

LEAFLET
ON THE OBLIGATIONS AND RIGHTS OF ASYLUM SEEKERS

PLEASE NOTE THE FOLLOWING IMPORTANT POINTS:

1. Cooperate in your asylum procedure!

Always answer truthfully!

You are obliged and it is in your own interests, **to state your case in full and truthfully**. False statements damage your credibility! Ignore information from smugglers and/or trafficking organisations on what you are supposed to state during your asylum proceedings. Such advice may be disadvantageous to you if your statements are not true.

- Substantiate without any undue delay your application for international protection (hereinafter referred to in brief as the Asylum Application). Present truthfully all pertinent points necessary to substantiate your application when questioned.
- Submit all evidence in your possession as quickly as possible.
- Tell us if you were already in another European country.
- Do not give the authorities any false information. Truthfully state your name, any previously used names, date of birth, states of previous residence, former asylum applications as well as family and social relationships.
- Do not deceive the authorities regarding your nationality and/or country of origin, or authenticity of your documents (such as travel documents, train tickets). This can have negative effects on the assessment of your asylum application and your application may be immediately rejected.
- Truthfully state the reasons for seeking asylum and events about which you are expressly asked by the authorities.
- If you receive a summons to an interview (questioning), appear on time at the specified place. If you receive a summons to an examination (such as by a medical doctor or an official expert), appear on time at the specified place. Cooperate in your investigation and examination. Please help us during these appointments through your cooperation.

- If you are ill and cannot attend the appointment, please inform the authorities immediately and supply a doctor's note for confirmation. If there is another reason why you cannot keep an appointment, please inform the authorities.
- If you fail, unexcused, to follow a summons to appear, the authorities must assume that you wish to evade the proceedings. Your asylum proceedings may be terminated, or result in a negative decision, or a warrant may be issued for your arrest.
- Cooperate during the police identity determination procedures (e.g. taking of fingerprints, photographs etc.).
- All and any changes to your address for service, i.e. the postal address to which we send your correspondence, must be immediately notified to the authorities. This is also applicable if you are abroad. If you are in Austria, it is sufficient to register at the competent residence registration authority within three days. It is also possible to appoint an authorised recipient (e.g. an acquaintance resident in Austria, a charitable organisation, etc.).
- It is essential that the authorities know to which address your correspondence is to be served. If you do not inform us of your change of residence, this may have the following negative consequences for you:
 - If you cannot be served with a summons your asylum proceedings may be terminated or result in a negative decision. You may lose your protection against deportation!
 - If the authorities cannot serve a decision on your proceedings to you, you may miss important deadlines for lodging legal remedies (for example, filing an appeal).
 - The decision of the authorities may then become final and absolute and result in your losing deportation protection.
- If you claim that you are a minor and this is questionable, you have to furnish proof of being a minor through credible certificates or other suitable evidence. If you are unable to do so, the authorities may order medical examinations to determine your age. Further information on medical determination of age is available in a dedicated leaflet.
- If you are an unaccompanied underage minor, i.e. you are younger than 14, the authorities are not obliged to initiate a family search. You may submit an application for initiation of a family search. The authorities will assist you in your family search. Further information on family search for underage minors is available in a dedicated leaflet.

- If you are an unaccompanied minor of age, i.e. you are older than 14, the authorities are obliged to initiate a family search. You have to cooperate in the family search and furnish all evidence confirming your familial relationship. You are also obliged to immediately present all results of any performed family search to the Federal Office of Immigration & Asylum (BFA). Further information on family search for minors of age is available in a dedicated leaflet.
- If you are **registered** at the contact centre **as homeless** you are automatically subject to the **obligation of reporting**. You have to report every 14 days at the police station closest to the contact centre. This obligation of reporting starts with the first working day from the date of registration as homeless. This stipulation does not apply as long as you are in the approval procedure.

If you infringe against your obligations to cooperate as an asylum seeker, this may negatively affect the assessment of your asylum application and your credibility!

Observe the obligations to cooperate and to report. If you do not do this, you may be taken into detention pending deportation by the Federal Office of Immigration & Asylum (BFA) to ensure due course of the proceedings for passing a decision terminating your residence, or expulsion. You are also subject to other consequences such as termination or restriction of your basic care and services benefits, or procedural disadvantages may arise.

2. ASYLUM PROCEEDINGS:

a) Prerequisites for granting of asylum in Austria:

You have lodged an asylum application. Your asylum proceedings have been **approved**. You can credibly show that you have reasonable grounds to fear persecution in your country of origin, attributable to your race, religion, nationality, political persuasion or membership of a certain social group. You cannot resort to the protection of your country of origin or you are afraid to do so.

b) Interview:

- Once your asylum proceedings have been approved (as already explained in the Initial Information leaflet), you will be interviewed by a member of staff from the Federal Office of Immigration & Asylum (BFA). This staff member is aware of the circumstances in your country of origin and decides on your asylum application.
- You must substantiate your asylum application during this interview. Please explain the reasons you are fearing persecution. Also specify any other facts and circumstances preventing you from returning to your country of origin.

- All the information you give about your escape route and your reason for fleeing are treated confidentially and are not passed on to the authorities of your country of origin.
- It is essential that you give a full, detailed and comprehensible account of your personal case history and the specific dangers facing you. Be sure however to only state the truth! Any untruths in your statements will damage your credibility. Should there be any ambiguities in your statements, you will be questioned further.
- The interview is the most important part of your asylum proceedings. It forms the basis for decision making by the authorities on whether you may be granted asylum.
- The interview may also be attended by a person you trust, your lawyer and/or representative, or a legal adviser.
- If you are below 18 years of age, your legal representative (a parent, legal adviser or the competent youth welfare office) must be present at your interview.
- Should your fear of persecution be founded on interference in your sexual self-determination, you have the right to be interviewed by a person of your own sex. If you however prefer to be interviewed by a person of your own sex due to reasons for your fleeing, please inform us thereof in good time.

c) Interpreters:

The authorities provide you with an interpreter free of charge so that you can explain the reasons for your fleeing without linguistic difficulties. If due to the reasons for your fleeing you wish to be interpreted by a person of your own sex, please inform us thereof in good time. The authorities will attempt as far as reasonably possible to provide you with an interpreter of your own sex. The task of this interpreter is solely to translate your statements as accurately as possible. They act merely as a language mediator between you and the authorities and, like the staff working for the authorities, are bound by a strict code of confidentiality in respect of your statements.

Should you have problems understanding the interpreter or if you are afraid of speaking openly in their presence, then please immediately inform our staff.

Please note that the interpreter cannot and may not give you any legal information whatsoever about your asylum proceedings.

d) Written records:

Your statements are recorded during the interview, i.e. they are written down. At the end of the interview, this record is translated back to you by the interpreter in your own interests. This allows you to make any corrections or additions. If your statements have been accurately and fully rendered, confirm this by signing the record. You can demand a copy of this record at the end of the interview.

e) Decision making:

The decision of the authorities on the outcome of your asylum proceedings is issued in the form of a written decision. The major substance of this decision is translated into a language which you can understand.

This decision may be handed to you in person by the authorities or delivered by post or the police. Please therefore note once again that you must immediately inform the authorities of any change of address.

You have the right to have the decision of the Federal Office of Immigration & Asylum (BFA) reviewed by means of appeal to the Federal Administrative Court. Such an appeal may be lodged only within a certain period of time and only at the Federal Office of Immigration & Asylum (BFA). Therefore carefully read the instructions on the appeal procedure specified in your decision (these are instructions informing you what action you can take against the decision and within what period).

f) Delivery of documents

- If you are at an Initial Reception Centre or have been allocated to a welfare establishment, your documents will be delivered there.
If you have appointed a legal representative (lawyer) or a person authorised to receive your correspondence, the documents from the authorities will be delivered to them. During the approval proceedings, summonses will be exclusively served upon you in person.
- If you are under 18 years of age and are not accompanied by your parents, the correspondence from the authorities will be delivered to your legal representative (legal adviser in the approval proceedings or youth welfare office). You should therefore remain in contact with the youth welfare office in your respective place of residence throughout your case and keep them informed of your whereabouts.
- If you happen to be away from the address you have given, the document intended for you will be deposited at the deliverer (normally the post office) where you can collect it later. Please note that the depositing of documents is equivalent to delivery of the document in person and any time limits will begin to run from this point!
- If acceptance of a document is refused without legal grounds, it will be left at the respective address or deposited (normally at the post office). Please note that the document is deemed delivered and important time limits begin to run from that point.
- If you have not given the authorities a current delivery address and the authorities cannot easily find your new address, a decision regarding your proceedings may also be deposited with the authorities. This deposition is also deemed as personal delivery and

important deadlines begin to run from this point on. Therefore, always inform the authorities of any changes of address.

- If for instance you currently do not have a long-term residence, you may appoint an authorised recipient for delivery of documents (e.g., an acquaintance living in Austria, charitable organisations, etc.). Please notify this address to the authorities immediately. All documents pertaining to your case will then be delivered there.
- A contact centre for the homeless (this is a centre in the municipality you live which is often visited by homeless persons) is not deemed a delivery address during asylum proceedings. This means that no documents will be delivered there during the asylum proceedings.

g) Subsequent application proceedings

If you have lodged a subsequent application (i.e. an additional application after an application for which a legally binding decision has been passed), special provisions apply to your proceedings. A dedicated leaflet contains all related details.

h) Withdrawal of the asylum application:

In principle, you cannot withdraw your asylum application.

If however you still intend to end your asylum proceedings, please inform the authorities in writing or contact the return counselling centre or a legal adviser.

If you wish to withdraw your asylum application after having appealed against a decision passed by the Federal Office of Immigration & Asylum (BFA), this is deemed to be a withdrawal of your appeal. You can no longer contest the original decision of the Federal Office of Immigration & Asylum (BFA) through ordinary legal remedies.

i) Possible warrant for your arrest

The authorities may issue a warrant for your arrest if:

- you evade the procedure; that is, if the authorities do not know where you are.
- you do not appear at an appointment at the date set by the authorities despite being requested to do so.

When you are detained, you will be brought before the authorities by the security authorities.

j) Family asylum proceedings:

As a family member of an alien who has already been granted asylum or status of subsidiary protection, you will only be granted the same level of protection if the following prerequisites have been satisfied:

- your family member must not have become a criminal
- continuation of existing family life with your family members is not possible for you in any other country
- no proceedings regarding revocation of asylum or subsidiary protection may be pending against your family member
- you may not be an EEA or Swiss citizen
- your family member to whose application you are referring may not have been granted asylum and/or status of subsidiary protection in the course of family asylum proceedings; if however such family member is an unmarried minor child, this limitation does not apply.

Family members are deemed to be for instance: spouses, parent of a minor and unmarried minor children. Spouses must for instances have already been living together in a common household in the country of origin.

Children:

The application lodged by you also applies for your minor, unmarried children (below age of 18) if they accompany you. If a child is born in Austria you are obliged to report this to the Federal Office of Immigration & Asylum (BFA) during the ongoing asylum proceedings. This also applies when you remain in Austria after having received a fully negative decision with neither right of residence nor postponement of removal being applicable to you. Therewith an application for international protection is deemed simultaneously lodged.

If you have been granted asylum or subsidiary protection status, you can submit an application for a child born in Austria in writing or directly at the Federal Office of Immigration & Asylum (BFA).

k) Residence entitlement card:

If your asylum proceedings have been approved you will be issued a residence entitlement card. The validity of this card ends with the final decision or termination of your asylum proceedings. At this point you will have to return the card to the Federal Office of Immigration & Asylum (BFA).

l) Entitlement to subsidiary protection card:

• Asylum:

If you have been granted asylum, the Federal Office of Immigration & Asylum (BFA) will then issue you with an Entitlement to asylum card. This only applies when your application has been submitted on November 15, 2015 or later. This card serves to prove your identity and the legitimacy of your residence in Austria. It becomes invalid when your status of asylum entitlement is deemed null and void.

- **Subsidiary protection:**

If an authority has ascertained that you are not entitled to be granted asylum, but nevertheless cannot be deported or expelled on account of the situation in your country of origin (danger of violation of the right to life, or of violation of prohibition of capital punishment, torture or inhuman or humiliating treatment), then you will be granted a temporary residence permit. The Federal Office of Immigration & Asylum (BFA) will then issue a subsidiary protection card for you.

This card serves to prove your identity and the legitimacy of your residence in Austria. The right of residence remains valid up to the final decision on its prolongation provided the application has been lodged prior to expiry of the right of residence.

If the original reasons against expulsion or deportation to your country of origin are no longer applicable, the temporary right of residence will be revoked and the subsidiary protection card will become void.

The decision is made in writing. You have the right to have the decision of the Federal Office of Immigration & Asylum (BFA) reviewed by means of appeal to the Federal Administrative Court. The card is to be returned to the authorities following a final and absolute decision.

m) Counselling:

Independent legal advisers are available free of charge during your proceedings. Local aid or charitable organisations (Caritas, Evangelisches Hilfswerk, Diözese, and others) can also assist you free of charge and represent you during the asylum proceedings.

You can of course engage your own legal representative (lawyer) whose costs you would then have to pay.

3. SANCTIONS:

Please note that the following actions, amongst others, are liable to prosecution:

- If you give the authorities false information about your identity or your origins in your asylum proceedings, although you know that this information is untrue, you render yourself liable to prosecution.
- If you infringe your obligation to report during your asylum proceedings, you render yourself liable to prosecution.
- If you infringe your territorial restrictions during your approval proceedings, you render yourself liable to prosecution.