

Chapter 7  
Procedural provisions

Part 1  
Areas of competence

**Section 71**  
**Competence**

(1) The foreigners authorities are responsible for residence- and passport-related measures and decisions pursuant to this Act and pursuant to provisions relating to foreigners in other acts. The Land government or the body appointed by it may determine that only one or several specific foreigners authorities are responsible for specific tasks. Pursuant to sentence 2, the competent bodies of the Länder in question may arrange for the foreigners authorities of a Land to be assigned tasks for the districts of foreigners authorities of various Länder. Each Land is to designate a central body responsible for enforcing deportations. As a rule, each Land is to establish at least one central foreigners authority responsible for visa applications pursuant to section 6 for purposes in accordance with sections 16a, 16d, 17 (1), sections 18a, 18b, 18c (3), sections 18d, 18f, 19, 19b, 19c and 20 and for visa applications of spouses or minor, unmarried children for the subsequent immigration of dependants submitted at the same time.

(2) Outside of Germany, the diplomatic missions authorised by the Federal Foreign Office are responsible for matters relating to passports and visas.

(3) The authorities charged with policing cross-border traffic are responsible for

1. removal and refusal of entry at the border, including the transfer of third-country nationals on the basis of Regulation (EU) No 604/2013 if the foreigner is intercepted by the border authority in the vicinity of the border and in close chronological proximity to an unlawful entry into the federal territory,

- 1a. deportations at the border, insofar as the foreigner has been apprehended during or following unlawful entry into the federal territory across a border within the meaning of Article 2 no. 1 of Regulation (EU) 2016/399 (internal border),

- 1b. deportations at the border, insofar as the foreigner has already entered the federal territory unlawfully, has subsequently proceeded to another border area or to an airport, airfield, landing site or maritime or inland port, whether approved or not as a border crossing point, where he or she has then been apprehended,

- 1c. imposition of time limits on the effects of deportations and removals which they carry out pursuant to section 11 (2), (4) and (8),
- 1d. removal of foreigners from and to other countries; this is also the responsibility of the bodies determined in subsection (1) and (5),
- 1e. applying for custody and effecting arrest where necessary to carry out the measures listed in nos. 1 to 1d,
2. granting visas and issuing passport substitutes pursuant to section 14 (2), and suspending deportation pursuant to section 60a (2a),
3. withdrawing and revoking national visas, as well as decisions pursuant to Article 34 of Regulation (EC) No 810/2009
  - a) in case of refusal of entry, removal or deportation, provided that the requirements of nos. 1a or 1b are met,
  - b) at the request of the diplomatic mission abroad which issued the visa or
  - c) at the request of the foreigners authority which approved issuing the visa, if its approval was required,
4. prohibiting departure and implementing the measures pursuant to section 66 (5) at the border,
5. verifying at the border whether transport carriers and other third parties have observed the provisions of this Act and the ordinances and orders enacted on the basis of this Act,
6. other measures and decisions under the law on foreigners which prove necessary at the border and which they are authorised by the Federal Ministry of the Interior to take in general or in the individual case concerned,
7. acquiring return travel documents for foreigners in individual cases by means of administrative assistance,
8. issuing notes and certificates provided for in legislation of the European Union confirming the date and place of entry via the external border of a member state which applies the Schengen acquis in full; this does not preclude the competence of the foreigners authorities or other bodies designated by the Länder.

(4) The foreigners authorities, the Länder police authorities and, in carrying out their legally mandated duties, the Federal Police and other authorities charged with policing cross-border traffic are responsible for the measures necessary under sections 48, 48a and 49 (2) to (9). The authorities initiating allocation pursuant to

section 15a are also responsible in cases covered by section 49 (4). The diplomatic missions abroad authorised by the Federal Foreign Office are also responsible in the cases covered by section 49 (5) nos. 5 and 6. In the cases covered by section 49 (8) and (9), the reception centres referred to in section 44 of the Asylum Act and the branch offices of the Federal Office for Migration and Refugees are also authorised by way of administrative assistance to carry out measures to identify foreign children or juveniles who entered the federal territory unaccompanied; as a rule, these measures are to be carried out in the presence of the youth welfare office, after it has been informed to take the child or young person temporarily into care, and in a child-appropriate manner.

(5) The police forces of the Länder are also responsible for removal, for enforcing the obligation to leave the federal territory pursuant to section 12 (3), for deportation and, where necessary to prepare and safeguard these measures, for arrests and for applying for custody.

(6) The Federal Ministry of the Interior or the body appointed by it decides in consultation with the Federal Foreign Office on the recognition of passports and passport substitutes (section 3 (1)); the decisions take the form of general orders and may be announced in the Federal Gazette.

### **Section 71a**

#### **Jurisdiction and notification**

(1) In the cases covered by section 98 (2a) no. 1 and (3) no. 1, the administrative authorities within the meaning of section 36 (1) no. 1 of the Administrative Offences Act (Gesetz über Ordnungswidrigkeiten) are the customs administration authorities. They cooperate with the authorities referred to in section 2 (4) of the Act to Combat Clandestine Employment in prosecuting offences and imposing punishments.

(2) The customs administration authorities notify the Central Trade and Industry Register as to incontestable orders imposing administrative fines pursuant to section 98 (2a) no. 1 and (3) no. 1 which are to be entered in the register. This applies only to fines of more than 200 euros.

(3) As a rule, courts of law, prosecuting authorities and penal authorities are to furnish the customs administration authorities with findings from other proceedings which they consider necessary in prosecuting administrative offences under section 98 (2a) no. 1 and (3) no. 1, unless it is apparent to the body furnishing such information that the legitimate interests of the data subject or other parties involved in the proceedings in excluding such information prevail. Due consideration must

be accorded to how well substantiated the findings to be communicated are.

## **Section 72**

### **Obligation to consult**

(1) Permission to enter the federal territory (section 11 (8)) may only be granted with the consent of the foreigners authority responsible for the intended place of residence. As a rule, the authority which has expelled, removed or deported the foreigner must be consulted.

(2) The foreigners authority decides whether deportation to a specific state is prohibited pursuant to section 60 (5) or (7) and whether grounds for exclusion exist pursuant to section 25 (3) sentence 3 nos. 1 to 4 only after consulting the Federal Office for Migration and Refugees.

(3) Geographic restrictions, requirements and conditions, time limits pursuant to section 11 (2) sentence 1, orders pursuant to section 47 and other measures concerning a foreigner who does not possess a required residence title may be amended or removed by a different authority only in agreement with the authority which ordered the measures. Sentence 1 does not apply if the foreigner's residence is restricted to the region for which the other foreigners authority is responsible in accordance with the Asylum Act.

(3a) A residence restriction under section 12a (5) may be removed only with the consent of the foreigners authority responsible for the place where the foreigner plans to reside. Consent is to be given if the conditions of section 12a (5) are met; reasons are to be given for any refusal. Consent is deemed to have been given if the foreigners authority at the place where the foreigner plans to reside does not respond to the contrary within four weeks of receiving the request. Compliance with obligations under law on registration does not establish jurisdiction of a foreigners authority.

(4) A foreigner against whom legal proceedings are instituted by a public authority or preliminary investigations are instituted under criminal law may be expelled or deported only in agreement with the competent public prosecutor's office. A foreigner who qualifies as requiring protection within the meaning of the Act to Harmonise Protection for Witnesses (Zeugenschutz-Harmonisierungsgesetz) may be expelled or deported only in agreement with the Office for the Protection of Witnesses. The consent of the public prosecutor's office pursuant to sentence 1 is not required if there is only minimal interest in the prosecution. This is the case where public charges were brought or a preliminary investigation initiated for a

criminal offence pursuant to section 95 of this Act or pursuant to section 9 of the Act on the General Freedom of Movement of EU Citizens (Gesetz über die allgemeine Freizügigkeit von Unionsbürgern) or offences pursuant to the Criminal Code involving a minimal level of wrongdoing. Offences involving a minimal level of wrongdoing are those under section 113 (1), section 115 of the Criminal Code (insofar as that provision provides for the application of section 113 (1) of the Criminal Code), sections 123, 166, 167, 169, 185, 223, 240 (1), sections 242, 246, 248b, 263 (1), (2) and (4), sections 265a, 267 (1) and (2), section 271 (1), (2) and (4), sections 273, 274, 276 (1), sections 279, 281, 303 of the Criminal Code, section 21 of the Road Traffic Act (Straßenverkehrsgesetz) in the version published on 5 March 2003 (Federal Law Gazette I, p. 310, 919), last amended by Article 1 of the Act of 8 April 2019 (Federal Law Gazette I, p. 430), as amended, and section 6 of the Compulsory Insurance Act (Pflichtversicherungsgesetz) of 5 April 1965 (Federal Law Gazette I, p. 213), last amended by Article 1 of the Ordinance of 6 February 2017 (Federal Law Gazette I, p. 147), as amended, unless these criminal laws are violated repeatedly or criminal charges are filed.

(5) Section 45 of Book Eight of the Social Code does not apply to departure facilities and facilities which serve as temporary accommodation for foreigners who are granted a temporary residence permit for reasons of international law or on humanitarian or political grounds or whose deportation is suspended.

(6) The public prosecutor's office responsible for the criminal proceedings referred to in section 25 (4a) or (4b) or the criminal court concerned with such proceedings is to be consulted before reaching a decision on issuing, extending or revoking a residence title pursuant to section 25 (4a) or (4b) and before setting, annulling or reducing a period allowed for leaving the country pursuant to section 59 (7), except in cases covered by section 87 (5) no. 1. If the foreigners authority does not yet know which public prosecutor's office is responsible, the foreigners authority consults the police authority responsible for the place of residence before reaching a decision on setting, annulling or reducing a period allowed for leaving the country pursuant to section 59 (7).

(7) To determine whether the conditions of sections 16a, 16d, 16e, 18a, 18b, 18c (3) and sections 19 to 19c are met, the foreigners authority, the Federal Office for Migration and Refugees and the diplomatic mission abroad may consult the Federal Employment Agency even if its consent is not required.

## **Section 72a**

### **Security check of visa application data**

(1) Data collected during the visa application process by a German diplomatic mission abroad on the visa applicant, the inviting party, persons guaranteeing that the foreigner's subsistence will be ensured by making a declaration of commitment or by other means, or on other reference persons in Germany are transmitted to the Federal Office of Administration for a security check. The same applies to data pursuant to sentence 1 which the diplomatic mission abroad of another Schengen state responsible under Article 8 (2) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1) has transmitted to a German diplomatic mission abroad for a decision on a visa application. Data are not transmitted pursuant to sentence 1 or sentence 2 if the data are transmitted pursuant to section 73 (1) sentence 1.

(2) The data referred to in subsection (1) sentences 1 and 2 are checked in a special organisational unit of the Federal Office of Administration in an automated procedure against data stored in the file referred to in section 1 (1) of the Act on Setting up a Counter-Terrorism Database (Antiterrordateigesetz) regarding persons when there is reason to believe that they

1. are members or supporters of a terrorist organisation as referred to in section 129a of the Criminal Code acting at an international level or of a terrorist organisation as referred to in section 129a in conjunction with section 129b (1) sentence 1 of the Criminal Code acting in the Federal Republic of Germany or
2. are members of a group which supports such an organisation or intentionally supports such a group in the knowledge of the activities of the group which support terrorism or
3. unlawfully use violence as a means of enforcing international political or religious interests or support or prepare such use of violence or intentionally incite others to use violence by means of their activities, in particular through advocating such use of violence, or
4. are in contact with the persons referred to in no. 1 or no. 3 not only fleetingly or by chance and it is expected that they will yield further information which may help in solving or combating international terrorism insofar as there is reason to believe that they are aware of the planning or commission of one of the criminal offences referred to in no. 1 or the use, support for or preparation of unlawful violence within the meaning of no. 3.

After the authority which stored the data on persons referred to in sentence 1 in the

Counter-Terrorism Database has labelled these data, the Federal Criminal Police Office transfers the data to the special organisational unit at the Federal Office of Administration for the check against data referred to in subsection (1) sentences 1 and 2, and the data are stored there. Suitable technical and organisational measures as required by Articles 24, 25 and 32 of Regulation (EU) 2016/679 are to be taken to prevent unauthorised access to the content of the data sets.

(3) In the event of a hit, in order to ascertain the grounds for denial pursuant to section 5 (4) or to investigate other security reservations against issuing a visa, the data referred to in subsection (1) sentences 1 and 2 are transmitted to the authorities which stored the data on this person in the Counter-Terrorism Database. These authorities immediately notify the competent German diplomatic mission abroad via the Federal Office of Administration if there are grounds to deny the visa pursuant to section 5 (4) or there are other security reservations against issuing a visa.

(4) The data referred to in subsection (1) sentences 1 and 2, which have been stored with the special organisational unit in the Federal Office of Administration, are deleted immediately after carrying out the check pursuant to subsection (2) sentence 1; if the check produced a hit, only the visa file reference is stored. This is deleted as soon as the special organisational unit in the Federal Office of Administration has established that the German diplomatic mission abroad is not to be notified pursuant to subsection (3) sentence 2, or when the notification has been made.

(5) The authorities referred to in subsection (3) sentence 1 may process the data transmitted to them as far as necessary to discharge their statutory duties. Provisions regulating the transmission of data pursuant to other acts remain unaffected.

(6) In the event of a hit, the Federal Office of Administration ensures that the time of the security check, the particulars which enable the determination of the checked data sets, the result of the check, the forwarding of the data set and the processing of the data set for the purpose of data protection monitoring are logged. The log data are to be secured by means of suitable measures to prevent unauthorised access and are to be destroyed at the end of the calendar year which follows the year of their generation, unless they are needed for a monitoring procedure which has already been initiated.

(7) The Federal Office of Administration is to undertake state-of-the-art technical and organisational measures in accordance with Articles 24, 25 and 32 of

Regulation (EU) 2016/679 to ensure data protection and data security which, in particular, safeguard the confidentiality and integrity of the data stored in the special organisational unit and transmitted.

(8) Responsibility under data protection law for ensuring that the conditions of subsection (2) sentence 1 are met lies with the authority which entered the data in the Counter-Terrorism Database. Responsibility under data protection law for the security check lies with the Federal Office of Administration. The Federal Criminal Police Office is responsible under data protection law for ensuring that the transmitted data reflect the current status of the Counter-Terrorism Database.

(9) The data referred to in subsection (2) sentence 2 are to be corrected if they are corrected in the Counter-Terrorism Database. They are deleted if the conditions for their storage pursuant to subsection (2) sentence 1 are no longer met or the data are deleted in the Counter-Terrorism Database. Section 11 (4) of the Act on Setting up a Counter-Terrorism Database applies accordingly to examining whether the conditions permitting storage of the data pursuant to subsection (2) sentence 2 continue to be met.

### **Section 73**

#### **Other consultation requirements in visa procedures, in public register and asylum procedures and in issuing residence titles**

(1) Data on the visa applicant, the inviting party, on persons guaranteeing that the foreigner's subsistence will be ensured by making a declaration of commitment or by other means and on other reference persons in Germany which is collected during the visa procedure by a German diplomatic mission abroad or by the diplomatic mission abroad of another Schengen state which is responsible for taking receipt of the visa application may be transmitted via the Federal Office of Administration to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office, the Federal Police and the Customs Criminological Office in order to ascertain any grounds for denial pursuant to section 5 (4), section 27 (3a) or to investigate any other security reservations. The procedure pursuant to section 21 of the Act on the Central Register of Foreigners remains unaffected. In cases covered by section 14 (2), the authorities charged with policing cross-border traffic may transmit the data collected in the visa application procedure to the authorities referred to in sentence 1.

(1a) Data collected or stored to document, establish and verify a person's identity pursuant to section 16 (1) sentence 1, of the Asylum Act and section 49 concerning



persons within the meaning of section 2 (1a) and (2) no. 1 of the Act on the Central Register of Foreigners may be transmitted via the Federal Office of Administration to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office, the Federal Police and the Customs Criminological Office in order to ascertain any grounds for denying a visa pursuant to section 3 (2), section 4 (2) of the Asylum Act, section 60 (8) sentence 1, and section 5 (4) or to investigate any other security reservations. The data referred to in sentence 1 may be transmitted via the Federal Office of Administration to the security authorities and intelligence services listed in sentence 1 to ascertain the grounds for denial referred to in sentence 1 or to investigate any other security reservations and to determine whether the conditions for revocation or withdrawal pursuant to sections 73 to 73b of the Asylum Act are met. Data to document, establish and verify identity

1. collected pursuant to section 16 (1) sentence 1 of the Asylum Act or section 49 (5) no. 5, subsections (8) and (9) or transmitted under Article 21 of Regulation (EU) No 604/2013 from another member state to the Federal Republic of Germany concerning persons whom another member state has asked the Federal Republic of Germany to take charge of or take back under Regulation (EU) No 604/2013,

2. collected pursuant to section 49 (5) no. 6 on persons proposed for admission procedures under section 23 or for temporary protection under section 24 and have been included in the examination of cases for granting approval for admission by the Federal Office for Migration and Refugees, or

3. collected pursuant to section 49 (5) no. 6 or transmitted by another member state to the Federal Republic of Germany on persons to be allocated in the federal territory on the basis of measures under Article 78 (3) of the Treaty on the Functioning of the European Union (TFEU) and included in the examination of cases for granting approval for admission by the Federal Office for Migration and Refugees

may be transmitted via the Federal Office of Administration to the security authorities and intelligence services listed in sentence 1 to ascertain grounds for denial or to investigate any other security reservations. Together with the data referred to in sentence 1, the data referred to in section 3 (1) nos. 1 and 3 of the Act on the Central Register of Foreigners, information on moving to or from Germany and on status under residence law, and data referred to in section 3 (2) nos. 6 and 9 of the Act on the Central Register of Foreigners on persons referred to in sentence 1 may be transmitted to the Federal Criminal Police Office to discharge

their statutory duties. A check against other data sets at the Federal Office of Administration is also permitted for the purposes referred to in sentences 1 to 3.

(2) Before issuing or extending a residence title, temporarily suspending deportation or permitting residence pending the asylum decision, the foreigners authorities may transmit the personal data stored at their facilities on the persons concerned via the Federal Office of Administration to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office, the Federal Police, the Customs Criminological Office, the Land Office for the Protection of the Constitution, the Land Office of Criminal Police or the competent police authorities in order to ascertain any grounds for denial pursuant to section 5 (4) or in order to investigate any other security reservations. The Federal Office for the Protection of the Constitution may provide technical support for the transmission of data to the Land offices for the protection of the Constitution.

(3) The security authorities and intelligence services referred to in subsections (1) and (2) immediately notify the Federal Office of Administration as to whether grounds for denial pursuant to section 5 (4) or any other security reservations apply; the Federal Office for the Protection of the Constitution may provide technical support for the transmission of information from the Land offices for the protection of the Constitution regarding enquiries from the foreigners authorities pursuant to subsection (2). The German diplomatic missions abroad and foreigners authorities immediately inform the security authorities and intelligence services referred to in sentence 1 of the length of validity of the residence titles which have been issued or extended; if the authorities referred to in sentence 1 become aware of grounds for denial pursuant to section 5 (4) or other security reservations during the period of validity of the residence title, they immediately notify the competent foreigners authority or the competent diplomatic mission abroad. The authorities referred to in sentence 1 may process the data transmitted to them as far as necessary to discharge their statutory duties. Provisions regulating the transmission of data under other acts remain unaffected.

(3a) The security authorities and intelligence services referred to in subsection (1a) immediately notify the Federal Office of Administration of any grounds for denial pursuant to section 3 (2), section 4 (2) of the Asylum Act, section 60 (8) sentence 1 or section 5 (4) or of other security reservations. The Federal Office of Administration promptly makes this information available to the authorities responsible for the asylum procedure and for decisions on residence matters. The

further transmission of data between the authorities referred to in sentence 1 and the authorities responsible for the asylum procedure and for decisions on residence matters which is required as a result of the transmission pursuant to subsection (1a) and sentences 1 and 2 may be effected via the Federal Office of Administration. The authorities referred to in sentence 1 may process the data transmitted to them as far as necessary to discharge their statutory duties. The Federal Office of Administration stores the transmitted data for as long as necessary for the purposes of the security check. The Federal Criminal Police Office immediately checks whether the data transmitted pursuant to subsection (1a) sentence 4 on the person in question match the personal data stored at the Federal Criminal Police Office on a person who is the subject of an alert. If this is not the case, the Federal Criminal Police Office is to delete immediately the data transmitted pursuant to subsection (1a) sentence 4 on the person in question. Results of checks pursuant to subsection (1a) sentence 5 intended to verify, establish or document identity may be transmitted to the authorities responsible for registration and the asylum procedure, the authorities responsible for decisions on residence matters and to the Federal Police, the Federal Criminal Police and the competent police authorities. Provisions regulating the transmission of data under other acts remain unaffected.

(3b) The security authorities and intelligence services referred to in subsection (1) immediately notify the Federal Office of Administration as to whether grounds for denial pursuant to section 27 (3a) exist. If the authorities referred to in sentence 1 become aware of grounds for denial pursuant to section 27 (3a) during the length of validity of the residence title referred to in subsection (3) sentence 2, they immediately notify the competent foreigners authority or the competent diplomatic mission abroad. The authorities referred to in sentence 1 may process the data transmitted to them as far as necessary to discharge their statutory duties. Provisions regulating the transmission of data under other acts remain unaffected.

(3c) In the case of mobility as referred to in sections 16c, 18e and 19a, the Federal Office for Migration and Refugees may transmit personal data it has stored on the persons in question to the security authorities referred to in subsection (2) via the Federal Office of Administration to determine whether a public interest in expulsion as referred to in section 54 (1) nos. 2 and 4 exists and to investigate any other security reservations. The security authorities referred to in subsection (2) immediately notify the Federal Office of Administration if a public interest in expulsion as referred to in section 54 (1) nos. 2 or 4 or any other security reservations exist. The authorities referred to in sentence 1 may store and use the

data transmitted as far as necessary to discharge their statutory duties. Provisions regulating the transmission of data under other acts remain unaffected.

(4) The Federal Ministry of the Interior, Building and Community determines via general administrative provisions with due regard to the current security situation in which cases the authorisation pursuant to subsections (1) and (1a) are used with regard to nationals of particular states and persons belonging to groups defined by any other means. In the cases covered by subsection (1), this is done in agreement with the Federal Foreign Office.

### **Section 73a**

#### **Notification of the issuance of visas**

(1) Notifications from other Schengen states of visas issued in accordance with Article 31 of Regulation (EC) No 810/2009 may be transmitted via the competent body to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counter-Intelligence Service, the Federal Criminal Police Office and the Customs Criminological Office to check whether the grounds stated in section 5 (4) or any other security reservations preclude the entry into and residence in the federal territory of a visa holder. Notifications from German diplomatic missions abroad concerning visas issued without prior transmission of data pursuant to section 73 (1) may be transmitted via the competent body to the authorities listed in sentence 1 for the purpose stated in sentence 1; data on persons other than the holder of the visa are not transmitted. Section 73 (3) sentences 3 and 4 applies accordingly.

(2) The Federal Ministry of the Interior determines via a general administrative provision in consultation with the Federal Foreign Office and with due regard to the current security situation in which cases the authorisation pursuant to subsection (1) is used with regard to nationals of particular states and persons belonging to groups defined by any other means.

### **Section 73b**

#### **Background check of persons and organisations involved in visa procedures**

(1) The Federal Foreign Office carries out background checks to determine any security reservations concerning persons who are or are to be entrusted with discharging one or more tasks in the visa procedure, in particular recording biometric identifiers, and who are not seconded members of the Foreign Service (persons concerned). At regular intervals and as occasion demands, the Federal Foreign Office conducts repeat background checks of the persons referred to in

sentence 1. The background check is carried out after the person concerned has provided written consent.

(2) To conduct the background check, the German diplomatic mission abroad collects the surname, given names, name at birth and other names, sex, date and place of birth, nationality, place of residence and particulars of the identity document (in particular type of document and document number) of the person concerned and transmits these data via the Federal Foreign Office to the federal law enforcement agencies and offices for the protection of the constitution, to the Federal Intelligence Service, the Military Counter-Intelligence Service, the Federal Criminal Police Office and the Customs Criminological Service to ascertain any security reservations. The security authorities and intelligence services referred to in sentence 1 immediately notify the Federal Foreign Office of any security reservations.

(3) The security authorities and intelligence services referred to in subsection (2) may process the transmitted data for other purposes in accordance with legislation applicable to them as far as necessary to discharge their statutory duties. Provisions regulating the transmission of data under other acts remain unaffected.

(4) The persons concerned may not begin their activity in the visa procedure before the background check has been completed and has revealed no indications of possible unreliability.

(5) If the person concerned is employed by a legal entity, in particular an external service provider, the Federal Foreign Office also conducts a background check of the legal entity on the basis of the company name, designation, the legal entity's entry in the Commercial Register and full address (local branch and main office). The Federal Foreign Office also conducts a background check of the owner and the managing director of the legal entity in the country in which the cooperation is planned. Subsection (1) sentences 2 and 3 and subsections (2) to (4) apply accordingly.

### **Section 73c**

#### **Cooperation with external service providers**

In national visa application procedures under Chapter 2 Parts 3 and 4, the German diplomatic missions abroad may cooperate with an external service provider in accordance with Article 43 of Regulation (EC) No 810/2009.

### **Section 74**

#### **Consulting the Federation; authority to issue instructions**

(1) A visa may be granted to safeguard political interests of the Federation subject to the proviso that extending the visa and issuing another residence title after the visa expires and lifting and amending requirements, conditions and other restrictions pertaining to the visa may only be undertaken in consultation or agreement with the Federal Ministry of the Interior or the body appointed by it.

(2) The Federal Government may issue individual instructions on implementing this Act and the statutory instruments enacted on the basis of this Act if

1. the security of the Federal Republic of Germany or any other substantial interests of the Federal Republic of Germany so require,
2. measures undertaken by one Land in connection with the law on foreigners harm substantial interests of another Land,
3. a foreigners authority intends to expel a foreigner who is exempted from the requirement for a temporary residence permit by virtue of belonging to a consular or diplomatic mission.

Part 1a

Transit

### **Section 74a**

#### **Transit of foreigners**

Foreign states may return foreigners to another state from their territory via the federal territory or readmit foreigners into their territory from another state via the federal territory, subject to the permission of the competent authorities (transit operations). Transit operations are carried out on the basis of intergovernmental agreements and legislation of the European Union. The central authority pursuant to Article 4 (5) of Directive 2003/110/EC is the Federal Police authority specified in the statutory instrument pursuant to section 58 (1) of the Act on the Federal Police. The foreigner in transit must tolerate the necessary measures in connection with the transit journey.

### **Part 2**

#### **Federal Office for Migration and Refugees**

### **Section 75**

#### **Duties**

Without prejudice to its duties in accordance with other acts, the Federal Office for Migration and Refugees has the following duties:

1. coordinating the information on residence for the purpose of pursuing an economic activity between the foreigners authorities, the Federal Employment Agency and the German diplomatic missions abroad authorised by the Federal Foreign Office to deal with matters pertaining to passports and visas;
2.
  - a) developing the basic structure and content of the integration course pursuant to section 43 (3) and job-related language training pursuant to section 45a,
  - b) implementing the same and
  - c) measures pursuant to section 9 (5) of the Federal Expellees Act;
3. providing expert support for the Federal Government in the field of promoting integration and producing informational materials on integration measures offered by the Federal Government, Land governments and local government authorities for foreigners and ethnic German resettlers;
4. conducting scientific research on migration issues (accompanying research) with the aim of obtaining analytical conclusions for use in controlling immigration;
- 4a. conducting scientific research on integration issues;
5. cooperating with the administrative authorities of the member states of the European Union as the National Contact Point and competent authority pursuant to Article 27 of Directive 2001/55/EC, Article 25 of Directive 2003/109/EC, Article 22 (1) of Directive 2009/50/EC, Article 26 of Directive 2014/66/EU and Article 37 of Directive 2016/801/EU, and for notifications pursuant to section 51 (8a);
- 5a. examining notifications submitted pursuant to section 16c (1), section 18e (1) and section 19a (1) and issuing certificates pursuant to section 16c (4), section 18e (5) and section 19a (4) or denying entry and residence;
6. keeping the register pursuant to section 91a;
7. coordinating the programmes and taking part in projects to promote voluntary returns, and paying out funds approved under those schemes;
8. carrying out the admission process pursuant to section 23 (2) and (4) and the allocation of foreigners admitted pursuant to section 23 and section 22 sentence 2 to the Länder;
9. providing migration advising services pursuant to section 45 sentence 1, unless such services are provided by other bodies; it may enlist the services of private or public institutions to this end;

10. recognising research organisations in order to conclude hosting agreements pursuant to section 18d; in this connection, the Federal Office for Migration and Refugees is assisted by the Advisory Board for Migration of Researchers;

11. coordinating the transfer of information and evaluating findings of the federal authorities, in particular of the Federal Criminal Police Office and the Federal Office for the Protection of the Constitution, on foreigners for whom measures under the law on foreigners, asylum or nationality must be considered owing to a risk to public security;

12. imposing bans on entry and residence pursuant to section 11 (1) in the case of a deportation warning pursuant to sections 34, 35 of the Asylum Act or a deportation order pursuant to section 34a of the Asylum Act, and imposing bans on entry and residence and setting time limits on such bans pursuant to section 11 (7);

13. without prejudice to section 71 (3) no. 7, procuring return travel documents for foreigners by way of official assistance.

## **Section 76**

**(repealed)**

### **Part 3**

#### **Administrative procedures**

## **Section 77**

### **Written form; exemption from formal requirements**

(1) The following administrative acts must be made in writing and (excepting no. 5) require the statement of reasons:

1. the administrative act

a) denying a passport substitute, a substitute identity document or a residence title or subjecting the same to geographic or time restrictions or to conditions and requirements, or

b) denying the amendment or rescission of an ancillary provision attaching to the residence title, and

2. expulsion orders,

3. deportation orders in accordance with section 58a (1) sentence 1,

4. deportation warnings,

5. suspensions of deportation,



6. geographic residence restrictions in accordance with section 12 (4),
7. orders under sections 47 and 56,
8. the withdrawal and the revocation of administrative acts in accordance with this Act and
9. the imposition of a time limit on a ban on entry and residence under section 11.

An administrative act denying a residence title or invalidating a residence title is to be accompanied by an explanation, as are decisions on applications for time limits to be applied in accordance with section 11 (1) sentence 3. The explanation informs the foreigner as to the legal remedy available in order to challenge the administrative act, the body with which the corresponding appeal is to be lodged and the deadline to be observed; in other cases the deportation warning is to be included with the aforementioned explanation.

(1a) In connection with the issuance of an ICT Card or a Mobile ICT Card, the host entity or host undertaking are to be notified of the following in writing:

1. the refusal to extend an ICT Card or a Mobile ICT Card,
2. the withdrawal or revocation of an ICT Card or a Mobile ICT Card,
3. the refusal to extend a residence title allowing the subsequent immigration of dependants to join holders of an ICT Card or a Mobile ICT Card, or
4. the withdrawal or revocation of a residence title allowing the subsequent immigration of dependants to join holders of an ICT Card or a Mobile ICT Card.

The notification under sentence 1 nos. 1 and 2 must include the reasons for the decision.

(2) Denial and restriction of a visa and passport substitute before the foreigner enters the federal territory does not require any statement of reasons or information on available legal remedies; refusal at the border does not require written form. Formal requirements for the denial of Schengen visas are determined by Regulation (EC) No 810/2009.

(3) Upon application, foreigners are to be provided with a translation of the operative part of the administrative act denying or invalidating the residence title or by means of which a decision is taken to impose a time limit in accordance with section 11 and of the information on available legal remedies, free of charge and in a language which the foreigner understands or which it can be reasonably assumed he or she understands. If another reason exists for the obligation to leave the

federal territory, sentence 1 applies accordingly to the deportation warning and the information on available legal remedies which is to be included with this in accordance with subsection (1) sentence 3. The translation may be provided in oral or written form. The foreigner is not entitled to a translation if he or she has entered the federal territory unlawfully or has been expelled on the grounds of a criminal conviction. In the cases referred to in sentence 4, the foreigner is given a standard form containing explanations, which are made available in at least five of the most commonly spoken or understood languages. Sentences 1 to 3 do not apply if the foreigner has not yet entered or has already left the federal territory.

## **Section 78**

### **Documents with an electronic storage and processing medium**

(1) Residence titles pursuant to section 4 (1) sentence 2 nos. 2 to 4 are issued as stand-alone documents with an electronic storage and processing medium. Upon application, temporary residence permits to be issued in accordance with the Agreement between the European Community and its member states, of the one part, and the Swiss Confederation, of the other, on the free movement of persons of 21 June 1999 (OJ L 114, 30.4.2002, p. 6) are issued as documents with an electronic storage and processing medium. Documents referred to in sentences 1 and 2 contain the following visibly displayed items of information:

1. surname and given names,
2. doctoral degree,
3. photograph,
4. date and place of birth;
5. address,
6. start and duration of validity,
7. place of issue,
8. type of residence title or right of residence and its legal basis,
9. issuing authority,
10. serial number of the appurtenant passport or passport substitute,
11. duration of validity of the appurtenant passport or passport substitute,
12. comments,
13. signature,

14. serial number,
15. nationality,
16. sex,
17. height and eye colour,
18. card access number.

Subject to the conditions stipulated in section 48 (2) or (4), a document under sentence 1 may be marked to indicate that it is a substitute identity document and that the personal details contained therein are based on the information furnished by the holder. The signature of the applicant as required by sentence 3 no. 13 must be submitted if he or she is 10 years of age or older at the time of applying for the document.

(2) A document with an electronic storage and processing medium under subsection (1) contains a machine-readable zone. It may contain only the following visibly displayed information:

1. the abbreviations
  - a) "AR" for residence titles of the type referred to in section 4 (1) nos. 2 to 4,
  - b) "AS" for residence titles of the type referred to in section 28 sentence 2 of the Ordinance Governing Residence (Aufenthaltsverordnung),
2. the abbreviation "D" for the Federal Republic of Germany,
3. the serial number of the residence title which consists of the code number of the foreigners authority and a randomly assigned residence title number and which may contain both numerals and letters,
4. the date of birth,
5. the abbreviation "F" for females and "M" for males,
6. the duration of validity of the residence title or, in the case of a permanent right of residence, the technical period of validity for the use of the card,
7. the abbreviation of the nationality,
8. the surname,
9. the given name or names,
10. the check digits and

11. empty spaces.

The serial number and the check digits may not include any information about the holder or indications of such information. Each document is assigned a new serial number.

(3) The electronic storage and processing medium included in the document referred to in subsection (1) contains the following data:

1. the data stipulated in subsection (1) sentence 3 nos. 1 to 5 and the unique municipality code used in the official list of municipalities,
2. the data of the machine-readable zone referred to in subsection (2) sentence 2,
3. ancillary provisions,
4. two fingerprints, the designation of the fingers used and information on the quality of the prints and
5. name at birth.

Suitable technical and organisational measures as required by Articles 24, 25 and 32 of Regulation (EU) 2016/679 are to be taken to secure the data against unauthorised modification, deletion and retrieval. Fingerprints are taken of persons who are six years of age and older.

(4) The electronic storage and processing medium of a document referred to in subsection (1) may be designed as a qualified electronic signature creation device pursuant to Article 3 no. 23 of Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73). Certification in accordance with Article 30 of Regulation (EU) No 910/2014 is carried out by the Federal Office for Information Security. The provisions of the Trusted Services Act (Vertrauensdienstegesetz) remain unaffected.

(5) The electronic storage and processing medium of a document referred to in subsection (1) may also be used for the additional function of an electronic proof of identity. In this respect, section 2 (3) to (7), (10) and (12), section 4 (3), section 7 (4) and (5), section 10 (1), (2) sentence 1, (3) to (5), (6) sentence 1, (7), (8) sentence 1, and (9), section 11 (1) to (5) and (7), section 12 (2) sentence 2, sections 13, 16, 18, 18a, 19 (1), (3) to (6), sections 19a, 20 (2) and (3), sections 21, 21a, 21b, 27 (2) and (3), section 32 (1) nos. 5 and 6 with the exception of section 19 (2) stated there, nos. 6a to 8, (2) and (3) and section 33 nos. 1, 2 and 4

of the Act on Identity Cards apply accordingly with the proviso that the foreigners authority takes the place of the identity card authority. In addition to the data listed in section 18 (3) sentence 2 of the Act on Identity Cards, the ancillary provisions stored in accordance with subsection 3 no. 3 and the abbreviation for the holder's nationality may also be transmitted within the scope of the electronic proof of identity function subject to the requirements of section 18 (4) of the Act on Identity Cards. Subsection (2) sentence 3 applies accordingly with regard to the blocking code and to the blocking characteristics.

(6) The authorities charged with implementing this Act or entrusted with sovereign powers to check identities may process the data contained in the machine-readable zone to discharge their statutory duties.

(7) Public bodies may process the data stored in the electronic storage and processing medium of a document under subsection (1) with the exception of biometric data, as far as necessary to discharge their respective statutory duties. Both the address stored in the electronic storage and processing medium and the address to be displayed under subsection (1) sentence 3 no. 5 may be changed by the foreigners authorities and other authorities designated by Land law.

(8) In the absence of any legal provisions to the contrary, personal data from documents as referred to in subsection (1) may be processed with the help of technical means only by way of the electronic proof of identity as referred to in subsection (5). The same applies to the processing of personal data with the help of a document referred to in subsection (1).

## **Section 78a**

### **Forms for residence titles in exceptional cases, substitute identity card document and certificates**

(1) In derogation from section 78, residence titles as referred to in section 4 (1) sentence 2 nos. 2 to 4 may be issued according to a standard form if

1. the residence title is to be granted for the purpose of extending the stay by one month or,
2. issuing a residence title is necessary to avert exceptional hardship.

The standard form contains the following items of information:

1. surname and given names of the holder,
2. duration of validity,

3. place and date of issue,
4. type of residence title or right of residence,
5. issuing authority,
6. serial number of the appurtenant passport or passport substitute,
7. comments,
8. a photograph.

The standard form must indicate that the document has been issued in exceptional circumstances.

(2) Forms as referred to in subsection (1) sentence 1 contain a machine-readable zone with the following information:

1. surname and given names,
2. date of birth;
3. sex,
4. nationality,
5. type of residence title,
6. serial number of the form,
7. issuing state,
8. duration of validity,
9. check digits,
10. empty spaces.

(3) Public bodies may process the data contained in the machine-readable zone under subsection (2) to discharge their statutory duties.

(4) The standard form for the substitute identity document contains a serial number and a machine-readable zone. In addition to the name of the issuing authority, the place and date of issue, the period or duration of validity, the given names and surname of the holder, residence status and ancillary provisions, the standard form may also provide the following items of information on the holder's identity:

1. date and place of birth;
2. nationality,

3. sex,
4. height,
5. eye colour,
6. address,
7. photograph,
8. personal signature,
9. two fingerprints,
10. note to the effect that the personal details are based on information furnished by the foreigner.

If fingerprints are recorded in accordance with sentence 2 no. 9, they must be incorporated into the substitute identity document on the electronic storage and processing medium following encoding by means of security processes as required by Articles 24, 25 and 32 of Regulation (EU) 2016/679. The same applies where photographs are incorporated in electronic form. Subsections (2) and (3) apply accordingly. Section 78 (1) sentence 4 remains unaffected.

(5) The certificates referred to in section 60a (4) and section 81 (5) are issued according to a standard form which contains a serial number and the Central Foreigners Register number and may be provided with a machine-readable zone. In all other cases, the certificate may contain only those data items specified in subsection (4) and a note to the effect that the certificate alone does not satisfy the foreigner's passport requirement. Subsections (2) and (3) apply accordingly.

## **Section 79**

### **Decision on residence**

(1) A decision on the residence of foreigners is reached on the basis of the circumstances which are known in the federal territory and accessible information. The foreigners authority decides whether the conditions specified in section 60 (5) and (7) apply on the basis of the knowledge in its possession and the knowledge accessible in the federal territory and, where necessary in individual cases, the knowledge accessible to the authorities of the Federation outside of the federal territory.

(2) If a foreigner who is under investigation on suspicion of having committed a criminal or administrative offence applies for issuance or extension of a residence title, the decision on the residence title is suspended until the attendant

proceedings are completed and, in the case of a court ruling, until it is no longer subject to appeal, unless it is possible to reach a decision on the residence title without considering the outcome of the proceedings.

(3) In cases where a family member applies for a residence title in accordance with section 36a (1) to join a foreigner

1. against whom criminal or administrative proceedings were instituted on account of one of the offences listed in section 27 (3a),

2. against whom criminal proceedings were instituted on account of one or several criminal offences listed in section 36a (3) no. 2, or

3. in the case of whom a revocation procedure under section 73b (1) sentence 1 of the Asylum Act or a withdrawal procedure under section 73b (3) of the Asylum Act was instituted,

the decision on the residence title under section 36a (1) is suspended until the attendant proceedings are completed and, in the case of a court ruling, until it is no longer subject to appeal, unless it is possible to reach a decision on the residence title under section 36a (1) without considering the outcome of the proceedings. In cases covered by sentence 1 no. 3, if subsidiary protection status is revoked or withdrawn, the proceedings to decide on revoking the foreigner's residence title in accordance with section 52 (1) sentence 1 no. 4 is relevant.

(4) If a foreigner who is under investigation on suspicion of having committed a criminal offence applies for issuance or extension of a temporary suspension of deportation for the purpose of employment, the decision on the temporary suspension of deportation for the purpose of employment is suspended until the attendant proceedings are completed and, in the case of a court ruling, until it is no longer subject to appeal, unless it is possible to reach a decision on the temporary suspension of deportation for the purpose of employment without considering the outcome of the proceedings.

(5) If a foreigner against whom legal proceedings are instituted by a public authority applies for a temporary suspension of deportation for the purpose of training, the decision on the temporary suspension of deportation for the purpose of training is suspended until the attendant proceedings are completed and, in the case of a court ruling, until it is no longer subject to appeal, unless it is possible to reach a decision on the temporary suspension of deportation for the purpose of training without considering the outcome of the proceedings.

## **Section 80**



## **Legal capacity**

- (1) A foreigner who is of age is capable of performing procedural actions pursuant to this Act, provided that he or she would not be legally incapacitated according to the Civil Code or would not require supervision and prior approval in this matter.
- (2) A minor's lack of legal capacity does not keep him or her from being denied entry or removed. The same applies to the notice of intention to deport and subsequent deportation to the country of origin, if his or her legal representative is not resident in the federal territory or the latter's whereabouts in the federal territory are unknown.
- (3) In applying this Act, the provisions of the Civil Code determine whether a foreigner is regarded as a minor or an adult. If a foreigner is of age under the law of his or her home country, the foreigner's legal capacity and capacity to contract remain unaffected.
- (4) The legal representatives of a minor foreigner and any other persons attending to the foreigner in the federal territory in place of the legal representatives are required to file the necessary applications on behalf of the foreigner for issuing and extending the residence title and issuing and extending the passport, passport substitute and substitute identity document.
- (5) Where the foreigner is under 18 years of age, the persons entitled to the foreigner's care and custody must consent to any planned stay in accordance with Chapter 2 Parts 3 and 4.

## **Section 81**

### **Applying for the residence title**

- (1) In the absence of any provisions to the contrary, a residence title is issued to a foreigner only upon application by said foreigner.
- (2) A residence title which may be obtained after entering the federal territory in accordance with the statutory instrument under section 99 (1) no. 2 must be applied for immediately after entry or within the period stipulated in the statutory instrument. The application for a child born in the federal territory who is not to be granted a residence title ex officio is to be filed within six months of birth.
- (3) If a foreigner who is legally resident in the federal territory and does not possess a residence title applies for a residence title, his or her residence is deemed to be permitted up to the time of the decision by the foreigners authority. If the application is filed too late, deportation is deemed to be suspended from the

time of application up to the time of the decision by the foreigners authority.

(4) If a foreigner applies for an extension of his or her residence title or for a different residence title before his or her current residence title expires, the current residence title is deemed to remain in force from the time it expires until the time of the decision by the foreigners authority. This does not apply to visas issued in accordance with section 6 (1). If the application to issue or extend a residence title was filed too late, the foreigners authority may order that the previous residence title remains valid in order to avoid undue hardship.

(5) The foreigner is to be issued with a certificate confirming the effect of the application (provisional residence document).

(6) If the application for a temporary residence permit allowing the subsequent immigration of dependants wishing to join the holder of an ICT Card or a Mobile ICT Card is filed at the same time as the application for an ICT Card or a Mobile ICT Card, the application for the temporary residence permit allowing the subsequent immigration of dependants is decided upon at the same time as the application for an ICT Card or Mobile ICT Card.

### **Section 81a**

#### **Fast-track procedure for skilled workers**

(1) On behalf of a foreigner wishing to enter the country for one of the purposes of residence listed in sections 16a, 16d, 18a, 18b and 18c (3), employers may apply for a fast-track procedure.

(2) To this end, the employer and the competent foreigners authority conclude an agreement comprising the following in particular:

1. contact details of the foreigner, employer and authority
2. the fact that the foreigner has authorised the employer to act on his or her behalf
3. the fact that the competent foreigners authority has been authorised by the employer to initiate and carry out the procedure to establish the equivalence of the vocational qualification the foreigner acquired abroad,
4. the fact that the employer must take steps to make the foreigner comply with his or her obligation to cooperate as set out in section 82 (1) sentence 1,
5. documents to be submitted,
6. description of the process, including the parties involved and deadlines to be kept,

7. the employer's obligation to cooperate under section 4a (5) sentence 3 no. 3, and

8. consequences of failure to comply with the agreement.

(3) As part of the fast-track procedure for skilled workers it is the responsibility of the competent foreigners authority to

1. advise the employer as regards the procedure and the documents to be submitted,

2. initiate with the competent body the procedure for establishing the equivalence of the vocational qualification acquired abroad or for assessing the foreign higher education certificate, where necessary, indicating that this is part of the fast-track procedure for skilled workers; if the aim is to employ the foreigner in a regulated profession in Germany, the authorisation to practise the profession must be obtained,

3. in cases where a procedure under no. 2 was initiated, send the employer without delay any notifications by the competent bodies stating that they have received the relevant documents and that these are complete; if the competent body needs more documents and if the employer has received an assessment by the competent body, the employer is to be invited within three working days of receipt in order to be handed the assessment and discuss any further steps to be taken,

4. obtain, where necessary, the consent of the Federal Employment Agency, indicating that this is part of the fast-track procedure for skilled workers,

5. inform the competent diplomatic mission abroad that the foreigner is about to apply for a visa, and

6. agree in advance to granting the visa without delay, provided the necessary requirements are met, which includes determining the equivalence or the comparability of the vocational qualification and the consent of the Federal Employment Agency.

If the competent authority issues a notification determining that the vocational qualification abroad is not equivalent but that equivalence can be achieved by taking part in a qualification measure, the procedure described in section 81a may be continued, the aim being the entry for the purpose under section 16d.

(4) This procedure also covers the subsequent immigration of spouses or minor, unmarried children whose visa applications are submitted around the same time.

(5) Subsections (1) to (4) also apply to other qualified employees.

## **Section 82**

### **Cooperation by the foreigner**

(1) The foreigner is required to put forward his or her interests and any circumstances in his or her favour which are not evident or known, specifying verifiable circumstances, and to produce forthwith the necessary evidence relating to his or her personal situation, other required certificates and permits and other required documents which the foreigner is able to furnish. The foreigners authority may set the foreigner a reasonable deadline for this purpose. It sets him or her such a deadline when postponing the processing of an application for a residence title on account of lacking or incomplete information and specifies the information to be furnished subsequently. Circumstances put forward and documents furnished after said deadline has expired may be ignored. Foreigners who have applied for an ICT Card under section 19b are required to inform the competent foreigners authority of any changes that occur during the application procedure and affect the conditions for granting an ICT Card.

(2) Subsection (1) applies accordingly in an objection procedure.

(3) As a rule, foreigners are to be notified of the obligations arising from subsection (1) and of their main rights and duties arising from this Act, in particular the obligations arising from sections 44a, 48, 49 and 81. If a time limit is set, the foreigner is to be informed of the consequences of failure to observe the set deadline.

(4) Where necessary to prepare and implement measures under this Act and in accordance with provisions relating to foreigners in other acts, an order may be issued requiring a foreigner to report in person to the competent authority and to the diplomatic missions or authorised officials of the state whose nationality he or she putatively possesses and requiring a medical examination to determine whether the foreigner is fit to travel. If a foreigner fails to comply with an order pursuant to sentence 1, the order may be enforced using direct force. Section 40 (1) and (2), sections 41, 42 (1) sentences 1 and 3 of the Act on the Federal Police apply accordingly.

(5) On request, the foreigner for whom a document is to be issued in accordance with this Act, the Asylum Act or the provisions enacted to implement this Act must

1. submit a current photograph in accordance with a statutory instrument enacted pursuant to section 99 (1) nos. 13 and 13a or to cooperate in the taking of such a

photograph and

2. cooperate in the taking of his or her fingerprints in accordance with a statutory instrument enacted pursuant to section 99 (1) nos. 13 and 13a.

The photograph and the fingerprints may be incorporated into documents pursuant to sentence 1 and processed and used by the competent authorities to document and subsequently establish the foreigner's identity.

(6) Foreigners who hold a temporary residence permit under Chapter 2 Parts 3 or 4 and whose vocational training or economic activity for which the residence title was granted ends earlier than planned must inform the competent foreigners authority within two weeks of becoming aware of the termination. The foreigner is to be informed of the obligation under sentence 1 when the residence title is issued.

### **Section 83**

#### **Limits on the right of appeal**

(1) The denial of a national visa and a passport substitute at the border is not subject to appeal. Upon being denied a national visa and a passport substitute at the border, the foreigner is informed of the possibility of filing an application with the competent diplomatic mission abroad.

(2) The refusal to suspend deportation is not contestable.

(3) The ordering of and imposition of a time limit on a ban on entry and residence by the Federal Office for Migration and Refugees is not contestable.

### **Section 84**

#### **Effects of an objection and legal action**

(1) An objection or legal action against

1. the denial of an application to issue or extend a residence title,

1a. measures under section 49,

2. a condition imposed in accordance with section 61 (1e) requiring the foreigner to take up residence at a departure facility,

2a. conditions imposed to secure and enforce the enforceable obligation to leave the country under section 61 (1e),

3. the amendment or rescission of an ancillary provision concerning the pursuit of an economic activity,

4. revocation of the foreigner's residence title pursuant to section 52 (1) sentence 1

no. 4 in the cases covered by section 75 (2) sentence 1 of the Asylum Act,  
5. revocation or withdrawal of the recognition of research organisations for the purpose of concluding hosting agreements under section 18d,  
6. denials of departure under section 46 (2) sentence 1,  
7. the imposition of a time limit on a ban on entry and residence under section 11,  
8. the ordering of a ban on entry and residence under section 11 (6), and  
9. the determination under section 85a (1) sentence 2,  
have no suspensive effect.

An action filed against the ordering of a ban on entry and residence under section 11 (7) has no suspensive effect.

(2) Notwithstanding their suspensive effect, an objection or legal action does not alter the operative effect of an expulsion or any other administrative act terminating lawful residence. For purposes pertaining to admission or the pursuit of an economic activity, the residence title is deemed to remain in force until the deadline for raising an objection or instituting legal action expires, during judicial proceedings concerning a permissible application for the institution or restoration of suspensive effect or for as long as the submitted legal remedy has a suspensive effect. The lawfulness of residence is not interrupted if the administrative act is revoked by an official decision or by an incontestable court ruling.

## **Section 85**

### **Calculation of residence periods**

Interruptions of lawful residence of up to one year may be ignored.

## **Section 85a**

### **Proceedings in case of specific indications of wrongful acknowledgement of paternity**

(1) If an administrative authority recording the acknowledgement or a registry clerk informs the foreigners authority that there are specific indications that paternity has been wrongfully acknowledged within the meaning of section 1597a (1) of the Civil Code, the foreigners authority examines whether such wrongful acknowledgement exists. If it is established that paternity was wrongfully acknowledged, the foreigners authority determines this through a written or electronic administrative act. If it is established that paternity was not wrongfully acknowledged, the foreigners authority discontinues the proceedings.

- (2) As a rule, persons are assumed to have wrongfully acknowledged paternity if
1. the acknowledging party declares that the acknowledgement serves a specific purpose within the meaning of section 1597a (1) of the Civil Code,
  2. the mother declares that the acknowledgement serves a specific purpose within the meaning of section 1597a (1) of the Civil Code,
  3. the party acknowledging paternity has acknowledged paternity, in several instances, of children from different foreign mothers and in each case has created the legal prerequisites for the permitted entry or the permitted residence of the child or of the mother by so acknowledging paternity, also in those cases in which the child has acquired German nationality by the acknowledgement,
  4. the party acknowledging paternity or the mother has been granted or promised a material benefit in return for acknowledging paternity or for approving the acknowledgement,

and it is not to be expected that the legal prerequisites for the permitted entry or the permitted residence of the child, of the acknowledging party or the mother will be met without the acknowledgement of paternity or the mother's approval of the acknowledgement. This also applies if the legal prerequisites for the permitted entry or the permitted residence of the child are to be met by the child's acquisition of German nationality under section 4 (1) or (3) sentence 1 of the Nationality Act.

(3) If the determination pursuant to subsection (1) sentence 2 is incontestable, the foreigners authority furnishes the administrative authority recording acknowledgements or the registry clerk and the registry office with a certified copy for their information, indicating that the determination has become incontestable. If the authority discontinues the proceedings, it informs the administrative authority recording acknowledgements, the parties concerned and the registry office in written or electronic form.

(4) The German diplomatic missions abroad are responsible for measures and determinations taken or made under subsections (1) and (3) abroad.

## **Part 4**

### **Data protection**

#### **Section 86**

##### **Collection of personal data**

The authorities charged with implementing this Act may collect personal data for the purpose of implementing this Act and provisions relating to foreigners contained

in other acts, where this is necessary to discharge their duties under this Act and in accordance with provisions relating to foreigners in other acts. Personal data which may not be processed under Article 9 (1) of Regulation (EU) 2016/679 may be collected to the extent necessary in the individual case for the authorities to discharge their duties.

### **Section 86a**

#### **Collection of personal data to promote voluntary departure and reintegration**

(1) The foreigners authorities and all other public or private bodies which carry out publicly funded measures to promote return and reintegration or conduct such measures as commissioned by public sector bodies or receive the necessary application collect personal data to the extent that the data are necessary to carry out measures to promote return and reintegration, coordinate programmes by the Federal Office for Migration and Refugees to promote voluntary returns, to make sure that the funds are used properly and to claim their repayment if this is not the case. The following data are collected:

1. surname, name at birth, given names, spelling of the names according to German law, marital status, date of birth, place and district of birth, sex, nationalities,
2. information regarding the country of destination
3. information regarding the type of funding, and
4. information about whether the person left voluntarily or whether he or she was deported.

Information about the scope of funding and the reasons for it must also be collected.

(2) To be able to assess the effectiveness of promoting departure, the foreigners authorities and the authorities in charge of border police tasks collect information proving that the person concerned left the country and information regarding the state of departure and that of destination.

### **Section 87**

#### **Transfer of data and information to foreigners authorities**

(1) On request, public bodies with the exception of schools and other educational and care establishments for young people inform the bodies specified in section 86 sentence 1 of circumstances of which they become aware, as far as necessary for the purposes referred to in that section.



(2) Public bodies within the meaning of subsection (1) are to notify the competent foreigners authority immediately if, in discharging their duties, they become aware of

1. the whereabouts of a foreigner who does not possess a required residence title and whose deportation has not been suspended,

2. a breach of a geographic restriction,

2a. foreigners drawing or applying for social benefits for themselves, their family members or other household members in the cases covered by section 7 (1) sentence 2 no. 2 or sentence 4 of Book Two of the Social Code or in the cases covered by section 23 (3) sentence 1 nos. 2, 3 or 4, sentences 3, 6 or 7 of Book Twelve of the Social Code, or

any other grounds for expulsion;

4. (repealed)

in the cases covered by nos. 1 and 2 and in case of any other actions punishable under this Act, the competent police authority may be notified instead of the foreigners authority, if one of the measures specified in section 71 (5) is possible; the police authority immediately notifies the foreigners authority. As a rule, public bodies are to notify the competent foreigners authority immediately if, in discharging their duties, they become aware of special integration needs within the meaning of a statutory instrument enacted under section 43 (4). In addition to the cases regulated in sentence 1, the bodies responsible for benefits under Book Two or Book Twelve of the Social Code are required to notify the foreigners authority if a foreigner holding a temporary residence permit under Chapter 2 Parts 3 or 4 applies for such benefits for him- or herself or for family members. The diplomatic missions abroad transmit to the competent foreigners authority personal data on a foreigner which is suitable for establishing the latter's identity or nationality, should they become aware that such data may be of current significance in enforcing the foreigner's enforceable obligation to leave the federal territory.

(3) The Federal Government Commissioner for Migration, Refugees and Integration is required to provide notifications under subsections (1) and (2) regarding a foreigner belonging to this category of persons only if such notification does not threaten the Commissioner's ability to discharge his or her own duties. The Land governments may determine by statutory instrument that foreigners commissioners of the Land and of local government authorities are required to provide notifications pursuant to subsections (1) and (2) relating to a foreigner who is lawfully resident in

the Land or local government district concerned or who resided lawfully in the Land or local government district up to the time an administrative act was issued terminating the lawfulness of the residence subject to sentence 1 only.

(4) The bodies responsible for initiating and implementing criminal or administrative fine proceedings are to notify the competent foreigners authority immediately that such criminal proceedings have been initiated and that the criminal or fine proceedings have been settled at the public prosecutor's office, in court or at the administrative authority competent for prosecuting the administrative offence and imposing due punishment, stating the relevant statutory provisions. Sentence 1 applies accordingly to initiating extradition proceedings against a foreigner. Sentence 1 does not apply to proceedings for an administrative offence which is punishable by a fine of up to 1,000 euros, nor to proceedings for an offence within the meaning of section 24 of the Road Traffic Act or for an offence committed negligently within the meaning of section 24a of the Road Traffic Act. The Office for the Protection of Witnesses notifies the competent foreigners authority immediately of the beginning and end of witness protection for a foreigner.

(5) The bodies to be consulted in accordance with section 72 (6) are to notify the foreigners authorities

1. ex officio of any circumstances justifying the revocation of a residence title issued pursuant to section 25 (4a) or (4b) or the shortening or annulment of a deadline for leaving the country granted pursuant to section 59 (7) and

2. ex officio of the competent body or of any transfer of competence, where involvement in criminal proceedings pursuant to section 72 (6) has taken place or notification has been effected pursuant to no. 1.

(6) Public or private bodies which carry out publicly funded measures to promote return and reintegration or conduct such measures as commissioned by public sector bodies or receive the necessary application must transmit data collected under section 86a (1) to the competent foreigners authority to the extent necessary for the purposes listed in section 86a.

## **Section 88**

### **Transfer of data and information in the case of special statutory regulations on the processing of data**

(1) Personal data and other information are not transmitted under section 87, if such transmission conflicts with special statutory regulations on the processing of data.

(2) Personal data made accessible to a public body by a doctor or by other persons referred to in section 203 (1) nos. 1, 2, 4 to 7 and subsection (4) of the Criminal Code may be transmitted by said public body

1. if necessary to avert serious threats to the life and limb of the foreigner or of others, or if the foreigner constitutes a risk to public health, and special protective measures to eliminate the risk are not possible or fail to be observed by the foreigner, or

2. if the data are required in order to ascertain whether the conditions specified in section 54 (2) no. 4 apply.

(3) Personal data subject to tax secrecy under section 30 of the German Fiscal Code (Abgabenordnung) may be transmitted if the foreigner has violated a provision of tax law, including customs law and monopolies law or a provision of foreign trade and payments law, or has violated import, export or transit bans or bans on the introduction of goods into customs territory, and criminal investigations have been initiated or a fine of at least 500 euros has been imposed for such violation. In cases covered by sentence 1, the authorities charged with policing cross-border traffic may also be notified if a departure ban is to be issued under section 46 (2).

(4) Subsections (1) to (3) apply accordingly to transmission by the authorities charged with implementing this Act and by private bodies.

### **Section 88a**

#### **Processing data in connection with integration measures**

(1) In conducting integration courses, the foreigners authority, the Federal Employment Agency, the institution providing basic security for job seekers, institutions providing services under the Asylum Seekers Benefits Act, the Federal Office of Administration and private and public institutions authorised to conduct integration courses are permitted to transmit data relating to participants to the Federal Office for Migration and Refugees, in particular data confirming entitlement to attend, permission to attend pursuant to section 44 (4) and registration for and attendance of an integration course as far as necessary to grant permission or entitlement to attend the integration course, to verify proper participation, to verify the fulfilment of the obligation to attend in accordance with section 44a (1) sentence 1, to certify successful participation or to invoice and conduct integration courses. The private and public institutions authorised to conduct integration courses may inform the competent foreigners authority, the Federal Employment

Agency, the competent institution providing basic security for job seekers or the competent institution providing services under the Asylum Seekers Benefits Act of the failure by a foreigner obliged to participate in an integration course under section 44a (1) sentence 1 to duly attend an integration course. On request, the Federal Office for Migration and Refugees may transmit the data transmitted pursuant to sentence 1 to foreigners authorities, the Federal Employment Agency, institutions providing basic security for job seekers or institutions providing services under the Asylum Seekers Benefits Act and nationality authorities as far as necessary to grant permission or entitlement to attend an integration course, to verify the fulfilment of the obligation to attend, to extend a temporary residence permit, to grant a permanent settlement permit or an EU long-term residence permit, to supervise the integration agreement or conduct the naturalisation procedure. In other respects, the processing of personal data by the Federal Office for Migration and Refugees is permissible only to conduct and invoice integration courses and to conduct a scientific research project in accordance with section 75 no. 4a under the conditions set out in section 8 (7) and (8) of the Ordinance on Integration Courses (Integrationskursverordnung).

(1a) Subsection (1) applies accordingly to the processing of data resulting from the asylum procedure conducted at the Federal Office for Migration and Refugees as far as necessary to take a decision on whether to admit a foreigner to an integration course. This also applies accordingly to the processing of data taken from the Central Register of Foreigners in order to ascertain the conditions under section 44 (4) sentence 2 in the context of deciding whether to admit a foreigner to an integration course.

(2) If the Federal Office for Migration and Refugees enlists the services of private or public institutions to provide migration advisory services pursuant to section 75 no. 9, these institutions are permitted to transmit to the Federal Office for Migration and Refugees aggregated data on the advisory services provided.

(3) When conducting job-related language training courses in accordance with section 45a, the foreigners authority, the Federal Employment Agency, the institution providing basic security for job-seekers, the Federal Office of Administration and the private and public institutions conducting the courses are permitted to transmit to the Federal Office for Migration and Refugees data relating to course participants concerning registration, length of attendance and the manner in which the course was concluded as far as necessary to grant admission to the course, ascertain and verify fulfilment of the obligation to duly attend, and to

conduct and invoice the course. On request, the Federal Office for Migration and Refugees may transmit the data transferred in accordance with sentence 1 to foreigners authorities, the Federal Employment Agency, institutions providing basic security for job-seekers and nationality authorities as far as necessary to grant permission or entitlement to attend an integration course, verify fulfilment of the obligation to duly attend, grant a permanent settlement permit or an EU long-term residence permit, supervise the integration agreement or conduct the naturalisation procedure. The private and public institutions authorised to conduct the job-related language training may inform the competent foreigners authority, the Federal Employment Agency or the competent institution providing basic security for job-seekers of a foreigner's failure to duly attend.

## **Section 89**

### **Procedures to investigate, establish and document a foreigner's identity**

(1) The Federal Criminal Police Office provides official assistance in assessing the data which are collected under section 49 by the authorities entrusted with implementing this Act and which are transferred under section 73. It may also use the identification data it has stored in the discharge of its duties. The data collected under section 49 (3) to (5) and (8) and (9) are stored separately from other identification data. The data referred to in section 49 (7) are kept by the authority creating the records.

(1a) When providing official assistance under subsection (1) sentence 1, the Federal Criminal Police Office may, in order to establish the identity of the person concerned, also transmit the identification data referred to in subsection (1) sentence 1 to the public bodies of third countries which are responsible for examining the identity of persons, excepting the public bodies of the person's country of origin and those of third states where he or she has reason to fear persecution or serious harm. The Federal Criminal Police Office is responsible for the lawfulness of the transmission. The Federal Criminal Police Office is to record the transmission and the reason for it. The body receiving personal data is to be notified that the data may be processed only for the purpose for which they were transmitted. Furthermore, the receiving body is to be informed of the date on which the data are to be deleted at the Federal Criminal Police Office. Personal data are not transmitted if there is reason to believe that,

1. taking into account the type of data and the way they were collected, the legitimate interests of the person concerned, above all his or her interest in receiving protection from persecution, override the general interest in the

transmission, or

2. the transmission of the data would conflict with the person's basic rights, the Convention Relating to the Status of Refugees of 28 July 1951 or the Convention on the Protection of Human Rights and Fundamental Freedoms, particularly because processing the transmitted data in the receiving state threatens to violate fundamental principles of the rule of law or human rights.

(2) Processing the data obtained under section 49 (3) to (5) or (7) to (9) is also permitted to establish the foreigner's identity or attribute evidence in the course of criminal prosecution or measures taken by the police to avert threats. These data may be transmitted or made available to the authorities responsible for these measures, to the extent and for the duration necessary.

(3) The data collected under section 49 (1) are to be deleted by all authorities immediately after completing the authenticity of the document or the identity of the holder has been checked. The data collected under section 49 (3) to (5), (7), (8) or (9) are deleted by all authorities storing such data if

1. the foreigner has been issued with a valid passport or passport substitute and granted a residence title by the foreigners authority,

2. 10 years have elapsed since the foreigner's last departure from the federal territory, the attempted unlawful entry or the termination of an unlawful stay,

3. three years have elapsed since refusal of entry or removal in cases covered by section 49 (5) nos. 3 and 4 or

4. 10 years have elapsed since application for the visa in cases covered by section 49 (5) no. 5 and since the voice recording in the case of section 49 (7).

Deletion of the data is to be documented.

(4) Subsection (3) does not apply if and for as long as the data are required in connection with criminal proceedings or to avert a threat to public safety or law and order.

## **Section 90**

### **Transmission of information by foreigners authorities**

(1) In individual cases in which there are concrete indications of

1. foreigners taking up employment or pursuing an economic activity without the necessary residence title under section 4,

2. violations of the obligation to cooperate under section 60 (1) sentence 1 no. 2 of

Book One of the Social Code with regard to a department of the Federal Employment Agency, a statutory health insurance, long-term care insurance, accident insurance or pension insurance agency, an institution providing basic security for job seekers or a social welfare agency, or violations of the obligation to report under section 8a of the Asylum Seekers Benefits Act,

3. the violations specified in section 6 (4) nos. 1 to 4 , 7, 12 and 13 of the Act to Combat Clandestine Employment,

the authorities charged with implementing this Act notify the authorities responsible for prosecuting and punishing the violations according to nos. 1 to 3, the institutions providing basic security for job seekers or the social welfare agencies and the competent authorities specified in section 10 of the Asylum Seekers Benefits Act.

(2) In prosecuting and punishing violations of this Act, the authorities charged with implementing this Act cooperate in particular with the other authorities specified in section 2 (4) of the Act to Combat Clandestine Employment.

(3) The authorities charged with implementing this Act notify the competent authorities specified in section 10 of the Asylum Seekers Benefits Act of circumstances and measures under this Act, a knowledge of which is necessary for the purposes of benefits under the Asylum Seekers Benefits Act, the information they receive when approval for employment is issued to persons eligible for benefits under the Asylum Seekers Benefits Act and information relating to the expiry, revocation or withdrawal of issued approvals.

(4) The foreigners authorities immediately notify the bodies to be involved in accordance with section 72 (6) when

1. a residence title under section 25 (4a) or (4b) is issued or denied,
2. a period allowed for departure under section 59 (7) is set, reduced or annulled, and
3. competence is transferred from the foreigners authority to another foreigners authority; this obligation applies to the foreigners authority to which competence has been transferred.

(5) Upon request, the foreigners authority informs the court bailiff of a person's place of residence for the purposes referred to in section 755 of the Code of Civil Procedure.

(7) In order to carry out enforcement proceedings, the foreigners authority informs

the executing authority at its request of the judgment debtor's place of residence. The foreigners authority may communicate the place of residence only if the executing authority is unable to obtain the information from the registration office and confirms this in its request filed with the foreigners authority.

### **Section 90a**

#### **Notifications by the foreigners authorities to the registration authorities**

(1) The foreigners authorities immediately notify the competent registration authorities when they obtain information indicating that the data stored on foreigners who are obliged to register with the authorities are incorrect or incomplete. They notify the registration authorities in particular when a foreigner who is obliged to register with the authorities

1. is resident in the federal territory and has not registered with the authorities,
2. has permanently left the federal territory.

The foreigners authority informs the competent registration authority when it has granted a foreigner a settlement permit or an EU long-term residence permit.

(2) As a rule, notifications under subsection (1) are to contain the following information on the foreigner who is obliged to register with the authorities:

1. surname, name at birth and given names,
2. date, place and state of birth,
3. nationalities,
4. most recent address in Germany and
5. date of departure and state of destination, and
6. the Central Foreigners Register number in cases covered by and subject to section 10 (4) sentence 2 no. 4 of the Act on the Central Register of Foreigners, so as to allow a clear identification of the person concerned.

### **Section 90b**

#### **Comparing data between foreigners authorities and registration authorities**

Foreigners authorities and registration authorities which share the same geographic area of competence exchange the data specified in section 90a (2) annually for the purpose of data maintenance. The receiving authority checks the transmitted data against its own stored data; automated checking is permitted. The transmitted data may only be used for data checking and data maintenance, after which they are



deleted immediately; furnished data carriers are returned or destroyed immediately.

### **Section 90c**

#### **Data transfer in visa procedures via the Federal Foreign Office**

(1) Data are transmitted in the course of visa procedures from German diplomatic missions abroad to the authorities involved in the visa procedure and then back again to the German diplomatic missions abroad by means of an automated process via a technical device for supporting the visa procedure operated by the Federal Foreign Office. The technical device ensures the complete, correct and punctual transmission of data referred to in sentence 1. To this end the data referred to in sentence 1 are stored in the technical device.

(2) Personal data may be processed in the technical device only as far as necessary for the purpose stated in subsection (1) sentences 1 and 2.

(3) The data stored under subsection (1) sentence 3 must be deleted immediately when the data are no longer needed for the purpose stated in subsection (1) sentences 1 and 2, and at the latest following issuance or denial of a visa or withdrawal of the visa application.

### **Section 91**

#### **Storage and deletion of personal data**

(1) The data relating to expulsion, removal and deportation are to be deleted 10 years after the time limit specified in section 11 (1) sentence 2 expires. They must be deleted prior to this if they contain information which may no longer be used against the foreigner in accordance with other statutory provisions.

(2) Notifications under section 87 (1) which are immaterial to an impending decision under the law on foreigners and which are unlikely to be of relevance to a later decision under the law on foreigners are to be destroyed immediately.

### **Section 91a**

#### **Temporary protection register**

(1) The Federal Office for Migration and Refugees keeps a register of foreigners in accordance with section 24 (1) who have applied for a visa or a temporary residence permit and of their dependants within the meaning of Article 15 (1) of Directive 2001/55/EC for the purposes of granting residence, allocating admitted foreigners to places of residence in the federal territory, relocating admitted foreigners to other member states of the European Union, reunifying families and promoting voluntary return.

(2) The following information is stored in the register:

1. on the foreigner:

a) the personal details (with the exception of former names and the home address in Germany), the last place of residence in the country of origin, the region of origin and information furnished voluntarily on the foreigner's religion,

b) information on occupation and vocational training,

c) date of receipt of the foreigner's application for a visa or a temporary residence permit, the authority responsible for processing the application, and information regarding the decision on the application or the status of the application procedure,

d) details of the identity and travel document,

e) the Central Foreigners Register number and the visa file number,

f) country of destination and date of leaving the country of origin,

2. the personal details in accordance with no. 1 (a), with the exception of voluntary information on the religion of the foreigner's dependants in accordance with subsection (1),

3. details of documents confirming marriage, civil partnership or kinship.

(3) The foreigners authorities and the diplomatic missions abroad are required to transfer the data stated in subsection (2) to the registration authority immediately when an application has been filed

1. for a temporary residence permit under section 24 (1) or

2. for a visa to secure temporary protection in the federal territory.

(4) Sections 8 and 9 of the Act on the Central Register of Foreigners apply accordingly.

(5) On request, the data may be transmitted to the foreigners authorities, diplomatic missions abroad and other organisational units of the Federal Office for Migration and Refugees, including the National Contact Point established at the Federal Office for Migration and Refugees in accordance with Article 27 (1) of Directive 2001/55/EC for the purpose of discharging their duties under the law on foreigners and asylum in connection with granting residence, allocating admitted foreigners to places of residence in the federal territory, relocating admitted foreigners to other member states of the European Union, reunifying families and promoting voluntary return.

(6) The registration authority must produce records of data transmissions in accordance with subsection (5). Section 13 of the Act on the Central Register of Foreigners applies accordingly.

(7) Data transmission pursuant to subsections (3) and (5) is effected in writing, in electronic form or via an automated procedure. Section 22 (2) to (4) of the Act on the Central Register of Foreigners applies accordingly.

(8) The data are to be deleted no later than two years after the termination of temporary protection for the foreigner. Sections 34 (1) and (2) and section 37 of the Act on the Central Register of Foreigners applies accordingly with regard to notification of the data subject and restrictions on the processing of the data.

### **Section 91b**

#### **Transfer of data by the Federal Office for Migration and Refugees as the National Contact Point**

In its capacity as the National Contact Point in accordance with Article 27 (1) of Directive 2001/55/EC, the Federal Office for Migration and Refugees may transmit the data contained in the register pursuant to section 91a to the following bodies for the purpose of relocating admitted foreigners to other member states of the European Union or reunifying families:

1. National Contact Points of other member states of the European Union,
2. bodies and institutions of the European Union,
3. other foreign, supranational or intergovernmental bodies, subject to the provisions of Chapter V of Regulation (EU) 2016/679 and other general data protection provisions.

### **Section 91c**

#### **Intra-Community information to implement Directive 2003/109/EC**

(1) In its capacity as the National Contact Point within the meaning of Article 25 of Directive 2003/109/EC, the Federal Office for Migration and Refugees notifies the competent authority of another member state of the European Union in which the foreigner concerned possesses the status of a long-term resident as to the content and date of a decision on issuing or extending a temporary residence permit under section 38a (1) or on issuing an EU long-term residence permit. The authority which has reached the decision transmits the necessary data to the Federal Office for Migration and Refugees without delay. The data required for notifications under sentence 1 may be transmitted to the National Contact Point by means of an

automated process, using the Central Foreigners Register number.

(1a) Requests from the foreigners authorities for information as to whether a foreigner continues to have international protection status within the meaning of section 2 (13) in another member state is forwarded by the Federal Office for Migration and Refugees ex officio to the competent bodies of the EU member state concerned. To do so, the competent foreigners authority transmits the necessary information to the Federal Office for Migration and Refugees. The Federal Office for Migration and Refugees forwards the replies to the competent foreigners authority.

(2) In the procedure under section 51 (8), the Federal Office for Migration and Refugees forwards inquiries ex officio to the competent bodies of the member state of the European Union concerned, stating the intended measure and the key factual and legal grounds for the intended measure as stated by the foreigners authority. To do so, the foreigners authority transmits the necessary information to the Federal Office for Migration and Refugees. The Federal Office for Migration and Refugees forwards to the competent foreigners authority the answers received from bodies of other member states of the European Union in this connection.

(3) The Federal Office for Migration and Refugees notifies the competent authority of another member state of the European Union ex officio that a foreigner who possesses long-term resident status in said member state has been informed of intention to deport or remove him or her

1. to the member state of the European Union in which the foreigner holds long-term resident status or

2. to a territory outside of the European Union

or that such a measure has been carried out, or a corresponding deportation order under section 58a has been issued or carried out. The notification states the primary reason for terminating the foreigner's stay. The notification takes place as soon as the German authority ordering the measure concerned in accordance with section 71 informs the Federal Office for Migration and Refugees of the intended or effected measure. To this end, the authorities referred to in sentence 3 transmit the necessary information to the Federal Office for Migration and Refugees without delay.

(4) In the case of notifications under subsections (1) to (3), the foreigner's personal details are transmitted for identification purposes. Where dependants who are living with the long-term resident as a family unit are also involved in cases covered by subsection (3), their personal details are also transmitted.

(5) The Federal Office for Migration and Refugees forwards inquiries from bodies of other member states of the European Union in connection with the consultation envisaged in Article 22 (3) (2) of Directive 2003/109/EC to the competent foreigners authorities. The competent foreigners authority furnishes the Federal Office for Migration and Refugees with the following information of which it is aware:

1. personal details of the foreigner with long-term resident status concerned,
2. residence- and asylum-related decisions which have been reached for or against the said foreigner,
3. interests in favour of or opposed to the foreigner's return to the federal territory or a third country or
4. any other circumstances which it is to be assumed may be of relevance to the inquiring member state's decision on residence matters.

Otherwise, the competent foreigners authority provides notification that it is not aware of any pertinent information. The Federal Office for Migration and Refugees forwards this information ex officio to the competent body of the inquiring member state of the European Union.

(5a) On request, the Federal Office for Migration and Refugees informs the competent authorities of the other member states of the European Union within one month of receiving the inquiry whether a foreigner continues to have international protection status in the Federal Republic of Germany.

(5b) If the long-term resident's EU residence permit issued by another member state of the European Union to a beneficiary of international protection indicates that the person concerned has been granted international protection by said state, and if the responsibility for such international protection within the meaning of section 2 (13) has been transferred to Germany in line with the relevant legal provisions before the beneficiary of international protection was granted an EU long-term residence permit pursuant to section 9a, the Federal Office for Migration and Refugees asks the competent authority of the other member state to change the indication in the long-term resident's EU residence permit accordingly.

(5c) If a person with long-term resident status in another EU member state is granted international protection in Germany within the meaning of section 2 (13) before he or she is granted an EU long-term residence permit pursuant to section 9a, the Federal Office for Migration and Refugees asks the competent authority of the other member state to indicate in the EU long-term residence permit that Germany has granted this person international protection.

(6) The Federal Office for Migration and Refugees notifies the competent foreigners authority ex officio of the content of notifications from other member states of the European Union

1. according to which the other member state of the European Union intends to carry out or is carrying out measures to terminate the residence of a foreigner who holds an EU long-term residence permit,

2. according to which a foreigner who holds an EU long-term residence permit has acquired long-term resident status in another member state of the European Union or has been granted a residence title or had his or her residence title extended in another member state of the European Union.

### **Section 91d**

#### **Information to implement Directive 2016/801/EU**

(1) The Federal Office for Migration and Refugees receives applications under section 18f and forwards them to the competent foreigners authority. It informs the applicant of the competent foreigners authority.

(2) On request, the Federal Office for Migration and Refugees furnishes the competent authority of another member state of the European Union with the necessary information in order to enable the competent authorities of the other member state of the European Union to verify whether the requirements for the foreigner's mobility stipulated in Articles 28 to 31 of Directive 2016/801/EU are met. This information comprises

1. the foreigner's personal details and information on his or her identity and travel documents,
2. information on the foreigner's present and former residence status in Germany,
3. information on completed criminal investigations or such investigations which are known to the foreigners authority,
4. other data concerning the foreigner which are stored in the Central Register of Foreigners or which originate from the foreigner's file or the visa file and which have been requested by the other member state of the European Union.

To this end, at the request of the Federal Office for Migration and Refugees, the foreigners authorities and the diplomatic missions abroad transmit to the Federal Office the data required to provide the information.

(3) The diplomatic missions abroad and the foreigners authorities may address

requests for information to competent bodies of other member states of the European Union through the Federal Office for Migration and Refugees, where this is necessary to verify compliance with the requirements for mobility pursuant to sections 16c and 18e or to issue a temporary residence permit pursuant to section 18f or a corresponding visa. To this end, they may transmit

1. the foreigner's personal details,
2. information on the foreigner's identity and travel documents and on his or her residence title issued in another member state of the European Union, and
3. information on the subject of the application for the residence title and on where such application was filed

and, where pertinent, specify the desired information in precise terms. The Federal Office for Migration and Refugees forwards information which it receives to the competent foreigners authorities and diplomatic missions abroad. The data transmitted in the information furnished by the competent bodies of other member states of the European Union may be used by the foreigners authorities and diplomatic missions abroad for this purpose.

(4) The Federal Office for Migration and Refugees notifies the competent authority of another member state of the European Union in which the foreigner concerned possesses a residence title under Directive 2016/801/EU as to the contents and date of a decision on

1. denying, in accordance with section 16c (1) and 18 (1), mobility notified pursuant to section 19f (5), and
2. granting a temporary residence permit under section 18f.

When a foreigners authority has reached the decision, it transmits the necessary data to the Federal Office for Migration and Refugees without delay. The foreigners authorities may transfer the data from the Central Register of Foreigners required for notifications under sentence 1 to the National Contact Point by means of an automated process, using the Central Foreigners Register number.

(5) Where a residence title is revoked or withdrawn or not extended under section 16b (1), sections 16e, 18d or 19e or if it expires after the period under section 7 (2) sentence 2 has been reduced, the Federal Office for Migration and Refugees informs the competent authorities of the other member state without delay, provided the foreigner is staying there under the scope of Directive 2016/801/EU and the Federal Office for Migration and Refugees is aware of this fact. The foreigners

authority which has reached the decision transmits the necessary data to the Federal Office for Migration and Refugees without delay. The foreigners authorities may transfer the data from the Central Register of Foreigners required for notifications under sentence 1 to the National Contact Point by means of an automated process, using the Central Foreigners Register number. The Federal Office for Migration and Refugees notifies the competent foreigners authority without delay of any case where it has been informed by the competent authority of another member state that a residence title held by a foreigner who is residing in the federal territory under sections 16c, 18e or 18f and which comes under the scope of Directive 2016/801 (EU) has expired or been revoked, withdrawn or not extended.

### **Section 91e**

#### **Common provisions for the register for the purposes of temporary protection and intra-Community data transfer**

For the purposes of sections 91a to 91g,

1. personal details are defined as names, in particular surname, name at birth, given names and former names, date of birth, place of birth, sex, nationalities and home address in Germany;
2. details of the identity and travel document are defined as the type, number, issuing authority, date of issue and period of validity.

### **Section 91f**

#### **Information to implement Directive 2009/50/EC within the European Union**

(1) In its capacity as the National Contact Point within the meaning of Article 22 (1) of Directive 2009/50/EC, the Federal Office for Migration and Refugees notifies the competent authority of another member state of the European Union in which the foreigner concerned possesses an EU Blue Card of the content and date of any decision taken with regard to issuing an EU Blue Card. The authority which has reached the decision transmits the necessary data to the National Contact Point. The foreigners authority may transfer the data from the Central Register of Foreigners required for notifications under sentence 1 to the National Contact Point by means of an automated process, using the Central Foreigners Register number.

(2) The Federal Office for Migration and Refugees annually transmits to the competent bodies of the European Union

1. the data to be communicated under Regulation (EC) No. 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on



migration and international protection and repealing Council Regulation (EEC) no. 311/76 on the compilation of statistics on foreign workers (OJ L 199, 31.7.2007, p. 23) with regard to the issuance of EU Blue Cards, and

2. a list of occupations for which a level of pay has been determined under section 18b (2) sentence 2 in implementation of Article 5 (5) of Directive 2009/50/EC.

### **Section 91g**

#### **Information to implement Directive 2014/66/EU**

(1) The Federal Office for Migration and Refugees receives applications pursuant to section 19b and forwards them to the competent foreigners authority. It informs the applicant of the competent foreigners authority.

(2) On request, the Federal Office for Migration and Refugees furnishes the competent authority of another member state of the European Union with the necessary information in order to enable the competent authorities of the other member state of the European Union to verify whether the requirements for the foreigner's mobility under Directive 2014/66/EU are met. This information comprises

1. the foreigner's personal details and information on his or her identity and travel documents,
2. information on the foreigner's present and former residence status in Germany,
3. information on completed criminal investigations or such investigations which are known to the foreigners authority,
4. other data concerning the foreigner which are stored in the Central Register of Foreigners or which originate from the foreigner's file or the visa file and which have been requested by the other member state of the European Union.

To this end, at the request of the Federal Office for Migration and Refugees, the foreigners authorities and the diplomatic missions abroad transmit to the Federal Office the data required to provide the information.

(3) The diplomatic missions abroad and the foreigners authorities may address requests for information to competent bodies of other member states of the European Union through the Federal Office for Migration and Refugees, where this is necessary in order to verify compliance with the mobility requirements under section 19a or to issue a Mobile ICT Card. To this end, they may transmit

1. the foreigner's personal details,

2. information on the foreigner's identity and travel documents and on his or her residence title issued in another member state of the European Union, and
3. information on the subject of the application for the residence title and on where such application was filed

and, where pertinent, specify the desired information in precise terms. The Federal Office for Migration and Refugees forwards information which it receives to the competent foreigners authorities and diplomatic missions abroad. The foreigners authorities and diplomatic missions abroad may use the data transmitted in the information furnished by the competent bodies of other member states of the European Union for this purpose.

(4) The Federal Office for Migration and Refugees notifies the competent authority of another member state of the European Union in which the foreigner concerned possesses an ICT Card as to the content and date of a decision on

1. denying, under section 19a (1), mobility notified under section 19a (4), and
2. issuing a Mobile ICT Card under section 19b.

6) Where an ICT Card under section 19 is revoked or withdrawn or not extended or if it expires after the period is reduced in accordance with section 7 (2) sentence 2 is reduced, the Federal Office for Migration and Refugees immediately informs the competent authority of the other member state where the foreigner has made use of the possibility envisaged in Directive 2014/66/EU to carry out part of the intra-corporate transfer in another member state of the European Union, provided the foreigners authority is aware of this. The authority which has reached the decision transmits the necessary data to the Federal Office for Migration and Refugees without delay. The foreigners authorities may transfer the data from the Central Register of Foreigners required for notifications under sentence 1 to the National Contact Point by means of an automated process, using the Central Foreigners Register number. The Federal Office for Migration and Refugees notifies the competent foreigners authority without delay of any case where it has been informed by the competent authority of another member state that a residence title held by a foreigner who is residing in the federal territory under sections 19a or 19b and which comes under the scope of Directive 2014/66 (EU) has expired or been revoked, withdrawn, or not extended.

(5) The Federal Office for Migration and Refugees annually transmits to the competent bodies of the European Union

1. the number

- a) of ICT Cards issued for the first time,
  - b) of Mobile ICT Cards issued for the first time, and
  - c) of notifications under section 19a (1),
2. the nationality of the foreigner in every individual case, and
  3. the period of validity or the duration of the planned stay in every individual case.

## **Chapter 8**

### **Commissioner for Migration, Refugees and Integration**

#### **Section 92**

##### **Office of the Commissioner**

(1) The Federal Government appoints a Commissioner for Migration, Refugees and Integration.

(2) The Commissioner's office is established at one of the supreme federal authorities and may be held by a Member of the German Bundestag. The Commissioner may also hold an office under the Act governing the Legal Status of Parliamentary State Secretaries (Gesetz über die Rechtsverhältnisse der Parlamentarischen Staatssekretäre), without requiring special approval (section 5 (2) sentence 2 of the Act governing Federal Ministers (Bundesministergesetz), section 7 of the Act governing the Legal Status of Parliamentary State Secretaries). In this case, discharge of the Commissioner's duties remains unaffected by the legal status in accordance with the Act governing the Legal Status of Parliamentary State Secretaries.

(3) The personnel and material resources required to perform the duties of the office are to be provided. The budget allocation is to be shown in a separate section of the individual plan of the supreme federal authority under subsection (2) sentence 1.

(4) Except in the case of dismissal, the office tenure ends when a new Bundestag is convened.

#### **Section 93**

##### **Duties**

The Commissioner has the following duties:

1. to promote the integration of migrants who are permanently resident in the federal territory and, in particular, to support the Federal Government in developing its integration policy, also with regard to aspects of labour market policy and social

policy, and to provide ideas for the further development of integration policy in the European context;

2. to develop the necessary conditions for the most harmonious co-existence possible between foreigners and Germans and between different groups of foreigners, to promote mutual understanding and to counteract xenophobia;

3. to counteract unequal treatment of foreigners;

4. to help ensure that the interests of the foreigners resident in the federal territory receive due consideration;

5. to provide information on the legal possibilities for naturalisation;

6. to safeguard the rights of freedom of movement of EU citizens and to submit proposals on further arrangements to safeguard such rights;

7. to encourage and support initiatives to integrate migrants who are permanently resident in the federal territory, including such initiatives at the level of the Länder and local authorities and among social groups;

8. to monitor immigration to the federal territory and to the European Union and the development of immigration to other states;

9. to cooperate in the areas of the duties specified in nos. 1 to 8 with the bodies of the local authorities, Länder, other member states of the European Union and the European Union itself which have the same or similar remits as the Commissioner;

10. to inform the public in the areas of duties specified in nos. 1 to 9.

## **Section 94**

### **Scope of authority**

(1) The Commissioner is involved at the earliest possible juncture in law-making projects of the Federal Government or individual federal ministries and in other matters relating to his or her remit. The Commissioner may submit proposals and forward opinions to the Federal Government. The federal ministries support the Commissioner in discharging his or her duties.

(2) The Commissioner for Migration, Refugees and Integration submits a report to the German Bundestag at least every two years.

(3) If the Commissioner possesses adequate information indicating that federal public bodies are committing breaches within the meaning of section 93 no. 3 or are failing to protect the rights of foreigners in any other way, he or she may require a statement. The Commissioner may attach his or her own assessment to this

statement and forward the statement to the public body and that body's superior authority. The federal bodies are required to furnish information and to answer questions. The public bodies transfer personal data only if the data subject him- or herself has approached the Commissioner to request that he or she take action in relation to the public body on the data subject's behalf, or if the foreigner's consent is proven by any other means.