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Ordinance Governing Residence (Aufenthaltsverordnung – AufenthV)

Ordinance Governing Residence of 25. November 2004 (Federal Law Gazette I, p. 2945), last amended by Article 8 of the Act of 8 May 2024 (Federal Law Gazette 2024 I No. 152). The ordinance was adopted by the Federal Government and the Federal Ministry of the Interior with the approval of the Bundesrat as Article 1 of the Ordinance of 25 November 2004 I 2945. It entered into force in accordance with Article 3 (1) of this ordinance on 1 January 2005.

Chapter 1 General provisions

Section 1 Definitions

- (1) Schengen member states are the countries referred to in section 2 (5) of the Residence Act (*Aufenthaltsgesetz*).
- (2) A short stay is a stay in the common territory of the Schengen member states of no more than 90 days within any 180-day period, taking into account the 180-day period preceding each day of stay.
- (3) Travel documents for refugees constitute identity documents by virtue of
 1. the agreement of 15 October 1946 relating to issuing a travel document to refugees who are the concern of the Intergovernmental Committee on Refugees (Federal Law Gazette 1951 II, p. 160) or
 2. Article 28 in conjunction with the Appendix to the Convention relating to the Status of Refugees of 28 July 1951 (Federal Law Gazette 1953 II, p. 559).
- (4) Travel documents for stateless persons constitute identity documents by virtue of Article 28 in conjunction with the appendix to the Convention of 28 September 1954 relating to the Status of Stateless Persons (Federal Law Gazette 1976 II, p. 473).
- (5) Collective lists of pupils constitute lists in accordance with Article 2 of the Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a member state (OJ L 327, p. 1).
- (6) Flight crew identity documents are "Airline Flight Crew Licences" and "Crew Member Certificates" as shown in the appendix to the applicable version of Annex 9 to the Convention on International Civil Aviation of 7 December 1944 (Federal Law Gazette 1956 II, p. 411).

(7) Inland waterway identity documents are identity documents stipulated in intergovernmental agreements on the crossing of borders by civilian crews navigating in international inland waters and their dependants, insofar as the respective agreements specify the validity of the said papers for dependants.

(8) European travel documents for the return of illegally staying third-country nationals (European travel documents for return) are documents according to Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 (OJ L 311, 17.11.2016, p. 13).

Chapter 2

Entry into and residence in the federal territory

Division 1

Passport requirement for foreigners

Section 2

Fulfilling the passport requirement by means of an entry in the passport of a legal representative

Minor foreigners under the age of 16 fulfil the passport requirement by being entered in a legal representative's recognised and valid passport or passport substitute. For foreign minors aged 10 or over, this provision applies only when the minor's own photograph is included in the passport or passport substitute.

Section 3

Approval of non-German official identity documents as passport substitutes

(1) Official identity documents issued by authorities other than German authorities are permitted as passport substitutes without requiring recognition pursuant to section 71 (6) of the Residence Act, insofar as the Federal Republic of Germany is obliged

1. by virtue of intergovernmental agreements or
2. by virtue of European Union law

to permit the holder to cross the border subject to the requirements stipulated in the aforesaid legislation. This does not apply if the issuing country is exempt from the scope of validity of the identity document or if the holder is not entitled to return to that country.

(2) Permission is not granted if the Federal Ministry of the Interior, Building and Community determines, in the cases of subsection (1) sentence 1 no. 1, that

1. reciprocity is not maintained, insofar as such reciprocity has been agreed, or
2. the official identity document
 - a) does not contain adequate information to clearly identify the holder or the issuing authority,
 - b) does not incorporate any security features affording a minimum level of protection from forgery or manipulation, or
 - c) the information is not provided in a Germanic or Romance language.

(3) Identity documents within the meaning of subsection (1) include in particular:

1. travel documents for refugees (section 1 (3)),
2. travel documents for stateless persons (section 1 (4)),
3. identity documents for members and officials of the bodies of the European Communities,

4. identity documents for members of the Parliamentary Assembly of the Council of Europe,
5. official identity cards of the member states of the European Union, the other states party to the Convention on the European Economic Area, and Switzerland for their nationals,
6. collective lists of pupils (section 1 (5)),
7. flight crew identity documents, if they are required for a stay pursuant to section 23, and
8. inland waterway identity documents, if they are required for a stay pursuant to section 25.

Section 4

German passport substitutes for foreigners

(1) Passport substitute documents issued for foreigners by German authorities are:

1. the travel document for foreigners (section 5 (1)),
2. the emergency travel document (section 13 (1)),
3. the travel document for refugees (section 1 (3)),
4. the travel document for stateless persons (section 1 (4)),
5. the collective list of pupils (section 1 (5)),
6. the certificate confirming relocation (section 43 (2)),
7. the European travel document for return (section 1 (8)).

Passport substitutes under sentence 1 nos. 3 and 4 are issued with a validity of one to three years or, provided the holder of a passport possesses a residence title pursuant to section 9 or 9a of the Residence Act or a document issued on the basis of the Freedom of Movement Act/EU (*Freizügigkeitsgesetz/EU*), with a validity of up to 10 years; no extension is permitted. In derogation from subsection (4) sentence 1, passport substitutes under sentence 1 nos. 1, 3 and 4 are also issued as temporary documents without a chip; their validity, including any extensions, must not exceed one year. In derogation from subsection (4) sentence 1, passport substitutes under sentence 1 nos. 1, 3 and 4 may, in justified cases, be issued to children under age 12 as documents without a chip. Passport substitutes under sentence 4 which have no chip are valid for no more than one year and expire when the holder reaches the age of 12. These passport substitutes may, before they expire, be extended for one year at a time until the holder reaches the age of 12; a recent photograph must be included each time the document is extended. Passport substitutes under sentence 1 nos. 3 and 4 which are issued to displaced foreigners pursuant to the Act on the Legal Status of Displaced Foreigners in the Federal Territory (*Gesetz über die Rechtsstellung heimatloser Ausländer im Bundesgebiet*) may be issued with a period of validity of up to 10 years.

(2) In addition to the name of the issuing authority, the date issued, the date of expiry, the serial number, the photograph and signature of the holder of the passport substitute, passport substitutes under subsection (1) sentence 1 nos. 1, 3 and 4 include only the following clearly visible information about the holder of the passport substitute:

1. family name, and if applicable, name at birth
2. given name or names,
3. doctoral degree,
4. date and place of birth,

5. the abbreviation “F” for female, “M” for male or “X” for all other alternatives,
6. height,
7. eye colour,
8. place of residence,
9. nationality.

On request, the passport substitute under subsection (1) sentence 1 nos. 1, 3 and 4 may, in case of a sex change, be issued in accordance with section 45b of the Civil Status Act (*Personenstandsgesetz*) with information on the holder’s previous sex, if this was male or female. This information has no further effect in law.

(3) Passport substitutes under subsection (1) sentence 1 nos. 1, 3 and 4 contain a machine-readable zone. This zone may contain only

1. the abbreviation “PT” for passport substitutes under subsection (1) sentence 1 nos. 1, 3 and 4, including temporary passport substitutes,
2. the abbreviation “D” for the Federal Republic of Germany,
3. the surname,
4. the given name or names,
5. the serial number of the passport substitute, which consists of the foreigners authority code number and a randomly assigned number which may contain both letters and numerals; for temporary passport substitutes, this number consists of a series letter and seven numerals,
6. the abbreviation of the nationality,
7. the date of birth,
8. the abbreviation “F” for female holders of passport substitutes, “M” for male holders of passport substitutes, or “<” for all other alternatives,
9. the passport substitute’s period of validity,
- 9a. the version number of the model document,
10. the check digits and
11. empty spaces.

The serial numbers and check digits may not contain any personal information on the holder of the passport substitute or reference to such information. Each passport substitute is assigned a new serial number.

(4) In accordance with Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by member states (OJ L 385, 29.12.2004, p. 1), passport substitutes under subsection (1) sentence 1 nos. 1, 3 and 4, with the exception of the travel documents for foreigners referred to in section 6 sentence 2 and section 7, must include a chip containing a photograph, fingerprints, information on which fingers were used for fingerprinting, the quality of the prints and the information listed in subsection (3) sentence 2. The stored data must be secured against unauthorised retrieval, alteration and deletion using suitable technical and organisational measures in accordance with Articles 24, 25 and 32 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L

119, 4.5.2016, p. 1; OJ L 314, 22.11.2016, p. 72; OJ L 127, 23.5.2018, p. 2) in their applicable versions. No nation-wide database of the biometric data referred to in sentence 1 will be established.

(5) In derogation from subsection (4) sentence 1, for applicants under age six, no fingerprints will be stored in passport substitutes with a chip. Children aged 10 or over at the time of applying for a passport substitute are to sign their own passport substitute.

(6) Passport substitutes under subsection (1) sentence 1 no. 1 may be issued with a note stating that the personal data are based on information provided by the applicant. The same applies to passport substitutes under subsection (1) nos. 3 and 4 if there are serious doubts as to the applicant's identifying information.

(7) A passport substitute for foreigners will as a rule be withdrawn if the conditions for its issue are no longer met. It is to be withdrawn if the foreigner is required to return it by virtue of special regulations and fails to do so without delay.

(8) German missions abroad withdraw passport substitutes in consultation with the competent or most recently competent foreigners authority in Germany. If such an authority does not exist or cannot be identified, the authority which issued the travel document or, if it has been extended, the extending authority, is to be consulted.

Section 5

General conditions for issuing travel documents for foreigners

(1) A foreigner who verifiably does not possess a passport or passport substitute and is unable to obtain one by reasonable means may be issued with a travel document for foreigners, subject to the following provisions.

(2) "reasonable means" within the meaning of subsection (1) denotes in particular

1. filing the necessary applications for a new document or extension of an existing document with the competent authorities in Germany and abroad in sufficient time before a passport or passport substitute expires, so that issuance of a new document or extension of an existing document may be expected within the period of validity of the previous passport or passport substitute;

2. cooperating in the issuing or extension of the passport or passport substitute in compliance with the provisions of German passport law, in particular sections 6 and 15 of the Passport Act (*Passgesetz*) in the applicable version, and accepting the processing of an application by the authorities of the foreigner's country of origin according to the law of the country of origin, as long as this does not result in unreasonable hardship;

3. performing compulsory military service and other reasonable civic duties, unless this is unreasonable for compelling reasons; and

4. paying the standard charges set by the country of origin for the official measures.

(3) A travel document for foreigners will not as a rule be issued if the foreigner's country of origin refuses to issue a passport or a passport substitute for reasons which also constitute grounds for refusing a passport under German passport law, in particular under section 7 of the Passport Act or due to failure to cooperate under section 6 of the Passport Act, or if issuance may be denied on any other grounds.

(4) A travel document for foreigners should not be issued if the applicant has already improperly used a travel document for foreigners or if there are concrete indications of an intention to misuse the travel document for foreigners. In particular, a single serious violation of restrictions entered in the travel document for foreigners or use of the travel document for foreigners to commit or prepare an offence constitutes misuse. In particular, if the applicant repeatedly reports passport substitutes as lost, this may also be deemed to indicate intended misuse.

(5) The travel document for foreigners which has no chip may only be extended if the conditions applying to issuance continue to be met, if this is permitted by law.

Section 6

Issuing the travel document for foreigners in Germany

A travel document for foreigners may be issued in Germany under section 5

1. if the foreigner has a temporary residence permit, permanent settlement permit or EC long-term residence permit;
2. if the foreigner will be issued with a temporary residence permit, permanent settlement permit or EU long-term residence permit as soon as he or she fulfils the passport requirement as a holder of a travel document for foreigners;
3. to enable the foreigner to leave the federal territory permanently; or,
4. if the foreigner is an asylum applicant, there is an urgent public interest in issuing the travel document for foreigners, it is necessary for compelling reasons, or if refusing to issue the travel document would constitute undue hardship and the asylum procedure is not jeopardised.

In the cases of sentence 1 nos. 3 and 4, the travel document for foreigners is issued without a chip. In the cases of sentence 1 nos. 3 and 4, the issuing authority may allow exemptions from section 5 (2) and (3) and, in the cases of sentence 1 no. 3, exemptions from section 5 (4). Foreigners who have been granted approval for admission under section 23 (4) of the Residence Act and have been issued a temporary residence permit are usually unable to obtain a passport or passport substitute by reasonable means. The same applies to foreigners who received a residence title under section 23 (2) of the Residence Act before 31 July 2015 under the auspices of the programme for the permanent settlement of those seeking protection (resettlement refugees).

Section 7

Issuing the travel document for foreigners abroad

- (1) A travel document for foreigners which has no chip may be issued abroad in accordance with section 5 in order to enable the foreigner to enter the federal territory, if the conditions for granting a residence title required for this purpose are met.
- (2) In addition, a travel document for foreigners which has no chip may be issued abroad in accordance with section 5 to a foreign dependant as defined in section 28 (1) sentence 1 nos. 1 to 3 of the Residence Act or to a German's civil partner who lives abroad with the German in a family household.

Section 8

Period of validity of the travel document for foreigners

- (1) The period of validity of the travel document for foreigners must not exceed the period of validity of the foreigner's residence title or permission to remain pending the asylum decision. The travel document for foreigners may otherwise be issued up to a period of validity of

1. 10 years, if the holder is age 24 or over at the time of issuance,
2. six years, if the holder is under age 24 at the time of issuance.

- (2) In derogation from subsection (1), in the cases of section 6 sentence 1 nos. 3 and 4 and section 7 (1), the travel document may only be issued for a period of validity of no more than one month. In cases in which the country to or through which the intended journey leads only permits entry with a travel document for foreigners whose period of validity extends beyond the intended date of entry or departure, the travel document for foreigners may, in derogation from sentence 1, be issued for a correspondingly longer period of validity which must not exceed 12 months including any extensions.

(3) A travel document for foreigners issued under section 6 sentence 1 nos. 3 and 4 must not be extended. The prohibition of extension is to be noted in the travel document for foreigners.

Section 9

Territorial scope of the travel document for foreigners

- (1) The travel document for foreigners may be issued for all countries or its scope of application may be limited to specific countries or continents. The country whose nationality the foreigner holds is to be excluded from the territorial scope, unless extension of the territorial scope to include this country is justified in exceptional cases.
- (2) In the cases of section 6 sentence 1 no. 4, the territorial scope of the travel document is to be restricted to those countries relevant for the purpose of the journey. In derogation from subsection (1) sentence 2, extending the territorial scope to include the country of origin is not permitted.
- (3) In derogation from subsection (1) sentence 2, in the case of section 6 sentence 1 no. 3 the territorial scope of a travel document for foreigners should include the country whose nationality the foreigner holds.
- (4) In the cases of section 7 (1), the territorial scope of the travel document for foreigners which has been issued abroad is to be limited to the Federal Republic of Germany, the country of departure, the issuing country, and the individual transit countries pertaining to the planned journey, which are to be specified in the travel document for foreigners.

Section 10

Other restrictions in the travel document for foreigners

In order to prevent misuse, other restrictions may be entered in the travel document for foreigners at the time it is issued or afterwards, in particular, the border crossing point to be used when entering the federal territory or the name of the person who must accompany the foreigner. Section 46 (2) of the Residence Act remains unaffected.

Section 11

Procedure for issuing or extending the travel document for foreigners

- (1) A travel document for foreigners may be issued abroad only with the consent of the Federal Ministry of the Interior, Building and Community or the authority designated by it. The same applies to the permitted extension of a travel document for foreigners issued abroad in accordance with sentence 1.
- (2) A travel document for foreigners which has been issued or extended in Germany may be extended abroad only with the consent of the competent or most recently competent foreigners authority. If such an authority does not exist or cannot be identified, consent must be obtained from the authority which issued the travel document or, if it has been extended, from the extending authority.
- (3) Lifting the restrictions pursuant to sections 9 and 10 abroad requires the consent of the competent or most recently competent foreigners authority. If such an authority does not exist or cannot be identified, consent must be obtained from the authority that entered the restriction.

Section 12

Permit for cross-border commuters

- (1) Foreigners who are lawfully resident in a country bordering the federal territory and who return there at least once a week may be issued with a permit for cross-border commuters to pursue studies or an economic activity in the federal territory if they
1. live with their German spouse or civil partner in a family household,
 2. live with their spouse or civil partner who is a Union citizen and who is employed in the federal territory as a cross-border commuter, or who is not a cross-

border commuter and has relocated from the federal territory to a country bordering Germany; or

3. only fail to meet the conditions for being granted a residence title to pursue studies or an economic activity because they are cross-border commuters.

A permit for cross-border commuters to pursue an economic activity in the federal territory may only be issued if the Federal Employment Agency has granted approval for such pursuit, or if pursuit of the economic activity is permitted without the approval of the Federal Employment Agency. In the case of self-employment, the permit for cross-border commuters may be issued whether or not the conditions of section 21 of the Residence Act are met. Section 16b (3) of the Residence Act applies accordingly to a permit for cross-border commuters to pursue studies. Foreigners who are civil servants, live in a country bordering the federal territory and return there at least once a week will be issued with a permit for cross-border commuters to perform their official duties in the federal territory. The permit for cross-border commuters may be issued initially for a period of up to two years. It may be extended for two years in each instance if the conditions for its issuance continue to be met. (2) A permit for cross-border commuters will be issued and extended for Swiss nationals subject to the requirements and conditions stipulated in Article 7 (2), Article 13 (2), Article 28 (1) and Article 32 (2) of Annex I to the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (Federal Law Gazette 2001 II, p. 810).

Section 13

Emergency travel document

(1) A foreigner may be issued with an emergency travel document in order to avoid undue hardship or if a special public interest applies, if the foreigner is able to substantiate his or her identity and he or she

1. is a Union citizen or national of another state party to the Convention on the European Economic Area, of Switzerland, or of a country listed in Annex II to Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from such requirement (OJ L 303, 28.11.2018, p. 39), as amended by Regulation (EU) 2019/592 (OJ L 103 I, 12.4.2019, p. 1), or

2. is entitled on other grounds to reside in the federal territory, another member state of the European Union, another state party to the Convention on the European Economic Area, or in Switzerland, or to return to any of these countries.

(2) The authorities charged with policing cross-border traffic may issue an emergency travel document in accordance with subsection (1) at the border, if the foreigner is not carrying a passport or passport substitute.

(3) The foreigners authority may issue an emergency travel document in accordance with subsection (1) if there is no prospect of procuring another passport or passport substitute, in particular a travel document for foreigners, in the individual case concerned.

(4) The issuing authority may certify the existing entitlement to return to the federal territory on the emergency travel document, if such certification is expedient for the purposes of the intended journey abroad. The authorities referred to in subsection (2) require the approval of the foreigners authority for this purpose.

(5) In derogation from subsection (1), the authorities charged with policing cross-border traffic may issue an emergency travel document to

1. civilian crew members of a ship travelling in maritime or coastal waters or on the Rhine for the stay in port during the ship's layover, and
2. civilian flight personnel for a stay as referred to in section 23 (1)

and the entry and departure related to such a stay, if the personnel concerned do not have a passport or passport substitute with them, in particular a passport substitute as referred to in section 3 (3). Subsection (4) does not apply.

(6) The maximum period of validity for the emergency travel document is one month.

Section 14

Exemption from the passport requirement in rescue operations

Exemptions from the passport requirement apply to

1. foreigners who enter the federal territory from neighbouring countries, by sea or on rescue flights from other countries with the intention of giving or receiving aid in connection with accidents or disasters, and
2. foreigners who belong to the flight crew or escort personnel for rescue flights.

The exemption ends as soon as the foreigner can reasonably be expected to obtain or apply for a passport or passport substitute, with due regard to the special circumstances of the case concerned and to the priority of providing or receiving aid.

Division 2

Exemption from the requirement for a residence title

Subdivision 1

General provisions

Section 15

Provisions pertaining to short stays under Community law

Exemptions from the requirement for a residence title for entry into the federal territory and short stays by foreigners are based on the law of the European Union, in particular the Convention Implementing the Schengen Agreement and Regulation (EU) 2018/1806 in conjunction with the following provisions.

Section 16

Priority of older visa conventions

Holders of the documents listed in Annex A to this ordinance are exempt from the requirement for a residence title for entry and stays in the federal territory, including for stays which exceed the defined period of a short stay, when international obligations, in particular from visa conventions concluded with the countries listed in Annex A before 1 September 1993, conflict with the requirement for a residence title or such a time limit.

Section 17

Non-exemption for economic activity during a short stay

(1) Persons referred to in Article 4 (1) of Regulation (EU) 2018/1806 in the applicable version and holders of a residence title issued by a Schengen member state or of a national visa for a longer-term stay are not exempt from the requirement for a residence title for entry and short stays in the federal territory if they pursue an economic activity in the federal territory.

(2) Subsection (1) does not apply if the foreigner only pursues activities which do not constitute employment under section 30 nos. 2 and 3 of the Ordinance on the Employment of Foreigners (*Beschäftigungsverordnung*) or comparable self-employed activities for up to 90 days within 12 months. The time restriction of sentence 1 does not apply to drivers in cross-border road traffic who merely transport goods or persons through the federal territory, without such goods or persons changing vehicles. For activities under section 30 no. 1 of the Ordinance on the Employment of Foreigners, the time limit under sentence 1 is 90 days within a period of 180 days. Self-employed activities under section 30 no. 1 of the Ordinance on the Employment of Foreigners and under sentences 1 and 2 may be pursued under the conditions specified there without the residence title which is required under section 4a (1) sentence 1 of the Residence Act.

(3) Subsection (1) does not apply to employment of up to 90 days within a period of 180 days for which the Federal Employment Agency has granted a work permit pursuant to section 15a (1) no. 1 or section 15d (1) sentence 1 no. 1 of the Ordinance on the Employment of Foreigners.

Section 17a

Exemption for the provision of services by long-term residents

Foreigners who are lawful long-term residents of another member state of the European Union are exempt from the requirement for a residence title for entry and stays in the federal territory for the purpose of employment under section 30 no. 3 of the Ordinance on the Employment of Foreigners for a period of up to 90 days within 12 months.

Subdivision 2

Exemptions for holders of certain types of identity documents

Section 18

Exemption for holders of travel documents for refugees and stateless persons

Holders of travel documents for refugees or for stateless persons are exempt from the requirement for a residence title for entry and short stays in the federal territory if

1. the travel document was issued by a member state of the European Union, another state party to the Convention on the European Economic Area, by Switzerland or by a country listed in Annex II of Regulation (EU) 2018/1806;
2. the travel document contains an entitlement to return to the federal territory which is valid for at least another four months at the time of entry; and
3. they do not pursue an economic activity, with the exception of activities defined in section 17 (2).

Sentence 1 no. 2 does not apply to holders of travel documents for refugees which were issued by one of the countries listed in Annex A no. 3.

Section 19

Exemption for holders of official passports

Nationals of the countries listed in Annex B are exempt from the requirement for a residence title for entry and short stays in the federal territory if they possess one of the official passports listed in Annex B and do not pursue an economic activity, with the exception of activities defined in section 17 (2).

Section 20

Exemption for holders of identity documents issued by the European Union, intergovernmental organisations or Vatican City

Holders of the following documents are exempt from the requirement for a residence title:

1. identity documents for members and employees of the bodies of the European Communities,
2. identity documents for members of the Parliamentary Assembly of the Council of Europe,
3. Vatican passports, if the holders do not stay in the federal territory for more than 90 days,
4. laissez-passers issued by intergovernmental organisations to persons travelling on their instructions, insofar as the Federal Republic of Germany is obliged by an agreement with the issuing organisation to permit the holder to enter and stay in the federal territory.

Section 21

Holders of permits for cross-border commuters are exempt from the requirement for a residence title for entry, stays and the economic activity in the federal territory described in the permit for cross-border commuters.

Section 22

Exemption for pupils on collective lists

(1) Pupils participating in a trip to or through the federal territory as members of a group of pupils accompanied by a teacher from a school providing general education or a vocational school are exempt from the requirement for a residence title for the entry, transit through and short stays in the federal territory, if they

1. are nationals of a country specified in Annex I to Regulation (EU) 2018/1806;
2. are resident within the European Union, in another state party to the Convention on the European Economic Area or in a country specified in Annex II to Regulation (EU) 2018/1806 or in Switzerland;
3. are entered in a collective list which complies with the requirements stipulated in Article 1 (b) in conjunction with the Annex to the Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a member state; and
4. do not pursue an economic activity.

(2) Pupils resident in the federal territory who are included in a collective list of pupils issued by a German authority for a trip abroad as members of a group of pupils accompanied by a teacher from a school providing general education or a vocational school located in the federal territory are exempt from the requirement for a residence title for re-entry into the federal territory if the foreigners authority has ordered that deportation is to be suspended after re-entry. This order is to be noted on the collective list of pupils.

Subdivision 3

Exemptions in the area of cross-border transport

Section 23

Exemption for civilian flight personnel

(1) Civilian flight personnel who are in possession of flight crew identity documents are exempt from the requirement for a residence title if they

1. are staying only at the airport at which the aircraft stops over or ends its flight,
2. are staying only in the area of a municipality near the airport, or
3. are transferring to another airport.

(2) Civilian flight personnel who are not in possession of flight crew identity documents may be exempted from the requirement for a residence title for a stay as specified in subsection (1) if they meet the passport requirement. The competent bodies are the authorities charged with policing cross-border traffic. A laissez-passer will be issued to confirm the exemption.

Section 24

Exemption for seafarers

(1) Pilots practising their occupation who have official documents confirming their identity and their capacity as a pilot do not need a residence title for their entry and stay.

(2) Civilian shipping personnel of a ship travelling in maritime or coastal waters or on the Rhine who are not covered by subsection (1) may be exempted from the requirement for a residence title for the stay in port during the ship's layover, if they meet the passport requirement. The competent bodies are the authorities charged with policing cross-border traffic. A laissez-passer will be issued to confirm the exemption.

(3) Civilian shipping personnel within the meaning of the above subsections are the captain of a ship, the members of the crew who have been signed on and are entered in the crew list, and any other persons employed on board who are entered in a crew list.

Section 25

Exemption in international civilian inland waterway shipping

(1) Foreigners who

1. are employed on a ship operated in cross-border inland waterway shipping by a company with headquarters in a Schengen member state,
2. have a valid residence title from the country in which the company has its headquarters, and the residence title permits the employment in inland waterway shipping, and
3. are entered in the crew list of this ship

are exempt from the requirement for a residence title for entry and stays in the federal territory of up to six months within a period of 12 months following their initial entry.

(2) Foreigners who

1. are employed on a ship operated on the Danube river system, including the Main-Danube canal, by a company with headquarters abroad,
2. are entered in the crew list of this ship, and
3. have inland waterway identity documents

are exempt from the requirement for a residence title for entry and stays in the federal territory of up to 90 days within a period of 12 months following their initial entry.

(3) The exemption pursuant to subsections (1) and (2) applies to entry and

1. stays on board,
2. stays in the area of the ship's berth and a municipality nearby, and
3. journeys via the shortest route between the border crossing point and the ship's berth or between berths

in connection with the cross-border transport of persons or goods and the onward transport of the same persons or goods on the Danube river system.

(4) Subsections (2) and (3) apply accordingly to dependants entered in inland waterway identity documents.

Section 26

Transit without entering the federal territory; airport transit visa

(1) Foreigners who are present in the federal territory without having entered as defined in section 13 (2) of the Residence Act are exempt from the requirement for a residence title.

(2) The requirement for a permit to enter the transit area of an airport during a stopover or to transfer to a different flight (airport transit visa) applies to persons who, on the basis of Article 3 (1) in conjunction with paragraph (5) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1), require an airport transit visa, and to nationals of the countries listed in Annex C, unless they are exempt from the requirement for an airport transit visa under Article 3 (5) of Regulation (EC) No 810/2009. If an airport transit visa is required by the aforesaid legislation, exemption under subsection (1) applies only if the foreigner has an airport transit visa. The airport transit visa does not constitute a residence title.

(3) (repealed)

Subdivision 4 Other exemptions

Section 27

Exemptions for members of missions of foreign countries

(1) The following persons are exempt from the requirement for a residence title when reciprocity applies:

1. members of the service staff at career consular posts in the federal territory who have been officially assigned to the Federal Republic of Germany and their dependants living with them in the same household who are not permanently resident in the federal territory,
2. members of the diplomatic, career consular, administrative and technical staff and members of the service staff at diplomatic missions and career consular posts in the federal territory who have not been officially assigned to the Federal Republic of Germany but have been recruited locally with the approval of the Federal Foreign Office, and their dependants who have joined them with the approval of the Federal Foreign Office and live with them in the same household, in the form of their spouse or civil partner, minor unmarried children and adult unmarried children who are not yet age 21 at the time of relocating their permanent residence to the federal territory, are undergoing education and are financially dependent on them,
3. the private domestic staff of members of diplomatic missions and career consular posts in the federal territory who are employed with the approval of the Federal Foreign Office,
4. dependants accompanying representatives of other countries and their attendants as referred to in section 20 of the Courts Constitution Act (*Gerichtsverfassungsgesetz*),
5. persons who belong to the household of an officially assigned member of a diplomatic mission or career consular post in the federal territory, who live with the assigned member with due regard to a legal or moral duty, or lived with the assigned member already at the time of his or her assignment in the federal territory, in his or her household or in a caregiving relationship with regard to a legal or moral duty, who are not employed by the assigned member, whose subsistence, including due protection from illness and dependence on nursing care, is ensured without claiming benefits under the Social Code (*Sozialgesetzbuch*) and whose stay has been approved by the Federal Foreign Office in the interests of safeguarding the Federal Republic of Germany's foreign relations in the individual case concerned.

(2) When reciprocity applies, the persons exempt from the requirement for a residence title under subsection (1) as family or household members and the family members covered by section 1 (2) nos. 2 or 3 of the Residence Act are also exempt from the requirement for a residence title if they take up and pursue an approved economic activity or training.

(3) When a ground for exemption under subsection (1) or (2) comes into effect, this does not affect an existing temporary residence permit or permanent settlement permit and is not an impediment to extending a temporary residence permit or to granting a permanent settlement permit to a holder of a temporary residence permit in accordance with the provisions of the Residence Act.

Section 28

Exemption for Swiss nationals entitled to freedom of movement

Under the terms of the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, Swiss nationals are exempt from the requirement for a residence title.

Insofar as the Agreement provides for the right of residence to be certified in the form of a temporary residence permit, under section 78 (1) sentence 2 of the Residence Act this temporary residence permit will be issued on request as a document with a chip.

Section 29

Exemption in connection with rescue operations

The foreigners specified in section 14 sentence 1 are exempt from the requirement for a residence title to enter and stay in the federal territory. The exemption under sentence 1 ends as soon as the foreigner can reasonably be expected to apply for a required residence title, with due regard to the special circumstances of the case concerned and to the priority of providing or receiving aid.

Section 30

Exemption for transit journeys and transit operations

Foreigners are exempt from the requirement for a residence title to enter the federal territory from another Schengen member state and subsequently stay for up to three days if they

1. travel through the federal territory on the basis of an intergovernmental agreement permitting transit journeys, or
2. are transported through the federal territory on the basis of an intergovernmental agreement or with the approval of the Federal Ministry of the Interior, Building and Community or a body authorised by it; in this case, the exemption also applies to escorts supervising the foreigner.

Section 30a

Exemption for foreigners whose application for long-term mobility pursuant to Directive (EU) 2021/1883 has been rejected

Foreigners are exempt from the requirement for a residence title to enter the federal territory and stay there for up to one month if

1. they were holders of an EU Blue Card pursuant to section 18g of the Residence Act,
2. they applied for an EU Blue Card in another member state of the European Union under Article 21 (3) of Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC (OJ L 382, 28.10.2021, p. 1) while the EU Blue Card referred to in no. 1 was still valid, but the application was rejected by that member state,
3. the validity of the EU Blue Card referred to in no. 1 expired while the member state of the European Union referred to in no. 2 examined the application for an EU Blue Card, and
4. the member state of the European Union referred to in no. 2 has filed a request with the competent authorities of the Federal Republic of Germany for the foreigner's permission to re-enter Germany.

Sentence 1 applies accordingly to the foreigner's dependants if they hold a residence title as his or her dependants and the residence title was granted before the validity of the EU Blue Card referred to in sentence 1 no. 1 expired.

Division 3

Visa procedures

Section 31

Approval from the foreigners authority for issuing a visa

(1) A visa requires prior approval from the competent foreigners authority for the intended place of residence, if

1. the foreigner wishes to stay in the federal territory for more than 90 days for other than the educational purposes referred to in Chapter 2 Division 3 of the Residence Act or pursuing an economic activity referred to in Chapter 2 Division 4 of the Residence Act,
 2. the foreigner intends, in the federal territory,
 - a) to pursue self-employment,
 - b) to pursue employment pursuant to section 19c (3) of the Residence Act,
 - c)
 - aa) to pursue another type of employment,
 - bb) to carry out research on the basis of a residence title under section 18d of the Residence Act,,
 - cc) to pursue the permissible purposes of residence associated with a residence title pursuant to sections 16a, 16b, 16d, 16e or 16f (1) of the Residence Act, or
 - dd) to seek a vocational training place or a place in higher education on the basis of a residence title pursuant to section 17 of the Residence Act or to stay on the basis of an opportunity card pursuant to section 20a of the Residence Act, andprovided the foreigner already resided in the federal territory previously on the basis of a temporary suspension of deportation (*Duldung*) or a permission to remain pending the asylum decision (*Aufenthaltsgestattung*) or he or she was subject to measures terminating residence,
 - d) to pursue employment in accordance with section 14 (1a) of the Ordinance on the Employment of Foreigners and claims special circumstances under section 14 (1a) sentence 2 of the Ordinance on the Employment of Foreigners,
 - e) to attend school pursuant to section 16f (2) of the Residence Act, or
3. the foreigner's data are transmitted to the security authorities under section 73 (1) sentence 1 of the Residence Act, insofar as the Federal Ministry of the Interior, Building and Community has ordered the need for approval with due regard to the prevailing security situation.

As a rule, visas for the spouse, civil partner or minor children of a foreigner who wishes to pursue another type of employment or wants to do research on the basis of a residence title pursuant to section 18d of the Residence Act do not require the approval of the foreigners authority if

1. the foreigner's visa does not require the approval of the foreigners authority under sentence 1 no. 2 (c) (aa) or (bb),
2. the visa of the foreigner's spouse or civil partner does not require the approval of the foreigners authority under sentence 1 no. 2,
3. the visa applications are submitted at the same time, and
4. the marriage or civil partnership already exists at the time the foreigner applies for the visa.

In the case of sentence 1 no. 3 approval is deemed to have been granted if the foreigners authority does not object, within 10 days of the visa application data being transmitted, to issuing the visa or if, in individual cases, the foreigners authority does not notify the mission abroad within this period that the assessment process will not be completed within the 10-day period. The same applies in the case of a foreigner who

1. intends to pursue another type of employment or do research on the basis of a residence title pursuant to section 18d of the Residence Act, and in the case of his or her dependants as referred to in sentence 2, or

2. meets the requirements stipulated in sentence 1 no. 2 (c) (bb), (cc) or (dd), if the visa requires the approval of the foreigners authority only due to a previous stay as referred to in sentence 1 no. 2 (c) and if the visa is not exempt from the approval requirement under other provisions.

(2) When the foreigner's residence is arranged by a public body located in the federal territory, the approval for issuing a visa may also be granted by the foreigners authority which is competent for the location of the body arranging the residence. A reference to this provision is to be included in the visa, and the foreigners authority concerned is to be identified.

(3) Particularly in cases in which an entitlement to a residence title applies, a public interest applies, in the cases of sections 18a, 18b, 18c (3), 19, 19b, 19c or 21 of the Residence Act, in which on the basis of subsection (1) sentence 1 no. 2 the foreigners authority is to approve issuing a visa, or in urgent cases, the foreigners authority may approve issuing the visa before the visa application is submitted to the mission abroad (advance approval).

(4) In the cases of section 81a of the Residence Act, the foreigners authority competent for the advance approval required pursuant to section 81a (3) sentence 1 no. 6 of the Residence Act is the one competent for the location of the business where the foreigner is to be employed.

Section 31a

Fast-track procedure for skilled workers

(1) In the case of section 81a of the Residence Act, immediately after the advance approval is presented or transmitted via the Central Register of Foreigners and after the skilled worker requests an appointment, the mission abroad offers an appointment to apply for a visa within the following three weeks.

(2) As a rule, the decision on the visa application is made no later than three weeks after the complete visa application is submitted.

Section 32

Approval from the supreme *Land* authority

A visa does not require the approval of the foreigners authority under section 31 if the supreme *Land* authority has approved issuing the visa.

Section 33

Waiver of approval for ethnic German resettlers

In derogation from section 31, visas intended for holders of admission notices under the Federal Expellees Act and for spouses and descendants included in the admission notice under section 27 (1) sentences 2 to 4 of the Federal Expellees Act do not require the approval of the foreigners authority.

Section 34

Waiver of approval for scientists and students

In derogation from section 31, approval from the foreigners authority is not required for visas for

1. scientists who are recruited for scientific work by German scientific organisations or a German public body and who receive a grant from public funds in the Federal Republic of Germany in this context,
 2.
 - a) guest scientists,
 - b) engineers and technicians belonging to the technical staff in a guest scientist's research team, and
 - c) teaching personnel and scientific personnel employed at the invitation of a university or a public-sector research organisation which is financed primarily from public funds or operated as a public-sector enterprise under private law,
 3. foreigners who are recruited for studies by a German scientific organisation or a German public body which grants scholarships from public funds and who receive a scholarship in the Federal Republic of Germany in this context on the basis of an award procedure which is also used for public funds,
 4. researchers who have concluded a hosting agreement under section 38f with a research organisation recognised by the Federal Office for Migration and Refugees,
 5. foreigners who have graduated from German schools abroad and have a German higher education entrance qualification and who take up studies (section 16b (1) and (5) of the Residence Act) in the federal territory,
 6. foreigners who, at a German school abroad, have obtained an international higher education entrance qualification or a national higher education entrance qualification in conjunction with the German language certificate issued by the Standing Conference of Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany and take up studies (section 16b (1) and (5) of the Residence Act) in the federal territory, or
 7. foreigners who, at a school abroad which receives German funding, have obtained a national higher education entrance qualification in conjunction with the German language certificate issued by the Standing Conference of Ministers of Education and Cultural Affairs of the *Länder* in the Federal Republic of Germany and take up studies (section 16b (1) and (5) of the Residence Act) in the federal territory.
- Sentence 1 applies accordingly if the stay is financed with funding from the European Union. Sentence 1 applies in the cases of nos. 1 to 4 accordingly to the foreigner's spouse or civil partner entering the federal territory with the foreigner or subsequently, if the marriage or civil partnership already existed at the time the foreigner enters the federal territory, and to the foreigner's minor unmarried children.

Section 35

Waiver of approval for certain work-related stays and internships

In derogation from section 31, approval from the foreigners authority is not required for visas for foreigners who

1. take up employment as a guest worker or contract worker on the basis of an intergovernmental agreement,
2. take up employment arranged by the Federal Employment Agency for a period of up to nine months,
3. take up employment as a crew member on an ocean-going vessel which is entitled to fly the German flag and which is entered in the international maritime shipping

register (section 12 of the Flag Act (*Flaggenrechtsgesetz*), without establishing an habitual residence in the federal territory,

4. are permitted to take up employment during a holiday stay of up to one year on the basis of an intergovernmental agreement, or
5. intend to take up a job for no longer than three months for which they are to receive a grant paid exclusively from public funds.

Section 36

Waiver of approval for residence by members of foreign armed forces

In derogation from section 31, approval from the foreigners authority is not required for a visa issued to a member of foreign armed forces for residence while stationed in the federal territory on the basis of an intergovernmental agreement. Intergovernmental agreements which provide for a waiver of the visa obligation remain unaffected.

Section 37

Waiver of approval in other cases

In derogation from section 31 (1) sentence 1 nos. 1 and 2, approval from the foreigners authority is not required for visas for foreigners who only intend to pursue activities which do not constitute employment under section 30 nos. 1 to 3 of the Ordinance on the Employment of Foreigners or similar self-employed activities in the federal territory.

Section 38

Competence of the foreigners authority in lieu of a mission abroad

A foreigner may obtain a national visa from the competent foreigners authority at the location of the Federal Foreign Office if the Federal Republic of Germany does not have a mission in the country in which the foreigner is habitually resident or if such a mission is temporarily unable to issue visas and the Federal Foreign Office has not authorised another mission abroad to issue visas.

Division 3a

Recognising research organisations and concluding hosting agreements

Section 38a

Conditions for recognising research organisations

- (1) An organisation financed primarily from private funds should be recognised upon application for the purpose of concluding hosting agreements or equivalent contracts under section 18d (1) sentence 1 no. 1 of the Residence Act, if it conducts research in the federal territory. Research is any systematically pursued creative and lawful activity aimed at broadening the scope and level of knowledge, including knowledge about humans, culture and society, or at using such knowledge to find new ways of applying it.
- (2) The application for recognition is to be filed in writing with the Federal Office for Migration and Refugees. It is to contain the following information:

1. the name, legal form and address of the research organisation,
2. the surnames and given names of the research organisation's legal representatives,
3. the addresses of the research sites where foreigners with whom hosting agreements are concluded are to be employed,
4. a copy of the statutes, the articles of association, the agreement to set up the foundation, another legal transaction or the laws defining the purpose and object of the research organisation's activities, and

5. information on the research organisation's activities confirming that it conducts research in the federal territory.

Official forms, online input screens or file formats which can be generated with widely used data-processing programmes are to be used in the application process. The Federal Office for Migration and Refugees makes the applicable resources referred to in sentence 3 available online as well.

(3) Recognition may be made conditional upon the submission of a general declaration under section 18d (3) of the Residence Act and proof of adequate financial resources to fulfil such an obligation, if the research organisation's activities are not financed primarily from public funds. Upon application, the Federal Office for Migration and Refugees may determine that conducting a certain research project lies in the special public interest. The Federal Office for Migration and Refugees may publish a list of its effective findings in accordance with sentence 2 on the internet.

(4) Recognition should be valid for at least five years.

(4a) Subsections (1) to (4) do not apply to state or state-recognised higher education institutions or to other research organisations financed primarily from public funds. These higher education institutions and research organisations are considered to be recognised research organisations. Upon application, the Federal Office for Migration and Refugees may determine that a research organisation is financed primarily from public funds.

(5) A recognised research organisation is obliged to notify the Federal Office for Migration and Refugees without delay of any changes to the information listed in subsection (2) sentence 2 nos. 1 to 3 or of the discontinuation of research activities.

Section 38b

Revoking recognition

(1) Recognition is to be revoked or the extension of recognition is to be denied if the research organisation

1. no longer conducts research,
2. states that it no longer intends to abide by the declaration given under section 18d (1) sentence 1 no. 2 of the Residence Act, or
3. is no longer able to fulfil an obligation under section 18d (1) sentence 1 no. 2 of the Residence Act because it is no longer able to do so, in particular because insolvency proceedings have been opened with respect to its assets, the opening of insolvency proceedings has been denied for lack of assets, or a comparable decision under foreign law has been reached.

If the research organisation has obtained recognition through fraudulent misrepresentation, threat, force or bribery, such recognition is to be revoked.

(2) Recognition may be revoked if the research organisation has culpably signed hosting agreements, although the conditions stated in section 38f were not met.

(3) In conjunction with the decision to revoke recognition on the grounds stated in subsection (1) sentence 1 nos. 2 or 3, in subsection (1) sentence 2 or in subsection (2), a period will be determined during which the research organisation will be barred from obtaining renewed recognition (period of ineligibility). The period of ineligibility must not exceed five years. It also applies to dependent or successor organisations of the research organisation.

(4) The foreigners authorities and the missions abroad are to notify the Federal Office for Migration and Refugees of any facts known to them which could be a reason for revoking a research organisation's recognition.

Section 38c

Notification requirements for research organisations

A research organisation is obliged to notify the competent foreigners authority in written or electronic form if

1. circumstances apply which may make it impossible to fulfil a hosting agreement or which mean that the conditions for concluding such an agreement under section 38f (2) are no longer met, or
2. a foreigner ends his or her work on a research project for which the organisation concerned has concluded a hosting agreement earlier than envisaged.

The notification under sentence 1 no. 1 must be provided immediately; the notification under sentence 1 no. 2 must be provided no more than two months after the circumstances requiring such notification take effect. In addition to the facts to be communicated and the time of their occurrence, the notification must also state the surnames, given names and nationalities of the foreigner and provide details of the hosting agreement.

Section 38d

Advisory Board on Immigration by Researchers and Skilled Workers

(1) An Advisory Board on Immigration by Researchers and Skilled Workers will be established at the Federal Office for Migration and Refugees to assist the Federal Office in discharging its duties according to this division and with regard to the immigration of skilled workers. The office of the Advisory Board on Immigration by Researchers and Skilled Workers will be set up at the Federal Office for Migration and Refugees.

(2) The Advisory Board on Immigration by Researchers and Skilled Workers has the following tasks in particular:

1. submitting recommendations for general guidelines on the recognition of research organisations,
2. advising the Federal Office for Migration and Refugees on general matters and on research issues when examining individual applications,
3. determining whether a need for foreign researchers is covered adequately by applying the procedure defined in section 18d of the Residence Act and in this division,
4. identifying any problematic developments in connection with the procedure covered in section 18d of the Residence Act and in this division and in the process describing abuse phenomena and administrative or other migration-related obstacles when recruiting foreign researchers,
5. advising the Federal Office for Migration and Refugees on matters related to its tasks as regards the immigration of skilled workers.

(3) The Advisory Board on Immigration by Researchers and Skilled Workers reports to the president of the Federal Office for Migration and Refugees at least once per calendar year on the performance of its tasks.

(4) In order to perform their tasks, the members of the Advisory Board on Immigration by Researchers and Skilled Workers may examine cases managed by the Federal Office for Migration and Refugees.

(5) The Advisory Board has nine members. The president of the Federal Office for Migration and Refugees appoints the chair and one additional member of the Advisory Board on Immigration by Researchers and Skilled Workers on the advice of

1. the Federal Ministry of Education and Research or a body designated by it,
2. the Bundesrat,
3. the Conference of Rectors and Presidents of German Universities and Other Higher Education Institutions,
4. the Deutsche Forschungsgemeinschaft (German Research Foundation),
5. the Federal Foreign Office or a body designated by it,

6. the Federation of German Industries and the Confederation of German Employers' Associations,
 7. the German Trade Union Confederation, and
 8. the Association of German Chambers of Commerce and Industry,
 9. the Federal Ministry of Labour and Social Affairs or a body designated by it,
 10. the Federal Minister for Economic Affairs and Climate Action or a body designated by it,
 11. the German Academic Exchange Service.
- (6) The members of the Advisory Board on Immigration by Researchers and Skilled Workers are appointed for a term of three years.
- (7) The members of the Advisory Board for Migration of Researchers work in an honorary capacity. Members' travel expenses are reimbursed in accordance with the Federal Travel Expenses Act (*Bundesreisekostengesetz*). The Federal Office for Migration and Refugees may reimburse each member for office supplies up to an annual limit of 200 euros, subject to the submission of an itemised statement of expenses.
- (8) The Advisory Board on Immigration by Researchers and Skilled Workers draws up its rules of procedure, which require the approval of the president of the Federal Office for Migration and Refugees.

Section 38e

Publications by the Federal Office for Migration and Refugees

The Federal Office for Migration and Refugees publishes on the internet a current list of the names and addresses of the recognised research organisations, together with information on whether declarations under section 18d (3) of the Residence Act have been submitted or have expired. The Federal Office for Migration and Refugees publishes the precise source of the list on its website.

Section 38f

Content of and conditions for signing a hosting agreement or equivalent contract

- (1) A hosting agreement or equivalent contract must contain the following:
1. the foreigner's declaration of commitment to completing the research project,
 2. the declaration of commitment by the research organisation to hosting the foreigner for the purpose of conducting the research project,
 3. information outlining the key content of the legal relationship to be established between the research organisation and the foreigner in cases where the foreigner is granted a residence title under section 18d or 18f of the Residence Act or where the host research organisation in Germany has notified an instance of short-term mobility for researchers as referred to in section 18e of the Residence Act; the information must cover in particular the scope of the foreigner's activities and the salary,
 4. a provision to the effect that the hosting agreement or equivalent contract will become null and void if the foreigner is not granted a residence title under section 18d or 18f of the Residence Act, or if the short-term mobility as a researcher under section 18e of the Residence Act is rejected,
 5. the start and expected completion of the research project, and
 6. information on the intended stay for the purpose of research in one or more other member states of the European Union within the scope of Directive (EU) 2016/801, if this intention already exists at the time of application.

(2) A research organisation may only conclude a hosting agreement or equivalent contract with legal effect if

1. it is established that the research project will be carried out and, in particular, that the responsible bodies within the research organisation have reached a final decision to proceed with the research project after examining its purpose, duration and financing,
2. the foreigner who is to conduct the research is qualified and capable of doing so, has the higher education qualification usually required for this purpose, which enables access to doctoral programmes, and
3. the foreigner's subsistence is ensured.

Division 4

Obtaining a residence title in the federal territory

Section 39

Extending a stay in the federal territory for longer-term purposes

In addition to the cases covered in the Residence Act, foreigners may obtain or extend a residence title in the federal territory if

1. they have a national visa (section 6 (3) of the Residence Act) or a temporary residence permit,
2. they are exempt from the requirement for a residence title and the exemption is not restricted to a certain part of the federal territory or to a stay of no longer than six months,
3. they are nationals of a country listed in Annex II to Regulation (EU) 2018/1806 and are lawfully resident in the federal territory or have a valid Schengen visa for short stays (section 6 (1) no. 1 of the Residence Act), if the conditions for entitlement to a residence title were met after they entered the federal territory, unless the entitlement is based on sections 16b, 16e or 19e of the Residence Act,
4. they have permission under the Asylum Act (*Asylgesetz*) to remain pending the asylum decision and the conditions listed in section 10 (1) or (2) of the Residence Act are met,
5. their deportation has been suspended in compliance with section 60a of the Residence Act and they have become entitled to a temporary residence permit by virtue of marrying, establishing a civil partnership or having a child during their stay in the federal territory,
6. they have a residence title issued by another Schengen member state and, by virtue of this residence title, are entitled to reside in the federal territory, if the conditions for entitlement to a residence title are met; section 41 (3) applies,
7. they have had an EU Blue Card issued by another member state of the European Union for at least 18 months and they apply for an EU Blue Card for the purpose of highly qualified employment. The same applies to their family members who have a residence title for the subsequent immigration of dependants which was issued by the same country as the foreigner's EU Blue Card. The applications for the EU Blue Card and temporary residence permits for the subsequent immigration of dependants are to be submitted no later than one month after arriving in the federal territory;
- 7a. they have held, for at least six months, an EU Blue Card issued by another member state of the European Union, provided that, immediately before being granted this EU Blue Card, they held an EU Blue Card issued by a member state other than the one which issued the EU Blue Card they currently hold. The same applies to their family

members who have a residence title for the subsequent immigration of dependants which was issued by the same country as the foreigner's EU Blue Card. The applications for the EU Blue Card and temporary residence permits for the subsequent immigration of dependants are to be submitted no later than one month after arriving in the federal territory;

7b. they meet the requirements of section 30a relating to the re-entry into the federal territory. The applications for the EU Blue Card and temporary residence permits for the subsequent immigration of dependants are to be submitted no later than one month after arriving in the federal territory;

8. they have applied for the extension of an ICT Card under section 19 of the Residence Act,

9. they

a) have a valid residence title from another member state issued in accordance with Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1), and

b) apply for a Mobile ICT Card in accordance with section 19b of the Residence Act or a temporary residence permit for the subsequent immigration of dependants to join the holder of a Mobile ICT Card in accordance with section 19b of the Residence Act,

10. they

a) have a valid residence title from another member state issued in accordance with Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21), and

b) apply for a temporary residence permit under section 18f of the Residence Act or a temporary residence permit for the subsequent immigration of dependants to join the holder of a temporary residence permit in accordance with section 18f of the Residence Act, or

11. they apply for a residence title for the purpose of seasonal work for the same or a different employer before their work permit or work permits for the purpose of seasonal work, issued in accordance with section 15a (1) sentence 1 no. 1 of 15d (1) sentence 1 no. 1 of the Ordinance on the Employment of Foreigners, expire; if the residence title pursuant to section 19c (1) of the Residence Act in conjunction with section 15a or 15 (d) of the Ordinance on the Employment of Foreigners is applied for, this residence title is deemed to have been granted until the time of the decision by the foreigners authority.

Sentence 1 does not apply if a foreigner applies for an ICT Card in accordance with section 19 of the Residence Act.

Section 40

Extending a short stay which does not require a visa

After entering the federal territory, nationals of the countries listed in Annex II to Regulation (EU) 2018/1806 may obtain a temporary residence permit for a further stay of no more than 90 days directly following a short stay if

1. an exceptional case applies as referred to in Article 20 (2) of the Convention Implementing the Schengen Agreement, and

2. the foreigner does not pursue an economic activity in the federal territory, with the exception of the activities listed in section 17 (2).

Section 41

Privileges for nationals of certain countries

- (1) Nationals of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand, the United Kingdom of Great Britain and Northern Ireland as referred to in section 1 (2) no. 6 of the Freedom of Movement Act/EU and nationals of the United States of America may also enter and stay in the federal territory without requiring a visa for a period which does not constitute a short stay. A required residence title may be obtained in the federal territory.
- (2) The same applies to nationals of Andorra, Brazil, El Salvador, Honduras, Monaco and San Marino who do not intend to pursue an economic activity, with the exception of the activities listed in section 17 (2).
- (3) Nationals of these countries must apply for a required residence title no more than 90 days after entry. The application deadline expires before the specified period if the foreigner is expelled or his or her stay is subject to a time limit under section 12 (4) of the Residence Act.
- (4) Subsections (1) to (3) do not apply if the foreigner applies for an ICT Card in accordance with section 19 of the Residence Act.

Division 5

Residence for reasons of international law or on humanitarian or political grounds

Section 42

Application to relocate

A foreigner who is admitted into the federal territory in accordance with section 24 (1) of the Residence Act on the basis of a resolution by the Council of the European Union in accordance with Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (OJ L 212, 7.8.2001, p. 12) may file an application with the competent foreigners authority to relocate to another member state of the European Union. The foreigners authority forwards the application to the Federal Office for Migration and Refugees. The latter notifies the other member state, the European Commission and the United Nations High Commissioner for Refugees of the filed application.

Section 43

Procedure when the other member state agrees to the relocation

- (1) As soon as the other member state has declared its consent to the application for relocation, the Federal Office for Migration and Refugees immediately notifies the competent foreigners authority
 1. where and to which authority of the other member state the admitted foreigner should report, and
 2. which period is available for departure from the federal territory.
- (2) After interviewing the admitted foreigner, the foreigners authority sets a date for departure from the federal territory and notifies the Federal Office for Migration and Refugees accordingly. The latter informs the other member state of the details relating to the foreigner's departure and issues the foreigner with the appropriate certificate confirming the relocation, which is sent to the competent foreigners authority to be handed over to the foreigner.

Chapter 3

Fees

Section 44

Fees for the permanent settlement permit

The following fees are to be charged

- | | | |
|----|------------------------------------------------------------------------------------------------------------------|------------|
| 1. | to grant a permanent settlement permit for skilled workers (section 18c (3) of the Residence Act): | 147 euros, |
| 2. | to grant a permanent settlement permit for the purpose of self-employment (section 21 (4) of the Residence Act): | 124 euros, |
| 3. | to grant a permanent settlement permit in all other cases: | 113 euros. |

Section 44a

Fees for the EU long-term residence permit

A fee of 109 euros is to be charged.

Section 45

Fees for the temporary residence permit, the EU Blue Card, the ICT Card and the Mobile ICT Card

The following fees are to be charged

- | | | |
|----|-------------------------------------------------------------------------------------------------------------------------|-----------|
| 1. | to issue a temporary residence permit, an EU Blue Card or an ICT Card | |
| | a) valid for up to one year: | 100 euros |
| | b) valid for more than one year: | 100 euros |
| 2. | to extend a temporary residence permit, an EU Blue Card or an ICT Card | |
| | a) for a further stay of up to three months: | 96 euros |
| | b) for a further stay of more than three months: | 93 euros |
| 3. | to alter the temporary residence permit as the result of a change in the purpose of residence, including its extension: | 98 euros |
| 4. | to issue a Mobile ICT Card: | 80 euros |
| 5. | to extend a Mobile ICT Card: | 70 euros. |

Section 45a

Fees for expedited proceedings

To issue, in urgent cases, a residence title in accordance with section 78 (1) sentence 1 in expedited proceedings, 35 euros are to be charged in addition to the fees referred to in sections 44, 44a, 45 and 45c.

Section 45b

Fees for residence titles in exceptional cases

To issue a residence title in the cases of section 78a (1) sentence 1 of the Residence Act, the fee to be charged under sections 44, 44a or 45 is reduced by 44 euros.

Section 45c

Fees for issuing a new document

(1) To issue a new document in accordance with section 78 (1) of the Residence Act, the fee is 67 euros, if the new document is needed because

1. the previous passport or passport substitute has expired,

2. the technical period of validity for the use of the card has expired or the information listed in section 78 (1) sentence 3 nos. 1 to 18 of the Residence Act has otherwise changed,
 3. the document referred to in section 78 (1) of the Residence Act has been lost,
 4. the chip no longer functions, or
 5. the foreigner applies for a document in accordance with section 105b sentence 2 of the Residence Act.
- (2) The fee according to subsection (1) no. 4 does not apply if the foreigner did not bring about the defect through improper use.

Section 46 **Fees for visas**

(1) Fees for issuing and extending Schengen visas and airport transit visas are based on Regulation (EC) No 810/2009. Spouses, civil partners, minor unmarried children of Germans, and the parents of minor Germans are exempt from these fees.

(2) The following fees are charged

1.
to issue a national visa (category "D"),
including for multiple entries: 75 euros,
2.
to extend a national visa (category "D"):
25 euros,
3.
to extend a Schengen visa in the
federal territory for more than 90 days
as a national visa (section 6 (2) of the
Residence Act): 60 euros

Section 47 **Fees for other official acts relating to the right of residence**

(1) The following fees are to be charged

- 1a. to revoke, reduce or extend time limits of a ban on entry and residence in accordance with section 11 (4) sentence 1 of the Residence Act after the ban has been issued: 169 euros,
- 1b. to extend the time limit of a ban on entry and residence in accordance with section 11 (4) sentence 3 of the Residence Act after the ban has been issued: 169 euros,
2. to issue a temporary entry permit (section 11 (8) of the Residence Act): 100 euros,
3. to revoke or alter a requirement pertaining to a residence title upon application: 50 euros,
4. for information under section 44a (3) sentence 1 of the Residence Act in the form of advice following an unsuccessful written note to avoid the measures listed in section 44a (3) sentence 1 of the Residence Act: 21 euros,

5. to issue a certificate confirming the suspension of deportation (section 60a (4) of the Residence Act)
 - a) as a sticker only: 58 euros,
 - b) including the form bearing the sticker: 62 euros,
6. to renew a certificate under section 60a (4) of the Residence Act
 - a) as a sticker only: 33 euros,
 - b) including the form bearing the sticker: 37 euros,
7. to revoke or alter a requirement pertaining to the suspension of deportation upon application: 50 euros,
8. to issue a provisional residence document in accordance with section 81 (5) of the Residence Act: 13 euros,
9. to issue a certificate confirming the right of residence or any other certificates upon application: 18 euros,
10. to issue a residence title on a separate sheet: 18 euros,
11. to transfer residence titles to another document in the cases of section 78a (1) of the Residence Act: 12 euros,
12. to recognise a declaration of commitment (section 68 of the Residence Act): 29 euros,
13. to issue a laissez-passer (section 23 (2), section 24 (2)): 10 euros,
14. to recognise a research organisation (section 38a (1)) whose activities are not financed primarily from public funds: 219 euros,
15. to conduct a fast-track procedure for skilled workers in accordance with section 81a of the Residence Act: 411 euros,
16. to hand over an electronic residence title in accordance with section 60a (2), in addition to the fees determined for issuing an electronic residence title pursuant to section 78a (1) sentence 1 of the Residence Act, 15 euros.

(2) No fees are to be charged for changes to a residence title which concern a subsidiary provision on the pursuit of an economic activity.

(3) To issue a residence card (section 5 (1) sentence 1 and subsection (7) of the Freedom of Movement Act/EU), a permanent residence card (section 5 (5) sentence 2 of the Freedom of Movement Act/EU), a UK residence document (section 16 (2) sentence 1 of the Freedom of Movement Act/EU) or a residence document for UK cross-border commuters (section 16 (3) of the Freedom of Movement Act/EU), a fee is to be charged in each case that is the same as the fee for issuing an identity card to a German. In derogation from sentence 1, a UK residence document will be issued free of charge to holders of a permanent residence card. If the residence card or permanent residence card is issued to a person who is not yet 24 years of age

1. at the time of submitting the necessary information under section 5 (1) sentence 1 or section 16 (2) sentences 2 and 3 of the Freedom of Movement Act/EU, or

2. at the time of application under section 5 (5) sentence 2, section 16 (3) or (4) or section 11 (4) sentence 2 of the Freedom of Movement Act/EU in conjunction with section 81 (1) of the Residence Act,

the fee charged in each case is the same as the fee for issuing an identity card to a German of the same age. The fees according to sentence 1 or sentence 2 are also to be charged if issuing a new residence card, permanent residence card, UK residence document or residence document for UK cross-border commuters is necessary for the reasons listed in section 45c (1); section 45c (2) applies accordingly. To issue a certificate confirming the right of permanent residence (section 5 (5) sentence 1 of the Freedom of Movement Act/EU), a fee of 10 euros is to be charged.

Section 48

Fees for measures related to law on passports and identity documents

(1) The following fees are to be charged

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 1a. to issue a travel document for foreigners (section 4 (1) sentence 1 no. 1): | 100 euros, |
| 1b. to issue a travel document for foreigners (section 4 (1) sentence 1 no. 1) under age 24: | 97 euros, |
| 1c. to issue a travel document for refugees, a travel document for stateless persons (section 4 (1) sentence 1 nos. 3 and 4) or a travel document for foreigners (section 4 (1) sentence 1 no. 1) who are entitled to subsidiary protection as referred to in section 4 (1) of the Asylum Act or are resettlement refugees as referred to in section 23 (4) sentence 1 of the Residence Act: | 70 euros, |
| 1d. to issue a travel document for refugees, a travel document for stateless persons (section 4 (1) sentence 1 nos. 3 and 4) or a travel document for foreigners (section 4 (1) sentence 1 no. 1) who are entitled to subsidiary protection as referred to in section 4 (1) of the Asylum Act or are resettlement refugees as referred to in section 23 (4) sentence 1 of the Residence Act and who are under age 24: | 38 euros, |
| 1e. to issue a temporary travel document for foreigners (section 4 (1) sentence 1 no. 1): | 67 euros, |
| 1f. to issue a temporary travel document for refugees, a temporary travel document for stateless persons (section 4 (1) sentence 1 nos. 3 and 4) or a travel document for foreigners (section 4 (1) sentence 1 no. 1) who are entitled to subsidiary protection as referred to in section 4 (1) of the Asylum Act or are resettlement refugees as referred to in section 23 (4) sentence 1 of the Residence Act: | 26 euros, |
| 1g. to issue a travel document without a storage medium for foreigners (section 4 (1) sentence 1 no. 1), for refugees, for stateless persons (section 4 (1) sentence 1 nos. 3 and 4) or for foreigners who are entitled to subsidiary protection as referred to in section 4 (1) of the Asylum Act or are resettlement refugees as referred to in section 23 (4) sentence 1 of the Residence Act and who are under age 12: | 14 euros, |

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|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
| 2. | to extend a travel document for foreigners, a travel document for refugees or a travel document for stateless persons which is issued as a temporary document (section 4 (1) sentence 2): | 20 euros, |
| 3. | to issue a permit for cross-border commuters (section 12) valid for | |
| | a) up to one year: | 61 euros, |
| | b) up to two years: | 61 euros, |
| 4. | to extend a permit for cross-border commuters for | |
| | a) up to one year: | 35 euros, |
| | b) up to two years: | 35 euros, |
| 5. | to issue an emergency travel document (section 4 (1) no. 2, section 13): | 18 euros, |
| 6. | to certify in the emergency travel document the entitlement to return to the federal territory (section 13 (4)): | 1 euro, |
| 7. | for confirmation on a collective list of pupils (section 4 (1) no. 5): | 12 euros for each person to which the confirmation refers; |
| 8. | to issue a certificate confirming relocation (section 4 (1) no. 6, section 43 (2)): | 99 euros, |
| 9. | for exemption from the passport requirement (section 3 (2) of the Residence Act): | 76 euros, |
| 10. | to issue a substitute identity document (section 48 (2) in conjunction with section 78a (4) of the Residence Act): | 32 euros, |
| 11. | to issue a substitute identity document (section 48 (2) in conjunction with section 78a (4) of the Residence Act) in the case of section 55 (2): | 21 euros, |
| 12. | to extend a substitute identity document (section 48 (2) in conjunction with section 78a (4) of the Residence Act): | 16 euros, |
| 13. | to alter one of the documents listed in nos. 1 to 12: | 15 euros, |
| 14. | to exchange one of the documents listed in nos. 1 to 12 for a new one: | 34 euros, |
| 15. | to issue a new document in accordance with section 78 (1) sentence 1 of the Residence Act with a note indicating that it is a substitute identity document (section 78 (1) sentence 4 of the Residence Act): | 72 euros. |

If the emergency travel document is issued together with the laissez-passer (section 23 (2) sentence 3, section 24 (2) sentence 3), the fee charged under section 47 (1) no. 13 is counted against the fee to be charged for the emergency travel document.

(2) No fees are to be charged

1. for altering one of the documents listed in subsection (1), if the alteration is entered ex officio,
2. to correct details pertaining to the place of residence in one of the documents listed in subsection (1), or

3. to note a marriage in a travel document for foreigners, a travel document for refugees or a travel document for stateless persons.

Section 49 **Processing fees**

- (1) Fees amounting to half of the fee stipulated in sections 44, 44a and 52a (2) no. 1 are to be charged in each case for processing an application for a permanent settlement permit and for an EU long-term residence permit.
- (2) Fees in the same amount as the fees stipulated in sections 45 to 48 (1) and section 52a are to be charged for processing applications for all other official acts subject to fees.
- (3) No processing fee is charged if an application
1. is denied solely because the authority is not competent or because the applicant lacks legal capacity, or
 2. is withdrawn before processing begins.
- (4) If local competence is transferred to a different authority after the processing fee has been charged, the processing fee remains with the authority which charged it. In this case, the authority to which local competence has been transferred does not charge a fee.

Section 50 **Fees for official acts for the benefit of minors**

- (1) Fees amounting to half of the fees stipulated in sections 44, 45, 45a, 45b, 45c, 46 (2), 47 (1), 48 (1) sentence 1 nos. 3 to 14 and section 49 (1) and (2) are to be charged for individually attributable public services for the benefit of minors and to process applications pertaining to minors. The fee for issuing a permanent settlement permit under section 35 (1) sentence 1 of the Residence Act is 55 euros.
- (2) To extend a temporary travel document for foreigners, for refugees or for stateless persons whose holder is a child under age 12, a fee of 6 euros is to be charged in each case.

Section 51 **Fees for administrative appeals**

- (1) The following fees are to be charged for an administrative appeal against
1. the denial of an official act subject to a fee: half of the fee to be charged for an official act under sections 44 to 48 (1) and sections 50 and 52a,
 2. a condition or requirement pertaining to a visa, a temporary residence permit or suspension of deportation: 50 euros,
 3. the finding by the foreigners authority regarding the requirement to take an integration course (section 44a (1) sentence 2 of the Residence Act): 20 euros,
 - 3a. the requirement to take an integration course (section 44a (1) sentence 1 no. 2 of the Residence Act): 50 euros,
 4. expulsion: 55 euros,
 5. a deportation warning: 55 euros,
 6. an order for a transport carrier to return a foreigner (section 64 of the Residence Act): 55 euros,
 7. an order prohibiting transport or an order imposing a fine (section 63 (2) and (3) of the Residence Act): 55 euros,

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| 8. an order for security to be furnished (section 66 (5) of the Residence Act): | 55 euros, |
| 9. a payment order (section 67 (3) of the Residence Act): | 55 euros, |
| 10. revocation or withdrawal of the recognition of a research organisation (section 38b (1) or (2)) whose activities are not financed primarily from public funds: | 55 euros, |
| 11. removal (section 57 of the Residence Act): | 55 euros, |
- (2) No fee according to subsection (1) no. 5 will be charged if the deportation warning is challenged solely on the grounds that the administrative act on which the obligation to leave the federal territory is based is to be repealed.
- (3) Section 49 (3) applies accordingly.

Section 52

Exemptions and reductions

- (1) Spouses, civil partners, minor unmarried children of Germans, and the parents of minor Germans are exempt from the fees for issuing a national visa.
- (2) For Swiss nationals, the fee according to section 45 for issuing or extending a temporary residence permit which, upon application, is issued as a document with a chip in accordance with section 78 (1) sentence 2 of the Residence Act is the same as the fee for issuing identity cards to Germans. If a temporary residence permit is issued to a person who is not yet age 24 at the time of applying, the fee charged in each case is the same as the fee for issuing an identity card to a German of the same age. The fees according to sentences 1 and 2 are to be charged if issuing a new temporary residence permit is necessary for the reasons listed in section 45c (1); section 45c (2) applies accordingly. The fee for issuing or extending a permit for cross-border commuters according to section 48 (1) sentence 1 nos. 3 and 4 is reduced to 8 euros for Swiss nationals. The fees according to section 47 (1) no. 8 for issuing a provisional residence document and according to section 49 (2) for processing applications for the official acts listed in sentences 1 to 5 are waived for Swiss nationals.
- (3) Foreigners who have been granted asylum status, resettlement refugees as referred to in section 23 (4) sentence 1 of the Residence Act and other foreigners who in the federal territory have been granted the legal status of foreign refugees or who are entitled to subsidiary protection as referred to in section 4 (1) of the Asylum Act are exempt from the fees according to
1. section 44 no. 3, section 45c (1) nos. 1 and 2, 45 (b) and section 47 (1) no. 11 for granting, issuing a new document and for issuing and transferring a permanent settlement permit in exceptional cases,
 2. section 45 nos. 1 and 2, section 45c (1) nos. 1 and 2, section 45b and section 47 (1) no. 11 for granting, extending, issuing a new document, issuing and transferring a temporary residence permit in exceptional cases,
 3. section 47 (1) no. 8 for issuing a provisional residence document, and
 4. section 49 (1) and (2) for processing applications for the official acts listed in nos. 1 and 2.
- (4) Persons who are granted a right of residence under section 23 (2) of the Residence Act on account of special political interests of the Federal Republic of Germany are exempt from the fees according to
1. section 44 no. 3, section 45 (1) nos. 1 and 2, section 45b and section 47 (1) no. 11 for granting, issuing a new document and for issuing and transferring a permanent settlement permit in exceptional cases, and

2. section 49 (1) and (2) for processing applications for the official acts listed in no. 1.
- (5) Foreigners who receive a grant from public funds for their stay in the federal territory are exempt from the fees according to

1. section 46 (2) no. 1 for issuing a national visa,
2. section 45 nos. 1 and 2, section 45c (1) nos. 1 and 2, section 45b and section 47 (1) no. 11 for granting, extending, issuing a new document, issuing and transferring a temporary residence permit in exceptional cases,
3. section 47 (1) no. 8 for issuing a provisional residence document, and
4. section 49 (2) for processing applications for the official acts listed in no. 2.

Sentence 1 no. 1 also applies to spouses, civil partners and minor unmarried children who are included in the grant.

(6) The fees specified in subsection (5) may be reduced or waived for foreigners who do not receive any pay from work in the federal territory and are only undergoing training, ongoing education, further training or retraining.

(7) In individual cases, the amount of the fee to be charged may be waived or reduced when doing so serves to promote the interests of culture or sport or interests in the field of foreign or development policy or other areas of vital public interest or for humanitarian reasons.

(8) Pupils, students, post-graduate students and accompanying teachers on trips for study or training purposes and researchers from third countries within the meaning of Recommendation 2005/761/EC of the European Parliament and the Council of 28 September 2005 on facilitating the issuance of uniform visas by the Member States for short stays to researchers from third countries who move within the Community for research purposes (OJ L 289, p. 23) are exempt from the fees according to section 46 nos. 1 and 2.

Section 52a

Exemptions and reductions based on the EU–Turkey Association Agreement

(1) Under this provision, foreigners to whom the Agreement of 12 September 1963 creating an association between the European Economic Community and Turkey (Federal Law Gazette 1964 II, pp. 509–510) applies are entitled to certain rights under this agreement (*Assoziationsberechtigte*).

(2) Sections 44 to 50 are to be applied to foreigners entitled to certain rights under the EU–Turkey Association Agreement with the proviso that, for residence titles under sections 44 to 45, section 45c (1) and section 48 (1) sentence 1 no. 15, a fee is to be charged in each case that is the same as the fee for issuing an identity card to a German. If a residence permit is issued to a person who is not yet age 24, the fee charged in each case is the same as the fee for issuing an identity card to a German of the same age. In the cases of section 45b (2) and of section 47 (1) no. 11, in each case in conjunction with section 44 or section 44a, the fee is 8 euros.

(3) The foreigners referred to in subsection (1) are exempt from the following fees:

1. the fee to be charged in each case according to section 45b (1) and the fee according to section 45b (2), in conjunction with section 45,
2. the fee to be charged in each case according to section 47 (1) nos. 3 and 8 to 10 and section 47 (1) no. 11, in conjunction with section 45,
3. the fee to be charged in each case according to section 48 (1) sentence 1 nos. 3, 4, 8 and 10 to 12, and
4. the fee to be charged in each case according to section 48 (1) sentence 1 nos. 13 and 14, if the fee is for altering documents listed in section 48 (1) sentence 1 nos. 3, 4, 8 and 10 to 12 or exchanging them for a new one.

Section 53

Exemptions and reductions on grounds of equity

(1) Foreigners who are unable to support themselves without claiming benefits pursuant to Book Two or Book Twelve of the Social Code or the Asylum Seekers Benefits Act (*Asylbewerberleistungsgesetz*) are exempt from the fees according to

1. section 45 nos. 1 and 2 for issuing or extending a residence permit,
2. section 47 (1) nos. 5 and 6 for issuing or renewing a certificate confirming the suspension of deportation (section 60a (4) of the Residence Act),
3. section 47 (1) nos. 3 and 7 for revoking or altering a requirement pertaining to the residence permit or to the suspension of deportation,
4. section 47 (1) no. 4 for information in the form of advice,
5. section 47 (1) no. 8 for issuing a provisional residence document,
6. section 47 (1) no. 10 for issuing the residence title on a separate sheet,
7. section 47 (1) no. 11 for transferring a residence title to another document and section 45c (1) nos. 1 and 2 for issuing a new document under section 78 (1) of the Residence Act,
8. section 48 (1) nos. 10 and 12 for issuing or extending a substitute identity document, and
9. section 49 (2) for processing applications for the official acts listed in numbers 1 to 3 and 6 to 8;

other fees may be reduced or waived.

(2) Fees may be reduced or waived as appropriate with due regard to the economic situation of the person liable for payment of the fees in Germany.

Section 54

Intergovernmental agreements

Intergovernmental agreements on exemptions from fees or the level of fees remain unaffected by the provisions in this Chapter.

Chapter 4

Administrative provisions

Section 55

Substitute identity document

(1) Foreigners

1. who do not have a recognised and valid passport or passport substitute and are unable to obtain such a document by reasonable means, or
2. whose passport or passport substitute has been surrendered temporarily to a domestic authority

will, upon application, be issued with a substitute identity document (section 48 (2) in conjunction with section 78 (1) sentence 4 or section 78a (4) of the Residence Act) if they have a residence title or if their deportation has been suspended. No application is needed if the foreigner's application for a travel document for foreigners, a travel document for refugees or a travel document for stateless persons has been denied and the conditions of sentence 1 are met. Section 5 (2) applies accordingly.

(2) A foreigner whose passport or passport substitute has been surrendered temporarily to the mission of a foreign country located in the Federal Republic of Germany or to the mission of a foreign country having consular competence for the federal territory to process visa

applications may, upon application, be issued with a substitute identity document, if the foreigner's country of origin fails to issue him or her with another passport or passport substitute.

(3) The period of validity of the substitute identity document is based on the validity of the residence title or the duration of suspension of deportation, unless a shorter period of validity is entered on the document.

Section 56

Obligations related to identity documents

(1) Foreigners who are resident in the federal territory are required

1. in cases in which they do not have a recognised and valid passport or passport substitute to apply for an extension of their passport or passport substitute or for a new passport or passport substitute without delay, and otherwise in sufficient time before the passport or passport substitute expires, so that issuance of a new document or extension of an existing document may be expected within the period of validity of the previous passport or passport substitute;
2. to apply for a new passport or passport substitute without delay, if the current passport or passport substitute has become invalid on grounds other than expiry or has been lost;
3. to apply without delay for a new passport or passport substitute or for alteration of the current passport or passport substitute, as soon as any information in the passport or passport substitute is no longer correct;
4. to apply for a substitute identity document without delay, if the conditions pertaining to issuance under section 55 (1) or (2) are met and no application has been filed for a German passport substitute;
5. to notify without delay the competent foreigners authority for their place of residence or, alternatively, the foreigners authority in the Federal Republic of Germany which is competent for their current location, or another competent body under *Land* law if their passport, passport substitute or substitute identity document is lost and subsequently found; in case of loss abroad, notification may also be submitted to a German mission abroad, which will inform the competent or most recently competent foreigners authority;
6. to present to the competent foreigners authority for their place of residence or, alternatively, to the foreigners authority in the Federal Republic of Germany which is competent for their current location without delay the found passport or passport substitute together with all passports or German and foreign passport substitute documents issued after the loss, even if they have not reported the loss of the passport or passport substitute; in case of loss abroad, the said documents may also be presented to a German mission abroad, which will inform the competent or most recently competent foreigners authority;
7. to present their German passport substitute to the competent foreigners authority immediately after it expires, or after entering the federal territory, if a German mission abroad has so stipulated via an entry in the passport substitute; this does not apply to certificates confirming relocation (section 43 (2)), European travel documents for the return of foreigners (section 1 (8)) or collective lists of pupils (section 1 (5)); and
8. to present their passport or passport substitute on request to enable the foreigners authorities, the federal or *Land* police authorities and any other authorities charged with policing cross-border traffic to enter information in the passport or passport substitute concerning the place and time of entry into and exit from the federal territory, of

apprehension in the federal territory and on measures and decisions taken under the Residence Act, and to accept the entry of such information.

(2) Foreigners who are to be issued with a temporary residence permit or a permit for cross-border commuters to document their right of residence in accordance with the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, are to notify the foreigners authority of their residence within three months of entering the federal territory. The notification must contain the following information about the foreigner:

1. surname,
2. given names,
3. previous names,
4. date and place of birth,
5. address in the federal territory,
6. previous addresses,
7. current and previous nationalities,
8. purpose, beginning and length of the stay, and
9. the marital relationship or kinship to the person from whom the foreigner derives a right of residence.

Section 57

Obligation to present papers when several identity documents exist

If a foreigner has more than one passport, passport substitute or German substitute identity document, he or she must present each of these documents to the competent foreigners authority without delay.

Section 57a

Obligations of holders of documents which have a chip in accordance with section 78 of the Residence Act

Foreigners who are issued with a residence title under section 4 (1) sentence 2 nos. 2 to 4 of the Residence Act as a document having a chip are required

1. to inform without delay the competent foreigners authority for their place of residence or, alternatively, the foreigners authority in the Federal Republic of Germany which is competent for their current location or another competent body under *Land* law if their passport, passport substitute or substitute identity document is lost and subsequently found; in case of loss abroad, notification may also be submitted to a German mission abroad, which will inform the competent or most recently competent foreigners authority;
2. to present the document to the competent foreigners authority and apply for a new document without delay if the chip no longer functions.
3. If the document was sent by post, to inform without delay the competent foreigners authority if the letter was opened without authorisation or does not contain the electronic residence title, or if the electronic residence title contains inaccurate information.

Chapter 5

Procedural provisions

Division 1
Models for residence titles, passport substitutes, substitute identity documents and other documents

Section 58
Model forms

The following model forms are to be used for issuing the relevant forms:

1. for the substitute identity document (section 78a (4) of the Residence Act), the model printed in Annex D1;
2. for the certificate confirming the suspension of deportation (*Duldung*; section 60a (4) of the Residence Act), the model printed in Annex D2a (sticker), if no recognised and valid passport or passport substitute is available and the conditions for issuing a substitute identity document under section 55 are not met, in conjunction with the model printed in Annex D2b (form bearing the sticker);
3. for the provisional residence document (section 81 (5) of the Residence Act), the model printed in Annex D3;
4. for the travel document for foreigners (section 4 (1) sentence 1 no. 1),
 - a) the model printed in Annex D4c;
 - b) for issuance as a temporary document (section 4 (1) sentence 2), the model printed in Annex D4d;
5. for the permit for cross-border commuters (section 12), the model printed in Annex D5a;
6. for the emergency travel document (section 4 (1) no. 2), the model printed in Annex D6;
7. for the travel document for refugees (section 4 (1) sentence 1 no. 3),
 - a) the model printed in Annex D7a;
 - b) for issuance as a temporary document (section 4 (1) sentence 2), the model printed in Annex D7b;
8. for the travel document for stateless persons (section 4 (1) sentence 1 no. 4),
 - a) the model printed in Annex D8a;
 - b) for issuance as a temporary document (section 4 (1) sentence 2), the model printed in Annex D8b;
9. for the certificate confirming relocation (section 4 (1) no. 6), the model printed in Annex D9;
10. for the European travel document for the return of foreigners (section 4 (1) no. 7), the model printed in Annex D10;
11. for the supplementary sheet
 - a) to the certificate confirming the suspension of deportation, the model printed in Annex D11;
 - b) to the residence title in exceptional cases (section 78a (1) of the Residence Act), the model printed in Annex D11;

- c) to the residence title with a chip (section 78 (1) of the Residence Act), the model printed in Annex D11a;
- 12. for the certificate confirming permission to remain pending the asylum decision (*Aufenthaltsgestattung*) (section 63 of the Asylum Act), the model printed in Annex D12;
- 13. for the certificate confirming the right of permanent residence for Union citizens or nationals of an EEA state, the model printed in Annex D15; and
- 14. for address changes to documents with a chip (section 78 (7) sentence 2 of the Residence Act), the model printed in Annex D16.

The passport substitute documents issued in accordance with the models in annexes D4c, D7a and D8a are not extended.

Section 59 **Model for residence titles**

- (1) The model for the residence title under section 4 (1) sentence 2 no. 1 of the Residence Act (visa) is based on Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, p. 1), most recently amended by Regulation (EC) No 856/2008 (OJ L 235, 2.9.2008, p.1) in the applicable version. This model is printed in Annex D13a. The note "Chancenkarte" is entered in residence titles issued under section 20a of the Residence Act. The model printed in Annex D13b is to be used for extensions in Germany.
- (2) The models for residence titles to be issued under section 78 (1) of the Residence Act as stand-alone documents with a chip, and the models for residence and permanent residence cards, for UK residence documents and residence documents for UK cross-border commuters which, under section 11 (3) sentence 1 of the Freedom of Movement Act/EU in conjunction with section 78 (1) of the Residence Act, are to be issued as documents with a chip, are based on Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1) in the applicable version. The same applies to temporary residence permits issued in accordance with the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, upon application, as documents with a chip. The models for documents in accordance with sentences 1 and 2 are printed in Annex D14a. Residence titles under section 78 (1) in conjunction with section 4 (1) sentence 2 no. 4 of the Residence Act which were issued according to the model printed in Annex D14a, which was to be used until 1 December 2013, remain valid.
- (2a) Upon application by the foreigner, the competent foreigners authority will, at the time of handing over the document or later, attach a sticker in Braille according to the model in Annex D17 to the documents under subsection (2) sentences 1 and 2.
- (3) The models for forms for residence titles under section 4 (1) nos. 2 to 4 of the Residence Act are based, in the case of section 78a (1) sentence 1 of the Residence Act, on Regulation (EC) No 1030/2002. These models are printed in Annex D14. The authoritative legal basis for issuing a permanent settlement permit, EU long-term residence permit, EU Blue Card, ICT Card, Mobile ICT Card or a temporary residence permit is to be entered on the permit in the field for remarks. When issuing an EU long-term residence permit to holders of an EU Blue Card, the information that the foreigner is a previous holder of an EU Blue Card ("*Ehem. Inh. der Blauen Karte EU*") is to be entered in the field for remarks. In the case of section 78a (1) sentence 1 of the Residence Act, the form in Annex D14 for the EC long-term residence permit may continue to be used for the EU long-term residence permit, with the annotation "Daueraufenthalt-EG".
- (4) The note "Forscher" is entered in temporary residence permits issued under section 18d (1) of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1. The note "Forscher-Mobilität" is entered in temporary residence permits issued

under section 18f of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1.

(4a) The note “Student” is entered in temporary residence permits issued under section 16b (1) of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1.

(4b) The note “Praktikant” is entered in temporary residence permits issued under section 16e of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1.

(4b) The note “Freiwilliger” is entered in temporary residence permits issued under section 19e of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1.

(4d) For researchers and students entering the European Union in the framework of a specific programme that comprises mobility measures, or an agreement between two or more recognised higher education institutions, the specific programme or agreement will be noted on the temporary residence permit or on a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or on a form bearing the sticker in accordance with Annex D1.

(4e) The note “Saisonbeschäftigung” is entered in the field for remarks of residence titles issued under section 15a of the Ordinance on the Employment of Foreigners or in a supplementary sheet to this residence title in accordance with Annex D11 or in a form bearing the sticker in accordance with Annex D13a.

(4f) The note “Chancenkarte” is entered in temporary residence permits issued under section 20a of the Residence Act or in a supplementary sheet to this temporary residence permit in accordance with annexes D11 and D11a or in a form bearing the sticker in accordance with Annex D1.

(5) If a subsidiary provision is entered in a residence title indicating that the pursuit of an economic activity is not permitted, this subsidiary provision does not refer to the activities listed in section 17 (2), unless provisions to the contrary are expressly stated in the residence title.

(6) If the border authority permits entry into the federal territory pursuant to section 60a (2a) sentence 1 of the Residence Act and issues a temporary suspension of deportation, it will note this on the form to be used in accordance with section 58 no. 2.

(7) If a residence title for purposes of admission or the pursuit of an economic activity under section 84 (2) sentence 2 of the Residence Act is deemed to remain in force, the foreigners authority documents this, upon application by the foreigner, in a form according to Annex D11 or D11a; if the foreigner has been or will be issued with a document in accordance with a model provided in Annex D1 to D3, this information is to be entered in this document.

(8) If the foreigners authority determines, upon application by the foreigner, that the foreigner has the right of permanent residence under Article 15 of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7), this right of permanent residence will be certified by the foreigners authority entering the word “Daueraufenthalt” in the second line of the first field for remarks on the back of the UK residence document.

(9) If a foreigner has a legal status referred to in section 1 (2) no. 2 or no. 3 of the Residence Act or an exemption under section 27, if the foreigner has a document issued by the Federal Foreign Office indicating this legal status, and if the foreigner also has a right of residence referred to in section 16 of the Freedom of Movement Act/EU or granted under section 11 (11) in conjunction with section 3a of the Freedom of Movement Act/EU, the foreigners authority certifies this right of residence in a form in accordance with Annex D11 or D11a as

a supplementary sheet to the identity document issued. For this purpose, the remark “Erwerbstätigkeit erlaubt” is to be used on the supplementary sheet below the entries

1. “Artikel 50 EUV – der Inhaber hat ein Recht nach Artikel 18 Absatz 4 des Austrittsabkommens”, in the cases of section 16 (2) sentence 1 of the Freedom of Movement Act/EU;
2. “Artikel 50 EUV – Grenzgänger – der Inhaber hat ein Recht nach Artikel 26 des Austrittsabkommens”, in the cases of section 16 (3) of the Freedom of Movement Act/EU;
3. “Der Inhaber besitzt ein Aufenthaltsrecht als Berechtigte(r) nach Artikel 3 Absatz 2 der Richtlinie 2004/38/EG in Verbindung mit Artikel 10 Absatz 2 bis 4 des Austrittsabkommens sowie § 3a in Verbindung mit § 11 Absatz 11 des Freizügigkeitsgesetzes/EU”, in the cases of section 11 (11) in conjunction with section 3a of the Freedom of Movement Act/EU.

Section 59a

Indication of international protection status for holders of an EU long-term residence permit

- (1) If a foreigner who has been granted the legal status of a beneficiary of international protection in the Federal Republic of Germany as referred to in section 2 (13) of the Residence Act is issued with an EU long-term residence permit pursuant to section 9a of the Residence Act, the following information is to be entered in the field for remarks: “Durch DEU am [Datum] internationaler Schutz gewährt”.
- (2) If an EU long-term residence permit pursuant to section 9a of the Residence Act is issued to a foreigner who has an EU long-term residence permit from another European Union member state which contains the information that that member state has granted the foreigner international protection, this information is to be entered in the EU long-term residence permit in the field for remarks. Before entering this information, the relevant member state is to be asked, using the procedure under section 91c (1a) of the Residence Act, whether the foreigner continues to have international protection status in that member state. If that member state has revoked international protection status by means of an incontestable decision, the information referred to in sentence 1 is not entered.
- (3) If the foreigner has an EU long-term residence permit pursuant to section 9a of the Residence Act which contains the information referred to in subsection (2) sentence 1, and if the responsibility for such international protection within the meaning of section 2 (13) of the Residence Act has been transferred to Germany in line with the relevant legal provisions, this information is to be replaced by the information referred to in subsection (1). This information is to be entered no later than three months after the responsibility has been transferred to Germany.
- (4) If the foreigner has an EU long-term residence permit pursuant to section 9a of the Residence Act and has been granted international protection as referred to in section 2 (13) of the Residence Act in another European Union member state before receiving a long-term resident's EU residence permit from that member state, the competent foreigners authority is to enter the following information in the EU long-term residence permit in the field for remarks: “Durch [Abkürzung des Mitgliedstaates] am [Datum] internationaler Schutz gewährt.” This information is to be entered no later than three months after the Federal Office for Migration and Refugees has received a request in this regard from the competent body of the other member state.

Section 59b

Indication of international protection status for holders of an EU Blue Card

- (1) If a foreigner who has been granted the legal status of a beneficiary of international protection in the Federal Republic of Germany as referred to in section 2 (13) of the Residence Act is issued with an EU Blue Card, the following information is to be entered in the field for remarks: “Durch DEU am [Datum] internationaler Schutz gewährt”. If the status

of a beneficiary of international protection has been revoked by a legally binding or incontestable decision and the requirements for being granted an EU Blue Card continue to be met, the EU Blue Card is to be issued anew, without the information referred to in sentence 1.

(2) If a foreigner who has been granted protection by another member state of the European Union is granted an EU Blue Card, the following information is to be entered in the field for remarks: "Durch [Abkürzung des Mitgliedstaates] am [Datum] internationaler Schutz gewährt." Before entering this information, the relevant member state is to be asked, using the procedure under section 91f (8) of the Residence Act, whether the foreigner continues to have international protection status in that member state. If that member state has revoked international protection status by means of an incontestable decision, the information referred to in sentence 1 is not entered.

(3) If the foreigner has an EU Blue Card which contains the information referred to in subsection (2) sentence 1, and if the responsibility for such international protection within the meaning of section 2 (13) of the Residence Act has been transferred to Germany in line with the relevant legal provisions, this information is to be replaced by the information referred to in subsection (1) sentence 1. This information is to be entered no later than three months after the responsibility has been transferred to Germany.

Section 60

Photograph

(1) Photographs must comply with the requirements stipulated in section 4 of the Passport Ordinance (*Passverordnung*) of 19 October 2007 in the applicable version and must render the foreigner clearly recognisable. They must show the person without any covering over his or her face and head. The competent authority may permit or order exceptions with regard to head coverings if adequate identification of the person concerned is guaranteed.

(2) Foreigners for whom a document is to be issued pursuant to section 58 or section 59 must present a current photograph in accordance with subsection (1) to the competent authority on request or must cooperate in the production of a photograph.

(3) The competent authority may process the photograph for the purpose of incorporating it into a document under section 58 or section 59 and subsequently comparing it with the document holder's actual appearance.

Section 60a

Handing out and sending electronic residence titles and blocking codes

(1) The competent foreigners authority hands out the electronic residence title, together with the blocking code, to the applicant, to another authorised person as referred to in section 80 of the Residence Act or to another person authorised by the applicant to receive the residence title, in person.

(2) The document producer sends the electronic residence title, together with the blocking code, by post to the applicant's registered address which enables the correct delivery in Germany, provided the applicant has a recognised and valid passport, passport substitute or substitute identity document and has consented to this procedure vis-à-vis the competent foreigners authority. Sending the documents by post as provided for in sentence 1 is ruled out if the applicant does not have an address in Germany which enables the correct delivery. Before handing over the documents, the mail carrier is to verify the applicant's identity by checking one of the documents referred to in sentence 1. The document producer informs the foreigners authority that the electronic residence title has been handed over to its holder. Electronic residence permits serving as substitute identity documents may not be sent by post.

(3) In the cases governed by subsection (2), applicants should inform the competent foreigners authority of their email address, unless the foreigners authority already has it. The foreigners authority transmits the email address to the document producer who will forward it to the mail carrier. In this case, the mail carrier uses the email address to give the applicant notice of the time the documents will be handed over. The notice may only contain the

applicant's title and name, the information that the delivery of the electronic residence title is imminent and the likely time and the modalities of delivery as referred to in subsection (2) sentence 3. The foreigners authority, the document producer and the mail carrier must not use the applicant's email address for purposes other than the ones referred to, and they are to delete the address without delay once the electronic residence title and the blocking code have been handed over to the applicant, provided the email address was stored exclusively for the procedure under subsection (2). If the document is not handed over, sentence 5 applies with the proviso that the document producer and the mail carrier are to delete the email address without delay once the electronic residence title has been deposited with the competent foreigners authority; the foreigners authority is to delete the applicant's email address without delay once the electronic residence title has been handed out to the applicant.

Section 61

Security standard, technical procedure for issuance

- (1) The production and security specifications for the model forms under this ordinance are defined by the Federal Ministry of the Interior, Building and Community. They are not published.
- (2) The Federal Ministry of the Interior, Building and Community defines and publishes the details of the technical procedure for completing the standard federal forms.

Division 2

Recording, processing and protecting data

Subdivision 1

Recording and transmitting application data to produce documents having a chip in accordance with section 4 and section 78 of the Residence Act

Section 61a

Taking fingerprints during the application process for documents having a chip

- (1) Flat prints of the applicant's left and right index fingers are stored in the document's chip. In case of a missing index finger, injured fingertip or poor-quality print, a flat print of the thumb, middle or ring finger is stored instead. Fingerprints are not to be stored if it is not possible to take prints for medical reasons of a more than temporary nature.
- (2) At the document holder's request, the foreigners authority is to allow the document holder to inspect the data stored in the electronic storage and processing medium. Fingerprints stored by the foreigners authority are to be deleted at the latest when the document is handed over to the document holder.

Section 61b

Forms and procedures for recording and checking data and for local quality assurance

- (1) The foreigners authority must take the appropriate technical and organisational measures to guarantee the required quality in recording photographs and fingerprints.
- (2) For the electronic recording and quality assurance of the photograph and fingerprints, state-of-the-art technical systems and components must be used.
- (3) State of the art is presumed if the systems and components used comply with the technical guidelines of the Federal Office for Information Security in the applicable version for the recording, quality assurance and transmission of production data. The Federal Office for Information Security is to publish these technical guidelines in the Federal Gazette.
- (4) Applying for, issuing and handing out documents with a chip must not be used as a reason to store the necessary information and biometric identifiers anywhere other than with the competent foreigners authorities. This applies accordingly to the accompanying documents necessary for the application and to the medium carrying personal photographic data (microfilm).

(5) Only the document producer is allowed to keep a central record of all serial numbers, and only to track the whereabouts of documents having a chip. It is unlawful for the document producer to store any other information, including biometric data, unless this information is exclusively and temporarily needed to produce the documents; this information is to be subsequently deleted.

(6) Serial numbers must not be used in such a way that it is possible to retrieve personal data from file systems or to link file systems. In derogation from sentence 1, the following bodies may use serial numbers:

1. foreigners authorities, to retrieve personal data from their file systems;
2. federal and *Land* police authorities and offices, to retrieve the serial numbers stored in file systems of documents with a chip which have been lost or declared invalid or which are suspected of being used by unauthorised persons.

(7) Subsections (4) to (6), section 4 (3) sentences 2 and 3, and section 61a (2) sentence 2 apply accordingly to all other passport substitutes for foreigners which are issued by German authorities.

Section 61c

Transmitting data to the document producer

(1) After recording the application data, the foreigners authorities compile all the application data into a digital data record and transmit them to the document producer. The data transmission includes the quality values of the fingerprints and – if available – of the photographs; the authority ID number; the version numbers of the quality assurance software and the quality setpoints; the time stamp of the application; and the size of the biometric data file. The data are transmitted electronically via internal administrative communication networks or the internet. They are transmitted directly or via switching centres from the foreigners authority to the document producer. The data to be transmitted are to be electronically signed and encrypted using suitable technical and organisational measures in accordance with articles 24, 25 and 32 of Regulation (EU) 2016/679.

(2) The data to be transmitted in accordance with subsection (1) are to be signed and encrypted using valid certificates which comply with the requirements of the security guidelines of the administration's root certification authority issued by the Federal Office for Information Security. The document producer must take suitable technical and organisational measures to ensure that no improperly signed application data are processed further.

(3) The data transmission in accordance with subsection (1) sentence 3 is conducted using an XML-based data exchange format in accordance with the technical guidelines of the Federal Office for Information Security related to the recording, quality assurance and transmission of production data and on the basis of the transmission protocol OSCi-Transport in the applicable version. Section 61b (3) sentence 2 applies accordingly.

(4) If the data are transmitted via switching centres, subsections (1) to (3) apply accordingly to the transmission of data between the switching agency and the document producer. The transmission of data between the foreigners authority and the switching centre must ensure a level of data security and data protection that meets the requirements of subsection (1) sentence 5. The requirements for the procedure to transmit data between the foreigners authority and the switching centre are based on the law of the *Land* concerned.

Section 61d

Proof of having met requirements

(1) The Federal Office for Information Security must determine that the requirements of the technical guidelines are met before the systems and components are used (notice of conformity). Producers and suppliers of technical systems and components to be used in foreigners authorities for the procedures governed by section 61b (1) and (2) apply for a notice of conformity in accordance with sentence 1 from the Federal Office for Information Security at least three months before the systems and components are to go into operation.

(2) Conformity is assessed by a facility recognised and specifically authorised by the Federal Office for Information Security to conduct the assessment in accordance with this provision. The facility documents the process and results of the assessment in an assessment report. The Federal Office for Information Security issues a notice of conformity based on the assessment report. The applicant bears the costs of the procedure, which are based on the Federal Office for Information Security Cost Ordinance (*BSI-Kostenverordnung*) of 3 March 2005 (Federal Law Gazette I, p. 519) in the applicable version, and the costs charged by the assessing facility.

Section 61e Statistics on quality

The document producer compiles quality statistics. They include depersonalised quality values for photographs and fingerprints calculated by the foreigners authority and the document producer and evaluated by the document producer. The document producer makes the results of the evaluation available to the Federal Ministry of the Interior, Building and Community and the Federal Office for Information Security. The details of the evaluation of the statistical data are determined by the technical guidelines of the Federal Office for Information Security on the requirements for the national quality assurance statistics.

Section 61f Automated searching of file systems and automated storage by public agencies

(1) Authorities and other public agencies are not permitted to use documents with a chip for the automated retrieval of personal data. In derogation from sentence 1, federal and *Land* police authorities and offices as well as customs authorities, as far as these are responsible for border policing tasks, may, within the framework of their duties and powers, use documents having a chip for the automated retrieval of personal data stored in police databases for the following purposes:

1. border control,
2. to search for or to establish a person's whereabouts for reasons of criminal prosecution, enforcement of a criminal sentence, or prevention of threats to public security.

No subject-related record of database searches that have not yielded any results may be kept, except as provided in subsection (2).

(2) Unless the law provides otherwise, personal data must not be stored in file systems when a document with a chip is read automatically; this also applies to searches of police databases that have yielded results.

Section 61g Use in the private sector

(1) Passport substitutes may also be used in the private sector as an identity document and legitimisation document.

(2) Serial numbers must not be used in such a way that it is possible to retrieve personal data from file systems or to link file systems.

(3) Passport substitutes must not be used for automated searches of personal data or for automated storage of personal data.

(4) Transport carriers may only process personal data from the passport substitute's machine-readable zone electronically if they are required by international agreements or entry regulations to assist with checks in international travel and to transmit personal data. Biometric data must not be retrieved. Data are to be deleted as soon as they are no longer needed to fulfil these obligations.

Section 61h Application of the Ordinance on Identity Cards and Electronic Identification

(1) With regard to the electronic identification function in accordance with section 78 (5) of the Residence Act and to the technical requirements governing the procedures for the safe transmission of photographs referred to in section 60 (2), the following provisions are to be applied, with the proviso that the foreigners authority takes the place of the identity card authority.

1. sections 1, 2 with the exception of sentence 1 no. 2 (e) and (f) of the Ordinance on Identity Cards and Electronic Identification (*Personalausweisverordnung*),
2. sections 3, 4 and 5 (1) sentence 2, (2), (3) (4) sentences 1 to 5 and (7) of the Ordinance on Identity Cards and Electronic Identification,
3. sections 10, 13 to 16, 17 (1), (2) sentences 2 and 3 as well as (3), section 18 (5) of the Ordinance on Identity Cards and Electronic Identification,
4. section 20 (1), (3) and (4) sentence 1 of the Ordinance on Identity Cards and Electronic Identification,
5. sections 21 to 25 (1), (2) sentence 1 and (3) of the Ordinance on Identity Cards and Electronic Identification,
6. sections 25a and 26 (1) and (3) of the Ordinance on Identity Cards and Electronic Identification, as well as
7. sections 26a to 36a of the Ordinance on Identity Cards and Electronic Identification.

(2) If the foreigners authority cannot establish the foreigner's identity beyond doubt, the use of the electronic identification function is not permitted.

Subdivision 2

Foreigners files kept by the foreigners' authorities and missions abroad

Section 62

File-keeping obligation of foreigners authorities

The foreigners authorities keep two file systems named "Foreigners File A" and "Foreigners File B". The obligation to keep the Foreigners File A is waived if the data are stored in the Central Register of Foreigners. The data should exclusively be stored in the Central Register of Foreigners to the extent that storing the data in the Central Register of Foreigners is provided for; it is to be ensured that the data are transmitted reciprocally and effectively to the registers and IT specialist procedures at all times and that the transmission is subject to the standards referred to in section 76a.

Section 63

Foreigners File A

(1) The Foreigners File A contains data on foreigners

1. who file an application with the foreigners authority
 - a) to issue or extend a residence title, or
 - b) who apply for asylum;
2. of whose residence the foreigners authority is informed by the registration office or another authority; or
3. with regard to whom the foreigners authority takes a measure or decision under the law on foreigners.

(2) The data are to be saved in the file system without delay, as soon as the foreigners authority addresses the foreigner's case or as soon as it receives a notification concerning the foreigner.

Section 64 **Data record of Foreigners File A**

(1) The following data are to be entered in Foreigners File A on every foreigner contained in the file system:

1. surname,
2. name at birth,
3. given names,
4. date and place of birth, specifying the country,
5. sex,
6. doctoral degree,
7. nationalities,
8. reference number of the foreigner's file,
9. reference to other data records under which information on the foreigner is kept in the file system,
10. the blocking code and blocking sum to block and unblock the electronic identification function of a document under section 78 (1) of the Residence Act, and
11. information on activating, de-activating, blocking and unblocking the electronic identification function of a document under section 78 (1) of the Residence Act.

(2) Also to be entered in the file are any former names, divergent spellings of names, aliases and other names used by the foreigner such as names pertaining to religious orders, pseudonyms or a surname under German law which differs from the surname entered in the passport.

(3) The foreigners authority may limit the data record to the data listed in subsection (1) and set up an additional data record in compliance with subsection (1) for each of the data items listed in subsection (2).

Section 65 **Extended data record**

If the necessary technical facilities are available at the foreigners authority, the following data should be entered in Foreigners File A, in addition to the data listed in section 64:

1. marital status;
2. current address and date moved in,
3. previous addresses and date moved out,
- 3a. the identification number under the Act on Identification Numbers (*Identifikationsnummerngesetz*),
4. Central Register of Foreigners number,
5. information on the passport, passport substitute or substitute identity document:
 - a) type of document,
 - b) serial number,

- c) country and authority which issued the document,
- d) period of validity,
- 6. voluntary information on religious affiliation,
- 7 photograph,
- 8. visa file number,
- 9. the following measures under the law on foreigners, including in each case the date of the official decision:
 - a) granting and extension of a residence title, stating the legal basis for the residence title and a time limit,
 - b) denial of an application to grant or extend a residence title,
 - c) granting of a certificate confirming permission to remain pending the asylum decision, stating the time limit,
 - d) recognition of entitlement to asylum or confirmation that the conditions of section 25 (2) of the Residence Act are met, together with information on the legal validity of the case,
 - e) denial of an application for asylum or an application for recognition as a homeless foreigner and information on the legal validity of the case,
 - f) revocation and withdrawal of the recognition of entitlement to asylum or of the confirmation that the conditions of section 25 (2) of the Residence Act are met,
 - g) conditions, requirements and geographic restrictions,
 - h) subsequently imposed time restrictions,
 - i) revocation and withdrawal of a residence title or declaration of the loss of the entitlement to freedom of movement under section 2 (7), section 5 (4) or section 6 (1) of the Freedom of Movement Act/EU,
 - j) security-related interview under section 54 (2) no. 7 of the Residence Act,
 - k) expulsion,
 - l) order to leave the federal territory, stating the time limit for departure,
 - m) deportation warning, stating the time limit for departure,
 - n) deportation order and enforcement, including the deportation order under section 58a of the Residence Act,
 - o) extension of the time limit for departure,
 - p) granting and renewal of a certificate confirming the suspension of deportation (*Duldung*) under section 60a of the Residence Act, stating the time limit,
 - q) prohibition or restriction of political activity, stating a time limit,
 - r) monitoring measures under section 56 of the Residence Act,
 - s) issuing of a departure ban,

- t) approval from the foreigners authority to issue a visa,
 - u) time limit under section 11 (2) of the Residence Act,
 - v) granting of permission to enter the federal territory under section 11 (8) of the Residence Act, stating the time limit,
 - w) transmission to the Central Register of Foreigners of reservations concerning entry with regard to section 5 of the Residence Act,
 - x) transmission of a criminal conviction under section 95 (1) no. 3 or (2) no. 1 of the Residence Act,
 - y) entitlement or obligation to attend integration courses under sections 43 to 44a of the Residence Act, start and successful completion of integration courses under sections 43 to 44a of the Residence Act, absence from the course up to the time of completion, provision of explanatory information under section 44a (3) sentence 1 of the Residence Act, and code numbers used by the foreigners authority to communicate anonymously the events referred to above to the Federal Office for Migration and Refugees to enable that office to perform its coordinating and controlling functions,
 - z) approval from the Federal Employment Agency under section 39 of the Residence Act, with geographic restrictions and other subsidiary provisions, withdrawal of the same, denial of the same under section 40 of the Residence Act, revocation of the same under section 41 of the Residence Act or the finding from the foreigners authority that no approval is required,
10. reference codes of the Federal Office of Administration for reports concerning a current consultation request or follow-up report (Federal Office of Administration case number).

Section 66

File on passport substitutes

The issuing authority or office is to keep a file system with information on travel documents for foreigners, travel documents for refugees, travel documents for stateless persons and emergency travel documents issued. The provisions on the register of German passports apply accordingly.

Section 67

Foreigners File B

(1) The data recorded in Foreigners File A under section 64 are to be transferred to Foreigners File B, if the foreigner

- 1. dies,
- 2. has moved out of the foreigners authority's district, or
- 3. has acquired the legal status of a German within the meaning of Article 116 (1) of the Basic Law (*Grundgesetz*).

(2) The reason for transferring the data to Foreigners File B is to be noted in the file system. If the foreigner's file is transferred to another foreigners authority, this is also to be noted in the file system, stating the details of the receiving authority.

(3) In the case of subsection (1) no. 2, the data listed in section 65 may also be transferred to Foreigners File B.

Section 68

Deletion

(1) The data on a foreigner are to be deleted from Foreigners File A when they are transferred to Foreigners File B in accordance with section 67 (1). Data on a foreigner which have been recorded solely in relation to the approval of a visa application are to be deleted if the foreigner does not enter the federal territory within two years of expiry of the approval's period of validity.

(2) The data on a foreigner who has been expelled, removed or deported are to be deleted from Foreigners File B when the documentation pertaining to expulsion and deportation are to be destroyed according to section 91 (1) of the Residence Act. The data on a foreigner are otherwise to be deleted from Foreigners File B 10 years after the data were transferred. In the case of section 67 (1) no. 1, the data should be deleted five years after the data record was transferred.

Section 69

Visa files of the missions abroad

(1) Every mission abroad which is entrusted with visa matters keeps a file system on visa applications, withdrawal of visa applications, and visas issued, denied, withdrawn, annulled, or revoked.

(2) The following data are stored in automated form, if storage is needed for the mission abroad or the Federal Agency for Foreign Affairs to perform its legally mandated tasks:

1. data on the foreigner:
 - a) surname,
 - b) name at birth,
 - c) given names,
 - d) divergent spellings of names, other names and former names,
 - e) date, place and country of birth,
 - f) sex,
 - g) marital status,
 - h) current nationality and nationality at birth,
 - i) national identity number,
 - j) for minors, given names and surnames of the legal guardian or person having parental responsibility,
 - k) address in the country of origin and home address,
 - l) type, serial number and period of validity of residence titles for countries other than the country of origin,
 - m) information on the current occupation and employer's name, address and telephone number; for students, the name and address of the educational institution,
 - n) photograph,
 - o) fingerprints or reasons for the exemption from the obligation to submit fingerprints, and
 - p) surnames and given names, date of birth, nationality, number of the travel document or identity document of the foreigner's spouse, children, grandchildren or dependent relatives in the ascending line, if these persons are Union citizens,

nationals of Switzerland or of a state party to the Convention on the European Economic Area, and their kinship to the foreigner,

q) in case of residence intended for the purpose of employment, information on the intended employment and on the foreigner's qualification;

2. data on the foreigner's travel:

a) countries of destination in the Schengen area,

b) main purpose of the journey,

c) Schengen member state of first entry,

d) type, serial number, issuing authority, date of issue and period of validity of the travel document or information on an exemption from the passport requirement,

e) whether a declaration of commitment under section 66 (2) or section 68 (1) of the Residence Act exists and the authority where it is filed, as well as the date of issue,

f) information on the applicant's addresses while travelling, and

g) given names, surname, divergent spellings of names, other names and former names, address, date of birth, place of birth, nationalities, sex, telephone number and email address

aa) of the inviting party,

bb) of a person guaranteeing, by way of a declaration of commitment or by other means, that the foreigner's subsistence will be ensured, and

cc) any other reference person;

if an organisation takes the place of a person listed in (aa) to (cc): name, address, telephone number and email address of the organisation; its headquarters, purpose or field of activity; the name and place of the register in which the organisation is listed; the organisation's registration number; and the given names and surname of its contact person;

3. other information:

a) application number,

b) information indicating whether the application was processed on behalf of another Schengen member state,

c) date on which the application was submitted,

d) requested number of days of residence,

e) requested period of validity,

f) visa fee and expenses,

g) visa file number of the Central Register of Foreigners,

h) serial number of the previous visa,

i) information on the processing status of the visa application,

j) information as to whether forged or falsified documents were presented; type and number of the documents; information on the issuer; date of issue and period of validity,

k) responses from authorities consulted during the visa procedure, and

l) indication of the applicable legal basis in the case of visas for foreigners intending to remain in the federal territory for longer than 90 days or to pursue an economic activity in the federal territory;

4. data concerning the visa:

a) number of the visa sticker,

b) date issued,

c) category of the visa,

d) period of validity,

e) number of days of residence,

f) area to which the visa applies and the number of permitted entries into this area, and

g) conditions, requirements and other restrictions;

5. information on the denial, withdrawal, annulment or revocation of the visa:

a) date of the decision, and

b) information on the reasons for the decision.

(3) The data stored in accordance with subsection (2) are to be deleted no later than

1. two years after the visa expires, if the visa is issued;

2. if the visa application is withdrawn: two years after the application is withdrawn;
and

3. if the visa is denied, withdrawn, annulled or revoked: five years after the decision to deny, withdraw, annul or revoke the visa.

Fingerprints stored in accordance with subsection (2) no. 1 (o) are to be deleted immediately when

1. the visa has been handed over to the foreigner,

2. the applicant has withdrawn the visa application,

3. notice of denial of the visa application has been received, or

4. a legally valid reason for exemption from the obligation to submit fingerprints exists after the application has been submitted.

The data stored in accordance with subsection (2) no. 3 (d) and (e) are to be deleted immediately when the visa is issued. The data stored in accordance with subsection (2) no. 5 are to be deleted immediately when the reason for denying, withdrawing, annulling or revoking the visa no longer applies and the visa is issued.

(4) The missions abroad, the Federal Foreign Office and the Federal Agency for Foreign Affairs may transmit the data stored in the visa files to each other as needed to perform the legally mandated tasks of the missions abroad, the Federal Foreign Office and the Federal Agency for Foreign Affairs.

**Section 70
(repealed)**

**Subdivision 3
Transmitting data to the foreigners authorities**

**Section 71
Obligation to transmit data**

(1) The

1. registration authorities,
2. passport authorities,
3. authorities concerned with identity documents,
4. authorities concerned with matters of nationality,
5. judicial authorities,
6. Federal Employment Agency, and
7. supervisory authorities for trade and industry

are required, notwithstanding the notification requirements under section 87 (2), (4) and (5) of the Residence Act, to furnish the foreigners authorities without prior request with the necessary information as specified in the following provisions on personal data relating to foreigners, official acts, other measures relating to foreigners and other knowledge relating to foreigners, in order to enable these authorities to discharge their duties. The data are to be transmitted to the competent foreigners authority for the foreigner's place of residence; if the foreigner has multiple homes, the data are to be transmitted to the competent foreigners authority for the principal residence. If the principal residence is not known, the data are to be transmitted to the competent foreigners authority for the location of the authority transferring the data.

(2) The following data on the foreigner are to be transmitted, if known, for notifications in accordance with sections 71 to 76 of this ordinance:

1. surname,
2. name at birth,
3. given names,
4. date, place and country of birth,
5. sex,
6. nationalities,
7. address,
8. the Central Foreigners Register number in cases covered by and subject to section 10 (4) sentence 2 no. 4 of the Act on the Central Register of Foreigners (*Gesetz über das Ausländerzentralregister*), for the purpose of clearly identifying the person concerned.

**Section 72
Notifications by the registration authorities**

(1) The registration authorities notify the foreigners authorities of a foreigner's

1. registration,

2. notice of departure,
3. change of address of the principal residence,
4. marriage, establishment of a civil partnership, divorce, declaration of nullity or annulment of the marriage, annulment of the civil partnership,
5. change of name,
6. changed or corrected status under the law on nationality,
7. birth,
8. death;
9. of the death of the foreigner's spouse or civil partner,
10. of registered blocks on releasing information under section 51 of the Federal Act on Registration (*Bundesmeldegesetz*) and their removal, and
11. of the sorting criteria of the registration authority.

(2) In the cases of subsection (1), the following information is to be transmitted in addition to the data listed in section 71 (2):

1. at the time of registration:
 - a) doctoral degree,
 - b) marital status,
 - c) legal representatives, including surnames and given names, sex, date of birth and address,
 - d) date moved in,
 - e) previous address, including the country, for persons moving to Germany from abroad,
 - f) passport, passport substitute or substitute identity document, including the serial number, issuing authority and period of validity;
2. in connection with a notice of departure:
 - a) date of moving out,
 - b) new address;
3. for a change of principal residence:
 - a) the address of the previous principal residence,
 - b) the date moved in;
4. in the event of marriage or establishing a civil partnership: the surname and given names of the spouse or civil partner,
the date of marriage or of establishment of the registered partnership; and
- 4a. in the event of divorce, declaration of nullity or annulment of marriage or annulment of a registered partnership:
the date of and grounds for ending the marriage or civil partnership;
5. for a change of name:

the former and the new name;

6. for changed status under the law on nationality:

- a) the new or additional nationality, and
- b) if the German nationality has been renounced or otherwise lost, also the data referred to in no. 1;

7. for a birth:

legal representatives, including surnames and given names, sex, date of birth and address;

8. in the event of death:

the date of death;

9. in the event of the death of the foreigner's spouse or civil partner:

the date of death;

10. with regard to a registered block on releasing information under section 51 of the Federal Act on Registration:

the block on releasing information and its removal.

Section 72a

Notifications by the authorities concerned with passports and identity documents

(1) The passport authorities notify the foreigners authorities when a passport is withdrawn in accordance with section 12 (1) in conjunction with section 11 (1) no. 2 of the Passport Act due to the loss of German nationality.

(2) The authorities concerned with identity documents notify the foreigners authorities when an identity card is withdrawn in accordance with the Act on Identity Cards (*Personalausweisgesetz*) due to the loss of German nationality.

Section 73

Notifications by the authorities concerned with matters of nationality and certifying authorities according to section 15 of the Federal Expellees Act

(1) The authorities concerned with matters of nationality notify the foreigners authorities when

- 1. a foreigner acquires German nationality,
- 2. a foreigner is found to have the legal status of a German without German nationality,
- 3. a person loses the legal status of a German,
- 4. a person is found to have wrongly been registered as a German, foreign national or stateless person.

The notification under sentence 1 no. 2 does not apply to persons who entered the federal territory with an admission notice under the Federal Expellees Act (*Bundesvertriebenengesetz*).

(2) The certifying authorities referred to in section 15 of the Federal Expellees Act notify the foreigners authorities when certification under section 15 (1) or (2) of the Federal Expellees Act is denied.

Section 74

Notifications by the prison authorities and secure psychiatric hospitals

(1) The penal authorities notify the foreigners authorities when

1. the suspension of a sentence on probation is revoked,
2. the deferment of execution of a sentence is revoked.

(2) The prison authorities notify the foreigners authorities

1. when extradition custody, detention on remand or a custodial sentence, the placement in a psychiatric hospital pursuant to section 63 of the Criminal Code (*Strafgesetzbuch*), the placement in an addiction treatment facility pursuant to section 64 of the Criminal Code or placement in preventive detention pursuant to section 66 of the Criminal Code begins,
2. when a prisoner is transferred to a different penal institution,
3. of the planned and fixed dates for release from prison and the end of placement in a psychiatric hospital pursuant to section 63 of the Criminal Code, in an addiction treatment facility pursuant to section 64 of the Criminal Code or in preventive detention pursuant to section 66 of the Criminal Code.

Section 75 (repealed)

Section 76

Notifications by the supervisory authorities for trade and industry

The supervisory authorities for trade and industry notify the foreigners authorities when

1. a trade or business is registered,
2. a commercial licence is issued,
3. a commercial licence is withdrawn or revoked,
4. a ban on pursuing a trade or on acting as the authorised representative of a person engaged in trade or business or as a person charged with managing a business enterprise is issued.

Section 76a

Forms and procedures for transmitting data related to foreigners

(1) The data transmission standard XAusländer and the transmission protocol OSCI-Transport in the valid version published in the Federal Gazette are used for the transmission of data between the authorities charged with implementing the Residence Act. The options offered by the OSCI standard for secure encryption and signature are to be used when transmitting data.

(2) Subsection (1) is to be applied accordingly to data transmission via switching centres. If data are transmitted between the authorities charged with implementing the Residence Act via switching centres in internal administrative communication networks, a transmission protocol other than OSCI-Transport may be used in accordance with the law of the *Land* concerned, if the transmission protocol provides a level of data security and data protection which is equivalent to the level of the requirements referred to. The controller is to document the equivalence.

Subdivision 4

Identification measures under section 49 (6), (8) and (9) of the Residence Act

Section 76b

Technical guidelines of the Federal Office for Information Security

(1) The competent authorities under section 49 of the Residence Act are to guarantee compliance with state of the art as regards

1. the recording of photographs and fingerprints,
2. quality assurance of photographs and fingerprints,
3. machine authentication of foreign ID documents, and
4. the collection of depersonalised individual data to ensure the safety and quality level.

(2) State of the art is presumed if these procedures are carried out in accordance with the Federal Office for Information Security technical guidelines referred to in Annex E in the latest applicable version published in the Federal Gazette.

(3) If the latest technical guideline published in the Federal Gazette provides for certification by the Federal Office for Information Security, certification is required for the following system components:

1. hardware for the recording of photographs,
2. hardware for the recording of fingerprints,
3. software for the recording and quality assurance of photographs,
4. software for the recording and quality assurance of fingerprint data,
5. hardware for the examination of documents, and
6. software for the examination of documents.

In special situations, and in agreement with the Federal Office for Information Security, derogations from the procedures described in subsections (2) and (3) are permitted for a transitional period.

Section 76c

National safety and quality statistics

(1) The Federal Office for Information Security keeps national statistics on the safety and quality of the biometric data collected under section 49 of the Residence Act and the state-of-the-art machine examination of documents. The Federal Office of Administration allows the Federal Office for Information Security access to depersonalised individual data to enable it to keep the safety and quality statistics. The Federal Office for Information Security makes the statistics referred to in sentence 1 available in full or in part to the Federal Ministry of the Interior and Community, the Federal Office of Administration, and the Federal Criminal Police Office and the Federal Office for Migration and Refugees and the *Länder* if they need them to discharge their duties.

(2) The statistics kept by the Federal Office for Information Security are subject to the principles of neutrality and objectivity. The provisions on secrecy provided for in section 16 of the Act on Statistics for Federal Purposes (*Bundesstatistikgesetz*) apply accordingly. Statistical secrecy is to be ensured by technical and organisational measures guaranteeing the separation of statistical and non-statistical tasks.

Chapter 6

Administrative offences

Section 77

Administrative offences

Anyone is deemed to have committed an administrative offence as referred to in section 98

(3) no. 7 of the Residence Act who intentionally or negligently

1. fails to provide notification on time or at all, or provides incorrect or incomplete notification or fails to do so in the stipulated manner, in violation of section 38c,

2. fails to file an application on time or at all, in violation of section 56 (1) nos. 1 to 3 or 4,
3. fails to provide notification on time or at all, or provides incorrect or incomplete notification, in violation of section 56 (1) no. 5 or subsection (2) sentence 1, or
4. fails to present a document referred to in section 56 (1) nos. 6 or 7 or section 57 on time or at all, in violation of those provisions,
5. fails to provide notification on time or at all, or provides incorrect or incomplete notification or fails to present a document on time or at all, in violation of section 57a no. 1, or
6. fails to present a document on time or at all, or fails to apply for a new document on time or at all, in violation of section 57a no. 2.

Section 78

Administrative authorities within the meaning of the Act on Administrative Offences (Gesetz über Ordnungswidrigkeiten)

Competence for prosecuting and imposing punishment for administrative offences under section 98 (2) of the Residence Act which are committed in connection with entry into or exit from the federal territory and for offences under section 98 (3) no. 3 of the Residence Act is assigned to the Federal Police authority indicated in the statutory instrument under section 58 (1) of the Act on the Federal Police (*Bundespolizeigesetz*), unless the *Länder* perform border policing tasks using their own resources in agreement with the Federation.

Chapter 7

Transitional and final provisions

Section 79

Application to persons entitled to freedom of movement

The provisions in Chapter 2 Division 1, Chapter 3, section 56, Chapter 5 and sections 81 and 82 also apply to foreigners whose legal status is governed by the Freedom of Movement Act/EU.

Section 80

Transitional provision for certain provisional residence documents related to a model document

Until midnight on 31 May 2021, provisional residence documents which were not issued pursuant to section 11 (4) of the Freedom of Movement Act/EU in conjunction with section 81 (5) of the Residence Act may also be issued as forms bearing a sticker, in accordance with the same model provided for in the law in force until 3 December 2020.

Section 80a

Transitional provisions for United Kingdom nationals in connection with the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union.

(1) United Kingdom nationals as defined in section 1 (2) no. 6 of the Freedom of Movement Act/EU whose right of residence in the federal territory ends according to the Freedom of Movement Act /EU on 31 December 2020 and who have no right of residence under the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7) are exempt from 1 January 2021 until 31 March 2021 from the requirement for a residence title and may obtain a residence title needed for further residence in Germany until 31 March 2021 in the federal territory. They may continue any economic activity pursued in the federal territory up to 31 December 2020 without a residence title required under section 4a (1) sentence 1 of the Residence Act until a decision has been made on their application.

(2) Until midnight on 31 December 2021, residence documents for UK cross-border commuters may be issued in accordance with the same model provided for in the law in force until 24 August 2021. Residence cards and permanent residence cards may, in the cases of section 3a of the Freedom of Movement Act/EU, be issued until 31 December 2021 with a reference to Article 10 or Article 20 of Directive 2004/38/EC.

Section 81

Continuing validity of passport substitutes issued under the current law

(1) The following documents issued under law which was applicable at the time of issuing remain valid for their original period of validity:

1. travel documents for refugees under section 14 (2) no. 1 of the Ordinance Implementing the Foreigners Act (*Verordnung zur Durchführung des Ausländergesetzes*) and travel documents for stateless persons under section 14 (2) no. 2 of the Ordinance Implementing the Foreigners Act,
2. permits for cross-border commuters under section 14 (1) no. 2 of the Ordinance Implementing the Foreigners Act in conjunction with section 19 of the Ordinance Implementing the Foreigners Act,
3. entries in collective lists of pupils (section 1 (5)) and standard travel documents for the return of foreigners under section 1 (8) in the version applicable up to and including 7 April 2017,
4. travel documents for foreigners issued in accordance with the model printed in Annex D4b,
5. travel documents for foreigners issued in accordance with the model printed in Annex D4a with a period of validity of more than one year,
6. travel documents for stateless persons issued in accordance with the model printed in Annex D8 with a period of validity of more than one year,
7. travel documents for refugees issued in accordance with the model printed in Annex D7 with a period of validity of more than one year, and
8. permits for cross-border commuters issued in accordance with the model printed in Annex D5.

(2) In addition, the following documents issued on the basis of the law applicable before this ordinance entered into force also retain their validity:

1. travel documents under section 14 (1) no. 1 of the Ordinance Implementing the Foreigners Act in conjunction with sections 15 to 18 of the Ordinance Implementing the Foreigners Act, as travel documents for foreigners in accordance with this ordinance,
2. travel documents as a passport substitute which were issued to foreigners under section 14 (1) no. 3 of the Ordinance Implementing the Foreigners Act in conjunction with section 20 of the Ordinance Implementing the Foreigners Act, as emergency travel documents in accordance with this ordinance,
3. exemptions from the passport requirement in conjunction with the certification of the entitlement to return to the federal territory under section 24 of the Ordinance Implementing the Foreigners Act on the substitute identity document under section 39 (1) of the Foreigners Act (*Ausländergesetz*) as emergency travel documents in accordance with this ordinance on which the entitlement to return to the federal territory has been certified under this Ordinance,
4. laissez-passers under section 14 (1) no. 4 of the Ordinance Implementing the Foreigners Act issued to flight personnel in accordance with section 21 (1) of the

Ordinance Implementing the Foreigners Act, and shore leave passes under section 14 (1) no. 5 of the Ordinance Implementing the Foreigners Act issued to crew members of a ship travelling in maritime or coastal waters or on the Rhine, in accordance with section 21 (1) sentence 1 of the Ordinance Implementing the Foreigners Act, as laissez-passers and simultaneously as emergency travel documents in accordance with this ordinance, and

5. permits for cross-border commuters issued in accordance with the requirements listed in Article 7 (2), Article 13 (2), Article 28 (1) and Article 32 (2) of Annex I to the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, as permits for cross-border commuters in accordance with this ordinance.

(3) The period of validity, the territorial scope and the entitlements pertaining to the documents referred to in subsections (1) and (2) are determined according to the entries contained in them and the law applicable on the date on which the documents were issued.

(4) Withdrawal of the documents referred to in subsections (1) and (2) and the subsequent entry of restrictions are subject solely to the provisions of this ordinance. If a form under subsection (1) nos. 1 and 2 and under subsection (2) has remained valid, it must nevertheless no longer be used for an extension.

(5) The documents referred to in subsections (1) and (2) may be withdrawn ex officio, if the foreigner is issued with a passport substitute or a substitute identity document under this ordinance in lieu of his or her previous identity document, if the scope of entitlements of the new passport substitute or substitute identity document is at least equal to that of the previous identity document, and the requirements for issuing the new passport substitute or substitute identity document are met. Instead of withdrawing a substitute identity document certifying the entitlement to return to the federal territory, when issuing a new emergency travel document an official note may be entered on the substitute identity document indicating that the certification of the entitlement to return to the federal territory is invalid and the substitute identity document may be left in the foreigner's possession. Subsection (4) remains unaffected.

(6) Passport substitutes other than those referred to in subsections (1) and (2) and issued by German authorities become invalid one month after this ordinance enters into force.

Section 82

Transitional provision on foreigners files

(1) Data on measures and decisions taken under the law on foreigners which are stored by 31 December 2004 remain in the foreigners file after the Residence Act and the Freedom of Movement Act/EU enter into force. New measures and decisions permitted under the Residence Act and the Freedom of Movement Act/EU are not to be stored until they are taken in the individual case concerned.

(2) Up to 31 December 2005, foreigners authorities may store under existing codes measures and decisions for which corresponding codes have yet to be established. Only codes referring to measures and decisions which are no longer taken from 1 January 2005 on may be used.

(3) When retrieving data on measures or decisions, the foreigners authorities must ascertain whether the individual measure or decision concerned was taken under the previous law or on the basis of the Residence Act or the Freedom of Movement Act/EU.

(4) The foreigners authorities are required to adapt the data stored pursuant to subsection (2) to the new data storage provisions by no later than 31 December 2005.

Section 82a

Transitional provision due to the entry into force of the Act to Implement Residence- and Asylum-Related Directives of the European Union

Information relating to the new data storage provisions established by the Act to Implement Residence- and Asylum-Related Directives of the European Union (*Gesetz zur Umsetzung*

aufenthalts- und asylrechtlicher Richtlinien der Europäischen Union) are stored in the foreigners files as soon as the necessary information technology requirements are met, but no more than six months after this act enters into force. If at that time the information has not yet been stored, the foreigners authorities are required to store the information without delay.

Section 82b

Transitional provision on section 31 (1) sentence 1 nos. 1 and 2

Until section 31 (1) sentence 1 nos. 1 and 2 is fully implemented in the automated visa procedure of the Federal Office of Administration, but no later than 30 June 2013, foreigners authorities may be consulted in visa procedures also in those cases in which, on the basis of section 31 (1) sentence 1 nos. 1 and 2 in the version of 27 February 2013 (Federal Law Gazette I, p. 351), a visa does not require the approval of the foreigners authority.

Section 83

Fulfilment of obligations related to identity documents

If the conditions for the obligation to present identity documents under section 57 are met when this ordinance enters into force, foreigners are required by this ordinance to present the stated papers which they possessed at this time only on request from the foreigners authority or when they apply for or receive a residence title, a suspension of deportation or a German passport substitute from the foreigners authority or when they provide notification under section 56 no. 5. Legal obligations resulting from other regulations remain unaffected.

Section 84

Recognition of research organisations

Applications for the recognition of research organisations will be processed starting on 1 December 2007.