

Federal law concerning the Asylum Court (Asylum Court Act – AsylGHG)

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Part 1

Organization of the Asylum Court

Section 1

Principal seat and composition of the Asylum Court

Principal seat

Article 1. (1) The principal seat of the Asylum Court shall be in Vienna (headquarters premises).

(2) The Asylum Court shall have a centre in Linz.

Composition and appointment of judges

Article 2. (1) The Asylum Court shall be composed of the following members:

1. the chief presiding judge;
2. the vice-presiding judge and
3. other judges.

(2) The chief presiding judge, vice-presiding judge and other judges of the Asylum Court shall be appointed by the Federal President at the proposal of the Federal Government.

(3) To be appointed as an Asylum Court judge a person must:

1. possess Austrian nationality;
2. have successfully completed degree studies in law or in legal and political sciences;
3. have acquired at least five years' professional law experience, in particular in the area of asylum and immigration law, and
4. be personally and technically qualified to discharge the duties involved in performing the activities of an Asylum Court judge.

(4) Prior to appointments to established posts, an invitation for the general submission of candidatures shall be issued by the Federal Chancellor for the post of chief presiding judge or vice-presiding judge and by the chief presiding judge for the posts of other judges. The invitation shall insofar as possible be effected three months before and at the latest within one month following the date when the established post becomes vacant.

(5) The invitation for the general submission of candidatures for established posts shall be published in the *Gazette of the Wiener Zeitung*. It may additionally be announced by other appropriate means.

Section 2

Status of Asylum Court judges

Incompatibility

Article 3. (1) Members of the Federal Government or of a provincial Government, under-secretaries of State, members of a general representative body or of the European Parliament, the Auditor-General, the head of a provincial audit office, members of the Office of the Parliamentary Commissioner, provincial ombudsmen or mayors may not serve on the Asylum Court. With regard to members of a general representative body or of the European Parliament, their incompatibility shall continue up to expiry of the legislative period or term of office, even in the event of advance renunciation of their seat.

(2) Moreover, any person who in the last five years has held any of the posts specified in paragraph (1) above may not be appointed as chief presiding judge or vice-presiding judge of the Asylum Court.

Public service, remuneration and disciplinary regulations applying to judges

Article 4. (1) Unless otherwise provided for herein, the provisions of the Judicial and Prosecution Service Act (RStDG), *Federal Law Gazette* (FLG) No. 305/1961, which relate to the employment of provincial court judges shall apply *mutatis mutandis* to the employment of Asylum Court judges, with the following provisos:

1. Asylum Court judges shall, upon taking up their established posts, swear the oath of office provided for in article 29, paragraph (1), of the RStDG unless such oath has already been sworn. The persons responsible for administering the oath of office shall be:
 - (a) the chief presiding judge in the case of Asylum Court judges other than the vice-presiding judge and
 - (b) the Federal President in the case of the chief presiding judge and vice-presiding judge;
2. The personnel board to be established in accordance with article 36 of the RStDG shall be composed of the chief presiding judge and vice-presiding judge of the Asylum Court as ex officio members and three members elected by the plenum from among its membership (elective members). Six alternate members for the three elective members shall be elected by the plenum from among its membership;
3. The personnel board shall be responsible for the job descriptions of Asylum Court judges, other than the chief presiding judge and vice-presiding judge, in accordance with article 52 of the RStDG;
4. The plenum of the Asylum Court shall be the disciplinary tribunal for Asylum Court judges;
5. The disciplinary court as referred to in article 111 of the RStDG shall be the Asylum Court itself. It shall hear and rule on cases in a disciplinary board (article 112 of the RStDG), whose members shall be elected by the plenum from among the Asylum Court judges at the proposal of the personnel board. Notification of the composition of the disciplinary board shall be given to by the Federal Chancellor. Disciplinary counsel as referred to in article 118, paragraph (1), of the RStDG shall be the competent disciplinary counsel for the Office of the Federal Chancellor.

(2) Notwithstanding article 66, paragraph (1), of the RStDG, the salary of an Asylum Court judge shall be as follows:

Salary step	Euros
1	3,373.7
2	3,872.0
3	4,325.2
4	5,002.9
5	5,578.7
6	6,101.2
7	6,474.9
8	6,760.6

(3) Notwithstanding articles 66 and 68 of the RStDG, a fixed salary in the amount of 8,778.3 euros shall be paid to the chief presiding judge of the Asylum Court.

(4) Notwithstanding article 68 of the RStDG, a pensionable service bonus amounting to 543.7 euros shall be paid to the vice-presiding judge of the Asylum Court.

Attendance on the premises and performance of duties away from the premises

Article 5. (1) Asylum Court judges shall arrange their attendance on the premises (article 1) in such a way that they can properly fulfil their official responsibilities.

(2) Judges may also perform their work duties away from the premises. With regard to the performance of duties away from the premises, there shall be no entitlement to the provision of necessary work materials or to reimbursement of costs arising in connection therewith or financial compensation.

(3) In the case of duties performed away from the premises, as referred to in paragraph (2) above, judges shall choose their place of residence in such a way that they can fulfil their official responsibilities without undue outlay in time and effort.

(4) Judges shall communicate their place of domicile to their work premises. Any judges residing away from their place of domicile for more than three days shall, insofar as possible, inform their work premises of the address at which official notifications can be sent to them.

Section 3

Asylum Court officials

Chief presiding judge of the Asylum Court

Article 6. (1) The chief presiding judge shall direct the Asylum Court, supervise the entire personnel and conduct the judicial administration work of the Asylum Court unless, by virtue hereof, such matters are to be dealt with by other officials. In particular, he shall carry out official duties. The chief presiding judge shall further be responsible for ensuring the greatest possible consistency of legal practice while fully preserving judicial independence.

(2) The chief presiding judge shall be assisted and represented in his duties by the vice-presiding judge, by the chamber chairpersons and, where required, by other Asylum Court judges, in accordance with the scheme of work for judicial administration matters which is to be issued by him. Any involvement of such other persons shall, except in the case of the vice-presiding judge and the chamber chairpersons, be subject to the consent of the judge concerned and may be terminated by the chief presiding judge at any time. Judges entrusted with such transferred duties shall, in the performance thereof, comply with the instructions of the chief presiding judge.

(3) The chief presiding judge shall, in the event of impediment, be represented in the full sphere of his functions by the vice-presiding judge and, in the event also of the latter's impediment, by the chamber chairperson or other judges responsible therefor in accordance with the scheme of work for judicial administration matters. The foregoing shall also apply in cases where the post of chief presiding judge or vice-presiding judge is not filled.

(4) The chief presiding judge and vice-presiding judge may, in addition to their judicial administration duties, undertake adjudication insofar as the discharge of their judicial administration duties is not thereby affected.

Plenum

Article 7. (1) The Asylum Court judges (paragraph (1) of article 2) shall together constitute the plenum.

(2) The following duties shall be assigned to the plenum:

1. electing the elective and alternate members of the personnel board;
2. serving as the disciplinary tribunal for Asylum Court judges;
3. electing the disciplinary board members at the proposal of the personnel board;

4. appointing and dismissing the head and deputy head of the Asylum Court, Linz, at the proposal of the chief presiding judge;
5. electing the elective and alternate members of the Scheduling Committee;
6. appointing and dismissing the chamber chairpersons and deputy chamber chairpersons at the proposal of the chief presiding judge;
7. adopting resolutions on the rules of procedure at the proposal of the Scheduling Committee;
8. electing and dismissing the members of the Controlling Committee;
9. adopting the report on activities.

(3) The chief presiding judge shall convene and chair meetings of the plenum. Deliberations and voting in the plenum shall not be open to the public.

(4) Any judge shall be entitled to submit motions in the plenum. The other judges shall be at liberty to introduce counter-motions or amendment motions concerning such motions. All motions shall be substantiated.

(5) The chairperson shall specify the sequence in which a vote shall be taken on motions and the sequence of voting.

(6) Unless otherwise provided for herein, the presence of at least one half of the judges and a simple majority of the votes cast shall be required for the adoption of resolutions in the plenum. Abstentions from voting shall be inadmissible. In the event of an equal number of votes, the chairperson shall have the casting vote.

(7) A record of the deliberations and voting in the plenum shall be drawn up.

Head of the Asylum Court, Linz

Article 8. (1) The plenum shall at the proposal of the chief presiding judge appoint the head of the Asylum Court, Linz, for a four-year term from among the Asylum Court judges employed at the Asylum Court, Linz, (paragraph (2) of article 1). The head of the Asylum Court, Linz, may be dismissed by the plenum at any time; such resolution shall require at least a two-thirds majority of the votes cast and shall be substantiated.

(2) The head of the Asylum Court, Linz, shall, under the responsibility of the chief presiding judge, discharge for the sphere of the Asylum Court, Linz, the duties assigned to the latter in accordance with paragraph (1) of article 6. The head of the Asylum Court, Linz, shall, in the performance of his duties as head of those premises and without prejudice to his judicial independence as an Asylum Court judge, be subject to the instructions of the chief presiding judge.

(3) The head of the Asylum Court, Linz, shall be assisted and represented in his duties by a deputy and, where required, by other Asylum Court judges employed at the Asylum Court, Linz, in accordance with his orders. Paragraph (1) above shall apply with regard to the appointment and dismissal of the deputy head. Any involvement of such other persons shall, except in the case of the deputy head, be subject to the consent of the judge concerned and may be terminated by the head of the Asylum Court, Linz, at any time. Judges entrusted with such transferred duties shall, in the performance thereof, comply with the instructions of the head of the Asylum Court, Linz.

(4) In the event of impediment of both the head and the deputy head of the Asylum Court, Linz, they shall be represented by the most senior judge at the Asylum Court, Linz, and, in the event also of the latter's impediment, by the next most senior judge. The foregoing shall also apply in cases where the post of head of the Asylum Court, Linz, is not filled.

Panels and chamber panels

Article 9. (1) Decisions of the Asylum Court shall be rendered by panels unless provision is made by federal law for decisions to be pronounced by sole judges or by enlarged panels (chamber panels).

(2) Each panel shall be composed of a judge as chairperson and a further judge as associate. At least one deputy chairperson and at least one alternate member (alternate associate judge) shall be provided for each panel.

(3) If provision is made by federal law for a decision to be pronounced by an enlarged panel, the competent panel shall in accordance with the schedule of assignments be expanded by three judges (chamber panel). If, following application by a sole judge, a chamber panel is responsible for rendering the decision, that judge shall serve on the chamber panel. The competent chamber chairperson (paragraph (3) of article 14) shall chair the chamber panel. The other judges shall be appointed from among the judges comprised in the chamber (paragraph (2) of article 14).

(4) In the event of impediment of a member of the panel or chamber panel, the chairperson shall order the engagement of the alternate member provided for in the schedule of assignments. In the event of impediment of the chairperson of a panel, the competent chamber chairperson shall order the engagement of the deputy provided for in the schedule of assignments, and, in the event of impediment of the chairperson of a chamber panel, the chief presiding judge shall order the engagement of the deputy provided for in the schedule of assignments.

(5) Service on a panel or chamber panel by the chief presiding judge and vice-presiding judge shall be subject to their consent.

Immediacy of proceedings; deliberations and voting

Article 10. (1) If an oral hearing has taken place, the decision may be rendered only by the Asylum Court judges who took part in that hearing. Should the composition of the panel or chamber panel have altered, the hearing shall be repeated.

(2) The required quorum for the adoption of resolutions by a panel shall be constituted if the chairperson and the associate judge are present and for the adoption of resolutions by a chamber panel if the chairperson and all other members are present. Members shall, in the event of impediment, be represented by the alternate members (deputy, alternate associate judge) in the sequence laid down in the schedule of assignments.

(3) Deliberations and voting shall not be open to the public and shall be directed by the chairperson.

(4) Any panel member shall be entitled to submit motions during the deliberations. The other panel members shall be at liberty to introduce counter-motions or amendment motions concerning such motions. All motions shall be substantiated.

(5) The chairperson shall specify both the sequence in which a vote shall be taken on motions and the sequence of voting.

(6) The adoption of resolutions by the panel shall require a unanimous vote and the adoption of resolutions by the chamber panel shall require a majority of the votes cast. Abstentions from voting shall be inadmissible.

(7) A record of the deliberations and voting shall be drawn up.

Duties of panel chairpersons and associate judges

Article 11. (1) The chairperson shall direct the work of the panel and conduct the proceedings up to the hearing. Procedural orders necessary for that purpose shall not require a resolution by the panel. The chairperson shall decide whether an oral hearing is to be arranged and shall open, direct and close such hearing. He shall announce the resolutions of the panel, sign the official copies in writing, prepare the draft ruling and submit the resolution motion before the panel.

(2) If the associate judge approves the chairperson's draft ruling, the chairperson shall prepare the decision.

(3) If the associate judge does not approve the chairperson's draft ruling, the associate judge shall, within two weeks, prepare his own draft ruling and submit it to the chairperson. Should the chairperson approve the associate judge's draft, the associate judge shall prepare the decision.

(4) If the associate judge's draft ruling does not meet with the chairperson's approval or if the associate judge does not submit his own draft ruling within two weeks, the chairperson shall refer the case to the competent chamber panel for a decision. The panel chairperson and associate judge shall be members of the chamber panel (paragraph (3) of article 9), with the panel chairperson serving as rapporteur of the chamber panel. An oral hearing may be repeated only at the request of the complainant.

Duties of chamber panel chairpersons and rapporteurs

Article 12. (1) The chamber panel chairperson shall allocate the work internally and specify the rapporteurs for individual cases. He shall decide whether an oral hearing is to be arranged and shall open, direct and close such hearing. He shall announce the resolutions of the panel and sign the copies in writing.

(2) The conduct of the proceedings up to the hearing shall be assigned to the chamber panel rapporteur. Procedural orders necessary for such purpose shall not require a resolution by the panel. The rapporteur shall prepare the draft ruling and submit the resolution motion before the chamber panel. If the resolution adopted by the chamber panel is in accordance with the rapporteur's motion, the rapporteur shall prepare the decision. Should the chamber panel adopt the motion of another panel member, that member shall be responsible for preparing the decision.

Section 4

Conduct and course of execution of work of the Asylum Court

Schedule of assignments

Article 13. (1) Prior to the expiry of each calendar year, the Scheduling Committee (paragraph (2) below) shall adopt a schedule of assignments for the next calendar year. The schedule of assignments shall specify:

1. whether the Asylum Court judges are to be employed in positions at the headquarters premises or at the Asylum Court, Linz, it being possible for positions at the other premises to be assigned to judges only with their consent;
2. the panel chairpersons and associate judges, and also the alternate members (deputy, alternate associate judge) and the sequence in which they shall be engaged;
3. the allocation, to sole judges and panels, of judicial work devolving upon the Asylum Court;
4. the establishment of chambers and their areas of work and also the sole judges and panels comprised in the individual chambers.

(2) The Scheduling Committee shall be composed of the chief presiding judge and vice-presiding judge as ex officio members and three members elected by the plenum from among its membership (elective members). Six alternate members for the three elective members shall be elected by the plenum from among its membership. The term of office of the elective and alternate members shall commence on 1 January of the year following their election and shall be for a duration of four years. With regard to the election of the Scheduling Committee and the conduct of its work, the provisions of the (RStDG) which relate to the personnel board shall apply *mutatis mutandis*. The Scheduling Committee shall be chaired by the chief presiding judge.

(3) A draft schedule of assignments for the next calendar year shall be made available by the chief presiding judge for inspection as from 15 November and by 10 December (inspection period). Every Asylum Court judge shall be entitled to submit written objections to the draft during the inspection period. Objections shall be substantiated and contain an amendment motion. The Scheduling Committee shall conduct deliberations on the objections prior to adopting the schedule of assignments resolution. There shall be no separate resolution on the objections. If the schedule of assignments resolution differs from the draft or does not take account of any objections raised, it shall be substantiated. Such substantiation shall, insofar as possible, be made available for inspection promptly following adoption of the resolution and in any event during the period from 2 to 15 January.

(4) The allocation of work, as referred to in subparagraph 3 of paragraph (1) above, shall be effected in a manner that achieves as far as possible an even workload overall for every sole judge and panel of the Asylum Court, having due regard to the discharge of duties of representation or judicial administration, and ensures that, in the administration of the law, the legitimate interests of the parties are safeguarded. Cases in which an oral hearing has already taken place shall, where feasible, continue to be handled by the sole judge or panel who had hitherto conducted them.

(5) The schedule of assignments may also be amended during the calendar year by the Scheduling Committee by reason of staffing changes or the work overload or underemployment of individual judges or panels or for other cogent reasons. In such event, cases in which an oral hearing has already taken place shall, where feasible, be completed by the sole judge or panel hitherto involved. The panels shall, if possible, retain the same composition as that in which they had met hitherto.

(6) If within six weeks no resolution is adopted by the Scheduling Committee on necessary amendments to the schedule of assignments, as referred to in paragraph (5) above, such amendments shall be made by the chief presiding judge through the issue of a provisional schedule of assignments. In such event, the chief presiding judge shall, for the purpose of adopting a resolution on the final schedule of assignments, without delay convene a meeting of the Scheduling Committee, which shall take place at the latest four weeks following the issue of the provisional schedule of assignments. The provisional schedule of assignments shall cease to be effective upon the adoption of the resolution on the final schedule of assignments.

(7) If, by the expiry of the calendar year, the Scheduling Committee has not adopted a schedule of assignments, the current schedule of assignments shall continue to be valid until a resolution is adopted on a new schedule of assignments.

(8) The schedule of assignments shall be made available by the chief presiding judge for general inspection and may also be made publicly accessible by other means.

(9) The schedule of assignments chart shall be set out according to the rising numbering of the judicial divisions and chambers (article 14). It shall indicate:

1. the names of the sole judges and their representatives;
2. the names of the panel chairpersons and their deputies and the names of the panel associate judges and their alternates;
3. the areas of work assigned to the sole judges and panels;

4. the areas of work of the chambers, the names of the chamber chairpersons and their deputies and also the sole judges and panels comprised in the individual chambers;
5. in the case of several administrative departments, the Administrative Office department responsible for the judicial division or chamber.

The schedule of assignments chart shall be made available for public inspection by its posting on the official notice-board.

Judicial divisions and chambers

Article 14. (1) A judicial division shall be established for each sole judge and panel. Additional judicial divisions shall be established for the chief presiding judge and vice-presiding judge with their consent. The schedule of assignments of the Asylum Court shall include regulations on the representation of the individual judicial divisions, which shall provide for a sufficient number of representatives for the judicial division director and specify the sequence in which the representatives are to be engaged.

(2) At the proposal of the chief presiding judge, provision shall be made in the schedule of assignments for the judicial divisions (sole judges and panels) to be combined into chambers by reason of a material connection between their work. The chamber chairpersons and their deputies shall, at the proposal of the chief presiding judge, be appointed by the plenum from among its membership for a four-year term. They may be dismissed by the plenum at any time; such resolution shall require at least a two-third majority of the votes cast and shall be substantiated. If a chamber is dissolved, the judicial office of the chamber chairperson and deputy shall accordingly be terminated.

(3) The chamber chairperson shall direct the chamber in accordance with the scheme of work for judicial administration matters and be responsible for ensuring the greatest possible consistency of legal practice within the chamber while fully preserving judicial independence. The chamber chairperson shall ex officio chair the chamber panel.

Assignment and withdrawal of cases

Article 15. (1) Each case arising in the Asylum Court shall be assigned to the sole judge or panel competent in accordance with the schedule of assignments.

(2) Cases devolving upon a sole judge or panel may be withdrawn by order of the Scheduling Committee in the event of impediment of the sole judge or panel or if such cases cannot be ruled on within a reasonable time limit by reason of the extent of the duties of the sole judge or panel.

(3) The degree to which cases pending with a sole judge or panel have to be referred by that sole judge or panel to a chamber panel shall be determined by federal law.

Lack of impartiality of judges

Article 16. (1) Asylum Court judges shall refrain from discharging their office on grounds of lack of impartiality, giving notification thereof to the chief presiding judge, in the following circumstances:

1. in cases in which they themselves or a relative (article 36a of the General Administrative Procedures Act) or a person placed in their care is involved;
2. in cases in which they have been or are appointed as the representative of a party;
3. if they participated in the proceedings which preceded the Asylum Court proceedings;
4. if other cogent reasons exist which could call into question their total impartiality.

(2) Objections to Asylum Court judges may, on the grounds set forth in paragraph (1) above, also be made by the parties upon the commencement of the initial oral hearing at the latest. Where an objection is based on subparagraph 4 of paragraph (1) above, the party shall

demonstrate the material facts in support thereof. A decision on the objection shall be made by the chief presiding judge in the absence of the judge objected to.

(3) If an objection is made to the chairperson or to so many judges of a chamber panel that there are not at least three remaining, the chief presiding judge shall refer the objection motion to the Scheduling Committee for a resolution. Should the Scheduling Committee decide that the objection is well founded, the chief presiding judge shall order the engagement of the alternate members.

Conduct of work

Article 17. (1) A presidential bureau, a records office and an administrative office shall be established by the chief presiding judge to assist in the proper conduct of the work of the Asylum Court.

(2) The Presidential Bureau shall assist the chief presiding judge and vice-presiding judge in the performance of the duties assigned to them under article 6.

(3) The Records Office shall document, in a clearly organized form and manner, all judgments and resolutions of the Asylum Court and, where required, decisions of other courts and authorities and of relevant legal publications. The chief presiding judge shall, after consultation with the personnel board, appoint an Asylum Court judge as director of the Records Office and a further judge as deputy director on a permanent basis. The director of the Records Office shall, in the event of impediment, be represented in the full sphere of his functions by the deputy director. The director and deputy director of the Records Office may be dismissed from their posts by the chief presiding judge at any time. The director of the Records Office shall report to the chief presiding judge any judgments or resolutions which depart from past legal practice. He shall be responsible for organizing and supervising the activities of the Records Office in accordance with the guidelines of the chief presiding judge.

(4) The Administrative Office shall be entrusted with the conduct of the clerical work of the Asylum Court and be responsible for assisting the Asylum Court judges; it shall be directed by the head of the Administrative Office. The head of the Administrative Office shall direct the entire work of the Administrative Office in accordance with the instructions of the chief presiding judge and shall assist the latter in supervising its employees. The Administrative Office shall comprise, in accordance with the scheme of work to be issued by the chief presiding judge, the administrative departments for the judicial divisions and chambers and also additional departments for duties which for the entire Court are performed jointly outside the judicial divisions and chambers. In the event of differences of opinion between a judicial division director or a chamber chairperson and the head of the Administrative Office, the matter shall be resolved by the chief presiding judge.

(5) The scheme of work to be issued by the chief presiding judge for the Administrative Office (paragraph (4) above) shall be incorporated in the schedule of assignments chart (paragraph (9) of article 13).

(6) The director and other employees of the administrative department shall comply with work orders of the sole judge or chairperson of the panel responsible for directing the judicial division concerned and with work orders of the chamber chairperson. Responsibility for directing the judicial division or chamber shall also include the obligation to supervise the administrative departments concerned.

(7) The rules of procedure shall contain stipulations relating to the proper conduct of work, under the responsibility of the head, for the sphere of the Asylum Court, Linz, (article 8).

Rules of procedure

Article 18. The detailed regulations governing the conduct and course of execution of the work of the Asylum Court shall be set out in the rules of procedure. The rules of procedure shall be adopted by the plenum at the proposal of the Scheduling Committee and be made

available by the chief presiding judge for general inspection; they may also be made publicly accessible by other means.

Publication of decisions

Article 19. Decisions of the Asylum Court shall be published anonymously in the legal information system (RIS) of the Federal Government.

Section 5

Controlling and reporting

Controlling

Article 20. (1) The controlling department and Controlling Committee shall be responsible for ensuring the expedient, economical, cost-effective and efficient performance of the duties of the Asylum Court.

(2) The chief presiding judge shall establish a controlling department under his responsibility within the Presidential Bureau. Paragraph (2) of article 6 shall apply.

(3) The controlling department shall assist the Asylum Court officials in fully preserving judicial independence in the rendering of their decisions and shall, in particular, carry out an ongoing controlling review of the capacity utilization, efficiency, profile and functionality of the internal operation of the Asylum Court and its structural and organizational features, identifying deviations from objectives and analysing their causes.

(4) The Controlling Committee shall comprise a chairperson, a deputy chairperson and three further members, who shall be elected by the plenum from among its membership for a four-year term of office. The chairperson of the Controlling Committee shall, in the event of impediment, be represented by the deputy chairperson and, if required, by the other Committee members in the sequence specified by the Controlling Committee itself.

(5) The Controlling Committee shall be responsible for advising on the results of the controlling activities of the controlling department, which shall be submitted collectively once a year to the Controlling Committee by the chief presiding judge, and for formulating, on the basis of those results, recommendations for presentation to the chief presiding judge and to the Asylum Court officials concerned.

(6) In the submission of recommendations and proposals, it shall be ensured that no influence appears to be exerted in the sphere of judicial adjudication.

Statements of work

Article 21. The sole judges and panel chairpersons shall, on a quarterly basis, furnish the chief presiding judge with a report on the number of cases ruled on in the last three months and the nature of the rulings pronounced in those cases and shall, upon the expiry of each calendar year, indicate all the cases pending at 1 January (statements of work). Where competence to deal with a pending case has been transferred to a panel or chamber panel, such action shall also be indicated. In individual cases, they shall, upon a substantiated request, report to the chief presiding judge separately.

Report on activities

Article 22. The Asylum Court shall, for each calendar year, draw up a report on its activities and on the experience acquired in the course thereof. The chief presiding judge shall submit a draft report on activities to the plenum for adoption. The report on activities adopted by the plenum shall be submitted by the chief presiding judge to the Federal Chancellor and to the Federal Minister of the Interior. At the time of submission of the report

on activities, the chief presiding judge shall also report to the Federal Chancellor on the area of judicial administration. The Federal Chancellor shall submit the report on activities to the National Council and to the Federal Council.

Part 2

Proceedings and enforcement

Proceedings

Article 23. (1) Unless otherwise stipulated in the 2005 Asylum Act (AsylG 2005), FLG I No. 100, the provisions of the 1991 General Administrative Procedures Act (AVG), FLG No. 51, shall apply *mutatis mutandis* to proceedings before the Asylum Court with the proviso that the word “appeal” shall be replaced with the word “complaint”.

(2) Judgements shall be pronounced and issued in the name of the Republic.

Enforcement

Article 24. (1) Where the Asylum Court has upheld a complaint, the administrative authorities shall, in the case concerned, be obliged to establish without delay, by the means available to them in law, the lawful situation corresponding to the legal opinion of the Asylum Court.

(2) In its decision the Asylum Court shall designate the court or administrative authority which will execute the decision. The enforcement procedure depends on the rules otherwise applicable for this court or this administrative authority. In case a court has been designated as enforcement authority, the decision of the Asylum Court constitutes the order of implementation.

Part 3

Final provisions

No entitlement to compensation

Article 25. Entitlement to compensation pursuant to the Public Office Liability Act, FLG No. 20/1949, or to the Public Authority Liability Act, FLG No. 181/1967, may not arise out of any decision of the Asylum Court.

References

Article 26. If reference is made herein to provisions of other federal laws, such laws shall be applicable in their current wording.

Grammatical equivalence

Article 27. Where references made herein to natural persons appear only in the masculine form, they shall apply equally to females and to males. In cases where the reference applies to a particular natural person, the specific form of the gender shall be employed.

Entry into force

Article 28. (1) The present federal law shall enter into force on 1 July 2008. The Federal law concerning the independent Federal Asylum Review Board (UBASG), FLG I No. 77/1997, last amended by Federal law FLG I No. 100/2005, shall simultaneously cease to be in force.

(2) The Federal Chancellor shall, from the day following the proclamation of the present federal law, undertake the measures necessary for the prompt commencement of the activities of the Asylum Court (in particular, measures such as those required for the appointment of the chief presiding judge, vice-presiding judge and other members of the Asylum Court and also the engagement of non-judicial employees).

(3) The elective and alternate members of the first Scheduling Committee shall, insofar as possible, be elected by 1 June 2008 by the plenum from among the appointed Asylum Court judges. That Scheduling Committee shall, at the proposal of the chief presiding judge, adopt the first schedule of assignments for the period of activities from 1 July 2008 to 31 December 2008 by 15 June 2008 at the latest.

(4) Members of the independent Federal Asylum Review Board who have been appointed as Asylum Court judges may be entrusted with the discharge of the duties of positions at the Asylum Court, Linz, solely with their consent. Members of the independent Federal Asylum Review Board appointed to employment in established posts at the Asylum Court, Linz, may be entrusted with the discharge of the duties of positions at the headquarters premises of the Asylum Court solely with their consent.

- (5) As amended by federal law FLG I No. 147/2008 the following shall enter into force:
1. Table of Contents, paragraph (2) and the last sentence of paragraph (4) of article 13, article 14, paragraph (3), article 17, paragraph (5), article 23, and article 29, paragraph (6), as of 1 July 2008;
 2. Article 24 after end of day on which this federal law was announced. For decisions issued before this time, which are to be implemented, apply paragraph (2) of this article shall apply *mutatis mutandis* provided that the Asylum Court may, per resolution, retroactively designate an implementing authority.
- (6) As amended by federal law FLG I No. 147/2008 the following shall enter into force:
1. Article 4 as amended by article 8, sub-paragraph 4 and sub-paragraph 4b, as of 1 July 2008;
 2. Article 4 as amended by article 8, sub-paragraph 4a and sub-paragraph 4c, as of 1 January 2009.

Transitional provision relating to the initial filling of Asylum Court posts

Article 29. (1) Members of the independent Federal Asylum Review Board may submit their candidatures in writing to the Federal Minister of the Interior, for appointment as Asylum Court judges, as from the day following the proclamation of Federal law FLG I No. 4/2008 and by 31 January 2008 at the latest. An application for appointment as chief presiding judge of the Asylum Court may be submitted by the chairman of the independent Asylum Review Board and shall also be valid as an application for appointment as vice-presiding judge or other judge of the Asylum Court; an application for appointment as vice-presiding judge of the Asylum Court may be submitted by the deputy chairman of the independent Federal Asylum Review Board and shall also be valid as an application for appointment as an Asylum Court judge.

(2) The Federal Government shall declare by administrative decision that members of the independent Federal Asylum Review Board who have submitted their candidatures are not to be appointed as Asylum Court judges if, having due regard to their employment performance to date as members of the independent Federal Asylum Review Board, they cannot be expected to possess the personal and technical qualifications to discharge the duties involved in their envisaged employment as Asylum Court judges. A complaint against a

negative ruling may be lodged with the Higher Administrative Court and the Constitutional Court within six weeks following the rendering of the administrative decision.

(3) Where an administrative decision is rendered pursuant to paragraph (2) above, a pronouncement shall also be made therein concerning the further employment of the affected member of the independent Federal Asylum Review Board within the federal public service, irrespective of that member's remunerative status.

(4) If additional established judicial posts are to be filled, an invitation for the submission of candidatures for such positions shall be issued by the Federal Chancellor and published in the Gazette of the *Wiener Zeitung*; article 5, paragraph (3), of the 1989 Public Bidding Act, FLG No. 85, shall apply. Post applications shall be filed with the Federal Chancellor within two weeks following publication of the invitation for the submission of candidatures.

(5) Asylum Court judges shall be appointed with effect from 1 July 2008.

(6) A member of the Independent Federal Asylum Review Board who has been appointed judge of the Asylum Court with effect from 1 July 2008 and who at that time was at least in salary level 4 of assignment group A 1, deserves a pensionable supplementary allowance in the amount of the individual difference in remuneration as judge at the Asylum Court compared to what the member would have been entitled to as an officer of assignment group A 1, function group 5. The supplementary allowance is due for the first time in the month in which the sum of the calculated losses from the lower remunerations as judge of the Asylum Court exceeds the sum of the gains from the higher entitlements as a judge in contrast to assignment group A 1, function group 5

Execution

Article 30. Execution of the present federal law shall be entrusted to the Federal Government.