take residence in the district of another aliens authority, the permission to reside shall be geographically restricted to that district.

Section 57 Leaving the Area of a Reception Centre

(1) An alien who is obliged to lodge in a reception centre, may be permitted by the Federal Office to temporarily leave the area for which his permission to reside (Aufenthaltsgestattung) is valid if compelling reasons so require.

(2) In order to enable the alien to keep appointments with attorneys-in-fact, the United Nations High Commissioner for Refugees and organisations providing welfare services to refugees, such permission should be granted without delay.

(3) The alien shall not require permission to keep appointments with authorities and courts requiring him to appear in person. He shall notify such appointments to the reception centre and the Federal Office.

Section 58 Leaving an Allocated Area of Residence

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

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

(3) The alien shall not require permission to keep appointments with authorities and courts requiring him to appear in person.

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

(5) The aliens authority of a Kreis (district) or a municipality forming part of a Kreis may grant an alien the general permission to stay temporarily in the entire area of the Kreis.

(6) In order to take account of the local situation, the Land Governments may provide by statutory ordinance that aliens may temporarily stay in an area comprising the purview of several aliens authorities without such permission.

Section 59 Enforcing Geographical Restrictions

(1) If necessary, the obligation to leave pursuant to Section 36 of the Aliens Act may, even without prior notification, be enforced by means of immediate force. The itinerary and the means of transport should be prescribed.

(2) The alien shall be arrested and taken into custody upon order of the court in order to enforce the obligation to leave, if it cannot be guaranteed that he would voluntarily comply with the obligation to leave and if it would otherwise be considerably more difficult or even impossible to enforce this obligation.

(3) Measures pursuant to paragraphs 1 and 2 above shall come under the responsibility of

1. the police forces of the Länder,
2. the border authority where the alien asks for asylum,
3. the aliens authority in whose district the alien is staying,
4. the reception centre where the alien reports and
5. the reception centre which has received the alien.

Section 60 Conditions

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

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

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

A hearing of the alien shall be required in cases pursuant to sentence 1, no. 2 if he has stayed in the municipality or accommodation for a period exceeding six months. The hearing shall be deemed to have taken place, if the alien or his attorney have been given the opportunity to give their comment concerning the accommodation arrangements

within a period of two weeks. A hearing shall be dispensed with if it conflicts with compelling public interests.

(3) Measures pursuant to paragraphs 1 and 2 above shall come under the responsibility of the aliens authority to whose district the alien's residence is restricted.

Section 61 Gainful Employment

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

(2) Employment in a dependent capacity shall not be ruled out by any conditions if the Federal Office has recognised the alien as a person entitled to asylum or if a court has imposed an obligation on the Federal Office to recognise him, even if the decision is not yet unappealable.

Section 62 Medical Check-up

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

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

Section 63 Certificate Confirming the Permission to Reside (Aufenthaltsgestattung)

(1) After having filed an asylum application, the alien shall be issued with a certificate confirming the permission to reside (Aufenthaltsgestattung) which shall contain a photograph and the personal data of the holder, unless the alien holds a residence authorisation (Aufenthaltsgenehmigung).

(2) The certificate shall be valid for a limited period. As long as the alien is obliged to lodge in a reception centre, it shall be valid for a period of three months at the most, as for the rest, the validity shall be limited to six months.

(3) The Federal Office shall be responsible for issuing the certificate while the alien is obliged to lodge in a reception centre. As for the rest, responsibility shall rest with the aliens authority to whose district the permission to reside is restricted. Conditions and changes concerning geographical restrictions may also be entered in the certificate by the authorities who have imposed such conditions or changes.

(4) Upon expiry of the permission to reside, the certificate shall be collected.

Section 64 Obligation to Prove Identity

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

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

Section 65 Return of the Passport

(1) After filing of the asylum application the passport or surrogate passport shall be returned to the alien if it is not needed in the further course of the asylum procedure and if the alien holds a residence authorisation (Aufenthaltsgenehmigung) or if the aliens authority grants him a residence authorisation pursuant to the provisions of other laws.

(2) The passport or surrogate passport may be temporarily returned to the alien if this is necessary for a journey in cases pursuant to Section 58, paragraph 1 above or if it is necessary in order to obtain an extension of validity or in order to prepare the departure of the alien.

Section 66 Reporting Asylum Applicants to Establish their Whereabouts

(1) In order to establish his whereabouts, an alien may be reported to the Central Aliens Register and to the search systems of the police, if his whereabouts are unknown and if

1. he fails to arrive within a period of one week at the reception centre to which he has been referred;
2. he has left the reception centre and has failed to return within a period of one week;
3. he has failed to comply, within a period of one week, with an allocation order or an order pursuant to Section 60, paragraph 2, first sentence, or
4. if he cannot be reached at the address he gave or at the address of the accommodation where he is obliged to lodge;

the conditions under no. 4 are met if the alien has failed to receive, within a period of two weeks, a message delivered to the address.

(2) Responsibility for taking action to report the alien shall rest with the reception centre, the aliens authority in whose district the alien is obliged to stay and the Federal Office. The alien may be reported only by persons who are especially authorised to do so.

Section 67 Expiry of the Permission to Reside

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

1. if the alien is rejected or removed pursuant to Section 18, paragraphs 2 and 3 above;
- 1a. if the alien is rejected pursuant to Section 33 para. 3 above,
2. if the alien has failed to file an asylum application within a period of two weeks after he has asked for asylum;
3. upon the decision of the Federal Office being served on the alien, in cases where the asylum application has been withdrawn;
4. if a notification announcing deportation issued pursuant to the provisions of this Act or pursuant to Section 52 of the Aliens Act has become enforceable;
5. upon announcement of a deportation order pursuant to Section 34 a above;
6. as for the rest, if the decision of the Federal Office has become non-appealable.

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

Sub-Chapter Two

Residence upon Termination of the Asylum Procedure

Section 68 Residence Permit (Aufenthaltserlaubnis)

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

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

Section 69 Re-entry of a Person Entitled to Asylum

(1) If a person entitled to asylum leaves the country, the unlimited residence permit (Aufenthaltserlaubnis) shall not expire as long as he holds a valid travel document for refugees issued by a German authority.

(2) Although being recognised as a person entitled to asylum an alien shall have no claim to a new residence permit if he has left the Federal Territory and if the responsibility for issuing him with a travel document for refugees has passed to another state.

Section 70 Residence Title for Exceptional Purposes (Aufenthaltsbefugnis)

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

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

Chapter Five Follow-up Application, Secondary Application

Section 71 Follow-up Application

(1) If, after the withdrawal or non-appealable rejection of a previous asylum application, the alien files a new asylum application (follow-up application), a new asylum procedure shall only be conducted if the conditions of Section 51, paragraphs 1 through 3 of the Administrative Procedure Act are met; this shall be examined by the Federal Office. The same shall apply where the alien had made a statement under Section 32 a, para. 1, fourth sentence, of the Aliens Act.

(2) The alien shall personally file the follow-up application with the branch office of the Federal Office which is assigned to the reception centre where the alien was obliged to stay at the time of the previous asylum procedure. In the cases of Section 14, para. 2, first sentence, no. 2 or where the alien is provably prevented from appearing in person, the follow-up application shall be filed in writing. The follow-up application shall be filed in writing with the central office of the Federal Office where

1. the branch office that would have been responsible pursuant to sentence 1 above no longer exists,

2. the alien was not obliged to stay at a reception centre at the time of the previous asylum procedure as well as in the cases of the second sentence of the preceding paragraph,

3. the alien has submitted a declaration pursuant to Section 32a para. 1 sentence 1 of the Aliens Act. Section 14, para. 3 above shall apply mutatis mutandis. Section 19, para. 1 above shall not apply.

(3) In the follow-up application the alien shall indicate his address as well as the facts and evidence on account of which the requirements of Section 51, para. 1 through 3 of the Administrative Procedure Act apply. Upon request the alien shall give such information

in writing. A hearing may be dispensed with. Section 10 above shall apply mutatis mutandis.

(4) If the requirements of Section 51, para. 1 through 3 of the Administrative Procedure Act are not met, Sections 34, 35 and 36 shall be applied mutatis mutandis; in the case of deportation to a safe third country (Section 26 a) Section 34 a shall be applied mutatis mutandis.

(5) If, within a period of two years after a notification announcing deportation or a deportation order issued pursuant to this Act has become enforceable following the filing of the previous asylum application, the alien files a follow-up application which does not lead to a new asylum procedure, a new time-limit and a new notification announcing deportation or a deportation order shall not be required in order to enforce deportation. Deportation may only be enforced upon notification by the Federal Office that the conditions of Section 51, paragraphs 1 through 3 of the Administrative Procedure Act are not met, unless the follow-up application is manifestly inconclusive or the alien is to be deported to the safe third country.

(6) The preceding paragraph shall also apply if the alien had temporarily left the Federal Territory. If the alien had unauthorizedly entered the Federal Territory from a safe third country (Section 26 a) he may be removed to such country pursuant to Section 61, para. 1 of the Aliens Act prior to a statement by the Federal Office.

(7) If the alien's right of residence during the previous asylum procedure was geographically restricted, the last geographical restrictions shall continue to apply unless otherwise decided. In cases pursuant to paragraphs 5 and 6 above the responsibility for measures under aliens law shall also lie with the aliens authority in whose district the alien is staying.

(8) A follow-up application shall not preclude an order directing that the alien be taken into custody awaiting deportation unless a further asylum procedure is carried out.

Section 71 a Secondary Application

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

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

procedure is not to be carried out. Paragraph 8 of the preceding section shall apply mutatis mutandis.

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

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

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

Chapter Six

Expiry of the Legal Status

Section 72 Expiry

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

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

(2) The alien shall return the notification of recognition and the travel document to the aliens authority without delay.

Section 73 Revocation and Withdrawal

(1) The recognition as a person entitled to asylum and the statement determining that the conditions of Section 51, paragraph 1 of the Aliens Act are met shall be revoked without delay if the conditions on which they are based cease to exist. In cases pursuant to Section 26 the recognition as a person entitled to asylum shall furthermore be revoked if the recognition of the person entitled to asylum from whom the recognition was derived, has expired, been revoked or withdrawn and if the alien could not be recognised as a person entitled to asylum for other reasons. A revocation shall be dispensed with if the alien has compelling reasons, based on earlier persecution, for refusing to return to the

state whose nationality he holds, or, if he is a stateless person, in which he had his habitual residence.

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

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

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

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

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

Section 73a Foreign Recognition as a Refugee

(1) If the responsibility for issuing travel documents has been transferred to the Federal Republic of Germany for an alien who has been recognised as a refugee within the meaning of the Convention on the Legal Status of Refugees by a foreign country, his legal status as a refugee in the Federal Republic of Germany shall expire if one of the circumstances listed in Section 72 para. 1 takes effect. The alien shall surrender the travel documents to the aliens authorities without undue delay.

(2) Legal status as a refugee in the Federal Republic of Germany shall be withdrawn from an alien if the prerequisites pursuant to Section 51 para. 1 of the Aliens Act no longer apply. Section 73 para. 1 sentence 3 and paras 4 to 6 shall apply *mutatis mutandis*.

Chapter Seven

Court Proceedings

Section 74 Period within which Action must be Brought; Rejection of Action that is Brought too Late

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

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

Section 75 Suspensive Effect of the Action

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

Section 76 Individual Judges

(1) In disputes resulting from this Act the Chamber should, as a rule, transfer the dispute to one of its members who shall decide thereon as an individual judge, unless the case presents particular difficulties of a factual or legal nature or unless the legal matter is of fundamental significance.

(2) In cases where the Chamber has already conducted oral proceedings, the dispute may not be transferred to the individual judge, unless a provisional, partial or interlocutory judgement has meanwhile been passed.

(3) After having heard the parties involved, the individual judge may refer the dispute back to the Chamber if it is clear from a substantial change in the proceedings that the legal matter is of fundamental significance. A second transfer to the individual judge shall be excluded.

(4) In temporary relief proceedings a member of the Chamber shall decide as an individual judge. The individual judge shall transfer the dispute to the Chamber where the legal matter is of fundamental significance or where he intends to deviate from the jurisdiction of the Chamber.

(5) A judge on probation may not act as an individual judge within the first six months after his appointment.

Section 77 Decision of the Court

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

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

Section 78 Legal Remedy

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

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

(3) An appeal shall be admitted only if

1. the legal matter is of fundamental significance or
2. the sentence deviates from a decision of the Higher Administrative Court, the Federal Administrative Court or the Common Senate of the Supreme Courts of the Federation and if it is based on this deviation or
3. one of the parties pleads that there has been a defect in the proceedings pursuant to Section 138 of the Rules of the Administrative Courts and if such a defect does indeed exist.

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

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

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

Section 79 Special Provisions Governing the Appeal Procedure

(1) In the proceedings before the Higher Administrative Court, Section 128 a of the Rules of the Administrative Courts shall apply mutatis mutandis in relation to declarations and evidence which the plaintiff has failed to submit within the time-limit pursuant to Section 74, para. 2, first sentence.

(2) Section 130 of the Rules of the Administrative Courts shall not apply.

Section 80 Inadmissibility of Appeal

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

Section 80a Suspension of Proceedings

(1) When action is brought, Section 32 a, para. 1 above shall apply mutatis mutandis. The suspension shall not influence the running of time-limits for lodging or justifying appeals.

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

(3) The Federal Office shall inform the court without delay of the issue and the expiry of validity of the residence title for exceptional purposes (Aufenthaltsbefugnis) pursuant to Section 32 a of the Aliens Act.

Section 81 Failure to Pursue the Proceedings

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

Section 82 Access to Files in Proceedings under Temporary Relief

In proceedings under temporary relief, access to the files shall be granted at the court's registry. The files may be handed over to the authorised lawyer for him to take home or to his office provided that this does not result in a delay of the proceedings. As regards the dispatch of files, the preceding sentence shall apply mutatis mutandis.

Section 83 Special Arbitration Bodies

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

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

Section 83a Information of the Aliens Authority

The court may informally notify the aliens authority of the result of the proceedings.

Section 83b Court Fees, Value of the Subject Matter

(1) Court fees (fees and expenditures) shall not be charged in disputes under the present Act.

(2) In disputes under the present Act the subject matter of the proceedings on appeal, which concern the recognition of asylum including the determination of whether the requirements under Section 51, para. 1 of the Aliens Act apply and whether there are obstacles precluding deportation, shall be valued at 6,000 Deutschmarks, in other proceedings on appeal the subject matter shall be valued at 3,000 Deutschmarks. In temporary relief proceedings, which concern measures terminating residence pursuant to this Act, the subject matter shall be valued at 3,000 Deutschmarks, for the rest at half the value of the subject matter of the action. Where several natural persons are involved in the same proceedings, the value for each additional person in the proceedings on appeal shall rise by 1,500 Deutschmarks and in temporary relief proceedings by 750 Deutschmarks.

Chapter Eight

Provisions on Fines and Penalties

Section 84 Inducing an Abusive Application

(1) Whoever induces or helps an alien to provide incorrect or incomplete information during the asylum procedure before the Federal Office or during the judicial proceedings

in order to enable him to be recognised as a person entitled to asylum or to have determined that the conditions of Article 51, para. 1 of the Aliens Act are met, shall be punished with imprisonment not exceeding three years or with a fine.

(2) In particularly serious cases a prison sentence of up to five years or a fine shall be imposed. As a rule, a case shall be considered to be a particularly serious one if the perpetrator

1. receives or expects to receive financial advantage for an action described in para. 1 above

2. repeatedly acts or acts for more than five aliens.

(3) A prison sentence of six months to ten years shall be imposed on a perpetrator who

1. is motivated by commercial interests or

2. is a member of a gang that has been formed to continually commit such acts

pursuant to para. 1 above.

(4) Any attempt shall be liable to prosecution.

(5) In the cases of para. 3 no. 1 Section 73d of the Penal Code shall apply. In the cases of para. 3 no. 2 Sections 43a, 73d of the Penal Code shall apply.

(6) Whoever commits such act for the benefit of a family member in the meaning of Section 11, paragraph 1, no. 1 of the Penal Code shall be exempt from punishment.

Section 84a Commercial and Organised Inducement to Make an Abusive Application

(1) Whoever is motivated by commercial interest as a member of a gang that continually commits the acts pursuant to Section 84 para. 1 shall be liable to a term of imprisonment of one year to ten years.

(2) In less serious cases the penalty is imprisonment for six months to five years.

(3) Sections 43a, 73d of the Penal Code shall apply.

Section 85 Other Criminal Offences

Whoever

1. fails, despite the provisions of Section 50, paragraph 6, also in conjunction with Section 71 a, para. 2, first sentence above, to report immediately to the authority to which he has been referred;
2. repeatedly acts in contravention of the restrictions of residence pursuant to Section 56, para. 1 or 2, either paragraph also in conjunction with Section 71 a, para. 3 above;
3. acts in contravention of an enforceable obligation pursuant to Section 60, para. 1, also in conjunction with Section 71 a, para. 3, which bans or restricts gainful employment;
4. fails to comply in due time with an enforceable order pursuant to Section 60, para. 2, first sentence, also in conjunction with Section 71 a, para. 3; or
5. is gainfully employed, despite the provisions of Section 61, para. 1, also in conjunction with Section 71 a, para. 3,

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

Section 86 Provisions on Fines

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

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

Chapter Nine Transitional and Final Provisions

Section 87 Transitional Provisions

(1) For the administrative procedure, the following transitional provisions shall apply:

1. Asylum procedures already started shall be completed in accordance with the legal provisions applicable heretofore if the Federal Office has despatched its decision for delivery to the aliens authority prior to the entry into force of this Act. Where an asylum procedure was finally concluded prior to the entry into force of the present Act, the Federal Office shall only be responsible for the decision on whether obstacles precluding deportation pursuant to Section 53 of the Aliens Act exist and for passing a notification announcing deportation, if a new asylum procedure is pursued.

2. Follow-up applications which were filed prior to the entry into force of the present Act, shall be decided by the aliens authority in accordance with the legal provisions applicable heretofore.

3. Aliens who filed an asylum application prior to the entry into force of the present Act, shall be distributed to the Länder in accordance with the legal provisions applicable heretofore.

(2) As far as legal remedy and the court proceedings are concerned, the following transitional provisions shall apply:

1. In cases pursuant to the preceding paragraph, nos. 1 and 2, the limitation period shall comply with the legal provisions applicable heretofore; the local responsibility of the administrative court shall be determined pursuant to Section 52, no. 2, third sentence of the Rules of the Administrative Courts in the version applicable prior to the entry into force of the present Act.

2. The admissibility of legal remedy against an administrative act shall be determined pursuant to the legal provisions applicable heretofore if notice of the administrative act was given prior to the entry into force of the present Act.

3. The admissibility of legal remedy against a court decision shall be determined pursuant to the legal provisions applicable heretofore, if the decision was pronounced or instead officially served prior to the entry into force of the present Act.

4. In cases where an appeal lodged under the legal provisions applicable heretofore has suspensive effect, the provisions of the present Act on the exclusion of suspensive effect shall not apply.

5. In court proceedings where a request pursuant to Section 33 of the Act on Asylum Procedures as promulgated on 9 April 1991 (Federal Law Gazette I, page 869), amended by virtue of Article 7, Section 13 in combination with Article 11 of the Act of 12 September 1990 (Federal Law Gazette I, page 2002) has been made prior to the entry into force of the present Act, this provision shall in so far continue to apply.

Section 87a Transitional Provisions Accounting for the Amendments which Entered into Force on 1 July 1993

(1) Except as provided by the following provisions, the provisions of the present Act, with the exception of Sections 26 a and 34 a, shall also apply to aliens who filed an asylum application prior to 1 July 1993. Sections 27 and 29, paras. 1 and 2 shall apply mutatis mutandis to aliens who have entered from a Member State of the European Communities or from one of the states named in Appendix I.

(2) For the administrative procedure the following transitional provisions shall apply:

1. Section 10, para. 2, second and third sentences and para. 3 and 4 above shall apply, if the alien has additionally been informed in writing of the provisions therein.

2. Section 33, para. 2 above shall only apply to aliens who visited their country of origin after 1 July 1993.

3. For follow-up applications which were filed prior to 1 July 1993, the provisions of Sections 71 and 87, para. 1, no. 2 above shall apply in the version applicable heretofore.

(3) For appeals and court proceedings the following transitional provisions shall apply:

1. The admissibility of an appeal against an administrative act shall be determined pursuant to the provisions applicable heretofore if such administrative act was announced prior to 1 July 1993.

2. The admissibility of an appeal against a court decision shall be determined pursuant to the provisions applicable heretofore if the decision was pronounced or instead officially served prior to the entry into force of the present Act.

3. Section 76, para. 4 above shall not apply to procedures that were pending prior to 1 July 1993.

4. The effectiveness of a transferral to an individual judge, which was carried out prior to 1 July 1993, shall remain unaffected by Section 76, para. 5.

5. Section 83, para. 1 above shall not be applied up to and including 31 December 1993.

Section 88 Statutory Ordinance Authorisation

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

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

2. the decision on the request of another Contracting State that an alien be taken over in order to process his asylum request;

3. the transmission of a re-acceptance request to another Contracting State;

4. the decision on the re-acceptance request of another Contracting State; and

5. the exchange of information.

(2) By virtue of a statutory ordinance the Land Government may transfer responsibilities of the reception centre to other Land authorities.

Section 89 Restriction of Basic Rights

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

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

Section 90 General Administrative Provisions

The Federal Ministry of the Interior shall issue, with the consent of the Bundesrat, general administrative provisions in respect of this Act.

Appendix I (ad Section 26 a)

Finland

Norway

Austria

Poland

Sweden

Switzerland

Czech Republic

Appendix II (ad Section 29 a)

Bulgaria

Ghana

Poland

Romania

Senegal

Slovak Republic

Czech Republic

Hungary