First instance determination - Germany

Overview of first instance procedures

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Relevant EU legislation

Germany is bound by the recast Asylum Procedures Directive (APD/APR), the recast Reception Conditions Directive and the Dublin III Regulation (AMMR) and has transposed their provisions through the Asylum Act | Asylgesetz (AsylG)

National legislation

Germany transposes the recast Asylum Procedures Directive (APD), the recast Reception Conditions Directive and the Dublin III Regulation through the Asylum Act | Asylgesetz (AsylG)

Competent authority and other stakeholders

National authorities: The Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF) is responsible for examining/processing requests for international protection in the regular asylum procedure and in special procedures. The Federal Office is represented all over Germany via its decentralised structure comprising branch offices, arrival centres and decision-making centres in each of the Federal States.

Staff: Information not currently available.

Other actors: Information not currently available.

Types of procedures and case processing

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Please list the different types of asylum procedures in the national system.

The Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF) implements the following asylum procedures

- Regular procedure
- Accelerated procedure
- Airport procedure
- Subsequent applications

Time limit for a decision and length of the procedure

Measures to enforce the legal time limit for processing an application: According to the Code of Administrative Court Procedures, Section 75, applicants may lodge an action with the administrative court when the asylum authority fails to render a decision within the time limit without sufficient reason (Section 24(4-7) Asylum Act).

Penalty payment for exceeding processing time: There are no penalty payments.

Regular procedure: BAMF decides on an asylum application on the basis of the personal interview and a detailed examination of documents and items of evidence. The decision is reasoned in writing and transmitted to the applicant or the legal representative, as well as the competent immigration authorities.

There is no separate procedure preceding the regular procedure in which decisions on admissibility of asylum applications are made. Both the admissibility (including assessment of the country responsible under the Dublin III Regulation) and the merits of the application are assessed within the regular procedure.

Time limit: The time limit for a decision on an asylum application will be made within 6 months. BAMF can extend this period to a maximum of 15 months under certain circumstances (Section 24(4) Asylum Act).

Accelerated procedure: Based on Article 30a of the Asylum Act, the accelerated procedure can be carried out in BAMF branch offices that are assigned to a special reception centre for an applicant who:

- is a national of a (Section 29a);

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- has clearly misled the authorities about his/her identity or nationality by presenting false information or documents or by withholding relevant documents;
- has in bad faith destroyed or disposed of an identity or travel document that would have helped establish his/her identity or nationality, or if the circumstances clearly give reason to believe that this is so;
- has filed a subsequent application;
- has made an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his deportation;
- refuses to be fingerprinted in line with Regulation (EU) No 603/2013 of the European Parliament and of the Council dated 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms to determine the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L no. 180 dated 29 June 2013, p. 1); or
- has been expelled because of serious reasons of public security and order or if there are serious reasons to believe that the person constitutes a serious threat to public security and order.

Time limit: In the accelerated procedure, BAMF must make a decision within 1 week.

Airport procedure: There is no special procedure for entry by land. The airport procedure (Asylum Act, Section 18a (procedure in case of entry by air)) applies prior to granting entry when a third-country national wishes to apply for asylum with the border authority and the person is unable to provide proof of identity with a valid travel document or the person comes from a safe country of origin.

Time limit: BAMF assesses the application, carries out the personal interview and decides within 2 days whether the applicant can enter the country or if the application will be rejected as manifestly unfounded. The total duration of the airport procedure (including the decision on a request for preliminary legal protection) cannot exceed 19 days.

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Subsequent applications: Article 71 of the Asylum Act defines a subsequent application (*Folgeantrag*) as a claim which is submitted after a previous application has been withdrawn or a final decision on rejection was reached.

Quality assurance of first instance procedures

Who: Information not currently available.

Methods/criteria: Information not currently available.

Frequency: Information not currently available.

Interinstitutional cooperation

Information not currently available.

Regular asylum procedure at first instance

Legal basis

Please indicate the relevant provisions of the law for regular asylum procedure at first instance.

There is no special procedure for entry by land. The airport procedure (Asylum Act, Section 18a , procedure in case of entry by air)) applies prior to granting entry when a third-country national wishes to apply for asylum with the border authority and the person is unable to provide proof of identity with a valid travel document or the person comes from a safe country of origin. Applicants remain in the transit area for the period of the airport procedure.

Competent authority and stakeholders

Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Personal interview

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The Federal Office for Migration and Refugees (BAMF) is responsible for holding the interview and invites applicants to attend the appointment, where an interpreter will be available. Applicants must attend this appointment or they must state in good time why they are unable to attend. If they do not do so, their asylum application can be rejected or the proceedings discontinued. The interviews are not public, but they may be attended by an attorney or a representative of UNHCR, and by a guardian for unaccompanied minors.

Assessment of an application

The assessment is made by the interviewer/case officer of the Federal Office for Migration and Refugees BAMF. Supervisors may check the quality.

Scope and outcomes of a decision

BAMF decides on the asylum application on the basis of the personal interview and a detailed examination of documents and items of evidence. The decision is reasoned in writing and provided to the applicant or the legal representative, as well as the competent immigration authorities.

Withdrawal of an application

Competent authority to withdraw an application

Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Implicit withdrawal

Grounds for implicit withdrawal: Based on Article 33 of the Asylum Act (AsylG), the application is considered implicitly withdrawn, when the applicant:

- fails to comply with a request to present information which is important for the application as described in Section 15 or a request to attend a hearing pursuant to Section 25.

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- his/her whereabouts are unknown; or
- he/she has travelled to the country of origin during the asylum procedure; or
- has violated the geographic restriction of his permission to remain pending the asylum decision defined in Section 56 to which he/she is subject on account of the obligation to live in a reception centre in line with Section 30a(3).

Consequences of implicit withdrawal: BAMF takes a decision to discontinue the procedure or to reject the application (following an adequate assessment of the case) when the application is considered implicitly withdrawn.

Appeal against a decision to discontinue the examination due to an implicit withdrawal: Information currently not available.

Appeal against a decision to discontinue the examination due to an implicit withdrawal: Information currently not available.

Explicit withdrawal

Grounds for explicit withdrawal: Sec. 32 of the Asylum Act (AsylG) provides the legal basis for explicitly withdrawing an asylum application. The applicant can submit an oral or written request to withdraw the application

Consequences of explicit withdrawal: Information currently not available.

Consequences of explicit withdrawal: Information currently not available.

Appeal against a decision to discontinue the examination due to an explicit withdrawal: Information currently not available.

Appeal against a decision to discontinue the examination due to an explicit withdrawal: Information currently not available.

Personal interview

Competent authority: Interviewers

Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

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BAMF has specially-trained decision-makers dealing with gender-specific human rights violations, such as rape, other types of sexual abuse and threat of genital mutilation. This also applies to victims of torture and trauma or to victims of human trafficking, as well as to unaccompanied minors.

The legal basis for the interview is outlined in Sections 24 and 25 of the Asylum Act (AsylG).

BAMF is obliged to interview the individual in person (Section 24(1), third sentence Asylum Act).

During the personal hearing, the individual must personally submit the facts which justify his/her fear of persecution or the danger of the threat of serious injury, and must provide the requisite information. The necessary information includes places of residence, transit routes, stays in other countries and whether asylum proceedings have already been initiated or implemented in other countries or in Germany (Section 25(1) Asylum Act). They must also state all other facts and circumstances opposing deportation (Section 25(2) Asylum Act).

If these facts and circumstances are submitted late, they do not need to be taken into consideration (Section 25(3) Asylum Act).

The legal basis for the identity checks is contained in Section 16 of the Asylum Act.

Special procedural guarantees during the interview

Accompanied minors: In general, minors are only interviewed when they can contribute clarifications to the case, in particular when child-specific reasons may apply. A personal interview of an accompanied minor may also be carried out if the minor or the parents express the wish, while the indicative minimum age for a personal interview is 6 years old. For children aged 14 years old or older, there is an obligation to carry out an interview, providing the minor is psychologically able to do so.

Unaccompanied minors (in presence of the legal representative): Minors aged 6 to 13 years can be interviewed. For unaccompanied minors aged 14 years or older, there is an obligation to carry out an interview. Case workers carry out the interviews and take the respective decision. They may also be involved in cases of accompanied minors if necessary. Cases of unaccompanied minors are

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prioritised.

The presence of the unaccompanied child would not be required and information could be sought from the representative for minors up to the age of 13 (in individual cases) and if the interview of the child is not possible or not reasonable.

Victims of trafficking or other forms of violence: BAMF has special case officers (*Sonderbeauftragte*) to carry out the interviews and make decisions on claims by applicants with specific vulnerabilities. The specially-commissioned case officers serve as interviewers, decision-makers in the asylum procedure and provide advice to colleagues. In addition, they act as the BAMF contact for external actors (such as NGOs). These case officers must have at least 2 years of professional experience in interviewing and decision-making processes and have a personal aptitude to handle cases of applicants with special needs and vulnerabilities.

Applicants with disabilities or other health issues: BAMF employs specially-commissioned case officers for some particularly vulnerable groups. If special needs or vulnerabilities are already identified during the application process, then a special case officer is either present for the interview or involved in the case. If the special needs/vulnerabilities are only identified during the interview, a specially-commissioned case officer will continue the interview or will be consulted.

Possibility to omit the personal interview

The interview may be omitted only in exceptional cases where:

Positive decision	Yes (Asylum Act, Section 24 (1) 1. BAMF intends to recognise the entitlement to asylum or international protection on the basis of the available evidence
Previous meeting - essential information	n/a
Issues raised are not relevant or of minimal relevance	n/a

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Safe country of origin	n/a
Safe third countries	No
Inconsistent, contradictory, improbable, insufficient representations	Yes (the applicant does not appear at the interview and does not have an adequate reason)
Subsequent application	n/a
Application to merely delay/frustrate enforcement	n/a
Not reasonably practical to conduct it	Yes (an asylum application has been filed for children under 6 years who were born in Germany and the facts of the case have been sufficiently clarified based on the case files of one or both parents).
Applicant unfit or unable to be interviewed	Yes (BAMF is of the opinion that the applicant is unfit or unable to be interviewed due to enduring circumstances beyond his/her control or in lack of negotiation or process capability). When in doubt, BAMF consults a medical professional to establish whether the condition that makes the applicant unfit or unable to be interviewed is of a temporary or long-term nature.

Organisational aspects

Preparation and timing of the interview: The Federal Office for Migration and Refugees (BAMF) conducts an interview with each asylum applicant, which takes place within a few days (directly after lodging the application, ideally on the same day) at:

- Arrival Centre

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- AnkER (reception) facility
- local branch office of BAMF.

Information provision (before the personal interview): Prior to the interview, when lodging the application or arriving in the initial reception centre, the asylum applicant receives various written information leaflets. BAMF informs the foreigner early on in a language he/she can reasonably be presumed to understand about the course of the procedure and the rights and obligations, especially concerning deadlines and the consequences of missing a deadline, as well as the possibility of a voluntary return (Section 24(1) Asylum Act). In addition, information on the interview and its purpose, the right to an interpreter, the confidentiality of the information, the recording of the interview as well as the procedure after the interview are provided.

Modalities of carrying out the interview: The interview takes place at an Arrival Centre, an AnkER facility or the local branch office of BAMF. Interviews may exceptionally be carried out by videoconferencing in suitable cases.

Persons present during the interview: The following people are present during the interview: asylum seeker, interviewer, interpreter, family member (if applicable), lawyers and legal representatives (if applicable). The presence of third parties is not regulated but they may not be permitted to be present at the discretion of the head of BAMF. In case of a rejection, no justification is necessary.

For unaccompanied minors, the presence of the legal representative/guardian is generally required. Without the legal representative/guardian present, the interview can only be carried out in exceptional cases. The presence of other persons during the interview is allowed but not mandatory.

Specialised officers conduct the personal interview with children and other vulnerable applicants, such as victims of torture, victims of trauma, victims of trafficking in human beings and people persecuted because of their gender.

The presence of an interpreter is required by law (Section 17 Asylum Act). BAMF recruits its own interpreters on a free-lance basis. The applicant has the right to call in at their own expense an interpreter/translator of choice (Section 17(2) Asylum Act). In 2017, BAMF introduced interpretation hubs to arrange remote video-interpretation to overcome shortages of interpreters. An online video training for interpreters was established in 2017. The training informs interpreters in a standardised manner about the most important aspects of their

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work for BAMF. The training “Interpreting in the Asylum Procedure” was developed in close cooperation with the Federal Association of Interpreters and Translators (BDÜ).

The presence of family members during the personal interview is permitted if necessary in the specific case. The purpose of the family member’s presence must be clearly reasoned, and it must be ensured that the asylum claim is not related to the respective family member.

Lawyers and legal representatives, like guardians, representatives of the federal government or a federal state and UNHCR, do not need permission to be present during the interview. If the applicant does not trust the interpreter provided by the BAMF, he/she may additionally bring their own interpreter. An interpreter brought by the applicant does not replace the interpreter appointed by the Federal Office and therefore only participates in the hearing in addition to the interpreter appointed by the Federal Office. Lawyers and case officers can ask questions during the interview. UNHCR and other parties can participate under silent presence during the interview. NGOs are not entitled to legally represent applicants in the course of the asylum procedure. Asylum seekers may be represented by a lawyer but are not entitled to free legal aid.

Other categories of third parties may also be present during the personal interview, such as other staff (e.g. representatives of federal authorities or authorities of the federal states, additional interpreters (brought by the applicant) and public servants from other competent authorities, but this would be conditional upon the consent of the applicant and the head of BAMF or the respective representative (except additional interpreters).

Structure/steps of the interview

Each interview follows a particular structure. It starts with an explanation of the procedure, asking whether the applicant is able and ready for the interview, if the communication with the interpreter is okay. Then there are questions about personal biographical data.

After this, the applicant may give the reasons for leaving their country. Then, if necessary, there are further questions to investigate selected topics and clear up contradictions or inconsistencies.

In the concluding part, the applicant is asked whether everything has been reported and if the interpretation is according to what the applicant has reported.

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Finally, the applicant is invited to add additional information and is given information about the next steps of the procedure. The applicant will also be asked to confirm that he/she understood the interpreter and give consent to the interview record.

The length of the interview differs, depending on the country of origin and the individual case. Breaks can be taken at the request of the applicant or the interpreter or at the interviewer's discretion, at regular intervals. There is a possibility of a follow-up interview in exceptional cases. The follow-up interview is conducted in the same manner as the first interview.

Audio/video recording and written report

The transcript of the interview is not verbatim and consists of a summary of the personal interview questions and answers, in the form of a written report. It must reflect all essential information the applicant reports. All information contributing to clarify whether the applicant has been persecuted or has a fear of being persecuted if returned is considered essential. At the end of the interview, when the whole report has been translated for the applicant, he/she is asked to sign the report. If the applicant refuses to sign the report, the reasons for refusing the signature are recorded. However, it is possible to make a decision even without the signature. By signing it, the applicant confirms that he/she had the opportunity to present all facts of the case, there were not communication problems and the transcript was read back in a language that he/she could understand. The applicant then receives a copy of the written report, which he/she must give to the legal representative if there is one.

Postponing the personal interview

The interview can be postponed at least once if the applicant provides serious reasons for it, such as: justified medical grounds, if the applicant's legal counsel is not available and sufficiently excused, if the guardian of an unaccompanied minor is not available or other valid grounds depending on the personal circumstances of the applicant.

Failure to appear

If the applicant does not appear at the interview (except based on good grounds), it is assumed by law that the applicant has implicitly withdrawn or abandoned the application. Unless the presumption is refuted, BAMF terminates the asylum procedure or rejects the application following an appropriate assessment of the content of the case.

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Other aspects

Information currently not available.

Special asylum procedures at first instance

Admissibility procedure

Legal basis and grounds:

There is no separate procedure preceding the regular procedure in which decisions on admissibility of the asylum application are made. Both the admissibility (including assessment of the country responsible under the Dublin III Regulation) and the merits of the application are assessed within the regular procedure.

BAMF can declare an application inadmissible when (Section 29 Asylum Act):

- Another country is responsible for conducting the asylum procedure according to Regulation (EU) No 604/2013 or based on other EU law or another international treaty;
- Another EU Member State has already granted the foreigner international protection within the meaning of Section 1(1), No 2;
- If a country that is willing to readmit the foreigner is regarded as a safe third country for that foreigner according to Section 26a;
- If a country that is not an EU Member State is willing to readmit the foreigner and is regarded as another third country within the meaning of Section 27; or
- If, in the case of follow-up applications pursuant to Section 71 or secondary applications pursuant to Section 71a, another asylum application is not to be conducted.

Competent authority and other stakeholders: Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Procedural aspects: Information currently not available.

Right to enter (at the border)/remain: There is no special procedure for entry by land. Section 18(1) of the Asylum Act states that people who apply for asylum

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at the border must be referred to one of the initial reception centres.

Personal interview: The examination of the admissibility of the application is part of the regular procedure. BAMF conducts a personal interview with each applicant for international protection.

Decision and time limits to decide: Information currently not available.

Appeal

Information currently not available.

Impact on reception conditions (restricted for some countries)

Information currently not available.

Accelerated procedure

Legal basis and grounds

The accelerated procedure can be carried out in branch offices of BAMF that are assigned to a special reception centre for applicants who (Article 30a Asylum Act):

- is a national of a safe country of origin (Section 29a);
- has clearly misled the authorities as to his/her identity or nationality by presenting false information or documents or by withholding relevant documents;
- has in bad faith destroyed or disposed of an identity or travel document that would have helped establish his/her identity or nationality, or if the circumstances clearly give reason to believe that this is so;
- has filed a subsequent application;
- has made an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in deportation;
- refuses to be fingerprinted in line with Regulation (EU) No 603/2013 of the European Parliament and of the Council dated 26 June 2013 on the establishment of Eurodac for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member

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States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L No 180 dated 29 June 2013, p. 1); or
- was expelled because of serious reasons of public security and order of if there are serious reasons to believe that he/she constitutes a serious threat to public security and order.

Competent authority and other stakeholders: Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Procedural aspects

If the asylum application is rejected as being manifestly unfounded or inadmissible within a timeframe of 1 week, the procedure is carried on as an accelerated procedure and the applicant must stay in the special reception centres. If BAMF did not make a decision within the 1-week timeframe or rejected the application as simply unfounded, the applicant can leave the special reception centre with the procedure being carried on as a regular procedure.

If the BAMF carries out the procedure as an accelerated procedure, it shall decide within one week of the application for asylum. If the procedure cannot be decided within this time limit, it shall be carried out as a non-accelerated procedure. With the exception of the need to respect the weekly deadline, no specific procedural rules apply to the accelerated procedure; care must be taken to ensure that the decision is handed over to the applicant within one week.

Decision and time limits to decide

BAMF must take a decision within 1 week, otherwise the application is channelled back to the regular procedure.

Appeal

The decision can be appealed in front of the competent administrative court. The deadlines for an appeal follow the rules of the Asylum Act not the general rules for administrative court procedures.

Impact on reception conditions: During an accelerated procedure, asylum applicants are obliged to stay in special reception centres, where typically a strict residence obligation applies. They receive a permission to remain pending the

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asylum decision (*Aufenthaltsgestattung*) after lodging the application, but they will not be entitled to some forms of state benefits.

Border procedure

Legal basis and grounds

There is no special procedure for entry by land.

Competent authority and other stakeholders

Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Procedural aspects

The airport procedure (Asylum Act, Section 18a (procedure in case of entry by air) applies prior to granting entry when a third-country national wishes to apply for asylum with the border authority and the person is unable to provide proof of identity with a valid travel document or the person comes from a safe country of origin. Most of these procedures take place at the Frankfurt airport, but they are also applied at the airports of Berlin Brandenburg, Hamburg and Munich.

Decision and time limits to decide

BAMF assesses the application, carries out the personal interview and decides within 2 days whether the applicant can enter the country or if the application is rejected as manifestly unfounded. The total duration of the airport procedure (including the decision on a request for preliminary legal protection) cannot exceed 19 days.

Appeal

In the case of a rejection, applicants can lodge an appeal within 3 days with the competent administrative court and request a provisional measure. The administrative court decides on the request for an interim measure in a written procedure, without hearing the applicant. For the duration of this procedure, the denial of entry and deportation are suspended. When the administrative court grants the provisional measure or when it does not rule within 14 days, the applicant can enter the territory of Germany.

Impact on reception conditions

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Until the court decision, applicants must remain in the transit area of the airport. In the case of a refusal, they will be returned to their place of departure or their country of origin. The airport procedure can only be carried out when the asylum seeker can be accommodated at the airport premises and a branch office of BAMF is assigned to that specific border checkpoint. This is currently the case in the airports of Berlin-Brandenburg, Frankfurt Main, Hamburg, Munich and Düsseldorf. Applicants are entitled to material reception conditions, as defined under the relevant federal state's legislation.

Subsequent application procedure

Legal basis and grounds: A subsequent application (*Folgeantrag*) is a claim which is submitted after a previous application has been withdrawn or a final decision on rejection was reached (Article 71 Asylum Act).

Competent authority and other stakeholders: Federal Office for Migration and Refugees | Bundesamt für Migration und Flüchtlinge (BAMF)

Procedural aspects: BAMF first examines whether there are grounds for resumption (Section 51(1-3) Administrative Procedure Act (VwVfG)):

- The material or legal situation upon which the decision was based has changed retrospectively in favour of the applicant;
- New evidence emerges that would have led to a more favourable decision;
- There are grounds for resumption in accordance with Article 580 of the Civil Procedure Code (ZPO);

and the applicant was unable to present these grounds in earlier proceedings and the application has been lodged within 3 months after the applicant has learned about the grounds for resumption.

The legal status of applicants pending the decision on the admissibility of their subsequent application is not expressly regulated by law. The applicant can be detained pending deportation until BAMF decides whether the asylum procedure can be resumed.

Decision and time limits to decide: Accepted subsequent applications are channelled through the regular procedure.

Appeal: The applicant can appeal to the competent administrative court if the subsequent application is rejected.

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Impact on reception conditions (restricted for some countries): The applicant has the same access to reception conditions, with any other rights and obligations, when BAMF accepts the subsequent application for further examination.

Last-minute application pending removal

Last-minute applications lodged by first time applicants pending a removal

Information currently not available.

Last-minute applications lodged as subsequent applications pending a removal

Information currently not available.

Safe country concept

Safe country of origin

Concept included in law

Article 16a GG (German Constitution),

Section 29a and Annex II of the Asylum Act (AsylG)

Authority proposing: Federal Government | Bundesregierung

Authority adopting: Parliament | Bundestag

Countries may be specified as safe countries of origin by law requiring the consent of the Bundesrat.

Every 2 years, the federal government submits a report to the German Bundestag on whether the requirements are still met for the classification of the countries listed in Annex II as safe countries of origin (Section 29a(2a) Asylum Act).

Criteria for designation: The federal government determines by ordinance, without the consent of the Bundesrat, that a country designated in Annex II is no

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longer considered a safe country of origin if changes in the legal or political circumstances in the country justify the assumption that the provisions of Article 16a(3), sentence 1 of the Basic Law are no longer applicable. The ordinance will expire no later than 6 months after it comes into force (Section 29a(3) Asylum Act (AsylG)).

The listed safe countries of origin are regarded as stable and democratic in general and towards minorities. The law defines countries as safe countries of origin if it is possible to prove on the basis of the democratic system and the general political situation that no state persecution is to be feared as a rule and the state can provide protection against non-state persecution as a matter of principle. Protection against non-state persecution means, for instance, that there are legal and administrative provisions in place to provide protection for the population and these are made accessible to all and are effective.

All assessments must be done by a legislative act by the parliament (Article 16a(3) German Constitution (*Grundgesetz*)); they cannot be made by administrative acts or internal instructions (Article 37(1) Directive 2013/32/EU). The classification of a safe country of origin is based on national and international data and jurisdiction of the High Court, in accordance with Article 37(3) of the Directive.

National list of safe countries of origin

The list was last updated on 23 December 2023 to include Moldova and Georgia as safe countries of origin.

1. EU Member States
2. Albania
3. Bosnia and Herzegovina
4. Ghana
5. Kosovo
6. Montenegro
7. North Macedonia
8. Senegal
9. Serbia
10. Moldova (since 23 December 2023, Law on the decision to include Moldova and Georgia as safe countries of origin)
11. Georgia (since 23 December 2023, Law on the decision to include Moldova and Georgia as safe countries of origin)

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Safe third country

Concept included in law: Section 26a(2) and Annex I of the Asylum Act

Determining authority: Parliament | Bundestag

Criteria for designation: The federal government is entitled to remove a country from the list for a period of 6 months if there are changes in its legal or political situation which give reason to believe that the requirements for a safe third country are no longer met (Section 26a(3) Asylum Act (AsylG)).

The law of 19 August 2007 updated the list by removing new EU Member States, as EU Member States are already stated in Section 26a(2) of the Asylum Act.

National list of safe third countries

- EU Member States
- Norway
- Switzerland

European safe third country

The concept of a European safe third country is not defined in law.

Assessment of an application at first instance

Legal provisions relevant for an assessment

Information currently not available

Competent authority for the assessment

Required qualifications: BAMF case officers have at least a college degree in general, non-technical administrative service or a comparable degree. They have both comprehensive knowledge of the national and European asylum and migration laws, as well as a thorough knowledge of the situation in the

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applicants' countries of origin. Certain soft skills, such as a mastery of customary interview techniques, culturally-sensitive empathy and intercultural skills, are included in the fundamental prerequisites for deployment as a decision-maker.

Training: Case officers are comprehensively trained by experienced case officers and trainers from the Qualification Centre in the headquarters in Nuremberg, in addition to on the job in branch offices and arrival centres where they are deployed.

Due to frequent changes in the asylum procedure, both new and experienced case officers are trained regularly. Some case officers receive specialised training in interviewing techniques, particularly for vulnerable groups such as unaccompanied minors, victims of torture or trauma, victims of trafficking in human beings and people persecuted because of their gender.

Grounds

There are four forms of protection in Germany are the following:

- Acknowledgement of entitlement to asylum (Article 16a Basic Law);
- Award of refugee protection (Section 3 Asylum Act);
- Award of subsidiary protection (Section 4 Asylum Act);
- Imposition of a ban on return (Section 60 V+ VII Residence Act).

The Federal Office for Migration and Refugees BAMF examines each asylum application on the basis of the German Asylum Act (*Asylgesetz*), the German Basic Law and the German Residence Act as to whether one of those four forms of protection applies.

Entitlement to asylum (Asylberechtigung): According to Art. 16a of the German Basic Law, persons persecuted on political grounds have the right of asylum. The right of asylum has constitutional status as a fundamental right in Germany and serves to protect human dignity, but also protects life, physical integrity, freedom and other fundamental human rights. It is the only fundamental right to which only foreigners are entitled

Legal grounds for the Refugee Status (*Flüchtlingsschutz*) is Section 3 of the Asylum Act - on the basis of the Geneva Refugee Convention and Directive 2011/95/EU, if the person:

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1. owing to well-founded fear of persecution in his country of origin on account of his race, religion, nationality, political opinion or membership of a particular social group,
2. resides outside the country (country of origin)

- whose nationality he possesses and the protection of which he cannot, or, owing to such fear does not want to avail himself of, or
- where he used to have his habitual residence as a stateless person and where he cannot, or, owing to said fear, does not want to return.

Legal ground for Subsidiary Protection (*subsidiärer Schutz*) is under Section 4 of the Asylum Act: A foreigner shall be eligible for subsidiary protection if he has shown substantial grounds for believing that he would face a real risk of suffering serious harm in his country of origin.

Serious harm consists of:

3. death penalty or execution,
4. torture or inhuman or degrading treatment or punishment, or
5. serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

Guidelines for case officers

Interview guidelines, comprehensive guidelines to assess applications, checklists, instructions and country guidance notes for the most frequent countries of origin are available to assist in the decision-making. Text modules support the drafting of the decisions.

To clarify circumstances prior to taking the decision, it is possible to access BAMF’s Information Centre and its "MILo" database system. The system provides information and analyses on world refugee and migration events, as well as on countries of origin and transit countries.

Credibility assessment

The Federal Office considers each asylum application on the basis of the Asylum Act, the Residence Act and the Basic Law to assess if a person qualifies for one of the four forms of protection (refugee protection, entitlement to asylum,

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subsidiary protection or a ban on deportation).

The applicant is obliged to submit as soon as possible all documents supporting the application (Section 15 Asylum Act).

Assessment of facts and circumstances when aspects of the applicant's statements are not supported by documentary or other evidence

To clarify the circumstances prior to taking the decision, it is possible to access BAMF's Information Centre and its "MILo" database system. The system provides information and analyses on world refugee and migration events, as well as on countries of origin and transit countries. Guidelines for the most important countries of origin provide assistance in decision-making.

Time limit for submitting evidence during credibility

The applicant is obliged to submit as soon as possible all documents supporting the application (Section 15 Asylum Act).

COI research

The COI Unit of BAMF, called the Information Centre for Asylum and Migration (*Informationszentrum Asyl und Migration, IZAM*), is responsible for collecting, analysing and providing objective, reliable, comprehensive and up-to-date information on countries of origin and transit, as well as on international migration and global refugee movements in order to support the examination of applications for international protection.

Staff produce a wide range of COI products based on needs identified by different target groups.

Access to the information and products is given to case officers, other BAMF employees and external stakeholders (administrative courts, aliens authorities, other foreign asylum and immigration authorities, academia, civil society organisations and the interested public).

Decision and outcomes

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BAMF decides on an asylum application on the basis of the personal interview and a detailed examination of documents and items of evidence. The decision is reasoned in writing and is served to the applicant or the legal representative, as well as the competent immigration authority. BAMF examines each asylum application on the basis of the Asylum Act (*Asylgesetz*), the Basic Law and the Residence Act to assess if the person qualifies for one of the four forms of protection:

- Acknowledgement of entitlement to asylum (Article 16a Basic Law);
- Award of refugee protection (Section 3 Asylum Act);
- Award of subsidiary protection (Section 4 Asylum Act);
- Imposition of a ban on return (Section 60 V+ VII Residence Act).

After the examination and assessment of the application, the case officer (in general it is the same person who conducted the interview) drafts the decision. The case officer may adopt a positive decision (granting asylum, refugee status or subsidiary status or a decision to prohibit a removal) or a negative one. The decision follows a certain structure which is based on the different forms of protection. Text modules support the drafting of the decision. Negative decisions are explained in detail.

COI units

Background information

Information currently not available.

Structure and capacity

Information currently not available.

COI products

Information currently not available.

Other aspects of COI units

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Information currently not available.

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