

Übersetzung durch Neil Mussett.

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## Passport Act (PassG)

Passport Act (PassG) of 19 April 1986 (Federal Law Gazette Part I p. 537), as last amended by Article 8 of the Act of 25 July 2013 (Federal Law Gazette Part I p. 2749)

### Chapter I: Passport regulations

#### Section 1 Passport requirement

(1) Germans within the meaning of Article 116 (1) of the Basic Law of the Federal Republic of Germany leaving or entering the geographical area in which this law applies are required to carry a valid passport to identify themselves. Presenting a passport of the Federal Republic of Germany within the meaning of (2) shall fulfil this requirement.

(2) The following shall qualify as passports within the meaning of this Act:

1. passports
2. children's passports,
3. temporary passports,
4. official passports
  - a) official passports,
  - b) diplomatic passports,
  - c) temporary official passports,
  - d) temporary diplomatic passports.

(3) No one shall be permitted to possess more than one passport of the Federal Republic of Germany unless a legitimate interest in issuing more than one passport is demonstrated.

(4) Passports may be issued only to Germans within the meaning of Article 116 (1) of the Basic Law; the passport is the property of the Federal Republic of Germany. Official passports may also be issued to

1. diplomats within the meaning of the Vienna Convention on Diplomatic Relations of 18 April 1961 (Federal Law Gazette 1964 II p. 959) and consular officials within the meaning of the Vienna Convention on Consular Relations of 24 April 1963 (Federal Law Gazette 1969 II p. 1587) and their family members, as well as
2. other persons serving the Federal Republic of Germany abroad in an official capacity and their family members

if these persons are not Germans within the meaning of Article 116 (1) of the Basic Law.

(5) The Federal Ministry of the Interior shall designate the passport producer and shall publish its name in the Federal Gazette.

## **Section 2**

### **Exemption from the passport requirement**

(1) The Federal Ministry of the Interior may, via statutory instruments with the approval of the Bundesrat,

1. exempt Germans from the requirement to carry a passport in order to facilitate border crossing in special cases and in relations with individual foreign countries;
2. introduce or approve other official identification papers as passport substitutes.

(2) The authorities responsible for policing cross-border traffic may permit exemptions from the passport requirement in individual cases, especially for humanitarian reasons.

## **Section 3**

### **Border crossing**

Crossing the external borders shall be permitted only at the designated border crossing points and within the stipulated opening hours, unless exceptions are permitted on the basis of other statutory provisions or inter-governmental agreements.

## **Section 4**

### **Passport specimens**

(1) Passports shall be issued in accordance with standard specimens; they shall be given a serial number. In addition to a photograph of the passport holder, his/her signature, details of the issuing authority, the date on which it was issued and the last date of its validity, each passport shall contain only the following information about the passport holder:

1. surname and name at birth,
2. forename(s),
3. doctoral degree,
4. religious name, pseudonym,
5. date and place of birth,
6. sex,
7. height,
8. eye colour,
9. place of residence,
10. country of citizenship, and
11. serial number.

The indicated sex shall be the same as that entered in the official civil register. In derogation from the third sentence, a passport applicant whose forename(s) have been changed by court decision in accordance with Section 1 of the Act on Transsexuals shall be issued a passport in which the indicated sex differs from the one entered in the official register at birth.

(2) The passport shall contain a machine-readable zone. This zone may contain only

1. the following abbreviations:
  - a) "P" for passport,

- b) "PC" for child's passport,
  - c) "PP" for temporary passport,
  - d) "PO" for official passport and temporary official passport, and
  - e) "PD" for diplomatic passport and temporary diplomatic passport,
2. the abbreviation "D" for the Federal Republic of Germany,
  3. the holder's surname,
  4. forename(s),
  5. the passport's serial number; for passports, official passports and diplomatic passports, the serial number shall consist of the passport authority's code number and a randomly assigned passport number and may contain both numerals and letters; for children's passports, temporary passports, temporary official passports and temporary diplomatic passports, the serial number shall consist of a series letter and seven numerals,
  6. the abbreviation "D" to indicate German citizenship, or the appropriate abbreviation for other citizenship in case of official passports issued to non-Germans,
  7. date of birth,
  8. the abbreviation "F" for female passport holders and "M" for male passport holders,
  9. the passport's length of validity,
  10. the check digits, and
  11. blank spaces.

(3) 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 p. 1), passports, official passports and diplomatic passports shall include an electronic storage medium which shall contain a facial image, fingerprints, information on which fingers were used for fingerprinting, the quality of the prints and the information listed in (2) second sentence. The stored data shall be secured against unauthorized reading, alteration and deletion. No nation-wide database of the biometric data referred to in the first sentence shall be established.

(4) Flat prints of the passport holder's left and right index fingers shall be stored on the passport's electronic storage medium. In case of a missing index finger, injured fingertip or poor-quality print, a flat print of the thumb, middle or ring finger shall be stored instead. Fingerprints shall not be stored if it is not possible to take prints for medical reasons of a more than temporary nature.

(4a) Children under the age of 12 shall be issued a child's passport without an electronic storage medium upon request; issuing a passport shall be permitted. In derogation from (3) first sentence, no fingerprints shall be stored on passports of passport applicants under the age of 6. A child aged 10 or over at the time the passport application is made shall sign his/her own passport.

(5) The specimens of passports, temporary passports and children's passports and the requirements for passport photographs shall be determined by the Federal Ministry of the Interior in consultation with the Federal Foreign Office, via statutory instruments with the approval of the Bundesrat. The same shall apply to passport substitutes, unless such specimens are defined in other regulations or intergovernmental agreements.

(6) The specimens of official passports, the requirements for passport photographs and the definition of persons referred to in Section 1 (4) second sentence shall be determined by the

Federal Ministry of the Interior in consultation with the Federal Foreign Office, via statutory instruments not requiring Bundesrat approval. Official passports may contain information about the passport holder's employment status. The statutory instrument may also contain provisions concerning the passport issuance, withdrawal, confiscation and length of validity as well as obligations of the holder which differ from those of this Act.

#### **Section 5 Length of validity**

- (1) Passports, official passports and diplomatic passports shall be valid for ten years. Passports issued to persons under age 24 and in the case of Section 1 (3) shall be valid for six years.
- (2) Children's passports shall be valid for a maximum of six years but not past the child's twelfth birthday.
- (3) Temporary passports, temporary official passports and temporary diplomatic passports shall be valid for a maximum of one year.
- (4) The passport's length of validity shall not be extended. In derogation from the first sentence, children's passports may be extended to the child's twelfth birthday. The passport shall include a current photograph.
- (5) In the cases referred to in Section 29 of the Nationality Act, a passport shall not be valid past the holder's 23rd birthday until the responsible authority has determined whether the holder may retain his/her German citizenship.
- (6) Section 7 (2) shall remain unaffected.

#### **Section 6 Passport issuance.**

- (1) Passports shall be issued upon application. Section 3a of the Administrative Procedure Act shall not apply. During the application process, information to be provided following the initial application may be submitted electronically. An authorized representative may not file a passport application on behalf of the passport applicant and his/her legal representative. This shall not apply to a passport applicant who is unable to act or provide consent, upon presentation of a power of attorney that has been publicly certified or notarized for this purpose. In the case of minors and persons who are legally incapable and who do not have an authorized representative in accordance with the fifth sentence, the only person who may file a passport application is the custodial adult responsible for supervising their residency. The passport applicant and his/her legal or authorized representative are to appear in person. If the passport applicant is unable to appear in person, he/she may only apply for a temporary passport.
- (2) In their applications, applicants shall provide all information needed to confirm the applicant's identity and status as a German citizen or, in the cases referred to in Section 1 (4) second sentence, as a citizen of another country. Passport applicants shall provide the necessary proof. If fingerprints are to be included in the passport, these shall be taken from the passport applicant and enrolled electronically in accordance with Section 4 (4); passport applicants shall cooperate when their fingerprints are taken.
- (2a) If in accordance with Section 4 (1) fourth sentence, a passport applicant indicates a different sex than the one entered in the civil register at birth, the applicant shall present the court decision on the change of forename under Section 1 of the Act on Transsexuals. Indicating a different sex on the passport than the one entered in the civil register at birth shall have no effect in law.
- (2b) In the cases referred to in Section 1 (4) second sentence, the responsible passport authority may request information from the Central Register of Foreigners before issuing an official passport in order to check for possible grounds for refusing to issue a passport under Section 7 (1) nos. 1 through 5, or to check other security concerns. In the cases of Section 1 (4) second sentence, under Section 4 (1) the responsible passport authority may forward the data collected to the Federal Intelligence Service, the Federal Office for the Protection of the Constitution, the Military Counterintelligence Service, the Federal Criminal Police Office and

the Central Office of the German Customs Investigation Service if necessary to check on grounds for refusing to issue a passport under Section 7 (1) nos. 1 through 5 or to check other security concerns; further, the passport authority may provide the data obtained pursuant to (2) third sentence to the Federal Criminal Police Office, which will provide administrative assistance in assessing the data. The second sentence shall not apply to citizens of other European Union Member States. The authorities contacted under the second sentence shall inform the requesting passport authority without delay if there are grounds for refusing to issue a passport under Section 7 (1) nos. 1 through 5 or if there are other security concerns.

(3) In case of doubt regarding the passport applicant's identity, the necessary measures to establish his/her identity shall be taken. The passport authority may arrange to have passport applicants photographed and fingerprinted by the police if it would otherwise be impossible or extremely difficult to determine the applicant's identity. Once the applicant's identity has been confirmed, any documents collected for the purpose of determining such identity shall be destroyed. A record of the destruction shall be drawn up.

(4) The passport authority may issue a passport ex officio if doing so is in the greater public interest or is advisable to prevent significant disadvantages for the person concerned.

(5) Paragraphs (1) through (4) also apply to official identification documents issued exclusively as passport substitutes, unless otherwise indicated in provisions of applicable law.

#### **Section 6a**

##### **Forms and procedures for collecting, checking and transmitting passport data**

(1) Data needed for the production of passports, in particular all data from passport applications, shall be sent from the passport authorities to the passport producer electronically. The data may also be transmitted via intermediary agencies. The bodies concerned shall take state-of-the-art measures to ensure data protection and data security, in particular to guarantee the confidentiality and integrity of the data, as well as the identification of the sending agency; when publicly accessible networks are used, state-of-the-art encryption methods shall be applied.

(2) For the electronic enrolment of the photograph and fingerprints, for quality assurance and transmission of passport application data from the passport authority to the passport producer, only those technical systems and components may be used which meet the requirements of the regulation as given in (3). The Federal Office for Information Security shall determine whether the requirements are met.

(3) The Federal Government shall be authorized, via statutory instrument requiring Bundesrat approval, to establish rules concerning procedures and technical specifications for enrolling and ensuring the quality of passport photographs and fingerprints, as well as the sequence of fingerprints to be stored in case of a missing index finger, injured fingertip or poor-quality print, and concerning the form and details of the procedure for transmitting all passport application data from the passport authorities to the passport producer. The statutory instrument shall also govern the details of the procedure for determining whether requirements are met pursuant to (2) second sentence.

#### **Section 7**

##### **Refusal to issue a passport**

(1) The authorities shall refuse to issue a passport when there are reasonable grounds to believe that the passport applicant

1. constitutes a threat to the internal or external security or to other significant interests of the Federal Republic of Germany;
2. intends to evade prosecution or sentencing or the imposition or execution of a custodial measure of reform and prevention pending in the area of application of this Act;

3. intends to violate provisions of the Narcotics Act concerning the import, export, transit or trafficking of narcotics;
  4. intends to evade his/her tax obligations, or to violate provisions of customs or monopoly law or of foreign trade and payments law, or to commit serious violations of import, export or transit bans or restrictions;
  5. intends to evade a legal support obligation;
  6. intends to commit him-/herself to military service outside the Bundeswehr without authorization;
  7. is subject to compulsory military service as a member of an age cohort for which registration has begun and intends to leave the Federal Republic of Germany for more than three months without having the necessary permission from the regional selection and induction office pursuant to Section 3 (2) of the Compulsory Military Service Act;
  8. is subject to compulsory military service and intends to leave the Federal Republic without having the necessary permission from the regional selection and induction office pursuant to Section 48 (1) no. 5 (b) or Section 48 (2) of the Compulsory Military Service Act;
  9. has been officially recognized as a conscientious objector and intends to leave the Federal Republic of Germany for more than three months without having the necessary permission from the Federal Office of Civilian Service pursuant to Section 23 (4) of the Act on Civilian Alternative Service;
  10. intends to commit an act described in Section 89a of the Criminal Code.
- (2) Refusal to issue a passport shall be avoided when it would be disproportionate, especially when it is sufficient to restrict the passport's area or length of validity. Such restrictions shall be noted in the passport. If the conditions for such restrictions cease to apply, a new passport shall be issued upon request.
- (3) Paragraphs (1) and (2) shall also apply to refusal to issue other official identification papers intended exclusively for use as passport substitutes.
- (4) The authorities may not refuse to issue passports or passport substitutes to enter the area of application of this Act.
- (5) (repealed)

### **Section 8 Revocation of passports**

Passports or other official identification papers intended exclusively for use as passport substitutes may be revoked if facts come to notice which would justify refusing a passport pursuant to Section 7 (1).

### **Section 9 Recording of measures taken pursuant to the Passport Act**

Orders pursuant to Section 7 (1) or (2) or Section 8 may be recorded in the border police search database.

### **Section 10 Prohibition on travel out of the country**

(1) The authorities responsible for policing cross-border traffic shall prohibit any German from leaving the country who has been refused a passport pursuant to Section 7 (1), or whose passport has been revoked pursuant to Section 8 or who is subject to an order pursuant to Section 6 (7) of the Identity Cards Act. The authorities may prohibit any German from leaving the country who is not carrying a valid passport or passport substitute allowing

him/her to leave the country or if there are reasonable grounds to believe that he/she fulfils the conditions listed in Section 7 (1). The authorities may prohibit any German from leaving the country if there are reasonable grounds to believe that the passport's area or length of validity should be restricted pursuant to Section 7 (2) first sentence.

(2) In exceptional cases, the authorities responsible for policing cross-border traffic may permit a German who should be prohibited from leaving the country pursuant to (1) first sentence to leave the country, if he/she has a credible and urgent reason for having to leave the country.

(3) The authorities may not refuse any German entry to the area of application of this Act.

### **Section 11 Invalid passports**

(1) A passport or passport substitute shall be invalid if

1. it has been altered or does not allow the passport holder's identity to be established without doubt;
2. it lacks information mandated by this Act, or the information (other than place of residence or height) is incorrect;
3. the date of expiry has passed.

(2) A passport authority shall declare a passport to be invalid if the prerequisites for its issuing were not met or have subsequently ceased to be met.

(3) Disruptions in the functioning of the electronic storage medium shall not affect the validity of the passport.

### **Section 12 Withdrawal**

(1) A passport or passport substitute which is invalid under Section 11 may be withdrawn. Withdrawal shall be confirmed in writing.

(2) If a person has more than one passport without authorization, all but one of them shall be withdrawn.

(3) Withdrawal may be waived if the grounds for withdrawal have been remedied or no longer exist.

### **Section 13 Confiscation**

(1) A passport or other official identification document intended exclusively for use as a passport substitute may be confiscated if

1. it is held by an unauthorized person;
2. there is reason to believe that grounds for refusing a passport pursuant to Section 7 (1) exist;
3. there is reason to believe that grounds for withdrawal pursuant to Section 12 exist.

(2) Confiscation shall be confirmed in writing.

(3) (repealed).

### **Section 14 Immediate effect**

Challenges or appeals against prohibition on leaving the country (Section 10) and confiscation of passports (Section 13) shall not have a suspensive effect.

### **Section 15 Obligations of passport holders**

Passport holders shall be required to carry out the following without delay:

1. present their passport to the passport authorities if the passport contains erroneous information;
2. surrender upon request their old passport to the passport authorities upon receipt of a new passport;
3. report a lost passport to the passport authorities and also whether it has been found;
4. inform the passport authorities of any foreign citizenship acquired; and
5. inform the passport authorities of any voluntary service taken up in the armed forces or similar organization of a foreign country of which they are citizens.

### **Section 16**

#### **Data protection provisions**

(1) Serial numbers and check digits may not contain any of the passport holder's personal information or references to such information. Each passport shall have a new serial number.

(2) Passport application and issuance may not be used as a reason to store passport information and biometric identifiers anywhere other than with the responsible passport authorities. The same shall apply to the accompanying documents necessary for passport issuance and to the photographic storage medium (microfilms). Fingerprints stored by the passport authority shall be erased at the latest when the passport is handed over to the passport applicant.

(3) Only the passport producer shall be allowed to keep a central record of all passport serial numbers; such a record shall be used only to keep track of the whereabouts of passports. The passport producer shall not be allowed to store other data listed in Section 4 (1) or biometric data listed in Section 4 (3) unless these data are needed exclusively and temporarily for passport production, after which these data shall be erased.

(4) Passport serial numbers may not be used in such a way that it is possible to retrieve personal data from data files or to link data files. In derogation from the first sentence, the following may use passport serial numbers for the following purposes:

1. passport authorities in order to retrieve personal data from their data files;
2. federal and Land police authorities and offices in order to retrieve the serial numbers stored in data files of passports which have been lost or declared invalid or which are suspected of being used by unauthorized persons.

(5) Paragraphs (1) through (4) shall also apply to official identification documents intended exclusively for use as passport substitutes.

(6) Upon request, the passport authority shall allow passport holders to inspect the data stored on the passport chip.

### **Section 16a**

#### **Verification of identity using biometric data**

Data stored on the passport chip may be read and used only to verify the authenticity of the document and the identity of the passport holder, and only in accordance with the second and third sentences. To the extent that the law enforcement or customs authorities, passport, ID card or registration authorities may check the authenticity of the passport or the identity of the passport holder, they shall be authorized to read biometric and other data stored on the passport's storage medium, to take the necessary biometric data from the passport holder and to compare these biometric data. The data collected in accordance with the second sentence shall be erased without delay after the authenticity of the passport or the identity of its holder has been checked.

### **Section 17**

#### **Automated access to data files and automated storage by government agencies**

(1) Authorities and other public agencies may not use passports for the automated retrieval of personal data. In derogation from the first sentence, federal and Land police authorities and offices, tax investigation agencies of the Länder and the authorities of the customs administration may use passports within the limits of their duties and powers for the automated retrieval of personal data recorded in police databases for the purposes of

1. border control,
2. alerts or to establish a person's whereabouts for reasons of criminal prosecution, enforcement of a criminal sentence or to prevent threats to public security, or
3. customs control in the framework of police surveillance operations.

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

(2) Unless the law provides otherwise, personal data may not be stored in databases when the passport is read automatically; this also applies to searches of police databases that have yielded results.

### **Section 18**

#### **Use in the private sector**

(1) Passports and passport substitutes may also be used as proof of identity in the private sector.

(2) Serial numbers may not be used in such a way that it is possible to access personal data from data files or to link data files.

(3) Passports may not be used for automated searches of personal data or for automated storage of personal data.

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

### **Section 19**

#### **Responsibility**

(1) The passport authorities designated by the Länder shall be responsible for passport matters within the scope of this Act. The authorities and offices responsible for policing cross-border traffic shall be responsible for issuing temporary official identification documents for use only as passport substitutes.

(2) The Federal Foreign Office and the diplomatic missions of the Federal Republic of Germany (passport authority) which it has designated shall be responsible for passport matters abroad.

(3) Within the scope of this Act, the passport authority in the district in which the passport applicant or holder has registered his/her residence, or in the case of several residences his/her primary residence, shall have local responsibility. Outside Germany, the passport authority in the district in which the passport applicant or holder usually resides shall have local responsibility. If this provides no grounds for responsibility, the passport authority in the district in which the passport applicant or holder temporarily resides shall be responsible.

(4) An application to issue a passport must also be processed by a passport authority which does not have local responsibility if an important reason is set forth. A passport may only be issued with the authorization of the passport authority with local responsibility. No such authorization shall be required to issue a passport or passport substitute for entry into the area where this Act applies.

(5) The Federal Foreign Office shall be the passport authority for official passports.

(6) The passport authorities and the authorities and officers authorized to establish a person's identity shall be responsible for confiscation.

#### **Section 20 Costs**

(1) Reimbursement for the costs (fees and expenses) of official action pursuant to this Act and to statutory instruments based on this Act may be collected from persons who caused such action to be taken or, in the absence of such persons, on whose behalf such action was taken.

(2) The Federal Ministry of the Interior shall be authorized to define the circumstances in which fees shall be payable, the levels of fees and the extent of expenses to be reimbursed, as well as any exceptions to the fee requirement, via statutory instrument with the approval of the Bundesrat. The fees for official action pursuant to paragraph (1) may double if the official action was undertaken by a passport authority outside normal business hours at the request of the applicant.

(3) In order to compensate for differences in buying power, the Federal Foreign Office may reduce or add a surcharge of up to 300% on fees collected by the Federal Republic of Germany's diplomatic missions abroad for official action pursuant to paragraph (1).

#### **Section 21 Passport register**

(1) The passport authorities shall keep registers of passports.

(2) In addition to the photograph and signature of the passport holder and the necessary processing notes, the passport register may record only the following data:

1. surname and name at birth, if different;
2. forename(s),
3. doctoral degree,
4. religious name, pseudonym,
5. date and place of birth,
6. sex,
7. height and eye colour,
8. current address,
9. country of citizenship,
10. serial number,
11. date of expiry,
12. proof of authorizations issued pursuant to Section 19 (4) second sentence,
13. surname, forename(s), date of birth and signature of legal representatives,
14. issuing authority,
15. notes on orders pursuant to Sections 7, 8 and 10,
16. information concerning the passport holder's obligation to furnish a declaration pursuant to Section 29 of the Nationality Act.

(3) The passport register shall serve the following purposes:

1. issuing passports and verifying their authenticity,

2. verifying the identity of the passport holder or the person to whom the passport was issued,

3. enforcing this Act.

(4) Personal data in the passport register shall be stored at least until a new passport is issued but no longer than five years after the expiration of the relevant passport, when they shall be deleted. Passport authorities pursuant to Section 19 (2) exercising consular responsibilities shall retain such data for 30 years.

(5) The competent passport authority shall provide documentation with regard to passports for which it has issued an authorization pursuant to Section 19 (4) second sentence.

## **Section 22**

### **Processing and using data in the passport register**

(1) Passport authorities may collect, process or use personal data only in accordance with this or other Acts or statutory instruments.

(2) Passport authorities may transmit data in the passport register to other authorities at their request under the following conditions:

1. the requesting authority is authorized by law or statutory instrument to receive such data,

2. the requesting authority would not be able to fulfil its assigned duties without knowledge of the data and

3. the data cannot be obtained from the data subject without disproportionate effort, or the nature of the task for which the data are required means that the data cannot be collected in this way.

Data which are also kept in the civil register are additionally subject to the restrictions contained in the legislation on registration.

(3) The requesting authority shall be responsible for ensuring that the conditions in paragraph (2) are met. Only those staff who are specially authorized by the head of the authority may submit requests pursuant to paragraph (2). The requesting authority shall keep a record of the reason for the request and the source of the data and files transmitted. If the Federal Office for the Protection of the Constitution, Land Authorities for the Protection of the Constitution, the Military Counterintelligence Service, the Federal Intelligence Service, the Federal Criminal Police Office or the Federal Public Prosecutor General requests the passport authority to transmit data, the requesting authority shall record the family name, the forenames and address of the data subject and the reason for transmitting the data. Such records shall be retained separately, secured using technical and organizational means and destroyed at the end of the calendar year following the year in which the data were transmitted.

(4) Data from the passport register may be used to correct data in the civil register and vice versa.

(5) Passport authorities gaining knowledge of the loss of a passport shall inform the passport authority with responsibility, the issuing passport authority and a police authority without delay; a police authority which obtains knowledge of the loss of a passport by other means shall inform the passport authority with responsibility and the issuing passport authority without delay. In doing so, information on the family name and on the forenames of the holder, on the serial number, on the issuing authority, on the date issued and on the duration of validity of the passport should be transmitted. The police authority shall include the passport in the police's stolen property tracing procedure.

(6) If a passport authority without responsibility pursuant to Section 19 (4) issues a passport, it shall transmit to the passport authority with responsibility the family name, the forenames, the date and place of birth, the issuing passport authority, the issuing date, the duration of validity and the serial number of the passport.

## **Section 22a**

### **Electronic data transmission and automated retrieval of photographs**

- (1) In the cases covered by Section 22 (2), data may also be transmitted electronically. Section 6a (1) third sentence shall apply accordingly.
- (2) When photographs are to be transmitted from the passport authorities to the police and agencies of public order in accordance with Section 19 (1) first sentence in connection with the investigation of criminal offences and traffic violations, as well as to the tax investigation agencies of the Länder and the authorities of the customs administration in the context of the prosecution of criminal offences and administrative offences, such photographs may be retrieved using an automated process. Automated retrieval shall be permitted only when the passport authority is not reachable and waiting for longer would endanger the investigation. Law enforcement agencies at the level of districts and cities not associated with a district, to be designated by Land law, shall be responsible for retrieval. The retrieving authority shall be responsible for ensuring that the conditions in paragraphs (1) and (2) second sentence are met. The authorities involved shall keep a record of all retrievals to enable their permissibility to be checked. The records shall contain:

1. fore- and surnames and date and place of birth of the person whose photograph was retrieved,
2. date and time of retrieval,
3. the offices involved in the retrieval,
4. the name of the persons performing and responsible for the retrieval, and
5. the file reference number.

Section 22 (3) fifth sentence shall apply accordingly.

## **Section 23**

### **Authority to issue instructions**

- (1) The Federal Government may issue individual instructions to carry out this Act and the statutory instruments issued in connection with it, as required by internal or foreign security or other serious interests of the Federal Republic of Germany.
- (2) (repealed)

## **Chapter II:**

### **Provisions on punishment for criminal offences and fines**

## **Section 24**

### **Criminal offences**

- (1) Any German as defined in Section 116 (1) of the Basic Law committing any of the following shall be punishable by up to one year in prison or a fine:
1. leaving the area in which this Act applies by crossing an external border although he/she has been denied a passport or his/her passport has been revoked or he/she is subject to an enforceable order pursuant to Section 7 (2) of this Act or to Section 6 (7) of the Identity Cards Act;
  2. leaving the area in which this Act applies by crossing an external border although the authority responsible for policing cross-border traffic has prohibited him/her from leaving the country pursuant to Section 10 (1) second or third sentence.
- (2) An attempt to commit such offences shall be punishable.

## **Section 25**

### **Administrative offences**

- (1) Anyone who negligently commits any of the acts listed in Section 24 (1) first sentence shall be deemed to have committed an administrative offence.

(2) Anyone who commits any of the following shall be deemed to have committed an administrative offence:

1. provides information incorrectly in violation of Section 6 (2) first sentence,
2. causes a second passport to be issued by providing false information;
3. evades police controls of cross-border traffic at an external border;
4. fails to report in a timely fashion in violation of Section 15 nos. 3, 4 or 5;
5. violates a prohibition against using
  - a) a serial number in accordance with Section 18 (2), or
  - b) a passport for automated searches or for automated storage of personal data in accordance with Section 18 (3), or
6. in violation of Section 18 (4) reads, processes or fails to delete personal data or fails to delete them on time, or reads biometric data.

(3) Anyone who intentionally or negligently commits any of the following shall be deemed to have committed an administrative offence:

1. is not carrying a passport or passport substitute or does not present it in a timely fashion, in violation of Section 1 (1) first sentence, also in conjunction with a statutory instrument pursuant to Section 2 (1) no. 2; or
2. crosses an external border other than at a designated border crossing point or outside the stipulated opening hours in violation of Section 3.

(4) The administrative offence shall be punishable by an administrative fine of up to three hundred thousand euros in the cases covered by paragraph (2) nos. 5 and 6, in cases under paragraph (1) with an administrative fine of up to thirty thousand euros, and in other cases by an administrative fine of up to five thousand euros.

(5) An attempt to commit an administrative offence may be punishable in the cases covered by paragraphs (2) and (3).

(6) In the cases covered by paragraph (2) nos. 2 and 4, an offence may be punishable even if it was committed in a foreign country.

## **Section 26** **Fining authorities**

Administrative authorities within the meaning of Section 36 (1) no. 1 of the Act on Administrative Offences shall be

1. for the Federal Republic of Germany's diplomatic missions abroad, the Federal Foreign Office, or a federal authority designated via statutory instrument by the Federal Foreign Office in consultation with the Federal Ministry of the Interior; the statutory instrument shall not require Bundesrat approval;
2. the Federal Police authorities designated pursuant to Section (58) (a) of the Federal Police Act, unless the Länder, with federal agreement, use their own forces to carry out routine border policing tasks.

## **Chapter III:** **Final provisions**

### **Section 27** **General administrative provisions**

The Federal Foreign Office, in consultation with the Federal Ministry of the Interior, shall issue general administrative regulations for issuing official passports.

**Section 28**  
**Transitional provisions**

(1) Children's passports issued before 1 November 2007 on the basis of a statutory instrument pursuant to Section 2 (1) no. 2 as passport substitutes shall qualify as passports in the meaning of this Act if they are machine-readable and contain a digital photograph. In derogation from Section 1 (3), it shall be permissible to hold both a child's passport in the meaning of the first sentence and a passport, as long as the passport was issued before this Act entered into force.

(2) If the passport authority does not yet have the technical capacity for electronic data transmission, until 30 June 2008 data may be transmitted between passport authorities and intermediary agencies using electronic storage media instead of electronic data transmission, in derogation from Section 6a (1) first and second sentences. Section 6a (1) third sentence, first clause shall apply accordingly.