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Asylum Act

(AsylA)

of 26 June 1998 (Status as of 1 April 2025)

*The Federal Assembly of the Swiss Confederation,
based on Article 121 of the Federal Constitution^{1,2}
and having considered the Federal Council Dispatch of 4 December 1995³,
decrees:*

Chapter 1 Principles

Art. 1 Subject matter

This Act regulates:

- a. the granting of asylum and the legal status of refugees in Switzerland;
- b. the temporary protection of persons in need of protection in Switzerland and their return.

Art. 2 Asylum

¹ In response to an application, Switzerland grants asylum to refugees in accordance with this Act.

² Asylum includes the protection and the legal status granted in Switzerland to persons on the basis of their refugee status. It includes the right to stay in Switzerland.

Art. 3 Definition of the term refugee

¹ Refugees are persons who in their native country or in their country of last residence are subject to serious disadvantages or have a well-founded fear of being exposed to such disadvantages for reasons of race, religion, nationality, membership of a particular social group or due to their political opinions.

AS 1999 2262

¹ SR 101

² Amended by No I 1 of the FA of 1 Oct. 2010 on the Coordination of Asylum and Extradition Proceedings, in force since 1 Apr. 2011 (AS 2011 925; BBl 2010 1467).

³ BBl 1996 II 1

² Serious disadvantages include a threat to life, physical integrity or freedom as well as measures that exert intolerable psychological pressure. Motives for seeking asylum specific to women must be taken into account.

³ Persons who are subject to serious disadvantages or have a well-founded fear of being exposed to such disadvantages because they have refused to perform military service or have deserted are not refugees. The provisions of the Convention of 28 July 1951⁴ relating to the Status of Refugees are reserved.⁵

⁴ Persons who claim grounds based on their conduct following their departure that are neither an expression nor a continuation of a conviction already held in their native country or country of origin are not refugees. The provisions of the Convention of Refugee Convention are reserved.⁶

Art. 4 Granting temporary protection

Switzerland may grant temporary protection to persons in need of protection as long as they are exposed to a serious general danger, in particular during a war or civil war as well as in situations of general violence.

Art. 5 Ban on refoulement

¹ No person may be forced in any way to return to a country where their life, physical integrity or freedom are threatened on any of the grounds stated in Article 3 paragraph 1 or where they would be at risk of being forced to return to such a country.

² The ban on refoulement may not be invoked if there are substantial grounds for the assumption that, because the person invoking it has a legally binding conviction for a particularly serious felony or misdemeanour, they represent a threat to Switzerland's security or are to be considered dangerous to the public.

Art. 5a⁷ Cooperation and coordination with fedpol

¹ The State Secretariat for Migration (SEM) shall work with fedpol within the scope of its statutory duties in order to combat terrorism.

² It shall coordinate the measures for which it is responsible with fedpol's preventive police and administrative measures.

⁴ SR **0.142.30**

⁵ Inserted by No II of the FA of 28 Sept 2012 (Emergency Amendments to the Asylum Act) (AS **2012** 5359; BBl **2010** 4455, **2011** 7325). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁶ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014

(AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁷ Inserted by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS **2021** 565; **2022** 300; BBl **2019** 4751).

Art. 5b⁸ Security duties of the migration authorities

SEM shall within the scope of its duties and responsibilities assess whether foreign nationals pose a threat to Switzerland's internal or external security or international relations. When issuing police alerts, it shall notify fedpol. If necessary, the cantonal authorities concerned may also be notified.

Art. 6⁹ Procedural principles

Procedures are governed by the Administrative Procedure Act of 20 December 1968¹⁰ (APA), the Federal Administrative Court Act of 17 June 2005¹¹ and the Federal Supreme Court Act of 17 June 2005¹², unless this Act provides otherwise.

Chapter 2 Asylum Seekers**Section 1 General Provisions****Art. 6a¹³** Competent authority

¹ SEM decides on granting or refusing to grant asylum as well as on return and removal from Switzerland.¹⁴

² The Federal Council shall identify states in addition to the EU/EFTA states in which on the basis of its findings:¹⁵

- a. there is protection against persecution, as a safe native country or country of origin;
- b. there is efficient protection against refoulement as defined in Article 5 paragraph 1, as a safe third country.

³ It shall periodically review decisions made in terms of paragraph 2.

⁴ It shall provide the competent committees of the Federal Assembly with the list of states in accordance with paragraph 2 letter a for consultation prior to any amendment and at least once each year.¹⁶

⁸ Inserted by Annex 1 No 2 of the FD of 18 Dec. 2020 on the Approval and Implementation of the Exchange of Notes between Switzerland and the EU relating to the Adoption of the Legislation on the Establishment, Operation and Use of the Schengen Information System (SIS), in force since 22 Nov. 2022 (AS **2021** 365; **2023** 16; BBl **2020** 3465).

⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁰ SR **172.021**

¹¹ SR **173.32**

¹² SR **173.110**

¹³ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹⁴ Amended by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS **2021** 565; **2022** 300; BBl **2019** 4751).

¹⁵ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁶ Inserted by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 June 2019 (AS **2019** 1413; BBl **2018** 1685).

Art. 7 Proof of refugee status

¹ Any person who applies for asylum must prove or at least credibly demonstrate their refugee status.

² Refugee status is credibly demonstrated if the authority regards it as proven on the balance of probabilities.

³ Cases are not credible in particular if they are unfounded in essential points or are inherently contradictory, do not correspond to the facts or are substantially based on forged or falsified evidence.

Art. 8 Duty to cooperate

¹ Asylum seekers are obliged to cooperate in establishing the facts. They must in particular:

- a. reveal their identity;
- b.¹⁷ hand over their travel documents and identity papers;
- c. state at the interview why they are seeking asylum;
- d. indicate any evidence in full and submit this without delay or, as far as this seems reasonable, endeavour to acquire such evidence within an appropriate period;
- e.¹⁸ cooperate in providing biometric data;
- f.¹⁹ undergo a medical examination ordered by SEM (Art. 26a);
- g.²⁰ temporarily hand over their electronic data carriers to SEM if their identity, nationality or itinerary can neither be established on the basis of identity documents nor by other means; the processing of personal data from electronic data carriers is governed by Article 8a.

² Asylum seekers may be required to arrange for the translation of foreign-language documents into one of Switzerland's official languages.

³ Asylum seekers who reside in Switzerland are obliged make themselves available to the federal and cantonal authorities during the procedure. They must inform the cantonal or communal authority competent under cantonal legislation (the cantonal authority) of their address and any change to this immediately.

^{3bis} Persons, who fail to cooperate without valid reason or fail to make themselves available for more than 20 days lose their right to have the procedure continued. This also applies to persons who fail for more than 5 days to make themselves available to the asylum authorities in a federal centre without a valid reason. Their applications

¹⁷ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁸ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹⁹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁰ Inserted by No I of the FA of 1 Oct. 2021, in force since 1 April 2025 (AS **2024** 189; BBl **2020** 9287; **2021** 137).

are cancelled without a formal decision being taken. No new application may be filed within three years. The foregoing is subject to compliance with the Refugee Convention of 28 July 1951^{21,22}

4 ...²³

Art. 8a²⁴ Processing of personal data on electronic data carriers

¹ During the asylum procedure, SEM may, for the purpose of establishing the asylum seeker's identity, nationality or travel route, process the asylum seeker's personal data, stored on electronic data carriers, in the cloud or by cloud services, including sensitive personal data as defined in Article 5 letter c of the Data Protection Act of 25 September 2020²⁵ (FADP).

² Personal data pertaining to third parties may only be processed if the processing of the asylum seeker's personal data is insufficient to achieve the objectives under paragraph 1.

³ Electronic data carriers are in particular:

- a. mobile telephones, smartphones, smartwatches and SIM cards;
- b. computers, laptops, notebooks and tablets;
- c. storage media such as USB sticks, SD memory cards, DVDs and CD-ROMs.

⁴ SEM shall evaluate the necessity and proportionality of the procedure under this article for each individual case beforehand.

⁵ Pending analysis, the personal data may be stored on a secure server operated by the Federal Department of Justice and Police (FDJP).

⁶ On being requested to hand over their electronic data carriers to SEM in accordance with Article 8 paragraph 1 letter g, asylum seekers shall be informed of the intended procedure, in particular its purpose, form, the type of data analysed, the methods of analysis and storage, and the details of the deletion of the data.

⁷ The analysis is generally carried out during the preparatory phase (Art. 26). It is carried out by SEM personnel in the presence of the asylum seeker, unless the asylum seeker waives the right to be present or refuses to be present during the analysis. The analysis is recorded in a report. It is carried out on the basis of the data stored temporarily in accordance with paragraph 5 and, if necessary, by examining the electronic data carrier.

²¹ SR **0.142.30**

²² Inserted by No I of the FA of 14 Dec. 2012 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²³ Repealed by No I of the FA of 1 Oct. 2021, with effect from 1 April 2025 (AS **2024** 189; BBl **2020** 9287; **2021** 137).

²⁴ Inserted by No I and para. 1 of No III of the FA of 1 Oct. 2021, in force since 1 April 2025 (AS **2024** 189; BBl **2020** 9287; **2021** 137). See also the transitional provision at the end of the text.

²⁵ SR **235.1**

⁸ After analysis, the personal data stored in accordance with paragraph 5 shall be deleted. All personal data shall be automatically deleted no later than one year after it has been stored.

⁹ All data that have been analysed shall be stored in the asylum file. The asylum seeker may comment on the analysis.

¹⁰ The Federal Council shall specify which data may be collected in accordance with paragraph 1 and shall regulate access and the details of the analysis of the personal data.

Art. 9 Search

¹ The competent authority may search asylum seekers who are accommodated in a federal centre²⁶ or in private or collective accommodation and the possessions they have with them for travel and identity documents as well as dangerous objects, drugs and assets of dubious origin.²⁷

² Asylum seekers may only be searched by members of the same sex.

Art. 10 Seizure and confiscation of documents

¹ SEM²⁸ shall place asylum seekers' travel documents and identity papers on file.²⁹

² Authorities and government offices shall seize and pass on to SEM travel documents, identity papers or other documents which may indicate the identity of person who has applied for asylum in Switzerland. Paragraph 5 applies to recognised refugees.³⁰

³ If the authority or government office seizing documents in accordance with paragraph 2 examine these with regard to their authenticity, SEM must be notified of the results of this examination.

⁴ Forged and falsified documents as well as genuine documents which have been misused may be confiscated by SEM or by the appellate authority or passed on to the agent.

⁵ Passports or identity papers that have been issued to refugees recognised in Switzerland by their native country must be passed on to SEM.³¹

²⁶ Term in accordance with No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991). This change has been made throughout the text.

²⁷ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁸ The name of this administrative unit was changed on 1 Jan. 2015 in application of Art. 16 para. 3 pf the Publications Ordinance of 17 Nov. 2004 (AS **2004** 4937). This change has been made throughout the text.

²⁹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁰ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

³¹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

Art. 11 Evidentiary procedure

The asylum seeker may not express a view on the decision of the authority to conduct an evidentiary procedure to establish the facts of the case.

Art. 12³² Notification and service when living in a canton

¹ Any ruling or communication sent to the last known address of asylum seekers or of their agents becomes legally binding on expiry of the statutory seven-day time-limit for collection, even if the persons concerned do not learn of this until later due to a special agreement with Swiss Post or if the delivery is returned as undeliverable.

² If the asylum seeker is represented by several agents and if these do not indicate a joint address for service, the authority shall give notification of its rulings or direct communications to the first agent authorised by the asylum seeker.

³ Notification may be given of rulings verbally and a summary statement of grounds provided. Verbal notification must be recorded in minutes that include a statement of the grounds. A copy of the minutes must be given to the asylum seeker or to his or her agent.

Art. 12a³³ Notification and service in federal centres

¹ In federal centres, notification of rulings is given and documents are served by hand. If the asylum seeker has disappeared, notification and service are governed by Article 12.

² If an asylum seeker has been assigned a legal representative, notification of rulings shall be given to and documents shall be served on the service provider tasked with providing legal representation. The provider shall inform the legal representative assigned of the notification or service on the same day as it is received.

³ If an asylum seeker has not been assigned a legal representative, notification of rulings shall be given to and documents shall be served on the asylum seeker. An agent for the asylum seeker shall be informed immediately of the notification or service.

⁴ Verbal notification and summary justification are governed by Article 12 paragraph 3.

Art. 13³⁴ Notification and service in procedures at airports and in urgent cases

¹ The competent authorities may also notify persons applying for asylum at the border or at the border control at a Swiss airport (Art. 21–23) of a ruling by providing them with a signed copy of the ruling that has been transmitted by fax. The persons concerned must confirm in writing that they have received the ruling; in the absence of such confirmation, the competent authority shall formally record that the ruling has

³² Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³³ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁴ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

been received. Article 11 paragraph 3 of the APA³⁵ does not apply. Any agent shall be informed of the notification.

² Article 12a applies *mutatis mutandis* to procedures at airports.

³ In other urgent cases, SEM may authorise a cantonal authority, a Swiss diplomatic mission or a consular representation abroad (Swiss representation) to notify those concerned of a ruling by providing them with a signed copy of the ruling that has been transmitted by fax.

Art. 14³⁶ Issues relative to the procedure for foreign nationals

¹ From filing an asylum application to departure from Switzerland in accordance with a legally binding return decision, following the withdrawal of an asylum application, or until the ordering of a substitute measure in the event that removal cannot be enforced, persons seeking asylum may not initiate any procedure for the granting of a residence permit under the law on foreign nationals unless they are entitled to be issued with such a permit.

² The canton may with consent of SEM grant a person for whom it is responsible in terms of this Act a residence permit if:³⁷

- a. the person concerned has been a resident for a minimum of five years in Switzerland since filing the asylum application;
- b. the place of stay of the person concerned has always been known by the authorities;
- c. in light of their advanced stage of integration, there is a case of serious personal hardship; and
- d.³⁸ there are no grounds for revocation under Article 62 paragraph 1 of the Foreign Nationals and Integration Act of 16 December 2005³⁹ (FNIA)⁴⁰.

³ If the canton wishes to take advantage of this opportunity, it shall inform SEM without delay.

⁴ The person concerned shall only have party status during SEM's consent procedure.

⁵ Pending proceedings for the granting of a residence permit become irrelevant with the filing of an asylum application.

³⁵ SR 172.021

³⁶ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2007 (AS 2006 4745 4767; BBl 2002 6845).

³⁷ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

³⁸ Inserted by No I of the FA of 14 Dec. 2012 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325). Amended by No IV 4 of the FA of 19 June 2015 (Amendments to the Law of Criminal Sanctions), in force since 1 Jan. 2018 (AS 2016 1249; BBl 2012 4721).

³⁹ SR 142.20

⁴⁰ The title was amended on 1 Jan. 2019 pursuant to Art. 12 para. 2 of the Publications Act of 18 June 2004 (SR 170.512). This amendment has been made throughout the text.

⁶ Residence permits remain valid and may be extended in accordance with the provisions of the law on foreign nationals.

Art. 15 Intercantonal offices

The cantons may establish intercantonal offices to fulfil the duties assigned to them in accordance with this Act, in particular for the hearing, preparation of the decision and the enforcement of any return decision.

Art. 16 Procedural language

¹ Submissions may be made to the federal authorities in any official language. The Federal Council may require submissions made in federal centres by asylum seekers who are represented by an agent to be in the official language of the canton where the federal centre is located.⁴¹

² SEM rulings or interim rulings are issued in the official language spoken at the asylum seeker's place of residence.⁴²

³ SEM may derogate from paragraph 2 if:

- a. the asylum seeker or his or her legal representative has a good command of a different official language;
- b. this is required to deal with applications efficiently and on time taking account of the number of applications received and the staff situation;
- c. the asylum seeker is allocated to a canton with a different official language by a federal centre.⁴³

Art. 17 Special procedural provisions

¹ The provision of the Administrative Procedure Act of 20 December 1968⁴⁴ on legal holidays does not apply to asylum proceedings.

² The Federal Council shall issue supplementary provisions on the asylum procedure, in particular to give consideration to the special situation of women and minors in the procedure.

^{2bis} Applications for asylum made by unaccompanied minors shall be processed as a priority.⁴⁵

³ The interests of unaccompanied minor asylum seekers are taken care of for the duration of the procedure:

⁴¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁴² Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴³ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁴ SR **172.021**

⁴⁵ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

- a. in a federal centre or at an airport by a person nominated as the trusted person by the legal representative; this person is responsible for coordination with the cantonal authorities; or
- b. by a trusted person to be nominated immediately by the competent cantonal authorities, following allocation to the canton.⁴⁶

^{3bis} If there are indications that an alleged foreign minor has reached the age of majority, SEM may arrange an expert report on that person's age.⁴⁷

⁴ ...⁴⁸

⁵ On notification of a decision under Article 23 paragraph 1, 31a or 111c, SEM shall send the asylum seeker or his or her agent the case files at the same time if enforcement of the return decision has been ordered.⁴⁹

⁶ The Federal Council shall determine the role, responsibilities and duties of the trusted person.⁵⁰

Art. 17a⁵¹ Fees for services

SEM may charge third parties fees and outlays for services.

Art. 17b⁵²

Section 2 Application for Asylum and Entry

Art. 18 Application for asylum

Any statement a person makes indicating that they are seeking protection in Switzerland from persecution elsewhere shall be regarded as an application for asylum.

⁴⁶ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁴⁷ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁸ Inserted by No I of the FA of 16 Dec. 2005 (AS **2006** 4745, BBl **2002** 6845). Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁴⁹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁵⁰ Inserted by Annex No I 2 of the FD of 26 Sept. 2014 (Adoption of R[EU] No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection), in force since 1 July 2015 (AS **2015** 1841; BBl **2014** 2675).

⁵¹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

⁵² Inserted by No I of the FA of 16 Dec. 2005 (AS **2006** 4745 4767; BBl **2002** 6845). Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

Art. 19⁵³ Filing an application

¹ The application for asylum must be filed at a border control point at a Swiss airport, on entry at an open border crossing or in a federal centre. Article 24a paragraph 3 is reserved.

² An application may only be filed by a person who is at the Swiss border or on Swiss territory.

Art. 20⁵⁴**Art. 21⁵⁵** Application for asylum made at the border, following detention in the vicinity of the border, on illegal entry or within Switzerland

¹ Persons who request asylum at the border or following their detention for illegal entry in the vicinity of the border or within Switzerland shall be assigned to a federal centre by the competent authorities. Article 24a paragraph 3 is reserved.⁵⁶

² SEM shall verify its competence to carry out the asylum procedure, taking account of the provisions of the Dublin Association Agreements.

³ The Dublin Association Agreements are listed in Annex 1.

Art. 22⁵⁷ Procedure at the airport

¹ In the case of persons who apply for asylum at a Swiss airport, the competent authority shall record their personal details and take their fingerprints and photographs. It may record additional biometric data and summarily question asylum seekers about their itinerary and the reasons for leaving their country.⁵⁸

^{1bis} SEM shall verify its competence to carry out the asylum procedure, taking account of the provisions of the Dublin Association Agreements.⁵⁹

⁵³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁵⁴ Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁵⁵ Amended by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS **2008** 5407 5405 Art. 2 let. c; BBl **2007** 7937).

⁵⁶ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁵⁷ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

⁵⁸ Amended by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS **2008** 5407 5405 Art. 2 let. c; BBl **2007** 7937).

⁵⁹ Inserted by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS **2008** 5407 5405 Art. 2 let. c; BBl **2007** 7937).

^{1ter} It shall authorise entry if Switzerland is competent to carry out the asylum procedure in accordance with Regulation (EU) No 604/2013⁶⁰ and the asylum seeker:⁶¹

- a. appears to be at risk for any of the grounds stated in Article 3 paragraph 1 or under threat of inhumane treatment in the country from which they have directly arrived; or
- b. establishes that the country from which they have directly arrived would force them, in violation of the ban on refoulement, to return to a country in which they appear to be at risk.⁶²

² If, on the basis of the measures in accordance with paragraph 1 and the verification in accordance with paragraph 1^{bis}, it is not immediately possible to determine whether the requirements for an entry permit in accordance with Article 1^{ter} are fulfilled, entry shall be temporarily denied.⁶³

^{2bis} In order to avoid cases of hardship, the Federal Council may specify the additional cases in which entry will be authorised.⁶⁴

³ If SEM denies entry to asylum seekers, it shall provide them with a place of stay and appropriate accommodation. It bears the cost of the accommodation. Airport operators are responsible for providing reasonably priced accommodation.⁶⁵

^{3bis} The Confederation shall guarantee free counselling and legal representation to persons who submit a request for asylum at a Swiss airport, analogously to the provisions of Articles 102f–102k.⁶⁶

⁴ The asylum seeker must be informed about the decision on denial of entry and on the allocation of a place of stay within two days of filing the application and be notified of their rights of appeal. Prior to this, the asylum seeker shall be granted a hearing in accordance with the law.⁶⁷

⁶⁰ Council Regulation (EU) No 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national; (new version), Amended by OJ L 180 of 29.6.2013, p. 31.

⁶¹ Amended by Annex No I 2 of the FD of 26 Sept. 2014 (Adoption of R[EU] No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection), in force since 1 July 2015 (AS 2015 1841; BBl 2014 2675).

⁶² Inserted by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS 2008 5407 5405 Art. 2 let. c; BBl 2007 7937).

⁶³ Amended by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS 2008 5407 5405 Art. 2 let. c; BBl 2007 7937).

⁶⁴ Inserted by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS 2008 5407 5405 Art. 2 let. c; BBl 2007 7937).

⁶⁵ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325). See also the transitional provisions to this Amendment at the end of the text.

⁶⁶ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁶⁷ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁵ Asylum seekers may be held at the airport or exceptionally at another location for a maximum of 60 days. On the issue of a legally binding return decision, asylum seekers may be transferred to a prison specifically for deportees.

⁶ SEM may thereafter allocate asylum seekers to a canton or a federal centre. In all other cases, the further procedure at the airport is regulated by Articles 23, 29, 36 and 37.⁶⁸

Art. 23⁶⁹ Decisions at the airport

¹ If SEM does not grant entry into Switzerland, it may dismiss or reject the application for asylum.⁷⁰

² Notification must be given of the decision within 20 days of the application being filed. If the procedure lasts longer, SEM shall allocate the asylum seeker to a canton or a federal centre.⁷¹

Section 2a Federal Centres⁷²

Art. 24⁷³ Federal centres

¹ The Confederation shall establish centres, which are managed by SEM. The Confederation shall follow the principles of expediency and cost efficiency.

² The Confederation shall involve the cantons and communes in establishing the centres from an early stage.

³ Asylum seekers shall be accommodated in a federal centre from submission of a request for asylum:

- a. under the accelerated procedure, until they are granted asylum or temporary admission, or until they leave the country;
- b. under the Dublin procedure, until they leave the country;
- c. under the extended procedure, until they are allocated to a canton.

⁴ The maximum duration of stay in federal centres is 140 days. Allocation to a canton shall take place after this period has elapsed.

⁶⁸ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁶⁹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

⁷⁰ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

⁷¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁷² Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁷³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁵ A reasonable extension may be made to this period if it allows the asylum procedure to be concluded promptly or enables removal. The Federal Council shall determine the detailed rules for extending a stay in federal centres beyond the end of this period.

⁶ Allocation to a canton may take place before the end of the period, in particular if there is a large and rapid rise in the number of asylum requests. Distribution and allocation are governed by Article 27.

Art. 24a⁷⁴ Special centres

¹ Asylum seekers who pose a significant danger to public safety and order or who significantly disrupt the operation and security of federal centres shall be accommodated in special centres, which shall be established and managed by SEM or by cantonal authorities. A person accommodated in a special centre shall be issued with a restriction or exclusion order under Article 74 paragraph 1^{bis} FNIA⁷⁵; the procedure is governed by Article 74 paragraphs 2 and 3 FNIA.

² Asylum seekers allocated to a canton may be accommodated under the same conditions in the special centres. The Confederation and the cantons shall share the costs proportionally to their use of the centres.

³ The same procedures as in federal centres under Article 24 may be carried out in special centres; an exception is the submission of a request for asylum.

⁴ The handling of requests for asylum by persons in special centres and the implementation of any return decisions shall be prioritised.

Art. 24b⁷⁶ Operation of the centres

¹ SEM may task third parties with ensuring the safe operation of federal centres. These third parties shall be bound by the same confidentiality requirement as federal personnel.

² The FDJP shall adopt provisions which ensure that procedure is swift and the operation is orderly in the federal centres.⁷⁷

Art. 24c⁷⁸ Temporary use of federal military buildings and installations

¹ Federal military buildings and installations may be used without cantonal or communal authorisation to accommodate asylum seekers for a maximum of three years provided the change in use does not require substantial structural measures and there is no significant change in the occupancy of the installation or building.

⁷⁴ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁷⁵ SR 142.20

⁷⁶ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁷⁷ Amended by No I of the FA of 1 Oct. 2021, in force since 1 April 2025 (AS 2024 189; BBl 2020 9287; 2021 137).

⁷⁸ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 Jan. 2018 (AS 2016 3101, 2017 6171; BBl 2014 7991).

² The following in particular do not constitute substantial structural measures within the meaning of paragraph 1:

- a. normal maintenance work on buildings and installations;
- b. minor structural alterations;
- c. the installation of equipment of secondary importance such as sanitary facilities or water and electricity connections;
- d. movable structures.

³ The same buildings or installations in terms of paragraph 1 may only be used again after a period of two years has elapsed, unless the canton and the commune concerned agree to dispense with this period; the exceptions in accordance with Article 55 are reserved.

⁴ After consulting the canton and commune concerned, the Confederation shall give notice to them of any change in use at the latest 60 days before the accommodation comes into operation.

Art. 24⁷⁹ Accommodation in cantonal and communal centres

¹ Asylum seekers may be accommodated in a centre run by a canton or commune if there are not sufficient places in the federal centres under Article 24. The agreement of the canton concerned is required for accommodating asylum seekers in a communal centre.

² The canton or the commune concerned:

- a. shall ensure suitable accommodation, care and activities for the asylum seekers;
- b. shall provide social assistance or emergency aid;
- c. shall provide medical care and primary school education for children;
- d. shall take the security measures necessary to ensure orderly operation.

³ The canton or the commune concerned may delegate the tasks listed in paragraph 2 to third parties, either partially or in full.

⁴ The provision of social assistance and emergency aid is governed by cantonal law.

⁵ The Confederation shall make federal contributions by agreement to the canton or commune concerned to compensate for the administrative, staff and other costs which arise from fulfilling the tasks listed in paragraph 2. The compensation shall be fixed as a lump sum. In exceptional cases, the contributions may be fixed on the basis of expenditure, especially in the case of non-recurring costs.

⁶ The other provisions concerning federal centres apply *mutatis mutandis* to cantonal and communal centres. In the centres defined in paragraph 1, the same procedures may be carried out as in federal centres as defined in Article 24.

⁷⁹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Art. 24^{e80} Additional measures

The Confederation and the cantons shall take measures to respond promptly to changes in the number of requests for asylum with the resources required, in particular regarding accommodation, staff and finance, or with further measures.

Section 3 Procedure at First Instance**Art. 25⁸¹****Art. 25a⁸²****Art. 26⁸³** Preparatory phase

¹ After the application for asylum has been filed, the preparatory phase begins. Under the Dublin procedure, it lasts no more than 10 days, and under other procedures no more than 21 days.

² In the preparatory phase, SEM records the asylum seekers' personal details and normally takes their fingerprints and photographs. It may collect additional biometric data, prepare reports on a person's age (Art. 17 para. 3^{bis}), verify evidence and travel and identity documents and make enquiries specific to origin and identity.

³ SEM shall inform asylum seekers of their rights and obligations in the asylum procedure. It may question the asylum seekers about their identity and their itinerary, and summarily about the reasons for leaving their country. At this point, SEM may also ask about any commercial human trafficking. It shall discuss with the asylum seeker whether there is sufficient justification for their request for asylum. If this is not the case and if the asylum seeker withdraws the request, the request shall be cancelled without a formal decision being taken and preparations made for the return journey.

⁴ The comparison of data under Article 102a^{bis} paragraphs 2–3, the examination of fingerprints under Article 102a^{ter} paragraph 1 and the request for admission or readmission to the competent state bound by one of the Dublin Association Agreements is made during the preparatory phase.

⁵ SEM may delegate the tasks under paragraph 2 to third parties. Third parties are subject to the same duty of confidentiality as federal personnel.

⁸⁰ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁸¹ Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

⁸² Inserted by No I of the FA of 14 Dec. 2012 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325). Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁸³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Art. 26a⁸⁴ Establishing medical condition

¹ Immediately after filing their application, but at the latest at the interview on the grounds for asylum under Article 36 paragraph 2 or being granted a hearing under Article 36 paragraph 1, asylum seekers must state any serious health problems of relevance to the asylum and return procedures of which they were aware when filing the application for asylum.

² SEM appoints a competent medical specialist to investigate matters contended under paragraph 1. Article 82a applies *mutatis mutandis*. SEM may delegate the required medical duties to a third party.

³ Medical problems that are claimed later or established by another medical specialist may be taken into account in the asylum and return procedures if they are proven. The provision of *prima facie* evidence suffices by way of exception if there are excusable grounds for the delay or proof cannot be provided in the case in question for medical reasons. SEM may call in an independent medical examiner.

Art. 26b⁸⁵ Dublin procedure

The procedure with view to a decision under Article 31a paragraph 1 letter b begins with submission of a request to a Dublin state for the admission or readmission of the asylum seeker. It lasts until the asylum seeker is transferred to the Dublin state responsible or until it is terminated and a decision is taken about implementing an accelerated or extended procedure.

Art. 26c⁸⁶ Accelerated procedure

After the preparatory phase, the accelerated procedure shall commence immediately with an interview on the grounds for asylum or the granting of a hearing under Article 36. The Federal Council shall lay down the individual steps of the procedure.

Art. 26d⁸⁷ Extended procedure

If it is clear after the interview on the grounds for asylum that a decision cannot be made under the accelerated procedure, namely because further investigation is required, the asylum seeker shall be assigned to the extended procedure and be allocated to a canton under Article 27.

⁸⁴ Originally Art. 26^{bis}. Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325). See also the transitional provisions to this Amendment at the end of the text.

⁸⁵ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁸⁶ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁸⁷ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Art. 27 Distribution and allocation to the cantons⁸⁸

¹ The cantons shall reach an agreement on the distribution of asylum seekers.

^{1bis} The special services provided by cantons where federal centres or airports are located shall be appropriately taken into account in the distribution of asylum seekers.⁸⁹

² If the cantons cannot reach an agreement, the Federal Council shall, after hearing them, set out the criteria for distribution in an ordinance.

³ SEM shall allocate asylum seekers to the cantons (cantons of allocation).⁹⁰ In doing so, it shall take account of the interests of the cantons and of the asylum seekers that are worthy of protection. Asylum seekers may only contest the decision on allocation if it violates the principle of family unity.

⁴ Persons whose removal has been ordered and in respect of whom a decision on asylum has become legally binding in a federal centre or whose request for asylum was cancelled in a federal centre⁹¹ shall not be allocated to a canton.

Art. 28 Allocation of a place of stay and accommodation

¹ SEM or the cantonal authorities may allocate asylum seekers to a place of stay.

² They may allocate asylum seekers accommodation, and in particular accommodate them as a group. The cantons shall ensure that this procedure is operated efficiently; they may lay down provisions and take measures.⁹²

Art. 29⁹³ Interview on the grounds for asylum

¹ SEM shall interview asylum seekers on their grounds for asylum; the interview shall take place in a federal centre.

^{1bis} If necessary, it shall call in an interpreter.

² The asylum seekers may be accompanied additionally at their own expense a person and an interpreter of their choice who are not themselves asylum seekers.

³ Minutes shall be taken of the interview. They shall be signed by those participating in the interview.

⁸⁸ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁸⁹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁹⁰ Amended by No I 2 of the FA of 19 Dec. 2003 on the Budgetary Relief Programme 2003, in force since 1 Apr. 2004 (AS **2004** 1633; BBl **2003** 5615).

⁹¹ Inserted by No I 2 of the FA of 19 Dec. 2003 on the Budgetary Relief Programme 2003, (AS **2004** 1633; BBl **2003** 5615). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁹² Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

⁹³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

Art. 29a⁹⁴ Trustworthiness assessment

¹ Before and during their contractual relationship, SEM may have interpreters and translators assessed with regard to their trustworthiness.

² The trustworthiness assessments shall be carried out by the PSS specialist units under Article 31 paragraph 2 of the Information Security Act of 18 December 2020⁹⁵ (ISA). The procedure is governed mutatis mutandis by the provisions of the ISA on basic security screening.

³ If the interpreters or translators undergo personnel security screening in accordance with the ISA at the same time, both procedures shall be combined.

⁴ SEM shall bear the costs of the trustworthiness assessments.

Art. 29b⁹⁶ Cooperation in establishing the circumstances

The Federal Council may enter into agreements with third countries and international organisations on cooperation in establishing the circumstances of cases. It may in particular enter into agreements on a mutual exchange of information in order to establish the motives for seeking asylum of an asylum seeker in his or her native country or country of origin, his or her itinerary and his or her stay in a third country.

Art. 30⁹⁷**Art. 31⁹⁸** Preparation of decisions by the cantons

The FDJP may with the consent of the cantons determine that cantonal officials prepare the decisions on behalf of and under the supervision of SEM.

Art. 31a⁹⁹ SEM decisions

¹ SEM shall normally dismiss an application for asylum if the asylum seeker:

- a. can return to a safe third country under Article 6a paragraph 2 letter b in which he or she was previously resident;
- b. can travel to a third country that is responsible under an international agreement for conducting the asylum and return procedures;
- c. can return to a third country in which he or she was previously resident;

⁹⁴ Inserted by Annex 1 No 3 of the Information Security Act of 18 Dec. 2020, in force since 1 Jan. 2024 (AS **2022** 232; **2023** 650; BBl **2017** 2953).

⁹⁵ SR **128**

⁹⁶ Originally Art. 29a. Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁹⁷ Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁹⁸ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁹⁹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

- d. can continue to a third country for which he or she holds a visa and in which he or she can seek protection;
- e. can continue to a third country in which persons with whom he or she has a close relationship or dependants live;
- f.¹⁰⁰ can be removed to their native country or country of origin under Article 31*b*.

² Paragraph 1 letters c–e do not apply if there are indications in the case in question that the third country does not provide effective protection against refoulement in terms of Article 5 paragraph 1.

³ SEM shall dismiss an application that fails to meet the requirements of Article 18. This applies in particular if the application for asylum is made exclusively for economic or medical reasons.

⁴ In the other cases, SEM shall reject the application for asylum if refugee status has neither been proven nor credibly demonstrated or there are grounds for denying asylum under Articles 53 and 54.¹⁰¹

Art. 31*b*¹⁰² Recognition of asylum and return decisions made in Dublin States

¹ An asylum seeker in respect of whom a negative asylum decision and a legally binding return decision has been issued in a state that is bound by one of the Dublin Association Agreements (Dublin State) may be removed directly to their native country or country of origin in accordance with the requirements of Directive 2001/40/EC¹⁰³ if:

- a. the competent Dublin State has not executed any removals to the asylum seeker's native country or country of origin for a long period; and
- b. it is likely that removal from Switzerland can be executed quickly.

² SEM shall obtain the information required to execute the removal from the competent authorities of the Dublin State concerned and make the necessary arrangements.

¹⁰⁰ Inserted by No I of the FA of 26 Sept. 2014, in force since 1 July 2015 (AS **2015** 1871; BBl **2014** 3373).

¹⁰¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁰² Inserted by No I of the FA of 26 Sept. 2014, in force since 1 July 2015 (AS **2015** 1871; BBl **2014** 3373).

¹⁰³ Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals, OJ L 149 of 2.6.2001, p. 34.

Art. 32–35¹⁰⁴**Art. 35a**¹⁰⁵ Resumption of asylum proceedings under the Dublin procedure

If Switzerland is responsible for assessing an asylum application on the basis of Regulation (EU) No 604/2013¹⁰⁶, the asylum proceedings shall be resumed, even if the asylum application had previously been dismissed.

Art. 36¹⁰⁷ Procedure prior to a decision

¹ If it is decided to dismiss an application under Article 31a paragraph 1, the asylum seeker is granted a hearing. The same applies if the asylum seeker:

- a. deceives the authorities as to his or her identity and this deception is confirmed by the results of the identification procedure or other evidence;
- b. bases his or her application primarily on forged or falsified evidence;
- c. seriously and culpably fails to cooperate in some other way.

² In the other cases, an interview is held under Article 29.

Art. 37¹⁰⁸ Procedural deadlines in the first instance

¹ Notice of decisions under the Dublin procedure (Art. 26b) must be given within three working days after the Dublin state to which the request was directed has agreed to the transfer request under Articles 21 and 23 of Regulation (EU) No 604/2013¹⁰⁹.

² Notice of decisions under the accelerated procedure (Art. 26c) must be given within eight days of the conclusion of the preparatory phase.

³ If there are valid reasons and it is foreseeable that the decision can be taken in a federal centre, the time limits laid down in paragraphs 1 and 2 may be exceeded by a few days.

⁴ Decisions under the extended procedure (Art. 26d) must be taken within two months of the conclusion of the preparatory phase.

¹⁰⁴ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁰⁵ Inserted by No I of the FA of 16 Dec. 2005 (AS **2006** 4745; BBl **2002** 6845). Amended by Annex No I 2 of the FD of 26 Sept. 2014 (Adoption of R[EU] establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national), in force since 1 July 2015 (AS **2015** 1841; BBl **2014** 2675).

¹⁰⁶ See footnote to Art. 22 para. 1^{ter}.

¹⁰⁷ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁰⁸ Amended by No I, paras 4 and 6 in accordance with No IV 2 of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁰⁹ Council Regulation (EU) No 604/2013 of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national; (new version), Amended by OJ L 180 of 29.6.2013, p. 31.

⁵ In other cases, decisions to dismiss an application must be made within five working days and decisions must be made within ten working days of the application being filed.

⁶ SEM shall decide as a priority and immediately if the person seeking asylum is in detention pending extradition on the basis of a request by a state which the asylum seeker is seeking protection from in Switzerland. This also applies when the person has been made subject to an expulsion order under Article 66a or 66a^{bis} of the Criminal Code (SCC)¹¹⁰ or Article 49a or 49a^{bis} of the Military Criminal Code of 13 June 1927¹¹¹ (MCC) or an expulsion order under Article 68 FNIA^{112, 113}

Art. 37a¹¹⁴ Grounds

Decisions to dismiss an application must be accompanied by a summary statement of grounds.

Art. 37b¹¹⁵ SEM processing strategy

SEM shall set out in a processing strategy which applications for asylum shall be processed as a priority. In doing so, it shall pay particular attention to the statutory time limits, the situation in the countries of origin, the evident merits or otherwise of the applications and the conduct of the asylum seekers.

Art. 38¹¹⁶

Art. 39¹¹⁷ Granting temporary protection

If, as a result of questioning at the federal centre or at the interview, it is obvious that asylum seekers belong to a group of persons in need of protection in accordance with Article 66, they shall be granted temporary protection.

Art. 40 Rejection without further investigations

¹ If, as a result of the interview, it is obvious that asylum seekers are unable to prove or credibly demonstrate their refugee status and there are no grounds preventing their removal, the application shall be rejected without further investigations.

¹¹⁰ SR 311.0

¹¹¹ SR 321.0

¹¹² SR 142.20

¹¹³ Amended by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS 2021 565; 2022 300; BBl 2019 4751).

¹¹⁴ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

¹¹⁵ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

¹¹⁶ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

¹¹⁷ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

² The decision must at least be summarily substantiated.¹¹⁸

Art. 41¹¹⁹

Art. 41a¹²⁰ Coordination with the extradition proceedings

If the person seeking asylum is the subject of an application for extradition in accordance with the Mutual Assistance Act of 20 March 1981¹²¹, SEM shall consult the files on the extradition proceedings when deciding on the asylum application.

Section 4 Status of Asylum Seekers during the Procedure

Art. 42¹²² Stay during the asylum procedure

Any person who applies for asylum in Switzerland may stay in Switzerland until the conclusion of the procedure.

Art. 43 Authorisation for gainful employment

¹ While staying in federal centres, asylum seekers may not be gainfully employed.¹²³

^{1bis} The additional requirements for authorising gainful employment are governed by the Federal Act of 16 December 2005¹²⁴ on Foreign Nationals (FNIA).¹²⁵

² If an application for asylum is rejected in a legally binding decision, authorisation for gainful employment expires on expiry of the period specified for departure, even if an extraordinary legal remedy has been applied for and the enforcement of removal has been suspended. If SEM extends the departure period as part of the ordinary procedure, gainful employment may continue to be authorised. Gainful employment may not be authorised during proceedings under Article 111c.¹²⁶

³ The FDJP may, in agreement with the Federal Department of Economic Affairs, Education and Research authorise the cantons to extend permits for certain categories

¹¹⁸ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

¹¹⁹ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

¹²⁰ Inserted by No I 1 of the FA of 1 Oct. 2010 on the Coordination of Asylum and Extradition Proceedings, in force since 1 Apr. 2011 (AS 2011 925; BBl 2010 1467).

¹²¹ SR 351.1

¹²² Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

¹²³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

¹²⁴ SR 142.20

¹²⁵ Inserted by Annex No II 1 of the FA of 16 Dec. 2005 on Foreign Nationals, in force since 1 Jan. 2008 (AS 2007 5437, 2008 5405; BBl 2002 3709).

¹²⁶ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

of persons to be gainfully employed beyond the expiry of the departure period, provided special circumstances justify this. This also applies *mutatis mutandis* to asylum proceedings under Article 111c.¹²⁷

^{3bis} The Federal Council may issue a temporary ban on employment for certain groups of asylum seekers.¹²⁸

⁴ Asylum seekers who are entitled to be gainfully employed in accordance with the immigration provisions or who participate in occupational programmes are not subject to the ban on employment.¹²⁹

Section 5

Enforcement of Removal and Alternative Measures¹³⁰

Art. 44¹³¹ Removal and temporary admission

¹ If SEM rejects or dismisses the application for asylum, it shall normally issue a return ruling and enforce removal from Switzerland; however, in doing so it shall take account of the principle of family unity. In addition, Articles 83 and 84 FNIA¹³² apply to the enforcement of the removal.

Art. 44a¹³³

Art. 45 Return ruling¹³⁴

¹ The return ruling shall indicate:

- a.¹³⁵ subject to international agreements, in particular the Dublin Association Agreements¹³⁶, the obligation of the asylum seeker to leave Switzerland and the Schengen area and the obligation to travel to the country of origin or to another state outside the Schengen area that will accept the person concerned;

¹²⁷ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹²⁸ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹²⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹³⁰ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹³¹ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹³² SR **142.20**

¹³³ Inserted by No I 2 of the FA of 19 Dec. 2003 on the 2003 Budgetary Relief Programme (AS **2004** 1633; BBl **2003** 5615). Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹³⁴ Amended by Art. 2 No 2 of the FD of 18 June 2010 on the Adoption of the EC Directive on the Return of Illegal Immigrants (Directive 2008/115/EC), in force since 1 Jan. 2011 (AS **2010** 5925; BBl **2009** 8881).

¹³⁵ Amended by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS **2022** 459; BBl **2022** 7105).

¹³⁶ These agreements are listed in Annex 1.

- b.¹³⁷ subject to international agreements, in particular the Dublin Association Agreements, the time by which the asylum seeker must have left Switzerland and the Schengen area; where temporary admission has been granted, the departure date is determined when the decision is made to revoke temporary admission;
- c.¹³⁸ the coercive measures that may be applied;
- d. if applicable, the designation of the states to which the asylum seeker may not be returned;
- e. if applicable, the ordering of an alternative measure instead of enforcing the removal order;
- f. the designation of the canton responsible for the enforcement of the removal order or the alternative measure.

² On issuing the return ruling, an appropriate departure period of between seven and thirty days must be set. The period is seven days in the case of decisions taken under the accelerated procedure. Under the extended procedure, the period is between seven and thirty days.¹³⁹

^{2bis} A longer period must be set or the departure period extended if special circumstances such as the family situation, health problems or a long period of stay so require.¹⁴⁰

³ The return decision must be enforced immediately or a departure period of less than seven days may be set where the person concerned is being removed under the Dublin Association Agreements.¹⁴¹

⁴ The asylum seeker must be provided with an information sheet with an explanation of the return ruling.¹⁴²

¹³⁷ Amended by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS **2022** 459; BBl **2022** 7105).

¹³⁸ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹³⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁴⁰ Amended by Art. 2 No 2 of the FD of 18 June 2010 on the Adoption of the EC Directive on the Return of Illegal Immigrants (Directive 2008/115/EC), in force since 1 Jan. 2011 (AS **2010** 5925; BBl **2009** 8881).

¹⁴¹ Inserted by Art. 2 No 2 of the FD of 18 June 2010 on the Adoption of the EC Directive on the Return of Illegal Immigrants (Directive 2008/115/EC) (AS **2010** 5925; BBl **2009** 8881). Amended by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS **2022** 459; BBl **2022** 7105).

¹⁴² Inserted by Art. 2 No 2 of the FD of 18 June 2010 on the Adoption of the EC Directive on the Return of Illegal Immigrants (Directive 2008/115/EC), in force since 1 Jan. 2011 (AS **2010** 5925; BBl **2009** 8881).

Art. 45a¹⁴³ Alert in the Schengen Information System

¹ The data on third-country nationals against whom a return decision in terms of Directive 2008/115/EC¹⁴⁴ has been issued in accordance with Articles 44 and 45 of this Acts shall be recorded by SEM in the Schengen Information System (SIS).

² The removal of refugees shall be recorded in the SIS by the authority that has issued the return decision or expulsion order under Article 64 or 68 FNIA¹⁴⁵.

³ Articles 68b–68e FNIA apply *mutatis mutandis*.

Art. 46 Enforcement by the cantons

¹ The canton of allocation is obliged to enforce the return ruling.¹⁴⁶

^{1bis} During an asylum seeker's stay in a federal centre, the canton responsible for enforcing the removal is the canton where the centre is located. For persons defined under Article 27 paragraph 4, the canton concerned remains responsible for enforcing removal even after the person's stay in a federal centre. The Federal Council may in special circumstances allow for a canton other than the canton concerned to be allocated this responsibility.¹⁴⁷

^{1ter} In the case of a multiple request under Article 111c, the canton responsible under the previous asylum and return procedure remains responsible for removal and administering emergency care.¹⁴⁸

² If enforcement provides impossible for technical reasons, the canton shall apply to SEM for a system for monitoring the enforcement of removal.¹⁴⁹

³ SEM supervises enforcement and, working with the cantons, shall establish a system for monitoring the enforcement of removal.¹⁵⁰

¹⁴³ Inserted by Annex 1 No 2 of the FD of 18 Dec. 2020 on the Approval and Implementation of the Exchange of Notes between Switzerland and the EU relating to the Adoption of the Legislation on the Establishment, Operation and Use of the Schengen Information System (SIS), in force since 22 Nov. 2022 (AS **2021** 365; **2023** 16; BBl **2020** 3465).

¹⁴⁴ Directive 2008/115/EC of the European Parliament and the Council of 16 Dec. 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, last amended by OJ L 348 of 24.12.2008, p. 98.

¹⁴⁵ SR **142.20**

¹⁴⁶ Amended by No I 2 of the FA of 19 Dec. 2003 on the 2003 Budgetary Relief Programme, in force since 1 Apr. 2004 (AS **2004** 1633 1647; BBl **2003** 5615).

¹⁴⁷ Inserted by No I 2 of the FA of 19 Dec. 2003 on the Budgetary Relief Programme 2003, (AS **2004** 1633; BBl **2003** 5615). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁴⁸ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁴⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁵⁰ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 Oct. 2016 (AS **2016** 3101; BBl **2014** 7991).

Art. 47¹⁵¹ Duty to cooperate with the return procedure and measures where the place of stay is unknown

¹ Once an enforceable return decision has been issued, the persons concerned are obliged to cooperate in obtaining valid travel documents.

² If the identity of the person concerned has not been established and if travel documents cannot reasonably be obtained by any other means, SEM may require the person concerned to hand over electronic data carriers after the decision has become legally enforceable.

³ The analysis of the personal data and the evaluation of the procedure are based on Article 8a. Personal data required to enforce return may be forwarded to the authorities of the competent canton.

⁴ If asylum seekers subject to a return decision avoid enforcement of removal by concealing their place of stay, the competent canton or SEM may arrange for their registration in the police system for tracing missing persons.

Art. 48 Cantonal cooperation

If asylum seekers subject to a return decision are not located in the canton responsible for the enforcing removal, the canton of stay shall provide administrative assistance on request. Administrative assistance includes in particular delivering the person concerned to the competent canton or deporting them directly.

Chapter 3 Granting of Asylum and Legal Status of Refugees

Section 1 Granting of Asylum

Art. 49 Principle

Asylum is granted to persons if they have refugee status and there are no grounds for denying asylum.

Art. 50 Country of second asylum

Refugees who have been admitted as such to another state may be granted asylum if they have resided in Switzerland in a law-abiding manner and without interruption for a minimum of two years.

Art. 51 Family asylum

¹ Spouses or registered partners of refugees and their minor children shall be recognised as refugees and granted asylum provided there are no special circumstances that preclude this.¹⁵²

¹⁵¹ Amended by No I of the FA of 1 Oct. 2021, in force since 1 April 2025 (AS **2024** 189; BBl **2020** 9287; **2021** 137). See also the transitional provision at the end of the text.

¹⁵² Amended by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

^{1bis} If, during the asylum procedure, SEM has reason to believe that there are grounds under Article 105 number 5 or 105a of the Civil Code (CC)¹⁵³ for the marriage to be annulled, they shall report this to the competent authority under Article 106 CC.¹⁵⁴ The procedure shall be suspended until this authority makes its decision. If the authority raises an action for annulment, the request is suspended until a legally binding judgment has been issued. If the refugee's spouse is abroad, the report to the competent authority shall be made and the proceedings suspended after the spouse enters Switzerland.^{155 156}

2 ...¹⁵⁷

³ Children born in Switzerland to refugee parents shall be recognised as refugees, provided if there are no special circumstances that preclude this.¹⁵⁸

⁴ If the persons entitled under paragraphs 1 were separated during flight and are now abroad, their entry must be authorised on request.¹⁵⁹

5 ...¹⁶⁰

Art. 52

1 ...¹⁶¹

2 ...¹⁶²

Art. 53¹⁶³ Unworthiness of refugee status

Refugees shall not be granted asylum if:

- a. they are unworthy of it due to serious misconduct;
- b. they have violated or endanger Switzerland's internal or external security; or

¹⁵³ SR **210**

¹⁵⁴ Amended by Annex No 2 of the FA of 14 June 2024 (Measures against Marriages involving Minors), in force since 1 Jan. 2025 (AS **2024** 590; BBl **2023** 2127).

¹⁵⁵ Fourth sentence inserted by Annex No 2 of the FA of 14 June 2024 (Measures against Marriages involving Minors), in force since 1 Jan. 2025 (AS **2024** 590; BBl **2023** 2127).

¹⁵⁶ Inserted by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

¹⁵⁷ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁵⁸ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹⁵⁹ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁶⁰ Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2007 (AS **2006** 4745 4767; BBl **2002** 6845).

¹⁶¹ Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹⁶² Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

¹⁶³ Amended by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

- c. they have been made subject to an expulsion order under Article 66a or 66a^{bis} SCC¹⁶⁴ or Article 49a or 49a^{bis} MCC¹⁶⁵.

Art. 54 Subjective post-flight grounds

Refugees shall not be granted asylum if they became refugees in accordance with Article 3 only by leaving their native country or country of origin or due to their conduct after their departure.

Art. 55 Exceptional situations

¹ In times of increased international tension, in the event of the outbreak of an armed conflict in which Switzerland is not involved, or in the event of an exceptionally large influx of asylum seekers in times of peace, Switzerland shall grant asylum to refugees as long as the circumstances permit.

² The Federal Council shall take the required measures. It may, in derogation from the law, restrict the requirements for granting asylum and the legal status of the refugees and issue special procedural provisions. It shall submit a report on this to the Federal Assembly immediately.

³ If Switzerland's capacity to permanently accommodate refugees is exceeded, asylum may only be granted temporarily until those admitted are able to go elsewhere.

⁴ If it becomes apparent that a considerable number of refugees are coming to Switzerland, the Federal Council shall seek rapid and effective international cooperation with a view to their reallocation to other countries.

Section 2 Asylum for Groups

Art. 56 Decision

¹ A Federal Council decision is required for asylum to be granted to large groups of refugees. The Department shall decide in the case of smaller groups of refugees.

² SEM shall determine who belongs to such a group.

Art. 57 Allocation and initial integration

¹ For the allocation of the refugees to the cantons, Article 27 applies.

² The Confederation may in the interests of initial integration temporarily allocate groups of refugees to accommodation and, in particular house them in an initial integration centre.

¹⁶⁴ SR 311.0

¹⁶⁵ SR 321.0

Section 3 Legal Status of Refugees

Art. 58 Principle

The legal status of refugees in Switzerland is governed by the law applicable to foreign nationals, unless special provisions, in particular of this Act and of the Refugee Convention of 28 July 1951¹⁶⁶, apply.

Art. 59¹⁶⁷ Effect

Persons to whom Switzerland has granted asylum or who fulfil the requirements for refugee status are deemed in their relations with all federal and cantonal authorities to be refugees within the meaning of this Act and the Convention of 28 July 1951¹⁶⁸ relating to the Status of Refugees.

Art. 60¹⁶⁹ Regulation of stay

¹ Persons to whom asylum has been granted have the right to a residence permit in the canton in which they legally stay.

² The granting of a permanent residence permit is governed by Article 34 FNIA^{170, 171}

Art. 61¹⁷² Gainful employment

¹ Persons to whom Switzerland has granted asylum or whom Switzerland has temporarily admitted as refugees and refugees subject to a legally enforceable expulsion order under Article 66a or 66a^{bis} SCC¹⁷³ or Article 49a or 49a^{bis} MCC¹⁷⁴ or a legally enforceable expulsion order under Article 68 FNIA¹⁷⁵ may be gainfully employed anywhere in Switzerland. In the case of salaried employment, the salary and employment conditions customary for the location, profession and sector must be complied with (Art. 22 FNIA).¹⁷⁶

¹⁶⁶ SR 0.142.30

¹⁶⁷ Amended by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS 2016 2329; BBl 2013 5975).

¹⁶⁸ SR 0.142.30

¹⁶⁹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

¹⁷⁰ SR 142.20

¹⁷¹ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

¹⁷² Amended by Annex No 1 of the FA of 16 Dec. 2016 (Integration), in force since 1 Jan. 2019 (AS 2017 6521, 2018 3171; BBl 2013 2397, 2016 2821).

¹⁷³ SR 311.0

¹⁷⁴ SR 321.0

¹⁷⁵ SR 142.20

¹⁷⁶ Amended by No IV of the FA of 17 Dec. 2021 (Restrictions on Travelling Abroad and Modification of Temporary Admission Status), in force since 1 June 2024 (AS 2024 188; BBl 2020 7457).

² The employer must give notice of the start and end of salaried employment and any change of job to the cantonal authority responsible for the place of work in advance. In the case of self-employed work, notice must be given by the person concerned. The procedure for giving notice is governed by Article 85a paragraphs 2–6 FNIA.¹⁷⁷

³ Paragraph 2 does not apply to recognised refugees who hold a permanent residence permit.

Art. 62 Medical examinations

Persons to whom Switzerland has granted asylum shall be permitted to sit federal medical examinations; the Federal Department of Home Affairs shall determine the requirements.

Section 4 Termination of Asylum

Art. 63 Revocation

¹ SEM shall revoke asylum or deprive a person of refugee status:

- a. if the foreign national concerned has fraudulently obtained asylum or refugee status by providing false information or by concealing essential facts;
- b. if any of the grounds stated in Article 1 letter C numbers 1–6 of the Refugee Convention of 28 July 1951¹⁷⁸ apply.

^{1bis} It shall deprive a person of refugee status if the refugee concerned travels to his or her native country or country of origin. It shall not deprive a person of refugee status if the person concerned credibly demonstrates that the journey to his or her native country or country of origin was made under duress.¹⁷⁹

² SEM shall revoke asylum if a refugee:

- a. has violated or represents a threat to Switzerland's internal or external security or has committed a particularly serious criminal offence;
- b. has failed to comply with a travel ban under Article 59c paragraph 1 second sentence FNIA^{180, 181}

³ The revocation of asylum or the deprivation of refugee status applies in relation to all federal and cantonal authorities.

¹⁷⁷ Amended by No II of the FA of 17 Dec. 2021 (Restrictions on Travelling Abroad and Modification of Temporary Admission Status), in force since 1 June 2024 (AS **2024** 188; BBl **2020** 7457).

¹⁷⁸ SR **0.142.30**

¹⁷⁹ Inserted by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 June 2019 (AS **2019** 1413; BBl **2018** 1685).

¹⁸⁰ SR **142.20**

¹⁸¹ Amended by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 April 2020 (AS **2019** 1413, **2020** 881; BBl **2018** 1685).

⁴ The revocation of asylum or the deprivation of refugee status does not extend to the spouse or the children of the person concerned.¹⁸²

Art. 64 Expiry

¹ Asylum in Switzerland shall expire if:

- a.¹⁸³ the refugee has lived more than one year abroad;
- b. the refugee has been granted asylum or permission to stay permanently in another country;
- c. the refugee renounces their refugee status;
- d.¹⁸⁴ removal or expulsion has been enforced;
- e.¹⁸⁵ an expulsion order under Article 66a or 66a^{bis} SCC¹⁸⁶ or Article 49a or 49a^{bis} MCC¹⁸⁷ has become legally enforceable.

² SEM may extend the deadline in accordance with paragraph 1 letter a under special circumstances.

³ Refugee status and asylum shall expire if the foreign national acquires Swiss nationality in accordance with Article 1 number C letter 3 of the Refugee Convention of 28 July 1951^{188, 189}

Art. 65¹⁹⁰ Removal or expulsion

Refugees may be expelled only if they endanger Switzerland's internal or external security or have seriously violated public order, subject to Article 5. The removal or expulsion of refugees is governed by Article 64 FNIA¹⁹¹ in conjunction with Article 63 paragraph 1 letter b and Article 68 FNIA. Article 5 is reserved.

¹⁸² Amended by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

¹⁸³ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁸⁴ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁸⁵ Inserted by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

¹⁸⁶ SR **311.0**

¹⁸⁷ SR **321.0**

¹⁸⁸ SR **0.142.30**

¹⁸⁹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹⁹⁰ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

¹⁹¹ SR **142.20**

Chapter 4

Granting Temporary Protection and the Legal Status of Persons in Need of Protection

Section 1 General Provisions

Art. 66 Policy decision of the Federal Council

¹ The Federal Council shall decide whether and according to which criteria Switzerland will grant temporary protection to groups of persons in need of protection in accordance with Article 4.

² Before doing so, it shall consult representatives of the cantons, the charitable organisations and if need be additional non-governmental organisations as well as the Office of the United Nations High Commissioner for Refugees.

Art. 67 Foreign policy measures

¹ The granting of temporary protection as well as measures and assistance in the native country or country of origin or in the region of origin of the persons in need of protection should complement one another as far as possible.

² The Confederation shall work with the native country or country of origin, other host countries and international organisations to create the conditions for the safe return of the persons in need of protection.

Section 2 Procedure

Art. 68 Persons in need of protection abroad

¹ SEM shall define the group of persons in need of protection in detail and decide who will be granted temporary protection in Switzerland. In doing so, it shall take account of the principle of family unity.

² The decision on granting temporary protection may only be contested on the grounds that it violates the principle of family unity.

³ ...¹⁹²

Art. 69 Persons in need of protection at the border or in Switzerland

¹ Articles 18 and 19 and 21–23 apply *mutatis mutandis* to applications filed at the border or in Switzerland by persons in need of protection.¹⁹³

² If there is no obvious persecution in terms of Article 3, SEM shall, following questioning at the federal centre in accordance with Article 26, determine who belongs to

¹⁹² Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

¹⁹³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

a group of persons in need of protection and who will be granted temporary protection in Switzerland. There is no appeal against the decision on whether to grant temporary protection.

³ If a person is granted temporary protection, the procedure for any application for recognition as a refugee shall be suspended.

⁴ If SEM intends to refuse temporary protection, it shall continue the procedure for recognition as a refugee or the return proceedings immediately.

Art. 70 Resumption of the procedure for recognition as a refugee

Persons in need of protection who have filed an application for recognition as a refugee may request the resumption of the procedure for recognition as a refugee at the earliest five years following the decision to suspend the procedure in accordance with Article 69 paragraph 3. On the resumption of this procedure, temporary protection shall be revoked.

Art. 71 Granting temporary protection to families

¹ Spouses of persons in need of protection and their minor children shall be granted temporary protection if:¹⁹⁴

- a. they apply for protection together and there are no grounds for rejection in terms of Article 73;
- b. the family was separated by events such as those cited in Article 4, wishes to be reunited in Switzerland and there are no special circumstances that preclude this.

^{1bis} If, during the procedure to grant temporary protection, SEM has reason to believe that there are grounds under Article 105 number 5 or 105a CC¹⁹⁵ for the marriage to be annulled, they shall report this to the competent authority under Article 106 CC.¹⁹⁶ The request for reunification shall be suspended until this authority makes its decision. If the authority raises an action for annulment, the request is suspended until a legally binding judgment has been issued. If the spouse of the person in need of protection is abroad, the report to the competent authority shall be made and the proceedings suspended after the spouse enters Switzerland.^{197 198}

² Children born in Switzerland to persons in need of protection shall also be granted temporary protection.

³ If the persons entitled to protection are abroad, their entry must be authorised.

¹⁹⁴ Amended by No I 2 of the FA of 15 June 2012 on Measures against Forced- Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

¹⁹⁵ SR **210**

¹⁹⁶ Amended by Annex No 2 of the FA of 14 June 2024 (Measures against Marriages involving Minors), in force since 1 Jan. 2025 (AS **2024** 590; BBl **2023** 2127).

¹⁹⁷ Fourth sentence inserted by Annex No 2 of the FA of 14 June 2024 (Measures against Marriages involving Minors), in force since 1 Jan. 2025 (AS **2024** 590; BBl **2023** 2127).

¹⁹⁸ Inserted by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

⁴ The Federal Council shall regulate the requirements for family reunion in Switzerland in other cases.

Art. 72¹⁹⁹ Procedure

In addition, the provisions of Sections 1, 2a and 3 of Chapter 2 apply *mutatis mutandis* to the procedure in accordance with Articles 68, 69 and 71. The provisions of Chapter 8 apply *mutatis mutandis* to the procedures laid down in Articles 69 and 71.

Art. 73²⁰⁰ Grounds for rejection

Temporary protection shall not be granted if the person in need of protection:

- a. has committed an act falling within the terms of Article 53;
- b. has violated or is a serious threat to public security; or
- c. is subject to a legally enforceable expulsion order under Article 66a or 66a^{bis} SCC²⁰¹ or Article 49a or 49a^{bis} MCC²⁰².

Section 3 Legal Status

Art. 74 Regulation of stay

¹ Persons in need of protection shall reside in the canton to which they have been allocated.

² If the federal council has not yet revoked temporary protection within five years, the persons in need of protection shall receive from this canton a residence permit limited until the revocation of temporary protection.

³ Ten years after the granting of temporary protection, the canton may grant persons in need of protection a permanent residence permit.

Art. 75 Authorisation for gainful employment

¹ For the first three months after entry into Switzerland, persons in need of protection may not be gainfully employed. Thereafter, the requirements for authorising gainful employment are governed by the FNIA^{203,204}

¹⁹⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁰⁰ Amended by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

²⁰¹ SR **311.0**

²⁰² SR **321.0**

²⁰³ SR **142.20**

²⁰⁴ Amended of the second sentence in accordance with Annex No II 1 of the FA of 16 Dec. 2005 on Foreign Nationals, in force since 1 Jan. 2008 (AS **2007** 5437, **2008** 5405; BBl **2002** 3709).

² The Federal Council may stipulate more favourable conditions for gainful employment.

³ Work permits already issued shall remain valid.

⁴ Persons in need of protection who are entitled to be gainfully employed in accordance with provisions laid down by the immigration authorities or who participate in occupational programmes are not subject to the ban on employment.²⁰⁵

Section 4 Termination of the Temporary Protection and Return

Art. 76 Withdrawal of temporary protection and removal

¹ After consultation with representatives of the cantons, the charitable organisations and, if required, other non-governmental organisations, the Office of the United High Commissioner for Refugees as well as with international organisations, the Federal Council shall determine when the temporary protection for certain groups of persons in need of protection will be withdrawn; it shall make the decision in a general ruling.

² SEM shall grant the persons affected by the decision in accordance with paragraph 1 the right to a hearing.

³ If as a result of the hearing, indications of persecution are revealed, an interview shall be held in accordance with Article 29.²⁰⁶

⁴ If, having been granted the right to a hearing, the person concerned does not provide an opinion, SEM shall issue a return decision. For the enforcement of the removal, Articles 10 paragraph 4 and 46–48 of this Act as well as Article 71 of the FNIA²⁰⁷ apply *mutatis mutandis*.²⁰⁸

⁵ The provisions of Section 1a. of Chapter 8 apply *mutatis mutandis* to paragraphs 2–4.²⁰⁹

Art. 77 Return

The Confederation shall support international efforts to organise the return of persons in need of protection.

Art. 78 Revocation

¹ SEM may revoke temporary protection if:

²⁰⁵ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁰⁶ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁰⁷ SR **142.20**

²⁰⁸ Amended of the second sentence in accordance with Annex No II 1 of the FA of 16 Dec. 2005 on Foreign Nationals, in force since 1 Jan. 2008 (AS **2007** 5437, **2008** 5405; BBl **2002** 3709).

²⁰⁹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

- a. it has been fraudulently obtained by providing false information or by concealing essential facts;
- b. the person in need of protection has violated or endangered Switzerland's internal or external security or is guilty of serious misconduct;
- c. since being granted temporary protection, the person in need of protection has resided repeatedly or for an extended period of time in their native country or country of origin;
- d. the person in need of protection has a legal right of residence in a third country where they may return.

² Temporary protection shall not be revoked if the person in need of protection travels to their native country or country of origin with the consent of the competent authorities.

³ The revocation of temporary protection does not extend to the spouse and the children, unless it is shown they are not in need of protection.²¹⁰

⁴ If it is intended to revoke temporary protection, an interview shall normally be held in accordance with Articles 29. The provisions of section 1a. of Chapter 8 apply mutatis mutandis.²¹¹

Art. 79²¹² Expiry

Temporary protection expires if the person in need of protection:

- a. has transferred the focus of their living conditions abroad;
- b. has renounced temporary protection;
- c. has received a permanent residence permit in accordance with the FNIA²¹³; or
- d.²¹⁴ is made subject to a legally enforceable expulsion order under Article 66a or 66a^{bis} SCC²¹⁵ or Article 49a or 49a^{bis} MCC²¹⁶ or a legally enforceable expulsion order under Article 68 FNIA²¹⁷.

²¹⁰ Amended by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

²¹¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²¹² Amended by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

²¹³ SR **142.20**

²¹⁴ Amended by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS **2021** 565; **2022** 300; BBl **2019** 4751).

²¹⁵ SR **311.0**

²¹⁶ SR **321.0**

²¹⁷ SR **142.20**

Art. 79a²¹⁸ Registered partnership

The provisions of Chapters 3 and 4 on spouses apply *mutatis mutandis* to registered partnerships of same-sex couples.

Chapter 5 Social Assistance and Emergency Aid²¹⁹**Section 1****Provision of Social Assistance, Emergency Aid, Child Allowances and Primary Education²²⁰****Art. 80²²¹** Responsibility in federal centres

¹ The Confederation shall provide social assistance or emergency aid to persons staying in Switzerland on the basis of this Act and who are accommodated in a federal centre or in an initial integration centre for groups of refugees. It shall work with the canton concerned to ensure that healthcare and primary education are provided. It may delegate these tasks entirely or in part to third parties. Articles 81–83a apply *mutatis mutandis*.

² SEM shall reimburse third party contractors in respect of the administrative and staff costs that they incur in fulfilling their tasks under paragraph 1. The payments shall be determined at a flat rate. By way of exception, the payments may be based on the actual costs, in particularly when reimbursing individual non-recurring costs.

³ SEM may arrange with the canton concerned that it enter into a contract for compulsory health insurance. SEM shall reimburse the costs of the health insurance premiums, deductible and franchise.

⁴ The canton concerned shall organise primary education for asylum seekers of school age who are accommodated in a federal centre. The lessons shall be provided in the centres as required. The Confederation may subsidise the provision of primary school education. The payments shall be determined at a flat rate. By way of exception, the payments may be based on the actual costs, in particularly when reimbursing individual non-recurring costs.

Art. 80a²²² Responsibility in the cantons

The cantons of allocation shall provide social assistance or emergency aid for persons staying in Switzerland on the basis of this Act. Persons who have not been allocated

²¹⁸ Inserted by No I 2 of the FA of 15 June 2012 on Measures against Forced Marriages, in force since 1 July 2013 (AS **2013** 1035; BBl **2011** 2185).

²¹⁹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²²⁰ Amended by No I of the FA of 25 Sept. 2015, in force since 1 Oct. 2016 (AS **2016** 3101; BBl **2014** 7991).

²²¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 Oct. 2016 (AS **2016** 3101; BBl **2014** 7991).

²²² Inserted by No I of the FA of 25 Sept. 2015, in force since 1 Oct. 2016 (AS **2016** 3101; BBl **2014** 7991).

to a canton shall be granted emergency aid by the canton that has been designated responsible for enforcing removal. The cantons may delegate the fulfilment of these tasks entirely or in part to third parties.

Art. 81²²³ Right to social assistance benefits or to emergency aid

Persons who are staying in Switzerland on the basis of this Act and who are unable to maintain themselves from their own resources shall receive the necessary social assistance benefits unless third parties are required to support them on the basis of a statutory or contractual obligation, or may request emergency aid.

Art. 82²²⁴ Social benefits and emergency aid

¹ The payment of social assistance benefits and emergency aid is regulated by cantonal law. Persons subject to a legally binding return decision for which a departure period has been fixed are excluded from receiving social assistance.²²⁵

² For the duration of an extraordinary appeal or of asylum proceedings under Article 111c, persons under paragraph 1 and asylum seekers shall on application receive emergency aid. This is also the case if enforcement of the removal is suspended.²²⁶

^{2bis} The cantons may pay social assistance benefits to persons under paragraphs 1 and 2 for the duration of a general moratorium on decision-making and enforcement and if the FDJP so provides. Payments are governed by Article 88 paragraph 2.²²⁷

³ For asylum seekers and persons in need of protection who do not hold a residence permit, support shall be provided in the form of non-cash benefits wherever possible. The level of support is less than that given to the local population.²²⁸

^{3bis} The particular needs of unaccompanied minor asylum seekers, families with children and persons requiring care must be met if possible when providing accommodation.²²⁹

⁴ Emergency aid must wherever possible be provided in the form of non-cash benefits at the locations indicated by the cantons or the Confederation. The level of support is less than that of the social assistance paid to asylum seekers and persons in need of protection who do not have a residence permit.²³⁰

²²³ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²²⁴ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²²⁵ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²²⁶ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²²⁷ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 Oct. 2016 (AS **2016** 3101; BBl **2014** 7991).

²²⁸ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²²⁹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²³⁰ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁵ The special situation of refugees and persons in need of protection who have a right to a residence permit must be taken into account in determining the level of support; in particular professional, social and cultural integration shall be facilitated.

Art. 82a²³¹ Health insurance for asylum seekers and persons in need of protection without a residence permit

¹ Health insurance for asylum seekers and persons in need of protection without a residence permit must be arranged in accordance with the provisions of the Federal Act of 18 March 1994²³² on Health Insurance (HIA), subject to the following provisions.

² The cantons may limit the choice of insurers for asylum seekers and persons in need of protection without a residence permit and may specify one or more insurers who offer a special form of insurance in accordance with Article 41 paragraph 4 HIA.

³ They may limit the choice of service providers for asylum seekers and persons in need of protection without a residence permit in accordance with Articles 36–40 HIA. They may do this before designating an insurer in terms of paragraph 2.

⁴ They may limit the choice for asylum seekers and persons in need of protection without a residence permit designate to one or more insurers who offer insurance with a limited selection of service providers in terms of Article 41 paragraph 4 HIA.

⁵ The Federal Council shall regulate the details of the limitation of the choice of the service providers.

⁶ The cantons and the insurers may agree to dispense with cost sharing in accordance with Article 64 paragraph 2 HIA.

⁷ As long as asylum seekers and persons in need of protection without a residence permit are reliant solely or partly on social assistance, their right to premium reductions in accordance with Article 65 HIA shall be suspended. This right shall revive respectively when the asylum seekers are recognised as refugees, the persons in need of protection are entitled to a residence permit, or the persons are no longer in receipt of social assistance.

Art. 83 Restrictions of social assistance benefits²³³

¹ Social benefits or reduced benefits under Article 82 paragraph 3 must be completely or partially refused, reduced or withdrawn if the beneficiary:²³⁴

- a. has obtained them or attempted to obtain them by providing untrue or incomplete information;

²³¹ Inserted by No II of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4823, **2007** 5575; BBl **2002** 6845).

²³² SR **832.10**

²³³ Expression in accordance with No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845). This amendment has been made throughout the text.

²³⁴ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

- b. refuses to give the competent office information about their financial circumstances, or fails to authorise the office to obtain this information;
- c. does not report important changes in their circumstances;
- d. obviously neglects to improve their situation, in particular by refusing to accept reasonable work or accommodation allocated to them;
- e. without consulting the competent office, terminates an employment contract or lease or is responsible for its termination and thereby exacerbates their situation;
- f. uses social assistance benefits improperly;
- g. fails to comply with the instructions of the competent office despite the threat of the withdrawal of social assistance benefits.
- h.²³⁵ endangers public security or order;
- i.²³⁶ has been prosecuted for or convicted of a criminal offence;
- j.²³⁷ seriously and culpably fails to cooperate, in particular by refusing to disclose their identity;
- k.²³⁸ fails to comply with the instructions from staff responsible for the proceedings or from the accommodation facilities, thereby endangering order and security.

^{1bis} Paragraph 1 only applies to refugees subject to the guarantee that they are treated the same way as the local population.²³⁹

² Social benefits unlawfully received must be paid back in full. The amount due for repayment may in particular be deducted from future social assistance benefits. The canton shall implement the claim for repayment. Article 85 paragraph 3 applies.²⁴⁰

Art. 83a²⁴¹ Requirements for the payment of emergency aid

The person concerned must cooperate in the enforcement of a legally binding return decision that is lawful, reasonable and feasible as well as in the determination of whether the requirements for emergency aid are fulfilled.

²³⁵ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²³⁶ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²³⁷ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²³⁸ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²³⁹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁴⁰ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁴¹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

Art. 84²⁴² Child allowances

Child allowances for asylum seekers' children living abroad shall be withheld during asylum procedures. They shall be paid when the asylum seeker is recognised as a refugee or temporarily admitted in accordance with Article 83 paragraphs 3 and 4 of the FNIA²⁴³.

Section 2²⁴⁴
Duty to Reimburse and Special Charge on Assets
Art. 85 Duty to reimburse

¹ As far as it is reasonable, social assistance, emergency aid, departure and enforcement costs as well as the costs of the appeal procedure must be reimbursed.

² The Confederation shall enforce the claim for reimbursement by means of a special charge on assets (Art. 86).

³ The Confederation's right to reimbursement prescribes three years after the competent authority has been informed, but in any case ten years after the right is created.²⁴⁵ No interest is charged on reimbursement claims.

⁴ The canton's right to reimbursement is governed by cantonal law.

Art. 86²⁴⁶ Special charge on assets

¹ Asylum seekers, persons in need of protection without a residence permit and persons subject to a legally binding return decision who have assets at their disposal are liable to pay the special charge. The special charge serves to cover the overall costs in accordance with Article 85 paragraph 1 generated by all these persons and their dependents.

² The special charge is levied by confiscating assets.

³ The competent authorities may only levy the special charge if the persons concerned:

- a. are unable to prove that the assets derive from earned income or compensation for loss of earned income or from public social assistance benefits;
- b. are unable to prove the origin of the assets; or
- c. are able prove the origin of the assets, but these exceed the amount determined by the Federal Council.

²⁴² Amended by No IV 1 of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁴³ SR **142.20**

²⁴⁴ Amended by Annex No 1 of the FA of 16 Dec. 2016 (Integration), in force since 1 Jan. 2018 (AS **2017** 6521; BBl **2016** 2821, **2013** 2397).

²⁴⁵ Amended by Annex No 1 of the FA of 15 June 2018 (Revision of the Law of Prescription), in force since 1 Jan. 2020 (AS **2018** 5343; BBl **2014** 235).

²⁴⁶ See also the transitional provision to the Amendment of 16 Dec. 2016 at the end of this text.

⁴ The obligation to pay the special charge continues to apply for a maximum of ten years after filing the application for asylum or the application for temporary protection.

⁵ The Federal Council shall determine the amount of the special charge and duration of the obligation to pay.

Art. 87²⁴⁷ Disclosure of assets and procedure on departure

¹ Asylum seekers, persons in need of protection who do not have a residence permit and persons subject to a legally binding return decision must disclose any assets that they have that do not derive from earned income.

² Confiscated assets shall be reimbursed in full on request if the person concerned leaves the country under supervision within seven months of filing the application for asylum or the application for temporary protection. The request for reimbursement must be made before departure.

Chapter 6 Federal Subsidies

Art. 88²⁴⁸ Flat-rate compensatory payments

¹ The Confederation shall compensate the cantons for the costs of implementing this Act by means of flat-rate payments. The cantons do not receive the subsidies in accordance with Articles 91–93b.²⁴⁹

² The flat-rate payments made in respect of persons seeking asylum and in need of protection without a residence permit shall cover, in particular, the costs of social assistance and of mandatory health insurance and also contain a contribution towards the supervision costs.

³ The flat-rate payments made in respect of refugees and persons in need of protection with a residence permit and refugees subject to a legally enforceable expulsion order in accordance with Article 66a or 66a^{bis} SCC²⁵⁰ or Article 49a or 49a^{bis} MCC²⁵¹ or a legally enforceable expulsion order under Article 68 FNIA²⁵² shall cover, in particu-

²⁴⁷ See also the transitional provision to the Amendment of 16 Dec. 2016 at the end of this text.

²⁴⁸ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

²⁴⁹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

²⁵⁰ SR 311.0

²⁵¹ SR 321.0

²⁵² SR 142.20

lar, the costs of social assistance and also contain a contribution towards the supervision and administrative costs.²⁵³ They shall be made for a maximum of five years from the date of submission of the asylum application.²⁵⁴

^{3bis} The Confederation may make flat-rate payments under paragraph 3 for longer than five years in respect of persons admitted to Switzerland under asylum granted to groups of refugees, and in particular when these persons are disabled or elderly.²⁵⁵

⁴ Payments made in respect of persons who are only entitled to emergency aid under Article 82 are compensation for granting emergency aid.²⁵⁶

⁵ ...²⁵⁷

Art. 89²⁵⁸ Determination of the flat-rate payments

¹ The Federal Council shall determine the level of the flat-rate payments based on the probable expenditures on cost-effective solutions.

² It shall determine the structure and the duration of the flat-rate payments as well as the necessary requirements. It may in particular:

- a. determine the flat-rate payments on the basis of residence status and the duration of residence;
- b. adjust the flat-rate payments to take account of the cost differences between the cantons.

³ SEM may make the disbursement of individual components of the flat-rate payments subject to the achievement of socio-political goals.

⁴ The flat-rate payments shall be periodically adjusted in line with inflation and reviewed if necessary.

Art. 89a²⁵⁹ Duty to cooperate for recipients of subsidies

¹ SEM may require the cantons to collect the data required for financial supervision, determining and adjusting the financial compensatory payments from the Confederation under Articles 88 and 91 paragraph 2^{bis} of this Act and 58 and 87 FNIA²⁶⁰ and to

²⁵³ Amended by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS **2021** 565; **2022** 300; BBl **2019** 4751).

²⁵⁴ Amended by Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

²⁵⁵ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁵⁶ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁵⁷ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁵⁸ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁵⁹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁶⁰ SR **142.20**

make it available to SEM or record it in SEM's Central Migration Information System (ZEMIS).²⁶¹

² If a canton fails to comply with this requirement, SEM may reduce the financial compensatory payments made to this canton or determine the payments due on the basis of the data available.

Art. 89^{b262} Claiming back and declining to make flat-rate compensatory payments

¹ The Confederation may claim back flat-rate compensatory payments already made under Article 88 of this Act and under Articles 58 and 87 FNIA²⁶³ if a canton fails to carry out the enforcement tasks in accordance with Article 46 of this Act or carries out such tasks inadequately without excuse.

² If the non-fulfilment or inadequate fulfilment of enforcement tasks in accordance with Article 46 leads to the person concerned staying longer in Switzerland, the Confederation may decline to make flat-rate compensatory payments under Article 88 of this Act and under Articles 58 and 87 FNIA in respect of the related costs incurred by the canton.

Art. 90 Funding of collective accommodation

¹ The Confederation may finance, in full or in part, the construction, conversion and furnishing of collective accommodation in which the authorities place persons residing in Switzerland on the basis of this Act.

² The Federal Council shall regulate the procedure, determine the details on ownership and ensure the accommodation is used for its intended purpose.

³ It shall determine the extent to which the amount spent on direct funding by the Confederation on accommodation is charged against the flat-rate payment.

Art. 91 Further subsidies

¹ and ²...²⁶⁴

²⁶¹ Amended by Annex 1 No 2 of the FD of 18 Dec. 2020 on the Approval and Implementation of the Exchange of Notes between Switzerland and the EU relating to the Adoption of the Legislation on the Establishment, Operation and Use of the Schengen Information System (SIS), in force since 22 Nov. 2022 (AS **2021** 365; **2023** 16; BBl **2020** 3465).

²⁶² Inserted by No I of the FA of 25 Sept. 2015 (AS **2016** 3101; BBl **2014** 7991). Amended by Annex 1 No 2 of the FD of 18 Dec. 2020 on the Approval and Implementation of the Exchange of Notes between Switzerland and the EU relating to the Adoption of the Legislation on the Establishment, Operation and Use of the Schengen Information System (SIS), in force since 22 Nov. 2022 (AS **2021** 365; **2023** 16; BBl **2020** 3465).

²⁶³ SR **142.20**

²⁶⁴ Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

^{2bis} The Confederation shall pay the cantons a flat-rate subsidy towards the administrative costs incurred in respect of persons seeking asylum and persons in need of protection without a residence permit.²⁶⁵

^{2ter} The Confederation may pay cantons in which a federal centre is located a flat-rate subsidy towards the security costs.²⁶⁶

³ It may pay subsidies to facilities for traumatised persons residing in Switzerland on the basis of this Act.

⁴ ...²⁶⁷

^{4bis} It may pay subsidies for the conduct of employment programmes for persons accommodated in federal centres. For this purpose, it shall enter into public service agreements with the cantons, communes or responsible third parties at the relevant locations.²⁶⁸

⁵ ...²⁶⁹

⁶ The Confederation shall reimburse the cantons for staff costs which arise in connection with the preparation of decisions in accordance with Article 31.

⁷ It may in terms of the international cooperation in accordance with Article 113 provide subsidies to the bodies funding internationally oriented projects or to internationally active organisations.

⁸ The Federal Council shall regulate the requirements and the payment and the accounting procedures for the contributions.

Art. 92 Entry and departure costs

¹ The Confederation may bear the costs for the entry and departure of refugees and persons in need of protection.

² If the persons concerned are destitute, it shall bear the costs for the departure of asylum seekers, of persons whose application for asylum was rejected, whose application for asylum was dismissed or who withdrew their application for asylum, and of persons who were subject to a return decision following the revocation of temporary protection.²⁷⁰

²⁶⁵ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁶⁶ Inserted by No I of the FA of 28 Sept 2012 (Emergency Amendments to the Asylum Act), (AS **2012** 5359; BBl **2010** 4455, **2011** 7325). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁶⁷ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Jan. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁶⁸ Inserted by No I of the FA of 28 Sept 2012 (Emergency Amendments to the Asylum Act), (AS **2012** 5359; BBl **2010** 4455, **2011** 7325). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁶⁹ Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁷⁰ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³ It may make provide subsidies towards expenditure incurred by the cantons that is directly connected with the organisation of departure.

^{3bis} In the context of applying the Dublin Association Agreements²⁷¹, it may provide subsidies towards expenditure incurred by the cantons that is directly connected with the transfer of persons to Switzerland.²⁷²

⁴ The Federal Council shall regulate the requirements and the payment and accounting procedure for the contributions. If possible, it shall determine flat-rate payments.

Art. 93²⁷³ Return assistance and prevention of irregular migration

¹ The Confederation shall provide return assistance. For this purpose, it may provide for the following measures:

- a. the full or partial funding of return counselling agencies;
- b. the full or partial funding of projects in Switzerland to preserve the ability of those concerned to return;
- c. the full or partial funding of programmes in the native country, country of origin or a third country to facilitate and arrange the return, repatriation and reintegration (programmes abroad);
- d. the granting of financial support in individual cases to facilitate the reintegration of returnees or provide them with temporary medical care in their native country, country of origin or third country.

² Programmes abroad may also pursue the goal of contributing to the prevention of irregular migration. Irregular migration prevention programmes are those that contribute in the short term to limiting the risk of primary or secondary migration to Switzerland.

³ For the purpose of implementing return assistance, the Confederation may work with international organisations and set up a coordination office.

⁴ The Federal Council shall regulate the requirements and the payment and the accounting procedure for the subsidies.

Art. 93a²⁷⁴ Return counselling

¹ The Confederation shall encourage voluntary return by providing return counselling. The return counselling shall be given at federal centres and in the cantons.

² SEM shall ensure that regular counselling sessions take place in the federal centres. It may delegate these tasks to the cantonal return counselling agencies.

²⁷¹ These agreements are listed in Annex 1.

²⁷² Inserted by Annex No I of the FA of 20 June 2014 (Violations of the Duty of Care and to Report by Air Carriers, Information Systems), in force since 1 Oct. 2015 (AS **2015** 3023; BBl **2013** 2561).

²⁷³ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁷⁴ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

Art. 93^{b275} Contributions to return counselling

¹ The Confederation shall by agreement make contributions to compensate the provider of return counselling in federal centres for the administrative and staff costs arising from provision of information and counselling to asylum seekers and persons subject to return decisions. The compensation shall be set as a lump sum. In exceptional cases, the contributions may be fixed on the basis of expenditure, especially in the case of non-recurring costs.

² The payment of contributions for return counselling provided in the cantons is governed by Article 93 paragraph 4.

Art. 94²⁷⁶**Art. 95²⁷⁷** Supervision

¹ The Confederation shall verify that federal subsidies are used in accordance with the legislation on subsidies, that they are effective and that accounts on federal subsidies are properly maintained. It may also delegate this task to a third party and call in the cantonal audit offices for support.

² Any person who receives federal subsidies is obliged to disclose the details of their organisation as well as the data and key figures in relation to income and expenditure in the field of asylum.

³ The Federal Audit Office, SEM and the cantonal audit offices shall monitor financial activities in accordance with their regulations. They shall determine the suitable course of action, coordinate their activities and keep each other informed about their findings.

Chapter 6a²⁷⁸**Planning Approval for Federal Buildings and Installations****Section 1 General Provisions****Art. 95a** Principle

¹ Buildings and installations used by the Confederation to accommodate asylum seekers or for conducting asylum procedures require planning approval from the FDJP (approval authority) if they:

- a. are to be newly constructed;

²⁷⁵ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁷⁶ Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁷⁷ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²⁷⁸ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 Jan. 2018 (AS **2016** 3101, **2017** 6171; BBl **2014** 7991).

b. are altered or assigned a new form of use.

² Planning approval covers all forms of authorisation required under federal law.

³ Cantonal authorisations and plans are not required. The cantonal law must be taken into consideration during the planning approval procedure and the weighing up of interests.

⁴ In principle, planning approval for projects that will have a considerable effect on space and the environment requires a sectoral plan in accordance with the Federal Act of 22 June 1979²⁷⁹ on Spatial Planning.

Art. 95b Compulsory purchase rights and applicable law

¹ The acquisition of real estate for buildings and installations to accommodate asylum seekers or to conduct asylum procedures and the establishment of rights in rem to such real estate is the responsibility of the FDJP. It is entitled to make compulsory purchases if necessary.

² The planning approval procedure is governed by this Act.²⁸⁰

³ If compulsory purchases are required, the provisions of the Federal Act of 20 June 1930²⁸¹ on Compulsory Purchase (ComPurA) also apply.²⁸²

Section 2 Planning Approval Procedures

Art. 95c Initiating the ordinary planning approval procedure

The planning approval application must be submitted with required documentation to the approval authority. The authority shall check the documentation to make sure that it is complete and request any further documents that are needed.

Art. 95d Marking

¹ Before the application is made available for public inspection, the applicant must indicate the alterations that the planned buildings and installations will make to the site by marking them out; in the case of structures above-ground, the applicant must erect profiles.

² Objections to the marking of alterations or the erection of profiles must be made to the approval authority immediately, and in any case before expiry of the period when the application is made available for public inspection.

²⁷⁹ SR 700

²⁸⁰ Amended by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBI 2018 4713).

²⁸¹ SR 711

²⁸² Inserted by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBI 2018 4713).

Art. 95e Consultation, publication and making the application available for inspection

¹ The approval authority shall forward the application to the cantons and communes concerned for their opinions. The entire consultation procedure shall last three months. In justified cases, this period may be extended by way of exception.

² The application must be published in the official organs of publicity for the cantons and communes concerned and in the Federal Gazette and must be made available for public inspection for a period of 30 days.

³ ...²⁸³

Art. 95²⁸⁴

Art. 95g Objection

¹ Any person who is a party in accordance with the APA²⁸⁵ may file an objection with the approval authority during the period when the application is available for public inspection.²⁸⁶ Unless such a person files an objection, he or she is excluded from the remainder of the procedure.

² Any person who is a party in accordance with the ComPurA²⁸⁷ may file any claims under Article 33 CompPurA within the period when the application is available for public inspection.²⁸⁸

³ The communes concerned may safeguard their interests by filing an objection.

Art. 95h Elimination of differences in the Federal Administration

The procedure for eliminating differences in the Federal Administration is governed by Article 62*b* of the Government and Administration Organisation Act of 21 March 1997²⁸⁹.

Art. 95i Term of validity

¹ The approval authority shall decide on the objections under the law on compulsory purchase at the same time as deciding on planning approval.

² Planning approval expires if the construction project has not begun five years after approval becomes legally binding.

²⁸³ Repealed by Annex No 1 of the FA of 19 June 2020, with effect from 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁸⁴ Repealed by Annex No 1 of the FA of 19 June 2020, with effect from 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁸⁵ SR 172.021

²⁸⁶ Amended by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁸⁷ SR 711

²⁸⁸ Amended by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁸⁹ SR 172.010

³ The approval authority may extend the period of validity of the planning approval for good cause by a maximum of three years. No extension is permitted if the relevant factual and legal circumstances have substantially changed since legally binding planning approval was granted.

Art. 95j Simplified planning approval procedure

¹ A simplified planning approval procedure is applied in the case of:

- a. small-scale local projects that affect only a few easily identifiable persons;
- b. alterations or changes of use that do not substantially change the external appearance of the buildings or installations concerned, do not affect the legitimate interests of third parties, and have a negligible effect on space or the environment;
- c. buildings and installations that will be removed after three years at the latest.

² Detailed plans based on a project that has already been approved shall be approved under the simplified procedure.

³ The approval authority may order the marking of the project. The application is not published and not made available for public inspection. The approval authority shall send the plans to the persons concerned unless they have already given their consent in writing; they have 30 days to object. The approval authority may consult the cantons and communes. It shall allow an appropriate period for doing so.

⁴ The simplified procedure is otherwise governed by the provisions for the ordinary procedure. In the event of any doubt, the ordinary procedure shall be carried out.

Section 3 Conciliation and Valuation Procedure; Early Possession²⁹⁰

Art. 95k

¹ After conclusion of the planning approval procedure, a conciliation and valuation procedure shall be conducted by the Federal Compulsory Purchase Commission pursuant to the ComPurA^{291, 292}

² ...²⁹³

³ The president of the Federal Compulsory Purchase Commission may authorise early possession of the property on the basis of an enforceable planning approval decision and if it is presumed that the purchaser would suffer significant prejudice if not granted early possession. The position is otherwise governed by Article 76 ComPurA.

²⁹⁰ Amended by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁹¹ SR 711

²⁹² Amended by Annex No 1 of the FA of 19 June 2020, in force since 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

²⁹³ Repealed by Annex No 1 of the FA of 19 June 2020, with effect from 1 Jan. 2021 (AS 2020 4085; BBl 2018 4713).

Section 4 Legal Remedies

Art. 95/

¹ Legal remedies are governed by the general provisions on the administration of federal justice.

² The cantons and communes concerned also have a right of objection.

Chapter 7 Processing of Personal Data

Section 1 Principles²⁹⁴

Art. 96²⁹⁵ Processing of personal data

¹ Provided they require the data for the fulfilment of their legal duties, SEM, the appeal authorities and private organisations entrusted with duties under this Act may process or have processed the personal data pertaining to persons seeking asylum or in need of protection and their dependants, including sensitive data as defined in Article 5 letter c FADP^{296, 297}

² Data required to combat illegal employment may be disclosed by the authorities under paragraph 1 in accordance with Articles 11 and 12 of the Federal Act of 17 June 2005²⁹⁸ on Measures to Combat Illegal Employment.²⁹⁹

Art. 97 Disclosure of personal data to the native country or country of origin

¹ Personal data pertaining to asylum seekers, recognised refugees and persons in need of protection may not be disclosed to their native country or country of origin if the person concerned or their dependants would be endangered as a result. No information may be disclosed regarding an application for asylum.³⁰⁰

²⁹⁴ Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

²⁹⁵ Amended by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

²⁹⁶ SR **235.1**

²⁹⁷ Amended by No III of the FA of 1 Oct. 2021, in force since 1 April 2025 (AS **2024** 189; BBl **2020** 9287; **2021** 137).

²⁹⁸ SR **822.41**

²⁹⁹ Inserted by Annex No 2 of the FA of 17 June 2005 on Measures to Combat Illegal Employment, in force since 1 Jan. 2008 (AS **2007** 359; BBl **2002** 3605).

³⁰⁰ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2007 (AS **2006** 4745 4767; BBl **2002** 6845).

² The authority responsible for the organising departure may contact the native country or the country of origin to acquire the travel documents required for the enforcement of the return ruling if the refugee status has been refused in the first instance.³⁰¹

³ For the enforcement of removal to the native country or the country of origin, the authorities responsible for organising departure may disclose the following data to the foreign authority:

- a. personal details (name, first name, aliases, date of birth, place of birth, gender, nationality, last address in the native country or the country of origin) of the person concerned and, as far as necessary for their identification, of dependants;
- b. information about the passport or other identity papers;
- c. fingerprints, photographs and further biometric data if necessary;
- d. further data from documents that help identify a person;
- e. information on the state of health, insofar as this is in the interest of the person concerned;
- f. the data required to guarantee the returnee's entry to the destination country and to ensure the security of the accompanying persons;
- g. information on criminal proceedings in the specific cases where this is required for the readmission procedure and to safeguard public security and order in the native country, and the person concerned will not be endangered thereby; Article 2 of the Mutual Assistance Act of 20 March 1981³⁰² applies *mutatis mutandis*.³⁰³

Art. 98 Disclosure of personal data to third countries and international organisations

¹ In order to implement this Act, SEM and the appeal authorities may disclose personal data to foreign authorities and international organisations entrusted with corresponding tasks provided the requirements of Article 16 FADP³⁰⁴ are met.³⁰⁵

² The following personal data may be disclosed:

- a. personal details (name, first name, alias names, date of birth, place of birth, gender, nationality, last address in the native country or the country of origin) of the person concerned and, as far as necessary for their identification, of dependants;
- b. information about the passport or other identity papers;

³⁰¹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2007 (AS **2006** 4745 4767; BBl **2002** 6845).

³⁰² SR **351.1**

³⁰³ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁰⁴ SR **235.1**

³⁰⁵ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

- c. fingerprints, photographs and further biometric data if necessary;
- d. further data from documents that help identify a person;
- e. information on the state of health, insofar as this is in the interest of the person concerned;
- f. the data required to guarantee the returnee's entry to the destination country and to ensure the security of the accompanying persons;
- g. information on the place of stay and travel routes;
- h. information on permission to stay and visas granted;
- i. information on an application for asylum (place and date the filing, status of the procedure, summary details of the content of a decision made).³⁰⁶

Art. 98a³⁰⁷ Cooperation with the prosecution authorities

SEM or the Federal Administrative Court shall transmit to the responsible prosecution authorities information and evidence on asylum seekers where there are serious grounds for suspicion that they have committed a felony under international law, in particular a felony against peace, a war crime, a crime against humanity, genocide or torture.

Art. 98b³⁰⁸ Biometric data

¹ The competent authorities may process biometric data for the purpose of establishing the identity of asylum seekers and persons in need of protection.

^{1bis} SEM may delegate the processing of biometric data to third parties. It shall verify the compliance by the third parties with the regulations on data protection and information security.³⁰⁹

² The Federal Council shall determine what biometric data is collected and regulate access to the data.

Art. 99 Taking and evaluating fingerprints

¹ Fingerprints of all fingers as well as photographs shall be taken of asylum seekers and persons in need of protection. The Federal Council may provide for exceptions in the case of minors under the age of 14.³¹⁰

³⁰⁶ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁰⁷ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁰⁸ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁰⁹ Inserted by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS **2008** 5407 5405 Art. 2 let. c; BBl **2007** 7937).

³¹⁰ Amended by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with

² The fingerprints and photographs shall be stored without the corresponding personal details in database managed by the Federal Office of Police and SEM.³¹¹

³ The new fingerprints shall be compared with the fingerprint database managed by the Federal Office of Police.³¹²

⁴ If the Federal Office of Police determines a match with existing fingerprints, it shall inform SEM, the cantonal police authorities concerned and the Frontier Guards Corps and provide them with the personal details of the person concerned (name, first name, aliases, date of birth, sex, reference number, personal number, nationality, process control number and canton of allocation). Where there is a police report, the date, place and reason for taking the fingerprints contained therein shall also be provided in code form.³¹³

⁵ SEM shall use this information to:

- a. check the identity the person concerned;
- b. check whether the person concerned has already applied for asylum before;
- c. check whether there is data that confirms or refutes the statements made by the person concerned;
- d. check whether there is data that call into question the eligibility of the person concerned to be granted asylum;
- e. facilitate administrative assistance between SEM and the police authorities.

⁶ Personal data disclosed in accordance with paragraph 4 may only be disclosed abroad with the consent of the controller responsible for the data processing. Article 16 paragraph 1 of the FADP³¹⁴ applies *mutatis mutandis*.³¹⁵

⁷ The data shall be erased:

- a. if asylum is granted;
- b. at the latest ten years after the legally binding rejection, withdrawal or abandonment of the application for asylum or after a decision to dismiss the application;
- c.³¹⁶ in the case of persons in need of protection, at the latest ten years after the lifting of the temporary protection.

Schengen and Dublin, in force since 12 Dec. 2008

(AS 2008 447 5405 Art. 1 let. a; BBl 2004 5965).

³¹¹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³¹² Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³¹³ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³¹⁴ SR 235.1

³¹⁵ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS 2022 491; BBl 2017 6941).

³¹⁶ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

Section 1a³¹⁷ Information System for Federal Centres and Airport Accommodation³¹⁸

Art. 99a Principles

¹ SEM shall operate an information system for federal centres and airport accommodation (MIDES).

² MIDES serves as an aid in:

- a.³¹⁹ the processing of personal data relating to asylum seekers and persons in need of protection, including sensitive personal data in accordance with Article 5 letter c of the FADP³²⁰; and
- b. audits, the conduct of asylum procedures and the planning and organisation of accommodation.

³ MIDES contains the following personal data:

- a. data on the identity of the registered persons, and in particular their surname, name, sex, date and place of birth, nationality, ethnic origin, religion, marital status, address and parents' names;
- b.³²¹ minutes of the summary questioning conducted at federal centres and at the airports in accordance with Articles 22 paragraph 1 and 26 paragraph 3;
- c. biometric data;
- d. details of the accommodation;
- e. the status of the proceedings;
- f.³²² the note «medical case», for the purpose of distributing asylum seekers among the cantons.

⁴ The personal data in accordance with paragraph 3 letters a, c, e and f shall be entered in ZEMIS.³²³

⁵ The asylum seekers and persons in need of protection must in particular be informed of the reasons for processing the data and the categories of data recipient.

³¹⁷ Inserted by the Annex to the FA of 18 June 2010 (Automated Border Controls, Documentation Advisers, MIDES Information System), in force since 1 Jan. 2011 (AS **2010** 5755; BBl **2009** 8881).

³¹⁸ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

³¹⁹ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

³²⁰ SR **235.1**

³²¹ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

³²² Inserted by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 June 2019 (AS **2019** 1413; BBl **2018** 1685).

³²³ Amended by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 June 2019 (AS **2019** 1413; BBl **2018** 1685).

Art. 99b Data processing in MIDES

The following persons have access to MIDES provided such access is required in order to fulfil their duties:

- a. employees of SEM;
- b. authorities in accordance with Article 22 paragraph 1;
- c. authorised third parties in accordance with Article 99c.
- d.³²⁴ employees of the cantonal or communal centres under Article 24d who are responsible for asylum seekers' accommodation and care.

Art. 99c Authorised third parties

¹ SEM may authorise third parties who are responsible for procuring biometric data, ensuring security or for administration and care in federal centres and airport accommodation to process personal data in accordance with Article 99a paragraph 3 letters a, c and d in MIDES.

² SEM shall ensure that authorised third parties comply with the applicable regulations on data protection and information technology security.

Art. 99d Supervision and implementation

¹ SEM is responsible for the security of MIDES and the legality of the processing of personal data.

² The Federal Council shall regulate:

- a. the organisation and operation of MIDES;
- b. the catalogue of personal data to be processed;
- c. rights of access;
- d. technical and organisational protective measures against unauthorised processing;
- e. the length of time that data may be stored;
- f. the archiving and destruction of data on expiry of the storage period.

³²⁴ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Section 1b Other Information Systems³²⁵

Art. 100³²⁶ Information system of the appeal authorities³²⁷

¹ The appeal authorities shall maintain an information system to record appeals that have been filed, for the conduct of audits and to compile statistics.

² The information system may contain personal data especially worthy of protection if this is necessary for the fulfilment of the statutory task.³²⁸

^{2bis} Incorrect data must be corrected by the authorities. If the incorrect data is attributed to a person's violation of the duty to cooperate, this person may be billed for the costs for the correction.³²⁹

Art. 101³³⁰

Art. 102 Information and documentation system

¹ SEM shall manage an automated information and documentation system in cooperation with the Federal Administrative Court. The system shall contain factual information and documentation from the sphere of responsibilities of SEM and the Federal Administrative Court stored in various databases. If required, personal data contained in the texts may also be stored, in particular personal details, as well as sensitive personal data.^{331 332}

² Only employees of SEM and the Federal Administrative Court shall have access to databases containing sensitive personal data.³³³

³ Databases containing predominantly factual information drawn from public sources may be made accessible to external users on request by means of a retrieval procedure.

³²⁵ Inserted by the Annex to the FA of 18 June 2010 (Automated Border Controls, Documentation Advisers, MIDES Information System), in force since 1 Jan. 2011 (AS **2010** 5755; BBl **2009** 8881).

³²⁶ Amended by Art. 18 No 2 of the FA of 20 June 2003 on the Information System on Asylum and Foreign Nationals, in force since 29 May 2006 (AS **2006** 1931; BBl **2002** 4693).

³²⁷ Amended by the Annex to the FA of 18 June 2010 (Automated Border Controls, Documentation Advisers, MIDES Information System), in force since 1 Jan. 2011 (AS **2010** 5755; BBl **2009** 8881).

³²⁸ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

³²⁹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³³⁰ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

³³¹ Third sentence amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

³³² Amended by No 4 of the Federal Administrative Court Act of 17 June 2005, in force since 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

³³³ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

⁴ The Federal Council shall regulate the details, and in particular access to the system and the protection of the personal data collected therein.

Art. 102a³³⁴ Statistics on recipients of social assistance

For the taxation of the financial compensatory payments to the cantons, the Federal Statistical Office shall periodically transmit anonymised and aggregated data on the persons seeking asylum who draw benefits from public social assistance to SEM.

Section 2³³⁵

Data Processing under the Dublin Association Agreements

Art. 102a^{bis} Eurodac

¹ Within the framework of the application of the Dublin Association Agreements³³⁶ SEM is responsible for dealings with the Central Unit of the Eurodac System.

² It shall transmit the following data to the Central Unit:

- a. the place and date of the application in Switzerland;
- b. the sex of the applicant;
- c. the fingerprints taken in accordance with Article 99 paragraph 1;
- d. the Swiss code number for the fingerprints;
- e. the date on which the fingerprints were taken;
- f. the date on which the data was transmitted to the Central Unit.
- g. the user password.³³⁷

^{2bis} If the condition of the fingers of the person concerned do not allow fingerprints to be taken, the fingerprints must be transmitted to the Central Unit within 48 hours of fingerprints of acceptable quality being taken. If it is impossible to take fingerprints due to the state of health of the person concerned or due to public health measures, the fingerprints must be transmitted to the Central Unit within 48 hours of the impediment ceasing to apply.³³⁸

³³⁴ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³³⁵ Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS 2008 447 5405 Art. 1 let. a; BBl 2004 5965).

³³⁶ These conventions are listed in Annex 1.

³³⁷ Amended by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS 2015 2323; BBl 2014 2675).

³³⁸ Inserted by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS 2015 2323; BBl 2014 2675).

^{2ter} If the transmission of data is prevented by serious technical problems, an additional period of 48 hours shall be allowed in order to take the measures required to ensure that the system operates correctly again.³³⁹

^{2quater} SEM shall also transmit the following data to the Central Unit:

- a. on the admission of a person under Regulation (EU) No 604/2013³⁴⁰: the time of arrival in Switzerland;
- b. on the readmission of a person under Regulation (EU) No 604/2013: the time of arrival in Switzerland;
- c. on proof that an applicant whose application must be processed by Switzerland under Regulation (EU) No 604/2013 has left the territory of the states bound by any one of the Dublin Association Agreements: the time of departure;
- d. on successful enforcement of removal, the time of the deportation or departure of the applicant from the territory of the states bound by any one of the Dublin Association Agreements;
- e. if Switzerland, based on the sovereignty clause in Regulation (EU) No 604/2013, decides voluntarily to become the Dublin state responsible for processing an asylum application: the time of this decision.³⁴¹

³ The transmitted data shall be stored in the Eurodac database and automatically compared with the data already stored in this database. The result of the comparison shall be communicated to SEM.³⁴²

⁴ The data shall be automatically erased by the Central Unit ten years after the fingerprints were taken. If a person whose data has been transmitted by Switzerland to the Eurodac database is granted citizenship of a state bound by one of the Dublin Association Agreements before the expiry of this period, SEM, as soon as it has been notified of this fact, shall request the Central Unit to erase the data immediately.

³³⁹ Inserted by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS **2015** 2323; BBl **2014** 2675).

³⁴⁰ Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (new version), Amended by OJ L 180 of 29.6.2013, p. 31.

³⁴¹ Inserted by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS **2015** 2323; BBl **2014** 2675).

³⁴² Amended by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS **2015** 2323; BBl **2014** 2675).

Art. 102^ater³⁴³ Examination of the fingerprints in Eurodac

¹ A specialist shall examine the fingerprints if Eurodac reveals a match.

² SEM decides on the qualifications that the fingerprint specialist must have.

Art. 102b Disclosure of personal data to a state bound by one of the Dublin Association Agreements

The disclosure of personal data to the competent authorities of states that are bound by one of the Dublin Association Agreements shall be regarded as equivalent to the disclosure of personal data between federal bodies.

Art. 102c Disclosure of personal data to a state not bound by any of the Dublin Association Agreements

¹ Personal data may be disclosed to third countries only if they guarantee an adequate level of data protection in accordance with Article 16 paragraph 1 FADP^{344,345}

² If a third country fails to guarantee an adequate level of data protection, personal data may be disclosed to that country in the following cases:

- a. the person concerned has given their consent in accordance with Article 6 paragraph 6 and if applicable paragraph 7 FADP;
- b. the disclosure is required to protect the life or physical integrity of the person concerned and it is not possible to obtain the person's consent within a reasonable time; or
- c. the disclosure is required to safeguard overriding public interests or to establish, exercise or enforce legal rights in a court or before another competent foreign authority.³⁴⁶

³ In addition to the cases mentioned in paragraph 2, personal data may also be disclosed if in specific cases adequate guarantees ensure appropriate protection of the person concerned.

⁴ The Federal Council shall determine the extent of the guarantees required and the modalities for providing the guarantees.

⁵ The data obtained from the Eurodac database may not be transmitted under any circumstances to:

- a. a state that is not bound by any of the Dublin association agreements;
- b. international organisations;

³⁴³ Inserted by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS **2015** 2323; BBl **2014** 2675). SR **235.1**

³⁴⁴ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

³⁴⁶ Amended by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, in force since 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

- c. private entities.³⁴⁷

Art. 102d³⁴⁸ Supervision of data processing related to Dublin cooperation

¹ The cantonal data protection authorities and the Federal Data Protection and Information Commissioner (FDPIC) shall work together within the scope of their respective responsibilities.

² The FDPIC shall supervise the processing of personal data related to Dublin cooperation. It shall coordinate this supervisory activity with the cantonal data protection authorities.

³ The FDPIC shall work with the European Data Protection Commissioner in order to carry out its tasks, for which it shall act as the national supervisory authority.

Art. 102e Right to information

The right to information is governed by the federal and cantonal data protection provisions.^{349 ...350}

Section 3³⁵¹ Video Surveillance

Art. 102e^{bis}

¹ SEM may use video surveillance equipment and systems inside and outside buildings that it manages in connection with the asylum procedure and may make video and audio recordings in order to protect property and persons, in particular asylum seekers, SEM employees and employees responsible for care and security, from any form of threat.

² The video and audio recordings shall be stored for four months and then automatically destroyed unless they are required in criminal proceedings or for an administrative investigation conducted by SEM.

³ The recordings may be passed on to the prosecution authorities.

³⁴⁷ Inserted by Annex No 2 of the FD of 26 Sept. 2014 (Adoption of R [EU] No 603/2013 on the Establishment of Eurodac and the amendment to R [EU] No 1077/2011 on the Establishment of the IT Agency), in force since 20 July 2015 (AS **2015** 2323; BBl **2014** 2675).

³⁴⁸ Amended by Annex 1 No 2 of the FD of 18 Dec. 2020 on the Approval and Implementation of the Exchange of Notes between Switzerland and the EU relating to the Adoption of the Legislation on the Establishment, Operation and Use of the Schengen Information System (SIS), in force since 22 Nov. 2022 (AS **2021** 365; **2023** 16; BBl **2020** 3465).

³⁴⁹ Amended by No 2 of the FA of 19 March 2010 on the Implementation of Framework Decision 2008/977/JHA on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, in force since 1 Dec. 2010 (AS **2010** 3387 3418; BBl **2009** 6749).

³⁵⁰ Second sentence repealed by Annex 1 No II 5 of the Data Protection Act of 25 Sept. 2020, with effect from 1 Sept. 2023 (AS **2022** 491; BBl **2017** 6941).

³⁵¹ Inserted by Annex No 1 of the FA of 14 Dec. 2018 (Procedural Arrangements and Information Systems), in force since 1 April 2020 (AS **2019** 1413, **2020** 881; BBl **2018** 1685).

⁴ SEM security managers and their superiors may view the recordings in the course of an administrative or criminal investigation.

⁵ The Federal Council shall regulate the modalities of video surveillance. It shall in particular specify which buildings or parts of buildings may be placed under video surveillance, and regulate the storage of recordings, their protection against misuse and their handover to the prosecution authorities.

Chapter 8

Legal Protection, Appeal Proceedings, Re-examination and Multiple Applications³⁵²

Section 1³⁵³ Legal Protection in Federal Centres

Art. 102f Principles

¹ Asylum seekers whose request is processed in a federal centre have the right to free advice and legal representation.

² SEM shall mandate one or more providers to carry out the tasks mentioned in paragraph 1.

Art. 102g Counselling on the asylum procedure

¹ During their stay in a federal centre, asylum seekers shall have access to counselling on the asylum procedure.

² The counselling shall include in particular informing the asylum seekers about their rights and obligations in the asylum procedure.

³ The counselling shall also include information on the complaints mechanism in accordance with Article 111 of Regulation (EU) 2019/1896^{354,355}

Art. 102h Legal representation

¹ Each asylum seeker shall be assigned a legal representative from the start of the preparatory phase and for the remainder of the asylum procedure, unless the asylum seeker expressly declines this.

² The legal representative assigned shall inform the asylum seeker as quickly as possible about the asylum seeker's chances in the asylum procedure.

³⁵² Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

³⁵³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁵⁴ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, amended by OJ L 295 of 14.11.2019, p. 1.

³⁵⁵ Inserted by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS 2022 459; BBl 2022 7105).

³ Legal representation shall last, under the accelerated and the Dublin procedure, until a legally binding decision is taken, or until a decision is taken about carrying out an extended procedure. Article 102*l* is reserved.

⁴ Legal representation shall end when the legal representative assigned informs the asylum seeker that he or she does not wish to submit an appeal because it would have no prospect of success. This shall take place as quickly as possible after notification of the decision to reject asylum.

⁵ The tasks of the legal representative are governed by Article 102*k*.

Art. 102*i* Tasks of the provider

¹ The provider under Article 102*f* paragraph 2 is responsible in particular for providing, organising and implementing counselling and legal representation in federal centres. It shall ensure the quality of the counselling and legal representation.

² The provider shall determine the persons to whom counselling and legal representation is assigned. It shall assign the persons responsible for legal representation to the asylum seekers.

³ Persons professionally involved in counselling asylum seekers are allowed to provide counselling.

⁴ Attorneys are allowed to provide legal representation. Persons with a university degree in law who are involved in counselling and representing asylum seekers professionally are also allowed to provide legal representation.

⁵ There shall be a regular exchange of information between the provider and SEM, in particular to coordinate tasks and ensure quality.

Art. 102*j* Participation of the legal representative

¹ SEM shall notify the provider of the appointments for initial questioning in the preparatory phase, for the interview on the grounds for asylum and for further procedural steps requiring involvement of the legal representation. The provider shall give this information promptly to the legal representative.

² Provided the appointments are notified in good time, SEM's actions have legal force even if the legal representative is not present or does not participate. Exceptions may be for absences at short notice there is justifiable good cause.

³ If the legal representative does not provide an opinion on a draft decision to refuse asylum within the time limit, despite the draft decision being sent by the provider in good time, it shall be considered that no view is expressed.

Art. 102*k* Payment for counselling and legal representation

¹ The Confederation shall, by agreement and on the principle that value for money will be ensured, pay the provider for the following tasks in particular:

- a. providing information and counselling to asylum seekers;

- b. the participation of the legal representative in the initial questioning in the preparatory phase and in the interview on the grounds for asylum;
- c. providing an opinion on the draft asylum decision under the accelerated procedure;
- d. providing legal representation in appeal proceedings, in particular preparing the appeal documentation;
- e. representing the interests of unaccompanied minor asylum seekers as a trusted person at federal centres and at airports;
- f. in the case of allocation to the extended procedure, provision of information by the assigned legal representative to the legal advice agency on the current state of proceedings, or continuation of legal representation assigned in procedural stages relevant to a decision under Article 102/;
- g.³⁵⁶ advice and assistance in relation to submitting a complaint under Article 111 of Regulation (EU) 2019/1896³⁵⁷.

² The payment shall contain a contribution to the administrative and staff costs incurred by the provider, in particular for the organisation of counselling and legal representation, as well as a contribution to independent translation. Payment shall be made as a lump sum. In exceptional cases, the payment may be based on the actual expenditure, especially in the case of non-recurring costs.

Section 1a³⁵⁸

Counselling and Legal Representation in the Extended Procedure following Allocation to the Cantons

Art. 102/

¹ Following allocation to a canton, asylum seekers may contact a legal advice agency or the legal representative allocated free of charge at steps of the procedure at first instance relevant to the decision, in particular if an additional interview is held on the grounds for asylum.

^{1bis} Following allocation to a canton, asylum seekers may contact a legal advice agency or the legal representative allocated free of charge for the advice and assistance under Article 102k paragraph 1 letter g unless this advice and assistance has already been provided in a federal centre.³⁵⁹

² The Confederation shall pay the legal advice agency for the work it carries out under paragraph 1 and ^{1bis} by agreement and on the principle that value for money will be

³⁵⁶ Inserted by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS 2022 459; BBl 2022 7105).

³⁵⁷ See footnote to Art. 102g para. 3.

³⁵⁸ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁵⁹ Inserted by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS 2022 459; BBl 2022 7105).

ensured.³⁶⁰ The payment shall be made as a lump sum. In exceptional cases, the payment may be based on the actual expenditure, especially in the case of non-recurring costs.

³ The Federal Council shall lay down the requirements for authorisation as a legal advice agency and shall determine the procedural steps relevant to the decision under paragraph 1.

Section 1b³⁶¹ Legal Aid

Art. 102m

¹ The Federal Administrative Court shall at the request of the asylum seeker, who shall be exempted from paying the procedural costs, appoint an official legal adviser, but only in the case of appeals against:

- a. decisions to dismiss the application, decisions to refuse asylum and return decisions under Articles 31a and 44;
- b. decisions on the revocation or expiry of asylum under Articles 63 and 64;
- c. the termination of temporary admission relating to asylum seekers under Article 84 paragraphs 2 and 3 FNIA³⁶²;
- d. decisions relating to granting temporary protection under Chapter 4 of this Act.

² An exception is made for appeals under paragraph 1 if they relate to re-examination and review procedures and multiple applications. For these and for the other appeals, with the exception of paragraph 1, Article 65 paragraph 2 of the Administrative Procedure Act applies³⁶³.

³ In the case of appeals submitted on the basis of this Act, persons with a university degree in law who are involved in counselling and representing asylum seekers professionally are also authorised to act as official legal advisers.

⁴ Paragraphs 1–3 also apply to persons whose application is decided on under the accelerated procedure and who do not make use of legal representation under Article 102h. This also applies when the legal representative assigned under the accelerated procedure does not make an appeal (Art. 102h paragraph 4).

³⁶⁰ Amended by No I of the FA of 1 Oct. 2021, in force since 1 Sept. 2022 (AS 2022 459; BBl 2022 7105).

³⁶¹ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁶² SR 142.20

³⁶³ SR 172.021

Section 1c Appeal Proceedings at Cantonal Level³⁶⁴

Art. 103

¹ The cantons shall provide at least one appellate authority where appeals may be filed against rulings of cantonal authorities based on this Act and its implementing provisions.

² Appeals against decisions by cantonal courts of the last instance are governed by the general provisions on the administration of federal justice, unless otherwise provided in this Act.

Section 2 Appeal Proceedings at Federal Level

Art. 104³⁶⁵

Art. 105³⁶⁶ Appeals against SEM rulings

Appeals may be filed against SEM rulings in accordance with the Federal Administrative Court Act of 17 June 2005³⁶⁷.

Art. 106³⁶⁸ Grounds for appeal

¹ An appeal may be filed on the following grounds:

- a. the violation of federal law, including the abuse and exceeding of discretionary powers;
- b. incorrect and incomplete determination of the legally relevant circumstances;
- c.³⁶⁹ ...

² Article 27 paragraph 3 and Article 68 paragraph 2 remain reserved.

³⁶⁴ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

³⁶⁵ Repealed by Annex No 4 of the Administrative Court Act of 17 June 2005, with effect from 1 Jan. 2007 (AS **2006** 2197 1069; BBl **2001** 4202).

³⁶⁶ Amended by No I 3 to No IV of the Ordinance of the Federal Assembly of 20 Dec. 2006 on the Adaptation of Enactments to the Provisions of the Supreme Court Act and the Administrative Court Act, in force since 1 Jan. 2008 (AS **2006** 5599, **2007** 5573; BBl **2006** 7759).

³⁶⁷ SR **173.32**

³⁶⁸ Amended by No I 2 of the Ordinance of the Federal Assembly of 20 Dec. 2006 on the Adaptation of Enactments to the Provisions of the Supreme Court Act and the Administrative Court Act (AS **2006** 5599; BBl **2006** 7759).

³⁶⁹ Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

Art. 107 Contestable interim rulings

¹ Interim rulings issued in application of Article 10 paragraphs 1–3 and 18–48 of this Act as well as Article 71 FNIA³⁷⁰ may only be contested by appeal against the final ruling. The contesting of rulings remains reserved in accordance with Article 27 paragraph 3.³⁷¹

² The following are also independently contestable, provided they may cause permanent prejudice:

- a. precautionary measures;
- b. rulings by which proceedings are suspended, other than rulings in accordance with Article 69 paragraph 3.

³ ...³⁷²

Art. 107a³⁷³ Dublin procedure

¹ No suspensive effect may be applied to appeals against decisions to dismiss applications made by asylum seekers who are able to travel to another state that is responsible under an international treaty for the conduct of asylum or return proceedings.

² The asylum seeker may apply for the order to be suspended within the deadline for filing the appeal.

³ The Federal Administrative Court shall decide on the matter within five days of receipt of an application under paragraph 2. If suspension is not granted within five days, the removal may be enforced

Art. 108³⁷⁴ Time limits for appeals

¹ Under the accelerated procedure, an appeal against a decision under Article 31a paragraph 4 must be submitted within five days of notification of the ruling.

² Under the extended procedure, an appeal against a decision under Article 31a paragraph 4 must be filed within 30 days, and against interim rulings within ten days of notification of the ruling.

³⁷⁰ SR **142.20**

³⁷¹ Amended by Annex No II 1 of the FA of 16 Dec. 2005 on Foreign Nationals, in force since 1 Jan. 2008 2008 (AS **2007** 5437, **2008** 5405; BBl **2002** 3709).

³⁷² Repealed by No I of the FA of 16 Dec. 2005, with effect from 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

³⁷³ Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin (AS **2008** 447; BBl **2004** 5965). Amended by Annex No I 2 of the FD of 26 Sept. 2014 (Adoption of R[EU] No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection), in force since 1 July 2015 (AS **2015** 1841; BBl **2014** 2675).

³⁷⁴ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

³ An appeal against decisions to dismiss an application and against rulings in accordance with Article 23 paragraph 1 and Article 40 in conjunction with Article 6a paragraph 2 letter a must be submitted within five working days of notification of the ruling.

⁴ Denial of entry in accordance with Article 22 paragraph 2 may be contested until notification of the ruling in accordance with Article 23 paragraph 1.

⁵ A review of the legality and the appropriateness of the allocation of a place of stay at the airport or at another appropriate place in accordance with Article 22 paragraphs 3 and 4 may be requested by means of appeal at any time.

⁶ In other cases, the time limit for appeals is 30 days from notification of the ruling.

⁷ Written legal submissions sent by fax are legally binding if they reach the Federal Administrative Court within the notice period and are supplemented by filing the signed original subsequently in accordance with Article 52 paragraphs 2 and 3 of the Federal Act of 20 December 1968³⁷⁵ on Administrative Procedure.

Art. 108a³⁷⁶ Coordination with the extradition proceedings

If the person seeking asylum is the subject of an application for extradition in accordance with the Mutual Assistance Act of 20 March 1981³⁷⁷, the appeal authorities shall consult the files on the extradition proceedings when deciding on appeal relating to the asylum application.

Art. 109³⁷⁸ Time limits for decisions

¹ Under the accelerated procedure, the Federal Administrative Court normally decides within 20 days on appeals against decisions under Article 31a paragraph 4.

² Under the extended procedure, the Federal Administrative Court decides on appeals against decisions under Article 31a paragraph 4 within 30 days.

³ In the case of appeals against decisions to dismiss an application and against rulings under Article 23 paragraph 1 and Article 40 in conjunction with Article 6a paragraph 2 letter a, it normally decides within 5 working days.

⁴ The time limits laid down in paragraphs 1 and 3 may be exceeded by a few days if there are valid reasons.

⁵ The Federal Administrative Court decides on appeals against decisions in accordance with Article 22 paragraphs 2–3 and 4 without delay on the basis of the files.

⁶ In other cases, the Federal Administrative Court shall decide on appeals within 20 days.

³⁷⁵ SR 172.021

³⁷⁶ Inserted by No I 2 of the FA of 19 Dec. 2003 on the 2003 Relief Programme (AS 2004 1633; BBl 2003 5615). Amended by No I 1 of the FA of 1 Oct. 2010 on the Coordination of Asylum and Extradition Proceedings, in force since 1 Apr. 2011 (AS 2011 925; BBl 2010 1467).

³⁷⁷ SR 351.1

³⁷⁸ Amended by No I, paras 5 and 7 in accordance with No IV 2 of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

⁷ It shall decide exceptionally and immediately if the person seeking asylum is in detention pending extradition on the basis of a request by a state in respect of which the asylum seeker is seeking protection in Switzerland. This also applies when the asylum seeker has been made subject to an expulsion order under Article 66a or 66a^{bis} SCC³⁷⁹ or Article 49a or 49a^{bis} MCC³⁸⁰ or an expulsion order under Article 68 FNIA^{381, 382}

Art. 109a³⁸³ Exchange of information

A regular exchange of information shall take place between the FDJP and the Federal Administrative Court on the prioritisation and administrative processing of proceedings of first and second instance.

Art. 109b³⁸⁴ Federal Administrative Court processing strategy

The Federal Administrative Court shall adopt a processing strategy; in doing so, it shall take account of:

- a. SEM processing strategy under Article 37b;
- b. the statutory appeal and processing deadlines.

Art. 110 Procedural time limits

¹ The additional period allowed for the amendment of the appeal amounts to seven days, and in the case of appeals against decisions to dismiss an application and decisions in accordance with Article 23 paragraph 1, under Article 40 in conjunction with Article 6a paragraph 2 letter a, and rulings under Article 111b, three days.³⁸⁵

² The time limit for furnishing evidence is seven days if the evidence must be obtained in Switzerland, and 30 days for evidence that must be obtained abroad. Expert reports must be produced within 30 days.

³ The time limit under paragraph 2 may be extended if the appellant or their representative is prevented from acting within this time limit, in particular due to illness or accident.³⁸⁶

³⁷⁹ SR **311.0**

³⁸⁰ SR **321.0**

³⁸¹ SR **142.20**

³⁸² Second sentence amended by No I 3 of the FA of 25 Sept. 2020 on Police Counterterrorism Measures, in force since 1 June 2022 (AS **2021** 565; **2022** 300; BBl **2019** 4751).

³⁸³ Inserted by No I of the FA of 14 Dec. 2012 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

³⁸⁴ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

³⁸⁵ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

³⁸⁶ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁴ The deadline for proceedings is at the most two working days in the case of proceedings relating to the denial of entry into Switzerland and the allocation of a place of stay at the airport in accordance with Article 22 paragraphs 2–3 and 4.³⁸⁷

Art. 110a³⁸⁸

Art. 111³⁸⁹ Competence of a single judge

¹ The following cases may be heard by a single judge:

- a. the dismissal of appeals due to irrelevance;
- b. summary dismissal of manifestly unlawful appeals;
- c. the decision relative to the preliminary denial of entry at the airport and the allocation of a place of stay at the airport;
- d.³⁹⁰ ...
- e. with consent of a second judge: appeals that are clearly with or without justification.

Art. 111a³⁹¹ Procedure and decision

¹ The Federal Administrative Court may dispense with an exchange of written submissions.³⁹²

² Appeal decisions in accordance with Article 111 need only be summarily substantiated.

Art. 111a^{bis 393} Preparatory measures and oral notification of a judgment

¹ In the appeal procedure against decisions on asylum under Article 31a of this Act issued under the accelerated or the Dublin procedure, the Federal Administrative

³⁸⁷ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁸⁸ Inserted by No I of the FA of 14 Dec. 2012 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325). Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁸⁹ Amended by No I and IV 1 of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³⁹⁰ Repealed by No I of the FA of 25 Sept. 2015, with effect from 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁹¹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS 2006 4745, 2007 5573; BBl 2002 6845).

³⁹² Amended by No I 3 of the Ordinance of the Federal Assembly of 20 Dec. 2006 on the Amendment of Legislation in accordance with the Provisions on the Federal Supreme Court Act and the Federal Administrative Court Act, in force since 1 Jan. 2008 (AS 2006 5599, 2007 5573; BBl 2006 7759).

³⁹³ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Court may carry out preparatory measures in federal centres under Article 39 paragraph 2 of the Federal Administrative Court Act of 17 June 2005³⁹⁴ if this means that the appeal can be decided on more quickly.

² Oral notification of the judgment is permitted. The oral notification together with a summary justification must be recorded in minutes.

³ The parties may request a complete copy of the judgment within 5 days of oral notification of the judgment. This does not mean that enforceability of the judgment is deferred.

Art. 111a^{ter} ³⁹⁵ Party costs

In the appeal procedure against decisions on asylum under Article 31a which have been issued under the accelerated or the Dublin procedure, no party costs shall be awarded. If the asylum seeker has not made use of legal representation under Article 102h or has not made use of legal representation when making an appeal (Art. 102h paragraph 4), the general provisions on the administration of federal justice apply.

Section 3 Re-examination and Multiple Applications³⁹⁶

Art. 111b³⁹⁷ Re-examination

¹ An application for re-examination must be submitted to SEM in writing and with a statement of grounds within 30 days of identifying the grounds for re-examination. There is no preparatory phase.³⁹⁸

² Decisions to dismiss an application must normally be made within five working days of submission of an application for re-examination. In other cases, decisions must normally be made within ten working days of the application being submitted.

³ The submission of an application for re-examination does not delay enforcement. The authority responsible for processing may suspend enforcement on request if there is a specific danger to the applicant in his or her native country or country of origin.

⁴ Applications for re-examination without a statement of grounds or repeat applications that state the same grounds shall be dismissed without a formal decision being taken.

³⁹⁴ SR 173.32

³⁹⁵ Inserted by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

³⁹⁶ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

³⁹⁷ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS 2013 4375 5357; BBl 2010 4455, 2011 7325).

³⁹⁸ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS 2016 3101, 2018 2855; BBl 2014 7991).

Art. 111c³⁹⁹ Multiple applications

¹ Applications for asylum made within five years of the asylum and return decision becoming legally binding must be submitted in writing with a statement of the grounds. There is no preparatory phase. The grounds for dismissal under Article 31a paragraphs 1–3 apply.⁴⁰⁰

² Multiple applications or repeat applications that state the same grounds shall be dismissed without a formal decision being taken

Art. 111d⁴⁰¹ Fees

¹ SEM shall charge a fee if it rejects or dismisses an application for re-examination or a multiple application. If a request or application is approved in part, the fee is reduced. No compensation is paid.

² SEM shall on request exempt the applicant following submission of re-examination or multiple applications from having to pay procedural costs provided he or she is in financial need and the application does not appear *prima facie* without merit.

³ SEM may request the applicant to make an advance payment of fees equivalent to the probable procedural costs. It shall allow an appropriate period for payment to be made, under threat of dismissal for failure to do so. An advance payment of fees shall not be requested:

- a. if the requirements of paragraph 2 are met; or
- b. in proceedings involving unaccompanied minors, provided the re-examination or multiple application does not appear *prima facie* without merit.

⁴ The Federal Council shall regulate the assessment of the fee and the level of the advance payment.

Art. 112⁴⁰²

³⁹⁹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰⁰ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁴⁰¹ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰² Repealed by No I of the FA of 14 Dec. 2012, with effect from 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

Section 4 Stop and Suspension of Limitation Periods⁴⁰³

Art. 112a⁴⁰⁴

For the duration of appeal proceedings, the limitation period for financial claims by the Confederation against recipients of subsidies or social assistance does not begin or is suspended if it has already begun.

Chapter 8a Asylum Proceedings in Test Phases⁴⁰⁵

Art. 112b⁴⁰⁶

Chapter 9 International Cooperation⁴⁰⁷

Art. 113 Principles⁴⁰⁸

The Confederation shall participate in the harmonisation of European refugee policy at international level as well as in the resolution of refugee problems abroad. It shall support the activities of international charitable organisations. It shall in particular work with the United Nations High Commissioner for Refugees.

Art. 114⁴⁰⁹ International agreements

The Federal Council, in implementation of a migration framework credit approved on the basis of Article 91 paragraph 7 in conjunction with Article 113 or Article 93 paragraph 1 letter c and paragraph 2, may enter into international agreements on the payment of contributions to selected EU member states or to international organisations. It shall consult the competent committees beforehand.

⁴⁰³ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰⁴ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰⁵ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰⁶ Inserted by No I of the FA of 28 Sept 2012 (Emergency Amendments to the Asylum Act), in force from 29 Sept. 2012 to 28 Sept. 2015 (AS **2012** 5359; BBl **2010** 4455, **2011** 7325) and extended to 28 Sept. 2019 by No II of the FA of 26 Sept. 2014 (AS **2015** 2047; BBl **2014** 2087).

⁴⁰⁷ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴⁰⁸ Amended by No I of the FA of 20 Dec. 2019, in force since 1 Nov. 2020 (AS **2020** 3989; BBl **2018** 6565).

⁴⁰⁹ Amended by No I of the FA of 20 Dec. 2019, in force since 1 Nov. 2020 (AS **2020** 3989; BBl **2018** 6565).

Chapter 10 Criminal Provisions⁴¹⁰

Section 1 Criminal Provisions relative to Chapter 5 Section 2⁴¹¹

Art. 115 Misdemeanours

Any person who commits any of the following acts is liable to a monetary penalty not exceeding 180 daily penalty units, unless the act constitutes a felony or misdemeanour that carries a higher penalty under the SCC^{412;413}

- a. obtaining, on the basis of this Act, for themselves or for another by providing false or incomplete information or in another way a pecuniary advantage that is not theirs by right;
- b.⁴¹⁴ completely or partly evading the duty to pay the special charge in accordance with Article 86 by providing false or incomplete information or in another way;
- c.⁴¹⁵ ...
- d.⁴¹⁶ assists a person to commit an offence under Article 116 letter c with a view to his or her own financial gain, in particular through planning or organisation.

Art. 116 Contraventions

Any person who commits any of the following acts is liable to a fine, unless the act constitutes an offence under Article 115:

- a. violating the obligation to provide information by knowingly providing false information or refusing to provide information;
- b. resisting a check instructed by the competent authority or rendering this impossible in another way;

⁴¹⁰ Amended by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

⁴¹¹ Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

⁴¹² SR **311.0**. Term in accordance with Annex No 2 of the FA of 20 March 2015 (Implementation of Art. 121 para. 3–6 Federal Constitution on the expulsion of foreign nationals convicted of certain criminal offences), in force since 1 Oct. 2016 (AS **2016** 2329; BBl **2013** 5975).

⁴¹³ Amended by Art. 333 of the Criminal Code (SR **311.0**) in the version contained in the FA of 13 Dec. 2002, in force since 1 Jan. 2007 (AS **2006** 3459; BBl **1999** 1979).

⁴¹⁴ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

⁴¹⁵ Repealed by Annex No 1 of the FA of 16 Dec. 2016 (Integration), with effect from 1 Jan. 2018 (AS **2017** 6521; BBl **2016** 2821, **2013** 2397).

⁴¹⁶ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

- c.⁴¹⁷ carries out public political activities as an asylum seeker in Switzerland solely with the intention of establishing subjective post-flight grounds within the meaning of Article 54;
- d.⁴¹⁸ assists a person to commit an offence under letter c, in particular through planning or organisation.

Art. 116a⁴¹⁹

Art. 117⁴²⁰

Section 2⁴²¹ **Criminal Provisions relative to Chapter 7 Section 2**

Art. 117a Improper processing of personal data

Any person who processes personal data stored in Eurodac for a purpose other than to establish which state is responsible for examining an application for asylum made by a citizen of a third country in a state subject to the Dublin Association Agreements is liable to a fine.

Section 3 **Prosecution**⁴²²

Art. 118 ...⁴²³

Prosecution is the responsibility of the cantons.

⁴¹⁷ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴¹⁸ Inserted by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

⁴¹⁹ Inserted by No I of the FA of 16 Dec. 2005 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845). Repealed by Annex No 1 of the FA of 16 Dec. 2016 (Integration), with effect from 1 Jan. 2018 (AS **2017** 6521; BBl **2016** 2821, **2013** 2397).

⁴²⁰ Repealed by Annex No 1 of the FA of 16 Dec. 2016 (Integration), with effect from 1 Jan. 2018 (AS **2017** 6521; BBl **2016** 2821, **2013** 2397).

⁴²¹ Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

⁴²² Inserted by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, in force since 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

⁴²³ Repealed by Art. 3 No 2 of the FD of 17 Dec. 2004 on the Approval and the Implementation of the Bilateral Agreements between Switzerland and the EU on Association with Schengen and Dublin, with effect from 12 Dec. 2008 (AS **2008** 447 5405 Art. 1 let. a; BBl **2004** 5965).

Chapter 11 Final Provisions

Art. 119 Implementation

The Federal Council shall be responsible for implementation. It shall issue the implementing provisions.

Art. 120 Repeal of existing legislation

The following are repealed:

- a. the Asylum Act of 5 October 1979⁴²⁴;
- b. the Federal Decree of 16 December 1994⁴²⁵ on Economy Measures in the Sphere of Asylum and Foreign Nationals.

Art. 121 Transitional provisions

¹ The new law applies to proceedings pending on the commencement of this Act.

² Pending proceedings on the granting of a residence permit by the immigration authorities in accordance with the prior Article 17 paragraph 2 shall become irrelevant.

³ The Appeals Commission and the FDJP shall retain jurisdiction over any appeals pending before them on the commencement of this Act, subject to paragraph 2 above.

⁴ On the commencement of this Act, the provisions of Chapter 4 shall apply to groups of foreign nationals temporarily admitted in accordance with the current Article 14a paragraph 5 of the Federal Act of 26 March 1931⁴²⁶ on the Residence and Permanent Settlement of Foreign Nationals. The length of stay of persons temporarily admitted in groups shall be taken into account when calculating the time limits in accordance with Article 74 paragraphs 2 and 3.

⁵ The previous law shall apply for up to two years after the commencement of this Act in relation to the payment of social assistance benefits to refugees with a residence permit.

⁴²⁴ [AS 1980 1718; 1986 2062; 1987 1674; 1990 938, 1587 Art. 3; 1994 1634 No I 8.1, 2876; 1995 146 No II, 1126 No II 1, 4356; 1997 2372, 2394; 1998 1582]

⁴²⁵ [AS 1994 2876]

⁴²⁶ [BS 1 121; AS 1949 221; 1987 1665; 1988 332; 1990 1587 Art. 3 para. 2; 1991 362 No II 11, 1034 No III; 1995 146; 1999 1111; 2000 1891 No IV 2; 2002 685 No I 1, 701 No I 1, 3988 Annex No 3; 2003 4557 Annex No II 2; 2004 1633 No I 1, 4655 No I 1; 2005 5685 Annex No 2; 2006 979 Art. 2 No 1, 1931 Art. 18 No 1, 2197 Annex No 3, 3459 Annex No 1, 4745 Annex No 1; 2007 359 Annex No 1. AS 2007 5437 Annex No I]. See: the FA of 16 Dec. 2005 on Foreign Nationals (SR 142.20).

Art. 122 Relationship with the Federal Decree of 26 June 1998⁴²⁷
on Emergency Measures in the Sphere of Asylum and
Foreign Nationals

If a referendum is sought on the Federal Decree of 26 June 1998 on Emergency Measures in the Sphere of Asylum and Foreign Nationals and it is rejected in a popular vote, the provisions listed below shall be deleted:

- a. Article 8 paragraph 4 (duty to cooperate in the acquisition of valid travel documents),
- b. Article 32 paragraph 2 letter a (dismissal of the application in the event of failure to submit travel documents or identity papers),
- c. Article 33 (dismissal of the application in the event of improper filing of an asylum application),
- d. Article 32 paragraph 2 letter b (dismissal of the application in the event of identity fraud); in this case, the content of Article 16 paragraph 1 letter b shall be inserted in the version in accordance with Number I of the Federal Decree of 22 June 1990⁴²⁸ on Asylum Procedures instead of the deleted provision of Article 32 paragraph 2 letter b; and
- e. Article 45 paragraph 2 (immediate implementation of decisions to dismiss applications); in this case, the content of Article 17a paragraph 2 shall be inserted in the version in accordance with Number II of the Federal Act of 18 March 1994⁴²⁹ on Coercive Measures under the Law on Foreign Nationals instead of the deleted provision of Article 45 paragraph 2 after the adjustment of the article references.

Art. 123 Referendum and commencement

¹ This Act is subject to an optional referendum.

² The Federal Council shall determine the commencement date.

Commencement date: 1 October 1999⁴³⁰

⁴²⁷ AS **1998** 1582 No III. In the light of the adoption of this FD in the popular vote of 13 June 1999, this Art. is irrelevant.

⁴²⁸ AS **1990** 938

⁴²⁹ AS **1995** 146 151

⁴³⁰ Federal Council Decree of 11 Aug. 1999.

Final Provisions to the Amendment of 19 December 2003⁴³¹

¹ The previous law in accordance with Article 37 applies to the time limit for processing applications for asylum that are filed before the commencement of this amendment to the Act.

² Article 50 of the Federal Administrative Procedure Act of 20 December 1968⁴³² applies to time limits for filing appeals against decisions to dismiss an application in the first instance in accordance with Articles 32–34 that are issued before the commencement of this amendment to the Act.

³ The previous law in accordance with Article 109 applies to appeals against decisions to dismiss an application in accordance with Articles 32–34 that is filed before the commencement of this amendment to the Act.

⁴ Articles 44a and 88 paragraph 1^{bis} also apply to decisions to dismiss an application in accordance with Articles 32–34 that became legally binding before the commencement of this Act. The cantons shall, however, receive support for nine months at the most after the commencement of this amendment to the Act in accordance with Article 88 paragraph 1, provided the Federal Office for Refugees supported the cantons in the enforcement of the removal until the commencement of this amendment to the Act.

Transitional Provisions to the Amendment of 16 December 2005⁴³³

¹ The new law applies to the procedures pending on commencement of this amendment to the Act.

² If there are grounds for a final account before the commencement of this amendment to the Act in accordance with Article 87 in the version of 26 June 1998⁴³⁴, the settlement and the balancing of the account shall be carried out in accordance with current legislation.

³ The Federal Council shall regulate the settlement procedures; it determines to what extent and how long persons who were gainfully employed before the commencement of this amendment to the Act and for whom there was no intermediate or final account in accordance with paragraph 2 at the in the time of the commencement of this amendment to the Act must pay a special charge and to which extent and how long their assets are distrained.

⁴ The Confederation shall make a single flat-rate payment of 15,000 francs to the cantons for each person for whom the decision to grant asylum or the return decision became legally binding before the commencement of this amendment to the Act, provided these persons have not yet left Switzerland.

⁴³¹ AS **2004** 1633; BBl **2003** 5615

⁴³² SR **172.021**

⁴³³ AS **2006** 4745, **2007** 5573; BBl **2002** 6845. Para. 1 in force since 1 Jan. 2007 and paras. 2–4 in force since 1 Jan. 2008.

⁴³⁴ AS **1999** 2262

Transitional Provision to the Amendment of 28 September 2012⁴³⁵

Articles 12, 19, 20, 41 paragraph 2, 52 and 68 apply in their previous versions to asylum applications that are filed abroad before the amendment to this Act of 28 September 2012 comes into force.

Transitional Provisions to the Amendment of 14 December 2012⁴³⁶

¹ Subject to paragraphs 2–4, the new law applies to proceedings pending when the Amendment to this Act of 14 December 2012 comes into force.

² The previous law as of 1 January 2008 applies to re-examination and multiple application proceedings pending when the Amendment to this Act of 14 December 2012 comes into force. Paragraph 1 applies to Article 43 paragraph 2 and 82 paragraph 2.

³ Airport operators are responsible for making accommodation at the airport in accordance with Article 22 paragraph 3 available within two years of the Amendment to this Act of 14 December 2012 coming into force.

⁴ Asylum applications filed before the Amendment to this Act of 14 December 2012 comes into force are governed by Article 17 and 26 of the previous law. Article 26^{bis} ⁴³⁷ does not apply to asylum proceedings pending when the Amendment of 14 December 2012 comes into force. Article 110a does not apply to appeal proceedings pending when the Amendment of 14 December 2012 comes into force.

⁵ Revocation of asylum or the deprivation of refugee status does not apply to persons recognised as refugees under Article 51 of the previous law.

Transitional Provisions to the Amendment of 26 September 2014⁴³⁸

Transitional Provisions to the Amendment of 25 September 2015⁴³⁹

¹ The previous law applies to procedures pending when the Amendment of 25 September 2015 comes into force, subject to paragraph 2.

² The previous law continues to apply to accelerated procedures and Dublin procedures pending when this Amendment comes into force which are based on the implementing provisions for Article 112b paragraphs 2 and 3 in the version in accordance with Number I of the Amendment of 28 September 2012⁴⁴⁰ to the Asylum Act of 26 June 1998 (Emergency Amendment to the Asylum Act).

⁴³⁵ AS 2012 5359; BBI 2010 4455, 2011 7325

⁴³⁶ AS 2013 4375 5357; BBI 2010 4455, 2011 7325

⁴³⁷ Now: Art. 26a

⁴³⁸ Valid until 28 Sept. 2015 (AS 2015 2047; BBI 2014 2087).

⁴³⁹ AS 2016 3101, 2017 6171, 2018 2855; BBI 2014 7991

⁴⁴⁰ AS 2012 5359, 2015 2047

³ The previous law applies for at most two years to requests for asylum which cannot be processed in federal centres. The previous law applies to procedures still pending at the end of this period until their legally binding conclusion.

⁴ Planning approval procedures for constructing new buildings and installations may be continued until their legally binding conclusion if the application was filed during the term of validity of Article 95a paragraph 1 letter a.

⁵ Approval procedures for the construction of new buildings and installations that the Confederation intends to use to accommodate asylum seekers or to conduct asylum procedures that are pending before the first instance when the Amendment of 25 September 2015 comes into force shall be continued in accordance with Chapter 6a.

Transitional Provision to the Amendment of 16 December 2016⁴⁴¹

Proceedings that are pending and claims that are outstanding under Articles 86 and 87 of this Act and Article 88 FNIA⁴⁴² when the Amendment of 16 December 2016 comes into force are governed by the previous law.

Transitional Provision to the Amendment of 1 October 2021⁴⁴³

Three years after the Amendment of 1 October 2021 comes into force, the Federal Council shall submit a report to parliament on the expediency, efficacy and cost efficiency of the measures in accordance with Article 8a and Article 47 paragraphs 2 and 3.

⁴⁴¹ AS 2017 6521; BBl 2016 2821, 2013 2397

⁴⁴² SR 142.20

⁴⁴³ AS 2024 189; BBl 2020 9287; 2021 137

*Annex 1*⁴⁴⁴
(Art. 21 para. 3)

Dublin Association Agreements

The Dublin Association Agreements comprise:

- a. the Agreement of 26 October 2004⁴⁴⁵ between the Swiss Confederation and the European Community on the criteria and procedure for determining the State responsible for examining an application for asylum lodged in a member state or in Switzerland (DAA);
- b. the Agreement of 17 December 2004⁴⁴⁶ between the Swiss Confederation, the Republic of Iceland and the Kingdom of Norway on the implementation, application and development of the Schengen Acquis and on the criteria and procedure for determining the State responsible for examining an application for asylum lodged in Switzerland, Iceland or Norway;
- c. the Protocol of 28 February 2008⁴⁴⁷ between the Swiss Confederation, the European Community and the Principality of Liechtenstein to the Agreement between the Swiss Confederation and the European Community on the criteria and procedure for determining the State responsible for examining an application for asylum lodged in a member state or in Switzerland;
- d. the Protocol of 28 February 2008⁴⁴⁸ between the Swiss Confederation, the European Community and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the Swiss Confederation and the European Community on the criteria and procedure for determining the State responsible for examining an application for asylum lodged in a member state or in Switzerland.

⁴⁴⁴ Inserted by Annex No 1 of the FA of 13 June 2008 (Amendments in implementation of the Schengen and Dublin Association Agreements), in force since 12 Dec. 2008 (AS **2008** 5407 5405 Art. 2 let. c; BBl **2007** 7937).

⁴⁴⁵ SR **0.142.392.68**

⁴⁴⁶ SR **0.362.32**

⁴⁴⁷ SR **0.142.393.141**

⁴⁴⁸ SR **0.142.395.141**

*Annex 2*⁴⁴⁹

Amendment of Current Legislation

...⁴⁵⁰

⁴⁴⁹ Originally Annex.
⁴⁵⁰ The amendments may be consulted under AS **1999** 2262.

