

# Access to procedures and non-refoulement - Germany | DIP EUAA

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## Overview

### Relevant EU legislation

Germany is bound by the recast Asylum Procedures Directive and has transposed its provisions through the [Asylum Act | Asylgesetz \(AsylG\)](#).

### National legislation

[Asylum Act | Asylgesetz \(AsylG\)](#), 2 September 2008.

Relevant provisions: [EN translation](#) only covers changes until the amendments introduced by Article 2 of the Act of 11 March 2016.

Residence Act (Act on the Residence, Economic Activity and Intergation of Foreigners in the Federal territory) | Aufenthaltsgesetz ([AufenthG](#)): Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet, 25 February 2008.

Relevant provisions: [Residence Act](#) (in EN) (English translation includes the amendment(s) to the Act by Article 4b of the Act of 17 February 2020, Federal Law Gazette I, p. 166).

## Competent authority and stakeholders

| <b>Area</b>                             | <b>Competent national authority</b>  | <b>Assistance to competent authority (if applicable)</b> |
|---|--|--|
| <b>Screening at the external border</b> | Federal Police   <a href="#">Bundespolizei</a><br>Federal Office for Migration and Refugees   <a href="#">Bundesamt für Migration und Flüchtlinge</a> (BAMF) | n/a  |
| <b>Biometric data</b>                   | Federal Office for Migration and Refugees   <a href="#">Bundesamt für Migration und Flüchtlinge</a> (BAMF)   | n/a  |

| Area                              | Competent national authority   | Assistance to competent authority (if applicable) |
|-----------------------------------|--|---|
| <b>Making an application</b>      | <p><b>Application at the border:</b> Federal Police   <a href="#">Bundespolizei</a></p> <p><b>Application on the territory:</b><br/>Reception Facilities and Arrival Centres   (<i>Erstaufnahmeeinrichtung</i>)<br/>Federal Police   <a href="#">Bundespolizei</a><br/>Police of federal state   <a href="#">Landespolizei</a><br/>Foreigners Authority   <a href="#">Ausländerbehörde</a></p> <p><b>Application in detention:</b> Federal Office for Migration and Refugees   <a href="#">Bundesamt für Migration und Flüchtlinge</a> (BAMF) (headquarters and also at detention facilities).<br/>Applications must be lodged in writing.</p> | n/a   |
| <b>Registering an application</b> | <p>Federal Police   <a href="#">Bundespolizei</a> or<br/>Police of federal state   <a href="#">Landespolizei</a></p> <p>Federal states (at reception facilities, foreigners' authorities and arrival centres)</p>  | n/a   |
| <b>Lodging an application</b>     | <p>Federal Office for Migration and Refugees   <a href="#">Bundesamt für Migration und Flüchtlinge</a> (BAMF) (branch offices)</p>   | n/a   |

| <b>Area</b>                  | <b>Competent national authority</b>  | <b>Assistance to competent authority (if applicable)</b>   |
|------------------------------|--|--|
| <b>Information provision</b> | Federal Office for Migration and Refugees   <a href="#">Bundesamt für Migration und Flüchtlinge</a> (BAMF) | An amendment of Section 12a of the Asylum Act (AsylG) (entered into force on 1 January 2023) contains the promotion of asylum counselling which is independent from the authorities. |

## Access to the territory

## Official external border-crossing points

Germany has [external air, land and sea border crossing points](#).

## Emergency measures in cases of mass arrivals

The Federal States (*Bundesländer*) are responsible for reception, including registration, accommodation and healthcare. Each federal state receives a fixed share of asylum seekers (distribution key called “*Königsteiner Schlüssel*”). The distribution algorithm follows Section 46(2) of the Asylum Act (AsylG).

Capacity planning is also organised by each federal state. In case of an emergency or a large number of arrivals, there is an emergency reaction in each federal state but also coordination between the federal states and the Federal Office for Migration and Refugees (BAMF).

## Protection from refoulement

The principle of protection from *refoulement* is enshrined in the Asylum Act, the Residence Act and the Basic Law. In Germany, the *non-refoulement* principle is respected and examined within the asylum procedure by the Federal Office (BAMF). BAMF considers each asylum application on the basis of the Asylum Act, the Residence Act and the Basic Law to assess if the person can qualify for one of the forms of protection (refugee protection, entitlement to asylum, subsidiary protection) or a removal ban.

The Basic Law (*Grundgesetz - GG*), Article 16a defines the entitlement to asylum for individuals who are persecuted on political grounds and subject to serious human rights violations should they return to their country of origin.

The Residence Act provides for a number of grounds for a removal ban, for example, if the foreigner would face capital punishment in their home country (Section 60(3)) or if removal is not permitted under the terms of the European Convention for the Protection of Human Rights and Fundamental Freedoms (Section 60(5)).

BAMF is obliged to fully respect the applicant's rights according to the ECHR (in particular Articles 3 and 8), so that no transfer is possible that would result in *refoulement*. An applicant seeking protection may not be returned if the return to the destination country constitutes a breach of the ECHR or if there is a considerable danger to life, limb or liberty in the destination country (Residence Act, Section 60(7)).

The provisions protecting against *refoulement* can be found in the legislation regulating asylum at the federal level. The *non-refoulement* principle is examined within the asylum procedure. BAMF is bound to the provisions and has the responsibility to assess whether a removal would be in violation of Article 3 of the ECHR.

BAMF issues a return decision (a removal warning/notice to intend to remove) with the rejection of the asylum application, pursuant to the Asylum Act, Section 34 and

in connection with the Residence Act, Section 59. The removal warning ( *Abschiebungsandrohung*) is equivalent to a return decision in the meaning of the Return Directive (Directive 2008/115/EG), Article 3(4).

In processing Dublin requests, BAMF is obliged to respect the applicant's rights according to the ECHR, in particular Articles 3 and 8, thus a transfer is not possible if it would result in *refoulement*.

### **Protection from *refoulement* at external air borders**

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 Schönefeld, Hamburg and Munich.

More information about the airport procedure is available on the BAMF website in [EN](#) and [DE](#)

### **Protection from *refoulement* at external land borders**

The *non-refoulement* principle is examined within the asylum procedure.

### **Protection from *refoulement* at external sea borders**

The *non-refoulement* principle is examined within the asylum procedure.

### **Protection from *refoulement* in case of emergency measures related to mass arrivals**

The non-refoulement principle is examined within the asylum procedure.

## **Border 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

## Procedural Aspects

Several authorities can be involved in the phases of making and registering an asylum application. However, asylum seekers can only lodge their application with the Federal Office for Migration and Refugees (BAMF), either in a branch office, an arrival centre or in an AnKER facility.

## Making an application

### Responsible authority and place

**Application at border:** Federal Police | [Bundespolizei](#)

### Application on the territory:

- Reception facilities and arrival centres (*Erstaufnahmeeinrichtung*)
- Federal Police | [Bundespolizei](#)
- Police of federal state | [Landespolizei](#)
- Foreigners Authority | [Ausländerbehörde](#)

**Application in detention:** Federal Office for Migration and Refugees | [Bundesamt für Migration und Flüchtlinge](#) (BAMF) (headquarters, branch offices and at detention facilities). Applications must be lodged in writing.

Third-country nationals may express their wish to make an asylum application directly at the border to the border authority or later within the territory to a security authority (for example the police), at a BAMF branch office, at an arrival centre, an

AnKER facility or at an Initial Reception Centre (often the BAMF branch office is located within these facilities). Asylum seekers are then directed to the nearest Personalisation Infrastructure Component (PIK) station for registration.

### **Possibility to apply from outside the territory**

An application for asylum cannot be filed from abroad. An application can only be filed in writing if it meets one of the preconditions stipulated in section 14 subs. 2 of the Asylum Act. More information at the [BAMF website](#)

### **Formal requirements for making an application**

The application is made in person as a rule. A written asylum application may only be filed in special cases, for instance if the individual in question is in a hospital or has not yet reached the age of maturity. More information at the [BAMF website](#)

## **Registering an application**

### **Responsible authority and place**

- Federal Police | [Bundespolizei](#) or Police of federal state | [Landespolizei](#)
- Federal states (at reception facilities, foreigners authorities and arrival centres)

### **Practical steps to register an application**

The registration of the application typically takes place immediately after or on the same day that it was made. However, due to the quota system ([EASY distribution](#)), it may be necessary to travel to the relevant reception centre. Asylum seekers are first received at the nearest reception facility of the federal state, where they make and register their application, but this may not correspond to the reception facility assigned to them. The allocation is decided by taking into account information available from the EASY quota system oriented by the "Königstein Key", which ensures that asylum seekers are distributed among the federal states in a fair manner. Therefore, an asylum seeker may first receive a document ( *Anlaufbescheinigung*) which provides them with information on how to reach the

competent reception facility. This document has neither legal, nor security purposes and it serves only as a transfer document.

### **Data collection**

The personnel at the PIK station (which can be operated by the federal police or federal state police, BAMF staff or staff of the Initial Reception Centre) register the personal data of the applicant, including photographs and fingerprints for all individuals aged 6 years or older (children under 6 years old are photographed only).

### **Documentation**

Once registered, an asylum seeker receives a proof of arrival and identification document (*Ankunftsnachweis*). The *Ankunftsnachweis* entitles them to reside in Germany and to receive state benefits, such as accommodation, medical treatment and food. They can then lodge an asylum application with BAMF.

### **Lodging an application**

#### **Responsible authority and place**

An asylum seeker can only lodge the application with BAMF, either in a branch office, an arrival centre or in an AnKER facility.

#### **Formal requirements to lodge an application for international protection**

The application must be filed in person (*Persönliche Asylantragstellung*). Written applications are accepted only in specific circumstances when the person:

- holds a residence title with an overall validity of more than 6 months;
- is under arrest or other official custody, in a hospital, a sanatorium or in a youth welfare institution; or
- is a minor and his legal representative is not required to live in a reception centre.

## **Documentation**

When the application is lodged, applicants must hand back the *Ankunftsnaachweis* and they receive a permission to remain pending the asylum procedure ( *Aufenthaltsgestattung*). This document entitles applicants to legally reside in Germany in the specific territorial district where the competent Initial Reception Centre, the arrival centre or AnKER facility is located and it also serves as an ID card. The permission to remain pending the asylum procedure provides access to additional state benefits, such as a limited form of integration and education measures and a work permit after 3 months.

## **Information provision**

A BAMF employee informs the applicant about their rights and obligations during the asylum procedure. The applicant will receive all important information in writing in a language that they understand or are reasonably presumed to understand (German Asylum Act, Section 24(I)2) and an interpreter will be present during the appointment.

## **Passport and other documents**

### **Obligation to surrender original documents**

#### **Requirement to submit original documents**

[AsylG, Section 15\(2\), No 4-6](#) states that it is mandatory for applicants for a form of protection to surrender their national passport to the authorities.

A distinction is made between identity/travel documents and original evidence documents. Original identity/travel documents are required. Photocopies are accepted for evidence documents.

#### **Consequence of refusal to surrender documents**

In the event that an applicant does not surrender his/her passport to the authorities, he/she and their properties, can be subject to a search by the authorities ([Asylum Act, Section 15\(4\)](#)). An application may be considered to be withdrawn if the applicant does not give all information or documents that are necessary for the procedure or does not appear for the personal interview ([Asylum Act, Section 33\(2\), No 1](#)).

### **Return of original documents to the applicant**

Passports are sent to BAMF by the competent reception facility. The documents are returned to the applicant if they are no longer needed for the asylum procedure or for return measures ([AsylG, Section 21\(5\)](#))

### **Other documents**

Information currently not available.

### **Requirement to read digital data**

Information currently not available.

### **Guarantees for applicants**

### **Confidentiality principle**

Information currently not available.

### **Information provision**

Information on the right to make an asylum application and the steps of the asylum procedure is available through several means and in different languages: on the [BAMF website](#), a special application called “[Ankommen](#)”, information brochures and flyers in the Initial Reception Centres, at the border and in transit zones and in detention facilities.

The Asylum Act foresees that BAMF informs asylum seekers in a language they can reasonably be presumed to understand about the various steps of the procedure, including the applicant’s rights and duties, in particular about deadlines and the consequences of missing these deadlines. The Asylum Act requires authorities to provide further information on some specific steps of the procedure and the possibility of a voluntary return. Information leaflets are provided before an application is lodged.

An [information leaflet](#) published by BAMF in several languages provides information on the asylum procedure, rights and obligations.

BAMF has information for refugees on [their website](#) available in several languages, for example:

**Authority/Agency:** Federal Office for Migration and Refugees (BAMF)

**Title:** Information on the Asylum Procedure. Your rights and obligations

**Type:** Brochure

**Hyperlink:** <https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/asylfilm.html>

**Authority/Agency:** Federal Office for Migration and Refugees (BAMF)

**Title:** Information on the Asylum Procedure. Your rights and obligations

**Type:** Film

**Hyperlink:** <https://www.bamf.de/SharedDocs/Videos/EN/AsylFluechtlingsschutz/informationen>

**Authority/Agency:** Federal Office for Migration and Refugees (BAMF)

**Title:** Information sheet on the asylum application

**Type:** Information sheet

**Hyperlink:** <https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/v1.html>

**Authority/Agency:** Federal Office for Migration and Refugees (BAMF)

**Title:** Data protection in the asylum procedure

**Type:** Website

**Hyperlink:**  
<https://www.bamf.de/EN/Themen/AsylFluechtlingsschutz/InformationenGefluechtete/Informationenach-dsgvo-asylverfahren-node.html>

**Authority/Agency:** Federal Office for Migration and Refugees (BAMF)

**Title:** The stages of the German asylum procedure

**Type:** Brochure

**Hyperlink:** <https://www.bamf.de/SharedDocs/Anlagen/EN/AsylFluechtlingsschutz/Asylverfahren/asylverfahren.html>

## **Interpretation**

An applicant receives all important information in writing in a language that they understand or are reasonably presumed to understand (AsylG, Section 24(I)2) and an interpreter is present during the appointment to lodge an application to help applicants understand their rights and duties within the asylum procedure. When no interpreter is available on the spot for a specific language, BAMF requests one to join through video transmission from Video Hubs. These Video Hubs are located at the BAMF Headquarters and certain BAMF branch offices. The connection goes through a secure network between the interpreter in the Video Hub and the applicant and the case officer.

More information on interpretation during the asylum procedure and guidance material for interpreters is available on the BAMF [website](#) in German.

## **Legal assistance and representation**

Pursuant to AsylG, Section 12a, asylum seekers must receive legal advice and support before their hearing and, if required, until the conclusion of the asylum procedure through confidential individual consultations on their individual case. Legal advice on the asylum procedure is provided by non-statutory welfare organisations and other civil society organisations. It is provided independently of the authority, is open-ended, free of charge and voluntary.

The federal government funds legal assistance through grants from a funding programme, which is managed by BAMF.

More information in several languages is available on the [BAMF website](#)