

Chapter 6
Liability and fees

Section 63
Obligations of transport carriers

(1) A transport carrier may only transport foreigners into the federal territory if they possess the necessary passport and the necessary residence title.

(2) The Federal Ministry of the Interior or a body designated by it may, in agreement with the Federal Ministry of Transport and Digital Infrastructure, prohibit a transport carrier from transporting foreigners into the federal territory in violation of subsection (1) and may threaten a fine in case of violation. Any objections or legal actions have no suspensive effect; the same also applies to the imposition of a fine.

(3) The fine imposed on the transport carrier is to be no less than 1,000 euros and no more than 5,000 euros for each foreigner transported in contravention of an order pursuant to subsection (2). The fine may be set and enforced by the Federal Ministry of the Interior or a body designated by it.

(4) The Federal Ministry of the Interior or a body designated by it may agree with transport carriers on arrangements for implementing the obligation specified in subsection (1).

Section 64
Return transport obligation of transport carriers

(1) If foreigners are refused entry, the carrier which transported them to the border is required to remove them from the federal territory without delay.

(2) The obligation pursuant to subsection (1) applies for a period of three years with regard to foreigners transported into the federal territory without the necessary passport, passport substitute or the necessary residence title who are not refused entry because they claim political persecution, persecution within the meaning of section 3 (1) of the Asylum Act or the risk of suffering serious harm within the meaning of section 4 (1) of the Asylum Act, or the circumstances referred to in section 60 (2), (3), (5) or (7). The obligation expires if the foreigner is granted a residence title under the terms of this Act.

(3) On request from the authorities charged with policing cross-border traffic, the carrier is required to transport the foreigners to the state which issued the travel

document or from which they were transported, or to another state in which their admission is ensured.

Section 65

Obligations of airport operators

Operators of commercial airports are obliged to provide suitable accommodation on the airport premises for foreigners who do not possess the necessary passport or the necessary visa until the decision on admission is enforced by the border police.

Section 66

Parties liable for costs; security

(1) Costs arising in connection with the enforcement of a geographic restriction, refusal of entry, removal or deportation are to be borne by the foreigner.

(2) In addition to the foreigner, parties who have provided the foreigners authority or the diplomatic mission abroad with a declaration of commitment to bear the costs of the foreigner's departure are also liable for the costs referred to in subsection (1).

(3) In the cases covered by section 64 (1) and (2), the transport carrier, in addition to the foreigner, is liable for the costs of the foreigner's return transportation and for the costs which arise from the time the foreigner arrives at the border crossing point until the decision on entry is enforced. A transport carrier who culpably contravenes an order pursuant to section 63 (2) is, in addition to the foreigner, liable for any other costs arising from refused entry in cases covered by section 64 (1) or from deportation in cases covered by section 64 (2).

(4) The following are liable for the costs of deportation or removal:

1. anyone who has employed a foreigner who was not permitted to pursue the economic activity under the provisions of this Act,
2. a contractor for whom an employer has performed services as a direct sub-contractor and the contractor was aware or should have been aware, if he or she had exercised due diligence, that the employer hired a foreigner to perform the service who was not permitted to pursue the economic activity under the provisions of this Act,
3. a prime contractor or intermediate contractor without a direct contractual relationship to the employer who is aware of the employment of a foreigner who was not permitted to pursue the economic activity under the provisions of this Act,

4. anyone who commits a punishable offence pursuant to section 96,
5. the foreigner in question, to the extent that such costs cannot be recovered from the other liable parties.

The persons listed in sentence 1 nos. 1 to 4 are liable as joint and several debtors within the meaning of section 421 of the Civil Code.

(4a) Liability pursuant to subsection (4) no. 1 is to be waived if the employer has fulfilled his or her obligations pursuant to section 4a (5) and the notification obligation pursuant to section 28a of Book Four of the Social Code in conjunction with sections 6, 7 and 13 of the Data Collection and Transfer Ordinance (Datenerfassungs- und -übermittlungsverordnung) or pursuant to section 18 of the Posted Workers Act (Arbeitnehmer-Entsendegesetz), unless the employer was aware that the foreigner's residence title or the certificate confirming permission to remain pending the asylum decision or confirming suspension of deportation was forged.

(5) The party liable for costs may be required to furnish security. The order for security to be furnished by the foreigner or the party liable for costs pursuant to subsection (4) sentences 1 and 2 may be enforced by the authority which issued the order without a prior writ of execution and without allowing a period for payment, if recovery of the costs would otherwise be at risk. By way of security for the costs relating to the foreigner's departure from the federal territory, return air tickets and other travel vouchers in the possession of a foreigner who is to be refused entry, removed, expelled or deported or who is permitted to enter and stay in the federal territory solely for the purpose of filing an application for asylum may be confiscated.

Section 67

Scope of liability for costs

(1) The costs relating to deportation, removal, refusal of entry and to enforcing a geographic restriction include

1. transport costs and other travel costs for the foreigner within the federal territory and up to the destination outside of the federal territory,
2. the administrative costs related to preparing and enforcing the measure, including the costs of custody awaiting deportation, translation and interpreting costs and the expenditure on accommodation, food and other provision for the foreigner and

3. all costs arising from necessary official escorts for the foreigner, including personnel costs.

(2) The costs for which the transport carrier is liable pursuant to section 66 (3) sentence 1 include

1. the costs specified in subsection (1) no. 1,

2. the administrative costs and expenditure on accommodation, food and other provision for the foreigner and translation and interpreting costs which arise up to the time the decision on entry is enforced, and

3. the costs specified in subsection (1) no. 3, unless the carrier provides the necessary escort for the foreigner.

(3) The costs specified in subsections (1) and (2) are charged by the competent authority pursuant to section 71 by means of a payment order in the amount of the costs actually incurred. The general principles for calculating public-sector personnel costs apply to calculating the personnel costs.

Section 68

Liability for living expenses

(1) Anyone who has provided the foreigners authority or a diplomatic mission abroad with a declaration of commitment to bear a foreigner's living expenses is required for a period of five years to reimburse all public funds expended to cover the foreigner's living expenses, including the provision of living space, medical care in case of illness and any required nursing care, and including any such expenditure which is based on a legal entitlement of the foreigner. Expenditures based on the payment of contributions are not to be reimbursed. The period referred to in sentence 1 begins with the foreigner's entry which the declaration of commitment made possible. The declaration of commitment does not expire before the period of five years from the foreigner's entry has elapsed if a residence title is granted pursuant to Part 5 of Chapter 2 or if recognition is given pursuant to section 3 or section 4 of the Asylum Act.

(2) The declaration of commitment referred to in subsection (1) sentence 1 is to be furnished in writing. It is enforceable in accordance with the Administrative Enforcement Act (Verwaltungsvollstreckungsgesetz). The public body which has expended the public funds is entitled to the reimbursement.

(3) The diplomatic mission abroad is to notify the foreigners authority immediately of a declaration of commitment as referred to in subsection (1) sentence 1.

(4) When it becomes aware of the expenditure of public funds to be reimbursed pursuant to subsection (1), the foreigners authority notifies the public body entitled to the reimbursement immediately as to the declaration of commitment pursuant to subsection (1) sentence 1, and furnishes that body with all the information necessary to assert and enforce the reimbursement claim. The recipient may only use the data for the purpose of reimbursing the public funds expended for the foreigner and refusing further benefits.

Section 68a

Transitional provision regarding declarations of commitment

Section 68 (1) sentences 1 to 3 also applies to declarations of commitment made before 6 August 2016, with the proviso that a period of three years takes the place of the period of five years. If the period referred to in sentence 1 has already expired on 6 August 2016, the commitment to reimburse public funds ends on 31 August 2016.

Section 69

Fees

(1) Fees and expenses are charged for individually attributable public services rendered under this Act and the statutory instruments issued to enforce this Act. Fees may also be set orally. Sentence 1 does not apply to individually attributable public services rendered by the Federal Employment Agency under sections 39 to 42. Section 287 of Book Three of the Social Code remains unaffected. Furthermore, sentence 1 does not apply to the notification procedure in connection with the short-term mobility of students under section 16c, intra-corporate transferees under section 19a or of researchers under section 18e.

(2) As a general rule, the fee is to cover the costs related to the individually attributable public service of all those involved in the service. The fee is to include the expenses regularly related to the service. The fees are to be calculated based on the costs which are eligible, according to business principles, for inclusion in the accounts as indirect and overhead costs, especially personnel and material costs and imputed costs. Overhead costs also include the costs of legal and technical supervision. The fees referred to in sentences 1 to 4 are calculated based on the costs arising for the Länder and the Federation in the context of the service in question.

(3) The Federal Government determines, via statutory instrument with the approval of the Bundesrat, the cases which are subject to a fee, the scales of fees, and

exemptions and reduced fees, particularly in cases of need. Section 3 (1) nos. 1 and 4, (2) and (4) to (6), sections 4 to 7 nos. 1 to 10, sections 8, 9 (3), sections 10 to 12 (1) sentence 1, and (3) as well as sections 13 to 21 of the Act on Fees and Expenses for Federal Services (Bundesgebührengesetz) of 7 August 2013 (Federal Law Gazette I, p. 3154) apply as amended, unless this Act provides otherwise.

(4) In derogation from section 4 (1) of the Act on Fees and Expenses for Federal Services, the fees to be charged by the diplomatic missions abroad may be charged at the time of application. With regard to the fees to be charged by the diplomatic missions abroad, the Federal Foreign Office determines whether the fees will be charged in euros, in local currency or in a third currency. The fee may be rounded to the next highest unit, depending on the general availability of units in the selected currency.

(5) The fees which are fixed in the statutory instrument may not exceed the following maximum rates:

1. for issuing a temporary residence permit: 140 euros,
 - 1a. for issuing an EU Blue Card: 140 euros,
 - 1b. for issuing an ICT Card: 140 euros,
 - 1c. for issuing a Mobile ICT Card: 100 euros,
2. for issuing a permanent settlement permit: 200 euros,
 - 2a. for issuing an EU long-term residence permit: 200 euros,
3. for extending a temporary residence permit, an EU Blue Card or an ICT Card: 100 euros,
 - 3a. for extending a Mobile ICT Card: 80 euros,
4. for issuing a national visa and a passport substitute and substitute identity document: 100 euros,
5. for recognising a research organisation for the purpose of concluding hosting agreements or an equivalent contract pursuant to section 18d: 220 euros,
6. for other individually attributable public services: 80 euros,
7. for other individually attributable public services rendered for the benefit of minors: half the fee determined for the public service,
8. for issuing a new document pursuant to section 78 (1) which has become necessary due to a change in the information under section 78 (1) sentence 3, or

due to the expiry of the technical period of validity for the use of the card, the loss of the document or the loss of the technical functionality of the document: 70 euros, 9. for suspending, reducing or extending time limits attached to a ban on entry and residence: 200 euros.

(6) A surcharge of no more than 25 euros may be imposed to issue a national visa and a passport substitute at the border. A surcharge of no more than 30 euros may be imposed for an individually attributable public service rendered outside of normal office hours at the request of the applicant. Surcharges may also be imposed for individually attributable public services rendered for a national whose home country imposes fees in excess of those stipulated in subsection (3) on Germans for equivalent services. Sentences 2 and 3 do not apply to issuing or extending a Schengen visa. In setting surcharges, the maximum rates stipulated in subsection (5) may be exceeded.

(7) The statutory instrument pursuant to subsection (3) may provide for a processing fee to be charged for applications for individually attributable public services which are subject to fees. The fee for processing an application for a permanent settlement permit or an EU long-term residence permit may not exceed half the fee charged for issuing the permit. This fee is to be offset against the fee for the individually attributable public service. The fee will not be refunded if the application is withdrawn or if the individually attributable public service which is applied for is denied.

(8) The statutory instrument pursuant to subsection (3) may provide for fees to be charged to file an objection; the following maximum rates apply to such fees:

1. to object to the denial of an application for an individually attributable public service which is subject to a fee: half the fee set for the service,
2. to object to another individually attributable public service: 55 euros.

If the objection is successful, the fee is to be deducted from the fee for the individually attributable public service to be performed and the remainder is to be refunded.

Section 70

Limitation of actions in respect of claims

(1) The claims for the costs specified in section 67 (1) and (2) become statute-barred six years after they become due for payment.

(2) The limitation period for claims pursuant to sections 66 and 69 is also

interrupted for as long as the party liable for costs is not resident in the federal territory or for as long as that party's residence in the federal territory cannot be ascertained because he or she has failed to meet a statutory registration or notification obligation.