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Asylum Act

(AsylA)

of 26 June 1998 (Status as of 1 January 2021)

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

Chapter 1 Principles

Art. 1 Subject matter

This Act regulates:

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

Art. 2 Asylum

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

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

Art. 3 Definition of the term refugee

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

AS 1999 2262

¹ SR 101

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

³ BBl 1996 II 1

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

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

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

Art. 4 Granting temporary protection

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

Art. 5 Ban on refolement

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

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

Art. 6⁷ Procedural principles

Procedures are governed by the Administrative Procedure Act of 20 December 1968⁸ (APA), the Federal Administrative Court Act of 17 June 2005⁹ and the Federal Supreme Court Act of 17 June 2005¹⁰, unless this Act provides otherwise.

⁴ SR **0.142.30**

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

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

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

⁷ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

⁸ SR **172.021**

⁹ SR **173.32**

¹⁰ SR **173.110**

Chapter 2 Asylum Seekers

Section 1 General Provisions

Art. 6a¹¹ Competent authority

¹ The State Secretariat for Migration (SEM)¹² decides on granting or refusing to grant asylum as well as on removal from Switzerland.

² The Federal Council shall identify states in addition to the EU/EFTA states in which on the basis of its findings:¹³

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

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

⁴ It shall provide the competent committees of the Federal Assembly with the list of states in accordance with paragraph 2 letter a for consultation prior to any amendment and at least once each year.¹⁴

Art. 7 Proof of refugee status

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

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

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

Art. 8 Duty to cooperate

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

- a. reveal their identity;
- b.¹⁵ hand over their travel documents and identity papers;

¹¹ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

¹² The name of this administrative unit was amended by Art. 16 para. 3 of the Publications Ordinance of 17 Nov. 2004 (AS **2004** 4937), in force since 1 Jan. 2015. This amendment has been made throughout the text.

¹³ Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

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

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

- c. state at the interview why they are seeking asylum;
- d. indicate any evidence in full and submit this without delay or, as far as this seems reasonable, endeavour to acquire such evidence within an appropriate period;
- e.¹⁶ cooperate in providing biometric data;
- f.¹⁷ undergo a medical examination ordered by SEM (Art. 26a).

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

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

^{3bis} Persons, who fail to cooperate without valid reason or fail to make themselves available for more than 20 days lose their right to have the procedure continued. This also applies to persons who fail for more than 5 days to make themselves available to the asylum authorities in a federal centre without a valid reason. Their applications are cancelled without a formal decision being taken. No new application may be filed within three years. The foregoing is subject to compliance with the Refugee Convention of 28 July 1951^{18, 19}

⁴ In the event of an enforceable removal ruling being issued, the persons concerned are obliged to cooperate in obtaining valid travel documents.

Art. 9 Search

¹ The competent authority may search asylum seekers who are accommodated in a federal centre²⁰ or in private or collective accommodation and the possessions they have with them for travel and identity documents as well as dangerous objects, drugs and assets of dubious origin.²¹

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

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

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

¹⁸ SR **0.142.30**

¹⁹ Inserted by No I of the FA of 14 Dec. 2012 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325). Amended by No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991).

²⁰ Term in accordance with No I of the FA of 25 Sept. 2015, in force since 1 March 2019 (AS **2016** 3101, **2018** 2855; BBl **2014** 7991). This change has been made throughout the text.

²¹ Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

Art. 10 Seizure and confiscation of documents

¹ SEM shall place asylum seekers' travel documents and identity papers on file.²²

² Authorities and government offices shall seize and pass on to SEM travel documents, identity papers or other documents which may indicate the identity of person who has applied for asylum in Switzerland. Paragraph 5 applies to recognised refugees.²³

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

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

⁵ Passports or identity papers that have been issued to refugees recognised in Switzerland by their native country must be passed on to SEM.²⁴

Art. 11 Evidentiary procedure

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

Art. 12²⁵ Notification and service when living in a canton

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

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

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

²² Amended by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

²³ Amended by No I of the FA of 14 Dec. 2012, in force since 1 Feb. 2014 (AS **2013** 4375 5357; BBl **2010** 4455, **2011** 7325).

²⁴ Inserted by No I of the FA of 16 Dec. 2005, in force since 1 Jan. 2008 (AS **2006** 4745, **2007** 5573; BBl **2002** 6845).

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