EMN

European Migration Network

AUSTRIA
ANNUAL POLICY REPORT

The opinions presented in this report are those of the NCP Austria and do not represent the position of the Austrian Federal Ministry of the Interior.

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REPUBLIC OF AUSTRIA
BM.I FEDERAL MINISTRY OF THE INTERIOR

AUSTRIA – ANNUAL POLICY REPORT 2013

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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was launched in 2003 by the European Commission (EC) by order of the European Council in order to satisfy the need of a regular exchange of reliable information in the field of migration and asylum at the European level. Since 2008, Council Decision 2008/381/EC has constituted the legal basis of the EMN and National Contact Points (NCPs) have been established in the EU Member States (with the exception of Denmark, which has observer status) plus Norway.

The EMN's role is to meet the information needs of European Union (EU) institutions and of Member States' authorities and institutions by providing up-to-date, objective, reliable and comparable information on migration and asylum, with a view to supporting policymaking in the EU in these areas. The EMN also has a role in providing such information to the wider public.

The NCP for Austria is located in the Research and Migration Law Department of the Country Office Austria of the International Organization for Migration (IOM) in Vienna, which was established in 1952 when Austria became one of the first members of the organization. The main responsibility of the IOM Country Office is to analyse national migration issues and emerging trends and to develop and implement respective national projects and programmes.

The main task of the NCPs is to implement the annual work programme of the EMN including the drafting of the annual policy report and topic-specific focused and main studies, answering Ad-Hoc Queries launched by other NCPs, carrying out visibility activities and networking in several forums. Furthermore, the NCPs in each country set up national networks consisting of organizations, institutions and individuals working in the field of migration and asylum.

In general, the NCPs do not conduct primary research but collect and analyse existing data. Exceptions might occur when existing data and information is not sufficient. EMN studies are elaborated in accordance with uniform specifications valid for all EU Member States plus Norway in order to achieve comparable EU-wide results. Since the comparability of the results is frequently challenging, the EMN has produced a Glossary, which assures the application of similar definitions and terminology in all national reports.

Upon completion of national reports, the EC with the support of a service provider drafts a synthesis report, which summarizes the most significant results of the individual national reports. In addition, topic-based policy briefs, so called EMN Informs, are produced in order to present and compare selected topics in a concise manner. All national studies, synthesis reports, EMN Informs and the Glossary are available on the website of the EC DG Home Affairs.

EXECUTIVE SUMMARY

The Annual Policy Report 2013 has been produced within the framework of the annual reporting of the National Contact Points (NCPs) in the European Migration Network (EMN). The report outlines the most significant political and legislative developments in the field of asylum and migration in Austria in 2013 and provides related information on policy and public debates.

In 2013, the upcoming establishment of the Federal Office for Immigration and Asylum, which was to replace the Federal Asylum Office on 1 January 2014, was an important topic as it represented a major institutional change. The related amendments to the administrative jurisdiction were also discussed. While the preparatory works for the establishment of the Federal Office for Immigration and Asylum were underway, further details regarding its structure and responsibilities became clear. The Federal Office is a body subordinate to the Federal Ministry of the Interior (MoI), with headquarters in Vienna and regional directorates in the provinces that are responsible for asylum, aliens police matters and residence permits in cases of exceptional circumstances. The new Federal Administrative Court, which was established on 1 January 2014, decides upon appeals against decisions of the Federal Office.

One of the most important policy developments in 2013 was the movement of integration agendas from the MoI to the Federal Ministry for European and International Affairs (FMEIA),[1] following the National Council elections that took place on 29 September 2013. This change occurred when the former State Secretary for Integration, Sebastian Kurz, was appointed as the new Minister for Europe, Integration and Foreign Affairs. Incorporating integration agenda into foreign affairs continues to reflect the focus that was established in previous years with the inception of the concept "Integration from the Beginning". This concept aims to ensure that immigrants are part of a structured integration process that is initiated in the country of origin. This is ensured, for example, through integration commissioners at Austrian embassies or by pre-departure integration measures.

One of the main legislative developments in 2013 was, undoubtedly, the Amendments to the Citizenship Law 1985, which came into effect on 1 August 2013. The amended Citizenship Law introduced inter alia a facilitated citizenship for very well integrated migrants, who are now able to obtain Austrian citizenship after just six years (rather than the previous ten) of consecutive legal residency if certain general, personal and linguistic integration requirements are met. In this context, the citizenship exam was also adjusted to focus less on historic-factual knowledge and more on legal and social norms in Austria.

As in 2012, the topic that was most intensively covered by the Austrian press throughout the year was the protest of a group of asylum-seekers demanding the improvement of reception conditions and access to the labour market, and a cessation of deportations. A further topic that attracted significant media attention in the second half of 2013 and beyond, was the admission of 500 Syrian refugees through a Humanitarian Admission Programme run by the MoI in cooperation with the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR). The incident in the Italian sea near the island Lampedusa at the beginning of October 2013, during which several hundred migrants died, and the following discussions on the Common European Asylum System (CEAS), also received extensive media coverage.

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[1] From 1 March 2014 the FMEIA was officially renamed to Federal Ministry for Europe, Integration and Foreign Affairs.

With regards to the implementation of EU legislation, Austrian and European courts made a number of rulings regarding, for example, the interpretation of the Dublin Regulation.[2] Austria also adopted amendments to a number of laws (e.g. the Law Governing Sexual Offences) in order to transpose EU legislation.

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[2] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

1. INTRODUCTION

1.1 Purpose

The Annual Policy Report 2013 has been produced within the framework of the European Migration Network (EMN),[3] which was established by Council Decision 2008/381/EC in May 2008.[4] The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters with the aim of supporting policy making on the European Union (EU) and national level, as well disseminating this information among the general public.

This is the tenth Annual Policy Report[5] compiled by the National Contact Point (NCP) Austria in the EMN, covering the period from 1 January to 31 December 2013. The purpose of the Annual Policy Report is to provide an overview of the most significant political and legislative developments in Austria, as well as review of the political and public debates in the area of asylum and migration. A specific emphasis has been placed on interrelations with developments at EU level.

The national reports of the EMN NCPs will form the basis for topic-based EMN Informs, which will be produced by ICF-GHK-COWI, the service provider of the European Commission (EC) for the EMN. The EMN Informs will summarize and compare the main developments of selected topics, thereby providing a topic-based overview of policies and legislation in the Member States. Furthermore, based on the Annual Policy Report 2013, an EMN Country Factsheet will be produced, presenting up-to-date information on policy developments in migration and asylum, including relevant statistics.[6]

1.2 Methodology and definitions

The Annual Policy Report 2013 was produced by the Austrian NCP in the EMN following common study specifications developed by the EMN in order to facilitate comparability between the findings from all Member States. At the same time, the format is flexible to a certain degree, so as to allow the production of an output that targets the respective national audience.

In order to allow concise reporting, and to facilitate comparability, the Annual Policy Report 2013 only reflects on significant developments and debates, which have been defined on the basis of the criteria provided for in the study specifications. Hence, for the present report, proposals for amended or new legislation or policy changes were considered to be significant developments, while a significant debate was defined as an event that had been discussed in the national parliament, by relevant ministries, political parties or civil society stakeholders and, consequently, had been widely reported in the media.

Based on the positive experience of developing previous Annual Policy Reports, the referenced sources of information include: press releases and magazines from relevant ministries, professional journals, legislative proposals, jurisdiction, parliamentary debates, as well as articles from the most important newspapers in Austria.[7] With regards to the latter, press articles dealing with migration

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[3] More information on the EMN is available at www.emn.at/en (accessed on 3 March 2014).

[4] Council Decision 2008/381/EC of 14 May 2008 establishing a European Migration Network, available at http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:131:0007:0012:EN:PDF (accessed on 3 March 2014).

[5] Previous versions from 2004 to 2012 are available at http://www.emn.at/en/publikationen/jahrespolitikberichte (accessed on 3 March 2014).

[6] The EMN informs and the Country Factsheet will be available at www.emn.at/en in the Annual Policy Reports section.

[7] Daily newspapers: Der Standard, Die Presse, Kleine Zeitung, Kurier, Kronenzeitung, Österreich, Salzburger Nachrichten and Wiener Zeitung; Weekly newspapers: Falter, News, Profil and Format.

and asylum issues were collected throughout the year, within the framework of continuous media monitoring, in order to gain an overview of the most important public debates. Also, the Federal Ministry of the Interior (MoI), the Federal Ministry of Labour, Social Affairs and Consumer Protection (FMLSC) and the Federal Ministry for European and International Affairs (FMEIA) all provided input.[8]

Saskia Koppenberg drafted this report. Julia Rutz supervised and coordinated the compilation of the report.

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[8] From 1 March 2014 the FMEIA was officially renamed to Federal Ministry for Europe, Integration and Foreign Affairs.

2. OVERVIEW OF ASYLUM AND MIGRATION POLICY DEVELOPMENTS

2.1 Structure of the asylum and migration policy

Asylum and immigration policies generally fall within the area of competence of the MoI. The FMLSC is responsible for labour market policies, including with respect to non-nationals. The FMEIA is accountable for visa issuing procedures and development policies. Since mid-December 2013, agendas that were previously addressed by the former State Secretariat for Integration within the MoI (see also 2.2), now fall within the remit of the FMEIA.

Austria's immigration policy reflects its federal structure: within the framework of the Settlement and Residence Act, the governments of the federal provinces are, for example, involved in setting the annual quotas for specific residence titles to be issued in the respective year in each province.[9] The governors of the federal provinces are responsible in first instance proceedings of the Settlement and Residence Act.[10]

The federal government is responsible for asylum issues. The Federal Asylum Office, under the responsibility of the MoI, is the first instance in asylum proceedings.[11] The Asylum Court is an independent court and decides on appeals against decisions of the Federal Asylum Office.[12] As of 1 January 2014, the Federal Office for Immigration and Asylum (which is also responsible for certain aliens police proceedings) replaced the Federal Asylum Office.[13] Additionally, the Federal Administrative Court replaced the Asylum Court. The Administrative High Court is now the highest Court responsible for matters of asylum and aliens law.[14]

The Austrian national legal framework on asylum and migration encompasses the Asylum Act (regulating the procedure following an application for international protection), the Settlement and Residence Act (regulating residence titles and respective procedures), the Aliens Police Act (comprising provisions on entry into Austrian territory, the issuance of documents, and forced return measures) and the Act Governing the Employment of Foreign Nationals (regulating access to the labour market).

For more details on the organization of asylum and migration policy in Austria, please consult the EMN Study "Organization of Asylum and Migration Policies in Austria"[15] and the "Organization of Asylum and Migration Policies – Factsheet: Austria."[16]

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[9] Art. 13 para 3 Settlement and Residence Act, FLG. I No. 100/2005, in the version of FLG. I No. 144/2013.

[10] These (governors) typically delegate their competence to the regional administrative authorities. (Art. 3 para 1 Settlement and Residence Act, FLG. I No. 100/2005, in the version of FLG. I No. 144/2013.)

[11] Art. 58 Asylum Act 2005, FLG. I No. 100/2005, in the version of FLG. I No. 144/2013.

[12] Art. 61 para 1 Asylum Act 2005, FLG. I No. 100/2005, in the version of FLG. I No. 144/2013.

[13] Act on the Restructuring of the Aliens Authorities, FLG. I No. 87/2012. For a brief overview of competencies see Federal Ministry of the Interior (2014), *Federal Office for Immigration and Asylum*, available at www.bfa.gv.at/files/broschueren/BFA-Folder-Englisch-Druck.pdf (accessed on 3 March 2014).

[14] Amendments to the Administrative Jurisdiction, FLG. I No. 51/2012. For further information see Eberhard 2013.

[15] International Organization for Migration (2009), *Organization of Asylum and Migration Policies in the European Member Stat*es *- National Report Austria.* IOM, Vienna, p. 26, available at www.emn.at/images/stories/Organisation_Study_AT.pdf (accessed on 3 March 2014); an update of this report is planned for the end of 2014.

[16] International Organization for Migration (2012), *Organization of Asylum and Migration Policies - Factsheet: Austria.* IOM, Vienna, available at www.emn.at/images/stories/APR/Institutional_Framework_Immigration_and_Asylum_Policies_October2012.pdf (accessed on 24 March 2014); This Factsheet will be updated in 2014.

2.2 General political developments

On 29 September 2013, National Council elections took place in Austria. The Social Democratic Party of Austria (SPÖ) received the majority of votes (26.8 %) and therewith remained the strongest party, followed by the Austrian People's Party (ÖVP; 24 %).[17] As in the previous legislative session, these two parties built a coalition in mid-December. Werner Faymann (SPÖ) continues as the Federal Chancellor of Austria, while Michael Spindelegger (ÖVP) remains Vice Chancellor and, in addition, was also appointed as Minister of Finance.[18]

2.3 Main developments in the field of asylum and migration

With the appointment of the new ministers, following National Council elections, integration agendas moved from the MoI – where they were handled by the subordinate State Secretary for Integration – to the FMEIA. The former State Secretary for Integration, Sebastian Kurz, was appointed as minister, and is also responsible for integration matters (from 1 March 2014 the FMEIA was officially renamed to Federal Ministry for Europe, Integration and Foreign Affairs). The State Secretariat for Integration was dissolved.[19]

The Austrian print media reported the relocation of integration agendas from the MoI to the FMEIA, and some stakeholders criticized that there was no discussion ahead of the change. The Austrian Green Party, for example, would have preferred an incorporation of integration agendas into the FMLSC. Overall, however, incorporation into a Ministry was seen as a valorization of integration matters, but concern was raised as to whether there would be equal dedication to integration agendas as to foreign policy.[20]

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[17] Federal Ministry of the Interior (n.d.), *Nationalratswahl 2013*, available at http://wahl13.bmi.gv.at/ (accessed on 16 April 2014).

[18] Federal Chancellery (n.d.), *Federal Chancellor, Vice-Chancellor and Federal Ministers*, available at www.bka.gv.at/site/5955/default.aspx (accessed on 16 April 2014).

[19] Federal Ministry for Europe, Integration and Foreign Affairs (n.d.), *The Minister*, available at www.bmeia.gv.at/en/foreign-ministry/foreign-ministry/the-minister.html (accessed on 3 March 2014).

[20] See, for example, Wiener Zeitung, *Außenintegrator im Stress*, 18 December 2013, p. 9.

3. LEGAL MIGRATION AND MOBILITY

3.1 Promoting legal migration

3.1.1 Students and researchers

Despite the fact that university assistants are able to work in Austria as scientists and researchers under the residence permit 'exceptional cases – self-employment' without further labour market approval, many wish to be granted a 'Red-White-Red Card' as very highly qualified third-country nationals. This desire is based on the more permanent settlement prospects, and the right to seek employment outside of the scientific sector, that the 'Red-White-Red Card' permits. However, the conditions of full-employment and minimum wage pose an obstacle to granting these individuals a 'Red-White-Red Card'. This hindrance is a consequence of the average 30-hour working week for university assistants (ten hours are reserved for scientific research).[21]

A decree of the FMLSC from February 2013 now enables university assistants to apply for the 'Red-White-Red Card' without being fully employed, but only if they meet the necessary amount of points within the respective criteria (education, research successes, language skills, professional experience, etc.) and they receive minimum wage (around EUR 2,000 gross plus special payments).[22] The aim of this measure was to facilitate the employment of young academics, so as to increase qualified employment and to strengthen the perception of Austria as a location of economy and science.[23] Foreign students who are already integrated are regarded as a great asset for Austria.[24] However, only around 16 per cent of third-country nationals that graduate in Austria remain in the country.[25]

In order to promote the immigration of students and researchers, the Austrian Integration Fund, in cooperation with the State Secretariat for Integration, the Austrian Federal Economic Chamber and the Austrian University Conference, has published a brochure for foreign students and graduates. The information brochure, "Studying & Working in Austria,"[26] offers information about studying in Austria, working while studying, and job seeking after graduating. The brochure is available in German and English.[27] Furthermore, the bilingual information brochure, "Guide to Entry and Residence Requirements for Foreign Students,"[28] that provides information for students and researchers from third countries on immigration and residence in Austria was updated in 2013. The brochure was developed by the Austrian Exchange Service (OeAD) in cooperation with the Federal

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[21] Federal Ministry of Labour, Social Affairs and Consumer Protection, December 2013.

[22] Federal Ministry of Science and Research, *Minister Töchterle und Hundstorfer: Spürbare Verbesserung der Rahmenbedingungen für Universitätsassistenten aus Drittstaaten*, Press Release, 7 February 2013, available at www.ots.at/presseaussendung/OTS_20130207_OTS0083/minister-toechterle-und-hundstorfer-spuerbare-verbesserung-der-rahmenbedingungen-fuer-universitaetsassistenten-aus-drittstaaten (accessed on 1 November 2013).

[23] Ibid.

[24] Federal Ministry of the Interior, *StS Kurz und WKÖ-Präsident Leitl beim Forum Alpbach: Österreich attraktiver für ausländische Fachkräfte machen*, Press Release, 28 February 2013, available at www.ots.at/presseaussendung/OTS_20130820_OTS0024/sts-kurz-und-wkoe-praesident-leitl-beim-forum-alpbach-oesterreich-attraktiver-fuer-auslaendische-fachkraefte-machen (accessed on 26 March 2014).

[25] Austrian Institute of Economic Research, *Zur Niederlassung von Ausländerinnen und Ausländern in Österreich*, September 2013, p. 88, available at http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/Endbericht_zur_NLV_2014.pdf (accessed on 11 March 2014).

[26] Austrian Integration Fund, *Studieren & Arbeiten in Österreich*, 19 March 2013, available at www.integrationsfonds.at/fileadmin/Integrationsfond/5_wissen/Dossier25/OEIF_Handbuch_Studierende_web.pdf (accessed on 1 November 2013).

[27] For further information see Austrian Integration Fund, *Neue ÖIF-Studie: Potenzial ausländischer Studierender in Österreich zu wenig genutzt*, Press Release, 25 March 2013, available at www.ots.at/presseaussendung/OTS_20130325_OTS0101/neue-oeif-studie-potenzial-auslaendischer-studierender-in-oesterreich-zu-wenig-genutzt (accessed on 1 November 2013).

[28] Austrian Exchange Service, *Guide to Entry and Residence Requirements for Foreign Students*, Vienna, January 2012, available at www.bmi.gv.at/cms/BMI_Niederlassung/allg_infos_neu/guide_entry_students.pdf (accessed on 10 December 2013).

Ministry of Science and Research (FMSR), the MoI, the FMEIA, the Austrian Students Union, Universities Austria and the Austrian Association of the Universities of Applied Sciences.

3.1.2 Other legal migration

In the framework of implementing the Single Permit Directive,[29] a combined residence and work permit was established for holders of the 'settlement permit' and 'residence permit – artist'. Artists are now to receive a combined residence and work permit that is similar to the 'Red-White-Red Card', while the admission requirements (no criteria-led point-system) have not been changed. The permit entitles the holder to employment with a specific employer. For the instances in which special integration criteria are fulfilled, settled third-country nationals can later receive a 'Red-White-Red Card plus', which allows them to unrestricted access to the labour market. Furthermore, work permits or exemption certificates are no longer applicable. Persons who are in possession of such a permit are eligible to receive a 'Red-White-Red Card plus' with unlimited access to the labour market.[30] The corresponding laws were revised accordingly, namely through the Amendments to the Act Governing the Employment of Foreign Nationals and the Act on the Employment of People with Disabilities[31] and the Amendments to the Act on the Restructuring of the Aliens Authorities.[32]

3.2 Economic migration

Austria is committed to the necessity of regular economic immigration. At a conference celebrating the 30th anniversary of the NGO *Beratungszentrum für Migranten und Migrantinnen*, the Minister of Labour, Social Affairs and Consumer Protection stated that Austria needed qualified labour migrants to retain the perception of Austrian as a business location, and the welfare state. In this regard Austria stood in competition with other attractive countries of destination.[33]

In May 2013, the State Secretariat for Integration together with the Federation of Austrian Industries presented a concept to develop a "Strategy for a future migration policy"[34] by mid-2014 in order to attract qualified and highly qualified migrants. The strategy would be based on the three pillars of (i) labour market monitoring, (ii) migration monitoring and (iii) migration climate under an overall migration management. More precisely, as the media reported, the strategy would aim to assess the needs of the labour market in Austria and the potential supply in migrants' countries of origin, while, simultaneously, creating a 'Welcome Culture' in Austria.[35]

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[29] Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State.

[30] For further information see www.ris.bka.gv.at/Dokumente/RegV/REGV_COO_2026_100_2_827206/COO_2026_100_2_844973.html (accessed on 1 November 2013).

[31] FLG. I No. 72/2013.

[32] FLG. I No. 68/2013.

[33] Federal Ministry of Labour, Social Affairs and Consumer Protection, *Hundstorfer: Zuwanderung qualifizierter Arbeitskräfte sichert österreichischen Sozialstaat und Wirtschaftsstandort*, Press Release, 14 November 2013, available at www.sozialministerium.at/site/Presse/Presseaussendungen/Hundstorfer_Zuwanderung_qualifizierter_Arbeitskraefte_sichert_oesterreichischen_Sozialstaat_und_Wirtschaftsstandort?rangeFrom=30 (accessed on 4 March 2014).

[34] Federation of Austrian Industries and State Secretariat for Integration, *Qualifizierte Zuwanderung attraktiv gestalten. Strategien für eine zukünftige Migrationspolitik,* press briefing, 6 May 2013, available at www.iv-net.at/d3745/qualifizierte_zuwanderung_attraktiv_gestalten.pdf (accessed on 11 March 2014).

[35] See, for example, Die Presse, *Zuwanderung neu bis 2014*, 7 May 2013, p. 4.

3.2.1 Immigration of qualified and highly qualified migrants

In mid-2011 and the beginning of 2012 respectively, a new criteria-led point-based immigration system was established in Austria, which introduced the combined residence and work permits 'Red-White-Red Card' and 'Red-White-Red Card Plus.' These permits are intended for the following groups of qualified and highly qualified third-country nationals: very highly qualified workers, skilled workers in shortage occupations, other key workers, graduates of Austrian universities and self-employed key workers.[36]

In 2013, there was a change in the application procedure for the 'Red-White-Red Card'. The Amendments to the Act on the Restructuring of the Aliens Authorities[37] from April 2013, which entered into force on 1 January 2014, include a modification of the Settlement and Residence Act. Very highly qualified third-country nationals will now also be able to file their application for the 'Red-White-Red Card' at Austrian representations (embassies or consulates) abroad.[38] Through this amendment, very highly qualified third-country nationals who had previously been denied the option of applying abroad are no longer at a disadvantage in this regard. Usually, the Settlement and Residence Act foresees an application from abroad but a specific allowance was introduced for very highly qualified third-country nationals to apply for the 'Red-White-Red Card' after entering Austria with a job search visa.[39] This advantage remains unchanged.[40]

Furthermore, since the entering into force of the Amendments to the Act Governing the Employment of Foreign Nationals and the Act on the Employment of People with Disabilities[41] in April 2013, it is now possible to apply for a residence permit 'Red-White-Red Card' through the employer in Austria.[42] This administrative facilitation was established because the introduction of the 'Red-White-Red Card' did not lead to the expected increase in (highly) qualified immigration.[43]

With regards to the immigration of the group of so-called skilled workers through the 'Red-White-Red Card', each year a new list of shortage occupations is published. Hence, along with the annual Regulation for Skilled Workers,[44] the new list of shortage occupations for 2014 was published in October 2013. According to the Regulation, third-country nationals are, in 2014, able to immigrate to Austria through the 'Red-White-Red Card' as skilled workers in one of the 16 listed shortage occupations. The list of shortage occupations comprises those occupations that were identified under consideration of predetermined deprivation indicators (i.e. occupations that show a long-term labour demand that cannot be met through the national labour force or that of the EEA-area). Therewith, the immigration and employment of foreign skilled workers in shortage occupations can

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[36] For further information see Bittmann, T. (2013), *Highly Qualified and Qualified Immigration of Third-Country Nationals – Legislation, Measures and Statistics in Austria*. IOM, Vienna, available at www.emn.at/images/stories/2013/Studien_/attracting/AT_EMN_NCP_Highly_qualified_and_qualified_final.pdf (accessed on 11 March 2014).

[37] FLG. I No. 68/2013.

[38] For further information see www.help.gv.at/Portal.Node/hlpd/public/content/171/Seite.1710539.html (accessed on 1 November 2013).

[39] Art. 21 para 2(7) Settlement and Residence Act.

[40] Federal Ministry of the Interior, November 2013.

[41] FLG. I No. 72/2013.

[42] Federal Ministry of the Interior, November 2013.

[43] Austrian Institute of Economic Research (2013), *Zur Niederlassung von Ausländerinnen und Ausländern in Österreich*, p. 79–80, available at www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/Endbericht_zur_NLV_2014.pdf (accessed on 11 March 2014).

[44] FLG II No. 328/2013.

counteract the existing shortage of skilled workers in Austria, aiming to safeguard Austria's employment growth and status as a good economic location.[45]

A MoI commissioned evaluation of the Austrian Institute of Economic Research that was published in September 2013 found that, two years after its introduction, the 'Red-White-Red Card' did not lead to the expected increase in (highly) qualified immigration. According to the numbers of the Labour Market Service on positive certificates for 'Red-White-Red Cards', the number of 'Red-White-Red Card' holders rose quickly to 1,200 in October 2012; thereafter the increase slowed, leading to 1,376 Red-White-Red Card' holders in April 2013.[46]

Figure 1: Development in number of positive certificates for 'Red-White-Red Cards', July 2011–May 2013
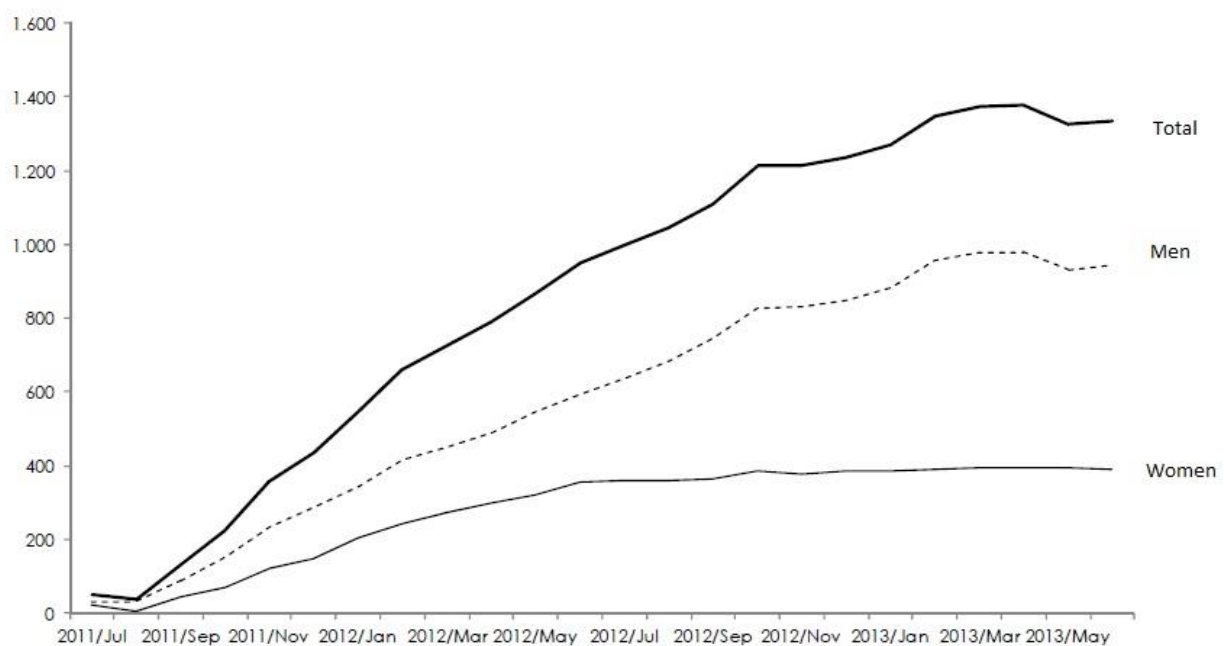
Source: Austrian Institute of Economic Research.

The Austrian print media also reported on the development in the numbers of persons holding a 'Red-White-Red Card'.[47] It was speculated that the number is low either because there was no demand for (highly) qualified immigration or the criteria to obtain a 'Red-White-Red Card' were too high. In this light, the State Secretary for Integration (ÖVP) argued for a reform of the 'Red-White-Red Card'. In concrete terms, he is in favour of extending the provision of the 'Red-White-Red Card' to Bachelor graduates, lowering the minimum wage, and advertising the 'Red-White-Red Card' abroad.[48] Other stakeholders, including, for example, the Federation of Austrian Industries and the expert Heinz Fassmann, vice rector of the University of Vienna and chairman of the Expert Council for Integration,[49] also called for the access criteria to be lowered.[50] The Minister of Labour,

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[45] Federal Ministry of Labour, Social Affairs and Consumer Protection, December 2013.

[46] Austrian Institute of Economic Research (2013), *Zur Niederlassung von Ausländerinnen und Ausländern in Österreich*, p. 79–80, available at www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/Endbericht_zur_NLV_2014.pdf (accessed on 11 March 2014).

[47] See, for example, Salzburger Nachrichten, *Nur wenige "beste Köpfe" angelockt*, 9 August 2013, p. 2.

[48] See, for example, Die Presse, *Rot-Weiß-Rot-Card: Kurz will einkommens-Hürde senken*, 28 February 2013, available at http://diepresse.com/home/politik/innenpolitik/1350266/RotWeissRotCard_Kurz-will-EinkommensHurde-senken (accessed on 26 March 2014).

[49] The Expert Council for Integration was established within the Federal Ministry of the Interior as a competence centre; it consists of versed and acknowledged public figures under the chairmanship of Heinz Fassmann, University of Vienna (http://www.bmeia.gv.at/en/foreign-ministry/integration/expert-council.html, accessed on 26 March 2014).

Social Affairs and Consumer Protection (SPÖ), however, did not see a need to reform the 'Red-White-Red Card'. He argued that there was sufficient immigration of EU citizens to meet labour market needs. In addition, both the Minister and the Chamber of Labour saw a risk of employers decreasing salaries when lowering the minimum wage level.[51]

3.2.2 Skills recognition

In the first half of 2012, an interdepartmental task force developed the concept for "Contact points and further measures for the recognition and assessment of qualifications obtained abroad," in order to make better use of already-obtained qualifications and skills of immigrants.[52] In January 2013, the FMLSC set up four low-threshold regional contact points, as part of the implementation of this concept. These provide guidance and counselling with regards to the validation and occupational reclamation of qualifications acquired abroad, thereby facilitating an adequate integration into the labour market.[53]

The 5-point programme to ease the recognition of skills of university graduates from third countries, presented by the Minister of Science and Research (ÖVP) in cooperation with the State Secretary for Integration (ÖVP) in March 2012,[54] was showing positive results. According to the FMSR, there were 2,665 assessments of foreign higher education diplomas in 2012, compared to 2,073 assessments in 2011. This equates an increase of around 30 per cent. In accordance, counselling of applicants on recognition matters via telephone and e-mail also increased.[55] The Austrian print media reported this positive development.[56]

3.3 Integration

On 18 December 2013, the International Migrants Day, the new Minister of Europe, Integration and Foreign Affairs (ÖVP) highlighted the work programme of the new Austrian government, which was, according to the Minister, the first in the country's history to contain a set of measures for the integration of migrants in terms of employment, language and society. Above all, early linguistic integration of migrants was to remain a priority issue. Against the background of 1.6 million persons in Austria with a migratory background, the Minister stressed that the awareness of migrants' potential must be increased, as well as the related benefits.[57]

3.3.1 Integration Report

There has been a paradigm change in the past few years with regards to the Austrian integration policy. The third annual Integration Report that was launched in August 2013, and picked up by the

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[50] See, for example, Wiener Zeitung, *Eine Karte für sehr wenige*, 7 August 2013, p. 9

[51] See, for example, Kleine Zeitung, *Rot-weiß-rote Karte ist ein Ladenhüter*, 9 August 2013, p. 4.

[52] See International Organization for Migration (2013), *Austria Annual Policy Report 2012*. IOM, Vienna, p. 11–12, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 11 March 2014).

[53] Federal Ministry of Labour, Social Affairs and Consumer Protection, December 2013.

[54] For further information see International Organization for Migration (2013), *Austria Annual Policy Report 2012*. IOM, Vienna, p. 11 and 43, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 1 November 2013).

[55] Federal Ministry of Science and Research, *BM Töchterle und StS Kurz: 5 Punkte-Programm zur verbesserten Berufsanerkennung von Akademikern aus Drittstaaten*, Press Release, 3 May 2012, available at www.bmwf.gv.at/nc/startseite/das-ministerium/presse-und-news/news-details/bm-toechterle-und-sts-kurz-5-punkte-programm-zur-verbesserten-berufsanerkennung-von-akademikern-aus/?cHash=21557b1333ea0cd20feaafdf755392d1&sword_list[0]=punkte&sword_list[1]=programm&sword_list[2]=t%C3%B6chterle (accessed on 1 November 2013).

[56] See, for example, Salzburger Nachrichten, *Mehr Migranten lassen ihre Abschlüsse anerkennen*, 26 January 2013, p. 48.

[57] Federal Ministry for Europe, Integration and Foreign Affairs, *Kurz on International Migrants Day: Integration is an important sphere of activity for the new Austrian Government*, Press Release, 19 December 2014, available at www.bmeia.gv.at/en/foreign-ministry/news/press-releases/2013/kurz-zum-internationalen-tag-der-migrantinnen-integration-wichtiges-handlungsfeld-fuer-neue-regierung.html (accessed on 4 March 2014).

Austrian press, highlighted this.[58] As the report concludes, the 20-point programme, which was developed by the Expert Council for Integration in 2011,[59] was implemented to a great extent. However, more needs to be done. Therefore, the report presents ten recommendations for future activities in these fields: (i) integration from the beginning, (ii) need oriented qualified immigration, (iii) employment and entrepreneurship, (iv) language-learning support, (v) education and training, (vi) improvement of the citizenship law, (vii) health and care, (viii) integration dialogue, (ix) integration through sport, leisure activities and volunteering, and (x) constitutional values. [60]

The Integration Report, as a work programme document, represents the first part of the National Action Plan for Integration. The second part builds the statistical yearbook "Migration & Integration 2013",[61] which presents the latest statistics and indicators on integration in Austria. With regards to the impact of integration measures in Austria, the yearbook "Migration & Integration 2013" shows that whilst in 2010, 68 per cent of respondents found that "integration of migrants works rather badly or very badly", in 2013 this number decreased to 55 per cent. In contrast, the number of persons who stated that "integration is working well or very well" rose from 33 per cent in 2010 to 45 per cent in 2013 (Federal Ministry of the Interior, 2013a).

The third part of the National Action Plan for Integration consists of a "Database – Integration projects in Austria",[62] which presents good practices in the field.[63] Numerous projects in the area of integration were carried out in 2013, funded by several instruments: the European Refugee Fund (ERF), the European Integration Fund (EIF), the European Social Fund (ESF) and national integration funds. 28 integration projects were co-funded by the European Refugee Fund and 55 by the European Integration Fund with a total sum of 7.84 million EUR (European funds and MoI co-funding). A further 88 projects were funded by national integration funds with a total of around 4.23 million EUR in support.[64] In addition, funding from the European Social Fund (ESF) was used to support labour market integration of migrants. During the first six years of the current ESF (2007-2013) that provided around 25 million EUR, over 136,000 persons participated in integration measures that were implemented by the Labour Market Service, the Federal Ministry for Education, Arts and Culture and the Austrian provinces.[65]

3.3.2 "Integration from the Beginning"

Austrian integration policies follow the concept of "Integration from the Beginning" that divides the integration process into four stages: (i) pre-departure integration at the Austrian representation in

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[58] See, for example, Kleine Zeitung, *Die meisten Zuwanderer sind EU-Bürger*, 7 August 2013, p. 4.

[59] For further Information see International Organization for Migration (2012), *Austria Annual Policy Report 2011*. IOM, Vienna, p. 11-12, available at www.emn.at/images/stories/2012/APR/EMN_NCP_AT_Annual_Policy_Report_2011.pdf (accessed on 12 March 2014).

[60] State Secretariat for Integration, Expert Council for Integration, *Integration Report 2013 – Perspectives and Recommendations for Action*, August 2013, available at
www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/Integration/Integrationsbericht_2013/Integration_Report_2013_final.pdf
(accessed on 12 March 2014).

[61] Statistics Austria (2013), *Migration & Integration – Zahlen, Daten, Indikatoren 2013*, available at www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/Integration/Integrationsbericht_2013/Statistische_Jahrbuch_2013.pdf (accessed on 9 April 2014).

[62] For further information see Federal Ministry of the Interior (n.d.), *Datenbank für Integrationsprojekte in Österreich*, available at www.integration.gv.at/integrationsbericht/daten.aspx (accessed on 26 March 2014).

[63] Federal Ministry of the Interior, Zentrale Herausforderung. In: *Öffentliche Sicherheit*, 9–10/2013, available at www.bmi.gv.at/cms/BMI_OeffentlicheSicherheit/2013/09_10/files/Integrationsbericht.pdf (accessed on 1 November 2013); State Secretariat for Integration, *Integrationsbericht 2013: Identifikation mit Österreich steigt*, News, 7 August 2013, available at www.integration.gv.at/news/news.aspx?nwid=55635962764F36777368513D&ctrl=504A685A306548572B7A313846515236447 46A5550413D3D&nwo=2 (accessed on 26 March 2014).

[64] Federal Ministry of the Interior, December 2013.

[65] Federal Ministry of Labour, Social Affairs and Consumer Protection, December 2013.

the country of origin; (ii) first integration facilitated by the newly established integration centres in Austria, the so-called 'Welcome Desks'; (iii) deepening integration; and (iv) acquisition of citizenship. The concept and related measures aim to ensure that each immigrant is, from the very beginning, part of a structured integration process.[66]

In order to facilitate pre-departure integration, the MoI has deployed its first integration commissioner to the Austrian embassy in Ankara in the framework of cooperation with FMEIA. The integration commissioner is responsible for informing potential migrants about the opportunities and challenges of life in Austria, thereby initiating integration processes at an early stage. The integration commissioner plays an important role in communicating migration perspectives to potential migrants and should spread the Austrian welcoming culture, which has to be further developed.[67] The commissioner's monthly reports to Austria increase understanding of the needs of migrants and allows for an improved conceptual matching of support measures in Austria.[68] In December, the press cited the newly appointed Minister of Europe, Integration and Foreign Affairs (ÖVP) who promoted the integration commissioner in Ankara as a successful model that should be replicated in other main countries of origin.[69]

To facilitate first integration in Austria, new 'Welcome Desks' were opened in 2013 in Vienna, Linz, Graz, Salzburg and Innsbruck by the State Secretariat for Integration (ÖVP) together with the Austrian Integration Fund. As part of the concept "Integration from the Beginning", the 'Welcome Desks' provide migrants with the information they need for a successful start in Austria and support them with individual counselling throughout their integration process.[70] The Austrian press also reported on the new 'Welcome Desks'.[71] Critical voices were raised by the Austrian Freedom Party who saw duplication of already existing institutions, such as the Integration Office or the Migration and Integration Advisory Board in Linz.[72]

3.3.3 Education, language skills and the labour market

In early 2013, the Austrian press covered the extensive debate surrounding early childhood education and language-learning support. In concrete terms, State Secretary for Integration (ÖVP) proposed the introduction of pre-schooling for those children who lack German language skills. The Minister of Education, Arts and Culture (SPÖ) instead preferred to search for other options, as there was a risk of creating or reinforcing classes composed of exclusively migrant children lacking German language skills.[73] Based on data from Statistics Austria, however, the press reported that, in practice, migrant children are already more often sent to preschools than other children.[74] Later in May 2013, the State Secretary and the Minister found a compromise as to how to proceed with the

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[66] Austrian Integration Fund, *VK Michael Spindelegger und StS Sebastian Kurz präsentieren "Integration von Anfang an"*, Press Release, 8 July 2013, available at www.ots.at/presseaussendung/OTS_20130708_OTS0096/vk-michael-spindelegger-und-sts-sebastian-kurz-praesentierten-integration-von-anfang-an (accessed on 26 March 2014).

[67] State Secretariat for Integration, Expert Council for Integration, *Integration Report 2013 – Perspectives and Recommendations for Action*, August 2013, p. 13, available at
www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/Integration/Integrationsbericht_2013/Integration_Report_2013_final.pdf
(accessed on 12 March 2014).

[68] Federal Ministry of the Interior, December 2013.

[69] See, for example, Kurier, *„Strategie für neue Außenpolitik"*, 18 December 2013, p. 7.

[70] Austrian Integration Fund, *StS Sebsatian Kurz und Österreichischer Integrationsfonds eröffnen Österreich-Zentrum („Welcome Desk") in Graz*, Press Release, 12 August 2013, available at www.ots.at/presseaussendung/OTS_20130812_OTS0145/sts-sebastian-kurz-und-oesterreichischer-integrationsfonds-eroeffnen-oesterreich-zentrum-welcome-desk-in-graz (accessed on 27 March 2014).

[71] See, for example, Kleine Zeitung, *Integrationsstelle neu*, 13 August 2013, p. 20.

[72] See, for example, Kronen Zeitung, *Neue Einrichtung in Linz soll Ausländer willkommen heißen*, 30 August 2013, p. 28.

[73] See, for example, Kurier, *Sprachverwirrung um Deutschförderung in den Schulen*, 3 January 2013, p. 2.

[74] See, for example, Die Presse, *Migranten sind in Vorschulen extreme überrepräsentiert*, 7 March 2013, p. 36.

development of language-learning support. The decision on what language-learning support measures to apply was left to the schools themselves. Starting with the school year 2013/2014, the different models outlined above were tested as pilots.[75]

The Agreed Amendment to the Agreement Pursuant to Article 15a of the Federal Constitutional Act Concerning the Introduction of Half-Day, Free of Charge Compulsory Early Childhood Education in Institutional Childcare ensured the funding of the compulsory free-of-charge kindergarten year for 2014/2015, irrespective of the question of pre-schooling.[76] The agreement inter alia provides for education and language training for children between the ages of three and six so as to facilitate their entrance into the first school grade.[77]

With regards to the school-to-work transition, a third phase of the project "Together: Austria",[78] which was initiated in 2011, started in 2013 with the slogan "Together Austria − Your Chance!" The initiative, which is implemented by the Austrian Integration Fund and supported by the State Secretariat for Integration, sends voluntary integration ambassadors to schools throughout Austria to inform children and teenagers about various matters regarding education and the labour market.[79] The Austrian press reported also on this initiative that focuses on promoting vocational training as a pathway to successful labour market participation, which is supported by various private sector companies.[80]

Furthermore, in 2013 the Labour Market Service also offered various trainings initiatives, such as integration language courses, which combine language acquisition with professional training, to support the school-to-work transition and labour market integration. In addition to the office of the Labour Market Service in Vienna, there will also be a migration commissioner appointed in Upper Austria to oversee the conception of services for migrants and the minimization of integration barriers.[81]

3.3.4 Healthcare

When, in September 2013, a Memorandum of Understanding was signed, the essential pillars for future cooperation between the State Secretariat for Integration and the Main Association of Austrian Social Security Institutions (MAASSI) in the area of migration and health were stipulated. Common activities include the development of a measure catalogue and the appointment of an integration coordinator, functioning as the contact point for integration matters within the MAASSI. In concrete terms, information shall be gathered about migrants' health condition and constitutive steps shall be taken (Federal Ministry of the Interior, 2013c).

In this regard, one of the goals of the National Action Plan for Integration[82] is the increase of migrants' health competences and the consolidation of their trust in the Austrian health care system.

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[75] See, for example, Kurier, *Sprichst du Deutsch?*, 24 May 2013, p. 5.

[76] FLG I No. 196/2013.

[77] State Secretariat for Integration, *Integrationsbericht 2012*, July 2012, p. 20 et seq, available at www.integration.gv.at/media/files/integrationsbericht_2012/Integrationsbericht_2012_Band_1_ANSICHT.pdf (accessed on 26 March 2014).

[78] Website: www.zusammen-oesterreich.at (accessed on 12 March 2014).

[79] State Secretariat for Integration, *"Zusammen: Österreich" startet mit "Deine Chance!" in die dritte Phase*, Press Release, 20 June 2013, available at www.integration.gv.at/news/news.aspx?nwid=584E4579532F784E2B446F3D&ctrl=504A685A306548572B7A313846515236447 46A5550413D3D&nwo=10 (accessed on 26 March 2014).

[80] See, for example, Die Presse, *Kurz will mehr Migranten in der Lehre*, 20 June 2013, p. 17.

[81] Federal Ministry of Labour, Social Affairs and Consumer Protection, December 2013.

[82] State Secretariat for Integration (n.d.), *Nationaler Aktionsplan für Integration - Bericht*, available at www.integration.gv.at/media/files/nap/Bericht_zum_Nationalen_Aktionsplan.pdf (accessed on 26 March 2014).

Due to the widening gap in the use of these services between Austrians and migrants this is deemed necessary. Cultural differences, the socioeconomic status, the level of education, social isolation, language barriers and lacking knowledge about the structures of the Austrian health care system may hinder migrants' access to health services (Federal Ministry of the Interior, 2013c).

3.3.5 Citizenship and naturalization

According to Statistics Austria, 7,418 persons received the Austrian citizenship in 2013. This is an increase by 4.4 per cent compared to the previous year. Over the past years, the number of naturalizations decreased continuously since the record year 2003 (45,112 naturalizations) reaching a low point in 2010 (6,190 naturalizations). Since then, the numbers slightly increase again (7,418 naturalizations in 2013).[83]

Figure 2: Number of naturalizations, 2003–2013
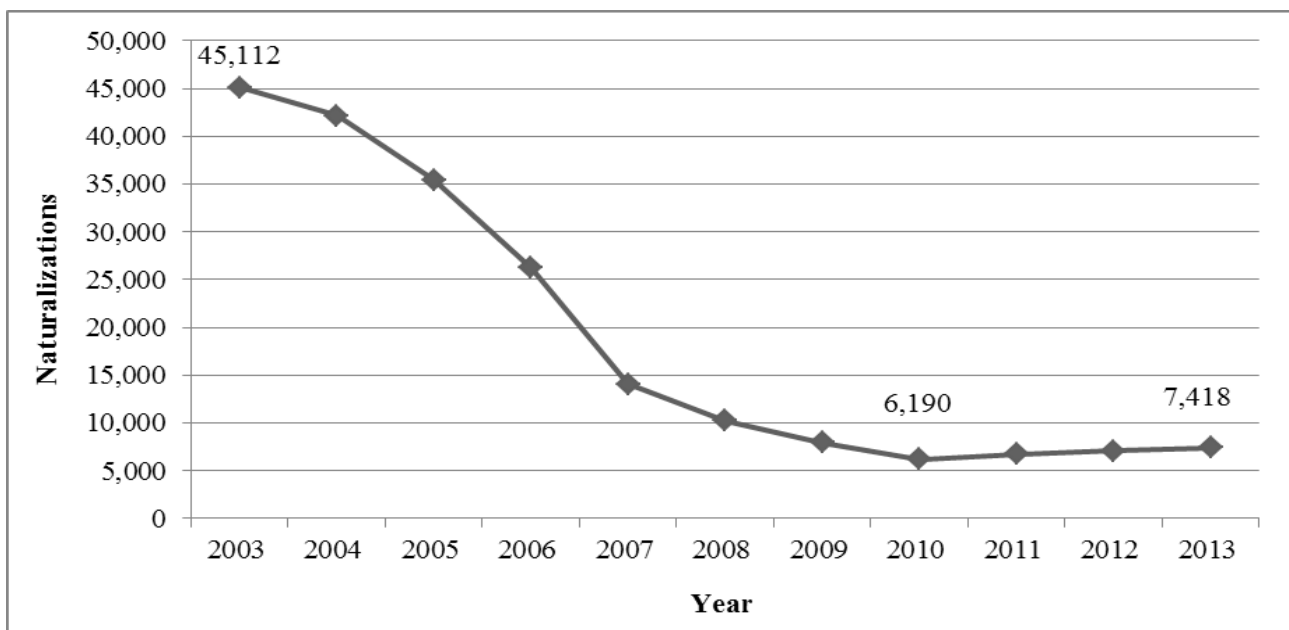
Source: Statistics Austria.

In early 2013, options to loosen the requirements for citizenship were discussed in Austria. A first proposal for amending the Citizenship Law was criticized by several parties. While the Green Party and the church-based aid organization Caritas supported the option to apply for citizenship after six years instead of ten years, they were also concerned that the German language skills requirement might not be achievable. Level B1 of the Common European Framework of Reference for Languages is required. Furthermore, the income requirements were considered to be too high. More precisely, a record of a certain regular average minimum income over the last six years must be proven as defined by Article 293 of the General Social Insurance Act. In 2013 it amounted to 837.63 EUR for single persons, 1,255.89 EUR for married couples living in one household and 129.24 EUR for every child.[84]

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[83] Statistics Austria, *Zahl der Einbürgerungen im Jahr 2013 um 4,4% gestiegen*, Press Release 10.726-035/14, available at www.statistik.at/web_de/presse/075272 (accessed on 12 March 2014).

[84] See, for example, Salzburger Nachrichten, *Einbürgerung: Breite Kritik an Gesetzesentwurf*, 7 March 2013, p. 2; Federal Ministry for Europe, Integration and Foreign Affairs (n.d.), *Mein Weg zur Staatsbürgerschaft – Voraussetzungen*, available at http://www.staatsbuergerschaft.gv.at/index.php?id=5 (accessed on 27 March 2014).

Later that year, on 1 August 2013, the Amendments to the Citizenship Law 1985[85] came into effect. The amended Citizenship Law introduced a facilitated citizenship for the following groups of persons: very well integrated migrants, illegitimate children of Austrian fathers, adoptive children, disabled persons who cannot meet the income requirements and non-citizens who were – erroneously – treated as citizens by Austrian authorities for more than 15 years.[86]

With the equalization of illegitimate children of Austrian fathers, the Citizenship Law was adapted to the rulings of the Austrian Constitutional Court and the European Court of Human Rights (ECtHR). On 11 October 2011, in the Genovese Case (application no. 53124/09)[87] the ECtHR ruled that denying an illegitimate child of a Maltese father Maltese citizenship because its mother was not Maltese constitutes a violation of Article 14 (Prohibition of discrimination) together with Article 8 (Right to respect for private and family life) of the European Convention on Human Rights (ECHR). On 29 November 2012, this was confirmed by the Austrian Constitutional Court in its ruling[88] (Schmitt, 2013).

The new prospect for very well integrated individuals to obtain Austrian citizenship after just six years of consecutive legal residency (instead of ten years) attracted most media attention. To do so, applicants have to provide (alongside the fulfilment of the general conditions) proof of their personal and linguistic integration, i.e. through German language skills and, for example, volunteering in associations.[89]

In the context of amending the Citizenship Law, the citizenship exam was also adjusted. It now tests less historic-factual knowledge, but rather focusses on questions about legal and social norms in Austria.[90] A website titled "My Austria – Preparations for the citizenship exam"[91] has been set up, providing general information about the new citizenship exam and study materials.[92] Also available on the website is the brochure "Living together in Austria"[93] (available in German). This brochure presents the Austrian principles and core values and targets all people living in Austria. It shall serve as a basis for discussion and reflexion. These measures aim at communicating the Austrian constitution's basic legal-cultural norms (rights and obligations) so as to promote the foundations of the Austrian society (Federal Ministry of the Interior, 2013b).

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[85] FLG. I No. 136/2013.

[86] Amendments to the Citizenship Law 1985, Preamble, available at www.parlament.gv.at/PAKT/VHG/XXIV/I/I_02303/fname_302601.pdf (accessed on 4 March 2014).

[87] European Court of Human Rights, 11 October 2011, Case Genovese (Application no. 53124/09), available at http://hudoc.echr.coe.int/sites/eng/Pages/search.aspx#{%22fulltext%22:[%22genovese%22],%22documentcollectionid2%22:[%22CASELAW%22],%22itemid%22:[%22001-106785%22]} (accessed on 18 March 2014).

[88] Austrian Constitutional Court, 29 November 2012, G 66/12-7, G 67/12-7, available at www.vfgh.gv.at/cms/vfgh-site/attachments/3/2/4/CH0006/CMS1361283227334/staatsbuergerschaftsg_g66-7.12.pdf (accessed on 18 March 2014).

[89] See, for example, Österreich, *Das ist der neue Österreich-Test*, 24 April 2013, p. 6.

[90] Federal Ministry of the Interior, *StS Kurz: Reform des Staatsbürgerschaftsrechts ist auf Schiene*, Press Release, available at www.ots.at/presseaussendung/OTS_20130205_OTS0109/sts-kurz-reform-des-staatsbuergerschaftsrechts-auf-schiene (accessed on 26 March 2014).

[91] Website: www.staatsbuergerschaft.gv.at.

[92] Federal Ministry of the Interior, *Mein Österreich – Lernunterlage zur Staatsbürgerschaftsprüfung*, available at www.staatsbuergerschaft.gv.at/fileadmin/user_upload/Broschuere/StaBuBro.pdf (accessed on 22 October 2013).

[93] Federal Ministry of the Interior (2013), *Zusammenleben in Österreich*, available at www.staatsbuergerschaft.gv.at/fileadmin/user_upload/Broschuere/RWR-Fibel.pdf (accessed on 1 November 2013).

3.4 Managing migration and mobility

3.4.1 Visa policy and Schengen governance

On 9 April 2013, the second generation of the Schengen Information System (SIS II) was put into service. The Austrian part named Sirene AT is located within a high-security sector in the Federal Criminal Intelligence Service. [94]

Austria has been a Schengen member since December 1997 and, since then, has carried out the so-called Schengen tracing. Thanks to SIS, 2,666 wanted individuals have been arrested in Austria for extradition to another Schengen state so far. In total there have been 63,147 SIS-hits. In other Schengen states, 2,482 individuals have been arrested and extradited to Austria.[95]

3.4.2 Border monitoring

Austria is situated along important migration routes (the 'Central East European Route' and the 'Southeast European Route' or 'Balkan Route') and is, therefore, strongly interested in the surveillance of the most important points along these routes. Despite being a Schengen inner state, Austria is strongly engaged in all areas of integrated border management (IBM).[96]

In 2013, Austria carried out border controls at six Austrian international airports. Furthermore, the test operations of an automatic border control device (eGate) at Vienna International Airport were completed in 2013. These test operations have been carried out in the framework of a national security research project titled "Future Border Control". In addition, since January 2013, the MoI has participated in the EU FP7 project called "Fast Pass", which focuses on opportunities to harmonize automatic border control systems throughout Europe.[97]

In order to better meet future challenges in the field of border control (the application of new technologies, use of biometric data, etc.), the Border Control Act[98] was amended in the framework of the Amendments to the Act on the Restructuring of the Aliens Authorities, in April 2013.[99] In particular, the authority of border control personnel was extended (e.g. the power to check if the finger-prints of third-country nationals who are subject to visa requirements match with VIS). As part of this amendment, the Border Control Act was also adapted to the directly applicable Schengen Borders Code.[100] The amended Border Control Act entered into force on 1 January 2014.[101]

3.4.3 Frontex

For Austria, as a Schengen inner state, the participation in Frontex operations is strategically significant as it allows Austria to – on the one hand – play an active part in combating irregular

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[94] Federal Ministry of the Interior, *SIS II geht in Betrieb*, Press Release, 5 April 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=736B482F3743526C6761493D&page=58&view=1 (accessed on 1 November 2013).

[95] Federal Ministry of the Interior, *Einführung des SIS II in Österreich*, Press Release, 5 April 2013, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=426D68674573674E3349773D&page=9&view=1 (accessed on 1 November 2013); Federal Ministry of the Interior, *SIS II geht in Betrieb*, Press Release, 5 April 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=736B482F3743526C6761493D&page=58&view=1 (accessed on 1 November 2013).

[96] Federal Ministry of the Interior, December 2013.

[97] Ibid.

[98] FLG. No. 435/1996, in the version of FLG. I. No. 68/2013.

[99] FLG. I No. 68/2013.

[100] Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

[101] Federal Ministry of the Interior, December 2013.

migration at the EU external borders, and – on the other hand – to represent Austrian interests on-site, promoting national priorities. In 2013 Austria, therefore, participated in seven joint Frontex operations at land, sea and air borders to the following countries: Belarus, Former Yugoslav Republic of Macedonia, Moldova, Serbia, Turkey, Ukraine and North Africa. Furthermore, in November 2013, following an invitation by Frontex, the MoI hosted a two-day conference on the Western Balkan. Participants included representatives of international organizations, of Western Balkan countries, the European Commission and other Member States. The conference aimed to identify challenges in migration management in the Western Balkans, in order to offer targeted support and cooperation.[102]

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[102]   Federal Ministry of the Interior, *"Frontex Westbalkan-Konferenz" in Wien*, News, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=466D62646F676A47626A383D&page=25&view=1 (accessed on 5 March 2014).

4. INTERNATIONAL PROTECTION INCLUDING ASYLUM

The increase in the number of asylum applications lodged in 2013 was a topic picked up on by the Austrian press in mid-2013.[103] Considering the annual statistics, however, there was only a marginal increase by 0.5 per cent in 2013 (17,503) compared to the previous year (17,413). Over the past years, the number of asylum applications has decreased since the record year 2002 (39,354) reaching low points in 2007 (11,921) and 2010 (11,012). Since then, the numbers increased slightly (17,503 applications in 2013). Over the last three years, the top three nationalities seeking asylum were from the Russian Federation, Afghanistan and Pakistan. However, with the increasing number of Syrian nationals applying for asylum in Austria (see Figure 4), in 2013 the Syrian Arab Republic replaced Pakistan in the above list.

Figure 3: Number of asylum applications, 2000–2013
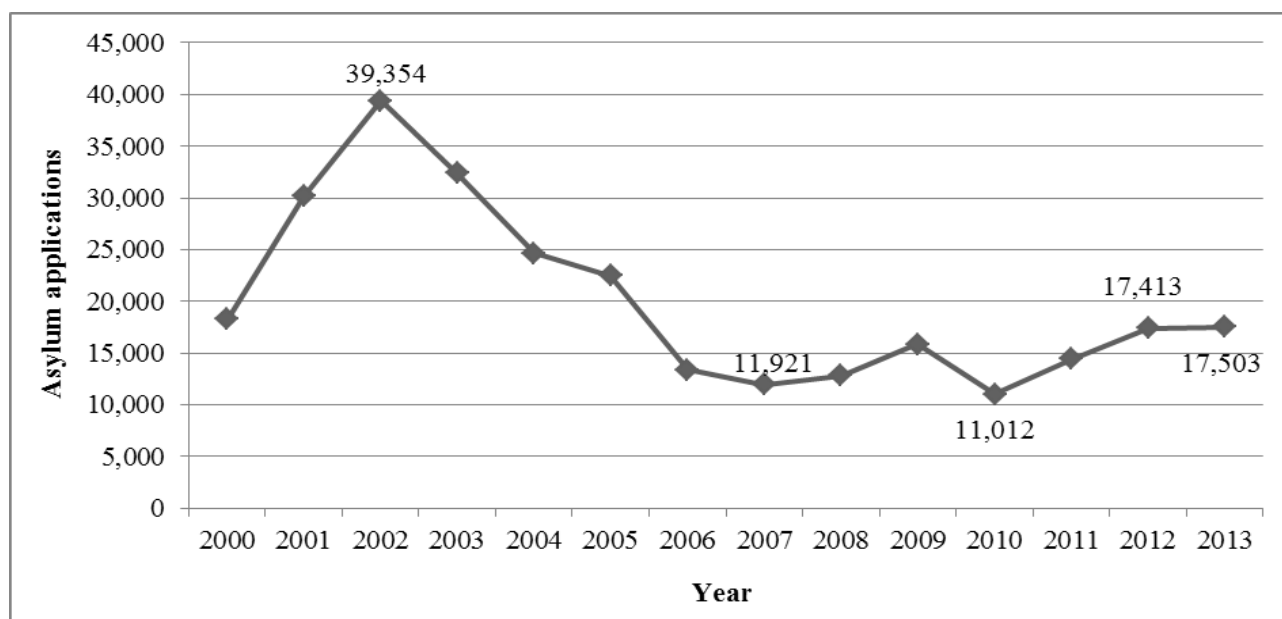
As in previous years, Austria considered itself to be one of the most burdened Member States in 2013 in terms of the total number of asylum applications and, in particular, the number of asylum-seekers per capita in a European comparison.[104] According to data provided by Eurostat, among the EU-28, Austria ranked eighth in 2013 in relation to the absolute number of asylum applications, and between third (Q1/2013 and Q4/2013) and fourth (Q2/2013 and Q3/2013) in relation to asylum applications per million inhabitants.[105] With regard to asylum applications per 1 USD/GDP per capita, Austria ranked ninth out of 28 EU Member States according to data from the United Nations High Commissioner for Refugees (UNHR) (UNHCR, 2014: 22).

4.1 International protection procedures

A major upcoming institutional change with regards to international protection procedures in Austria is the establishment of the Federal Office for Immigration and Asylum as of 1 January 2014 (see also 2.1). This change was already stipulated by the Act on the Restructuring of the Aliens

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[103] See, for example, Kurier, *Asyl: Zahl der Anträge steigt weiter*, 2 June 2013, p. 2
[104] Federal Ministry of the Interior, December 2013.
[105] Eurostat, Asylum applicants and first instance decisions on asylum applications: 2013, *Data in focus 3/2014*, available at http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-QA-14-003/EN/KS-QA-14-003-EN.PDF (accessed on 25 March 2014).

Authorities[106] in 2012.[107] In 2013, the preparatory works for the establishment were finalized. According to the Article 3 of the Act Establishing the Federal Office for Immigration and Asylum[108] and Article 3 of the Act on the Procedures of the Federal Office for Immigration and Asylum,[109] the Federal Office will be the single authority competent for first instance asylum procedures, aliens police matters and humanitarian stay. More precisely, the Federal Office will have the following tasks:

- First instance asylum procedures;
- Dublin procedures and communication with other European authorities;
- Authority for basic welfare support;
- Decisions regarding humanitarian and tolerated stay;
- Decisions in aliens police matters, including return;
- Issues related to voluntary return;
- Decisions on custody pending deportation; and
- Issuing of documents such as convention travel documents.

The Federal Office reports to the MoI and has its headquarter in Vienna. It is subdivided into three Initial Reception Centres (EAST East in Traiskirchen, EAST West in Thalham and EAST Airport at Vienna International Airport Schwechat) and nine Regional Offices (Vienna, Lower Austria, Upper Austria, Burgenland, Styria, Carinthia, Salzburg, Tyrol and Vorarlberg) with approximately 630 employees.

The Federal Office for Immigration and Asylum combines the competencies of the 194 authorities that were previously responsible for asylum and aliens matters. The reason for establishing the Federal Office was to establish more efficient and less cost-intensive procedures. Also, the fact that one officer is now responsible for all procedures concerning one case aims to speed up procedures.[110] The Austrian print media published on the new Federal Office and raised – among others – the issue of how to deal with the pending cases of the former Federal Asylum Office.[111]

Further to the Federal Office, as of 1 January 2014 a central Federal Administrative Court handling all appeals against decisions of the Federal Office was established, as stipulated by the 2012 Amendments to the Administrative Jurisdiction,[112] thereby replacing the former Asylum Court.[113] This change is part of a broader restructuring stipulated by the Amendments to the Administrative Jurisdiction, which establishes a two-tier system of nine administrative courts, one in each federal province, and one administrative (i.e. the Federal Administrative Court) and one finance court at the federal level. They replace the approximate 120 administrative bodies and senates that were, until now, in charge (Eberhard, 2013: 163). The Administrative High Court is reinstated as the last instance, as it was before the establishment of the Asylum Court in 2008. According to the press coverage, it is assumed that these reforms will lead to more legal security for asylum-seekers.

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[106] FLG. I No. 87/2012.

[107] See International Organization for Migration (2013), *Austria Annual Policy Report 2012*, IOM, Vienna, p. 8–9, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 11 March 2014).

[108] FLG. I No. 87/2012, in the Version of FLG. I No. 68/2013.

[109] FLG. I No. 87/2012, in the Version of FLG. I No. 144/2013.

[110] Federal Ministry of the Interior, *Bundesamt für Fremdenwesen und Asyl nimmt am 1. Jänner 2014 Arbeit auf*, Press Release, 27 December 2013, available at www.ots.at/presseaussendung/OTS_20131227_OTS0092/bundesamt-fuer-fremdenwesen-und-asyl-nimmt-am-1-jaenner-2014-arbeit-auf (accessed on 28 March 2014).

[111] Salzburger Nachrichten, *Lösung für 130 Asylwerber gesucht*, 17 December 2013, p. 8.

[112] FLG. I No.51/2012.

[113] Federal Ministry of the Interior, December 2013.

However, representatives of asylum-seekers criticized the complexity of the regulations, despite the reform's aim to simplify the levels of jurisdiction.[114]

4.2 Reception of applicants for international protection

4.2.1 Humanitarian Admission Programme for Syrian refugees

In September 2013, Austria decided to grant asylum to 500 Syrian refugees who – at that time – lived in the Syrian Arab Republic and the neighbouring countries. This was the first, and so far only, Humanitarian Admission Programme carried out by Austria. Consequently, the response in the media was quite intense.

The focus of the programme lies in admitting particular vulnerable persons and is/will be implemented in two phases as follows:

(1) 250 Syrian refugees, mainly vulnerable Christian minorities, will be admitted to Austria as family reunification cases in cooperation with the church (mainly the Syrian-Orthodox church);

(2) 250 Syrian refugees who are in special need of protection, and who are registered with UNHCR in Jordan, will be admitted in cooperation with UNHCR.

In both phases, IOM is carrying out the travel arrangements.[115]

In early December 2013 the MoI reported that in cooperation with IOM, half of the persons to be admitted under the first phase (i.e. 118 Syrian refugees) had been received in Austria. At that stage, the second phase of the programme, implemented in cooperation with UNHCR, had already been started.[116]

Following the Foreign Minister and Vice Chancellor's (ÖVP) announcement on 29 August 2013 that Austria would admit 500 Syrian refugees, the topic has been intensively covered by the Austrian print media and discussed by several stakeholders well into 2014. The press emphasized the cooperation of the MoI with IOM and UNHCR with regards to the implementation of the Humanitarian Admission Programme, and its focus on particular vulnerable persons such as women, children and Christians.[117] The focus on vulnerable Christians provoked particularly extensive discussion, which was covered by the press. Politicians from the Austrian Green Party, the Social Democratic Party of Austria and Team Stronach – but also representatives of Caritas, Diakonie and the Austrian Red Cross – argued that the selection of Syrian refugees to be admitted to Austria should not be based on their religious affiliation.[118] The MoI (ÖVP) instead stressed that Christians are a particularly vulnerable group and must, therefore, be privileged. This would not mean, however, that non-Christians would be excluded. This approach was supported by the Foreign Minister and Vice Chancellor (ÖVP) and the Austrian Freedom Party.[119] Furthermore, the number of Syrian refugees to be admitted was criticized as being too low, especially in comparison to other EU Member States, such as Germany and Sweden. The Federal President (SPÖ), the

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[114] Der Standard, *Asylwerber erhalten volles Beschwerderecht zurück*, 27 November 2013, p. 40; Der Standard, *Neue Gerichte nehmen den Behörden Macht ab*, 27 November 2013, p. 39.

[115] Federal Ministry of the Interior, *Q&A Humanitäre Aktion Syrien*, Press Release, available at www.bmi.gv.at/cms/cs03documentsbmi/1417.pdf (accessed on 1 November 2013); UNHCR (n.d.), *Humanitarian Admission Programme Syria*, available at www.unhcr.at/aussyria (accessed on 13 March 2014).

[116] Federal Ministry of the Interior, *Syrienkrise: Österreich nimmt die ersten 250 Flüchtline auf*, News, available at www.bmi.gv.at/cms/BMI_news/BMI.aspx?id=3875795934784A324541383D&page=20&view=1 (accessed on 5 March 2014).

[117] See, for example, Österreich, *Österreich nimmt 500 Flüchtlinge aus Kriegsgebiet auf*, 30 August 2013, p. 8; Kleine Zeitung, *Vorrang für syrische Christen bleibt*, 9 September 2013, p. 4.

[118] See, for example, Wiener Zeitung, *Syrer können auf Europa hoffen*, 5 September 2013, p. 6.

[119] See, for example, Der Standard, *Rückendeckung für Obama*, 4 September 2013, p. 1.

political party Neos, the Austrian Green Party, Caritas, Diakonie, and UNHCR were among those calling for an increase from 500 Syrian refugees to be admitted. The MoI (ÖVP) and FMLSC (SPÖ) rejected these demands.[120]

Besides the Humanitarian Admission Programme, in 2013, Syrian nationals lodged 1,991 asylum applications in Austria. Since the start of the 2011 uprising in the Syrian Arab Republic and the following violent conflict, the number of asylum applications lodged by Syrians almost quintupled. The rate of positive decisions (i.e. granting of asylum status) was relatively stable at 76 per cent in 2013, compared to 82 per cent in 2012 and 77 per cent in 2011.[121]

Figure 4: Number of asylum applications lodged by Syrian nationals, 2011–2013
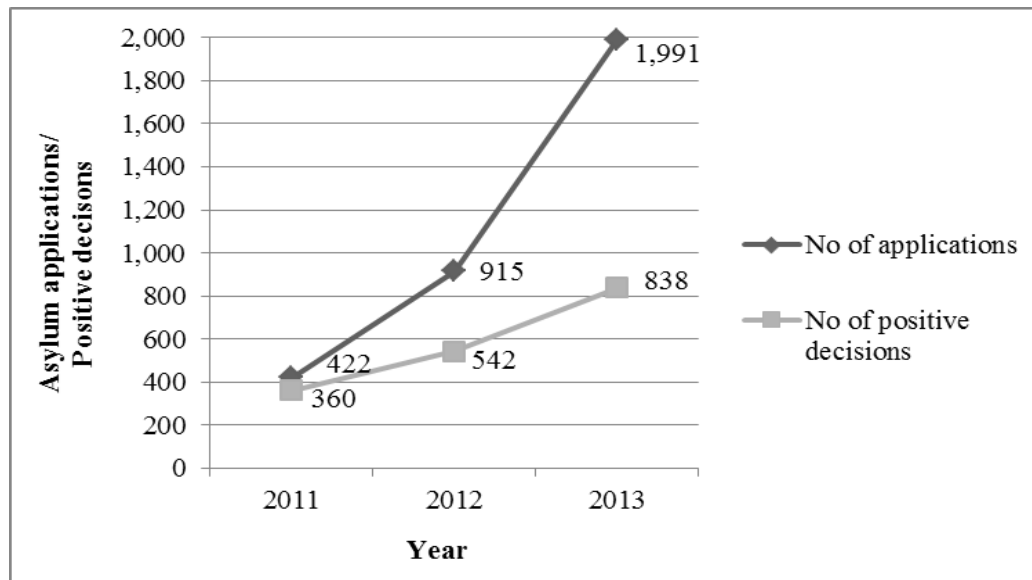
Source: MoI.

At the same time, the press reported on the Austrian practice of rejections at the Austrian-Italian border. The number of Syrian migrants intending to continue their journey towards northern Europe had, in particular, increased according to these reports.[122]

4.2.2 Reception conditions

In November 2012, the findings of an investigation about reception conditions in Austria carried out by the association *Dossier*[123] received some media attention. *Dossier* visited 98 reception facilities in the provinces of Burgenland, Lower Austria and Salzburg and found that one-third of the facilities had severe defects. Such defects included, for example, mildew, loose power supply lines, old mattresses with holes, poor nutrition, overcrowding, isolated locations and a lack of integration measures.[124] The reactions of the civil society and politicians were covered by the Austrian print media. For example, the lack of common minimum standards and independent control institutions was criticized by the Austrian Green Party and NGOs.[125]

Caritas Austria and Amnesty International furthered the discussion around the quality of reception facilities. On 20 June 2013 – World Refugee Day – they presented a five-point programme

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[120] See, for example, Wiener Zeitung, *Neos starten Syrien-Debatte*, 20 September 2013, p. 10.
[121] Please note that the total number of decisions in one year, which is the basis for calculating the percentage of positive decisions, does not match the number of asylum applications lodged in that year because the decision may not be taken in the same year.
[122] See, for example, Österreich, *Hunderte Syrer abgeschoben*, 8 October 2013, p. 7.
[123] Dossier is an association supporting investigative and data journalism (www.dossier.at, accessed on 22 January 2014).
[124] See, for example, Der Standard, *Grobe Mängel in einem Drittel aller Asylpensionen*, 14 November 2013, p. 10.
[125] See, for example, Die Presse, *Asyl: Ruf nach Mindeststandards*, 15 November 2013, p. 9.

demanding improvements relating to access to the labour market, increased quality of basic welfare support – including quality standards for reception and supervision, improved asylum application procedures, access to education, and a common EU asylum policy that is in line with human rights provisions.[126]

With regard to reception conditions in Austria, the protest spearheaded by a group of asylum-seekers that, in late November 2012, had created huge media response at the time,[127] was continued into 2013. Throughout the year, the Austrian print media reported about their protest. At the beginning of 2013, around 40 asylum-seekers continued their occupation of the Votiv Church in Vienna, with 14 engaged in a hunger strike. Their demands concerned humane reception conditions, access to the labour market and a cessation of deportations. However, a meeting that took place between the MoI and representatives of the asylum-seekers in early January ended without any concrete outcome.[128] The public and political opinion, and media reporting were divided. Some supported the protesters, considering their claims were legitimate, while others accused activists and politicians of misusing the asylum-seekers to reach their own aims.[129] Following a letter from the Federal President (SPÖ), in which he showed concern for their severe health conditions, the asylum-seekers stopped their hunger strike in February, and moved in early March from the Votiv Church into an alternative shelter offered by Caritas.[130]

After receiving a final negative decision on their claims, eight members of the protest group were deported to Pakistan, prompting extended press coverage in July and August. The media reporting was controversial. Some stakeholders, such as the President of the National Council (SPÖ), the Austrian Green Party, Caritas, Diakonie and some lawyers, considered Pakistan to be a non-safe country and called for asylum procedures that looked into the single case.[131] The Minister of the Interior (ÖVP) and Foreign Minister and Vice Chancellor (ÖVP), however, offered assurances that every single case had been examined and that the law had been followed.[132] The Austrian Freedom Party and the Alliance for the Future of Austria supported the deportation.[133]

In October it was announced that the remaining 24 asylum-seekers needed to leave their shelter by the end of the month. Caritas offered support in finding alternative housing but accommodation suitable for the whole group could not be identified, as wished by the asylum-seekers.[134] What followed was another occupation, this time of the Academy of Fine Arts in Vienna, with the support of students and others. The asylum-seekers renewed their demands and then, in early November, dissolved the occupation.[135] They were placed in different reception facilities provided by the provinces but vowed to continue their joint protest.[136]

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[126] Caritas Austria, *Fünf-Punkte-Programm – Initiative Zukunft Asyl*, 13 June 2013.

[127] See International Organization for Migration (2013), *Austria Annual Policy Report 2012*. IOM, Vienna, p. 21–22, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 11 March 2014).

[128] See, for example, Der Standard, *Camp-Räumung "höchst bedenklich"*, 3 January 2013, p. 10; Kleine Zeitung, *Mikl-Leitner lud Flüchtlinge ins Ministerium*, 3 January 2013, p. 4.

[129] See, for example, Die Presse, *Strache fordert Zwangsernährung für Asylwerber*, 7 January 2013, p. 5.

[130] See, for example, Der Standard, *Fischer schreibt an Flüchtlinge in Kirche: Nehmt Hilfe an*, 14 February 2013, p. 1; Salzburger Nachrichten, *Asylwerber zogen aus der Votivkirche aus*, 4 March 2013, p. 1.

[131] See, for example, Der Standard, *Abschiebungen: Ministerium sieht keine Gefahr*, 30 July 2013, p. 1; Wiener Zeitung, *„Asyl ist 50 Prozent Glück"*, 8 August 2013, p. 13.

[132] See, for example, Profil, *"Ihr habt mich in den Tod zurückgeschickt"*, 12 August 2013, p. 30–31.

[133] Salzburger Nachrichten, *Abschiebung der Kirchenbesetzet lost neue Asyldebatte aus*, 30 July 2013, p. 1.

[134] See, for example, Wiener Zeitung, *Erste Flüchtlinge ausgezogen*, 29 October 2913, p. 20.

[135] See, for example, Kronen Zeitung, *Asylwerber besetzen Akademie*, 31 October 2013, p. 14.

[136] See, for example, Die Presse, *Akademie nicht mehr besetzt*, 6 November 2013, p. 8.

Against the background of the ongoing protest against reception conditions, and the quality assessments that were carried out, a thematic working group of the Federal Government-Province Coordination Council[137] was created to focus on these issues. The working group aims at developing universal quality criteria for reception facilities across Austria.[138]

4.3 Integration of asylum applicants and persons with international protection status

In March 2013, the FMLSC (SPÖ) issued a decree allowing asylum-seekers up to the age of 25 to take-up vocational training in occupations where there is a shortage of apprentices. The general rules on labour market access for asylum-seekers remained unchanged. Hence, access to vocational training is only granted if the applicant is admitted to the asylum procedure for at least three months and if a labour market test has been passed. The changes were adopted because previous experience shows that an age limit of 18 was too narrow to adequately encompass the target group.[139] It was only in 2012 that the FMLSC (SPÖ) issued a decree granting minor asylum-seekers access to vocational training for the first time, under the conditions as described above.[140]

The Austrian press reported the new decree. The MoI (ÖVP) was concerned that the new regulations would not be in line with the current labour market situation, a position that was shared by the Austrian Freedom Party. Others, such as Caritas, welcomed the decision to extend the access to vocational training to asylum-seekers up to 25 years of age. Moreover, they stressed that this was not enough, but that the restriction of only granting access to employment in specific sectors should be invalidated and that labour market access for asylum-seekers should be broadened in general.[141]

By January, the press was already reporting on the discussions to increase access to the labour-market for asylum-seekers, which was supported by a broad range of political stakeholders such as the FMLSC (SPÖ), the Austrian Green Party and the Social Democratic Party of Austria.[142] This was, however, opposed by the MoI (ÖVP) who argued that asylum-seekers did not exhaust the options of seasonal occupation in tourism, agriculture or forestry, or of becoming self-employed.[143]

4.4 Measures to implement aspects of the CEAS

In February 2013, Mr. Wolfgang Taucher, Director of the Austrian Federal Asylum Office, was appointed to the position of Chair of the Management Board of the European Asylum Support Office (EASO).[144] Overall, Austria is actively supporting other Member States in the framework of EASO Asylum Support Teams. In 2013, for example, Austrian experts supported the implementation of the Operational Plan Phase II for Greece in the fields of management of the

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[137] The task of the Federal Government-Province Coordination Council is to ensure cooperation and information exchange on the reception matter between the federal and provincial level and to find solutions to practical challenges (Art. 5 Basic Welfare Support Agreement).

[138] Federal Ministry of the Interior, December 2013.

[139] Federal Ministry of Labour, Social Affairs and Consumer Protection, *Erweiterung der Beschäftigungsmöglichkeiten für Asylwerber/innen; Altersgrenze für jugendliche Asylwerber/innen*, BMASK-435.006/0005-VI/B/7/2013, available at www.wko.at/Content.Node/branchen/ooe/Altersgrenze_fuer_jugendliche_Asylwerber.pdf (accessed on 11 December 2013).

[140] See International Organization for Migration (2013), *Austria Annual Policy Report 2012*, IOM, Vienna, p. 22, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 11 March 2014).

[141] See, for example, Der Standard, *Lehre bis 25 für Asylwerber: Caritas für Hundstorfer-Erlass*, 13 April 2013, p. 11.

[142] See, for example, Wiener Zeitung, *Arbeitserlaubnis für Flüchtlinge?*, 22 January 2013, p. 13.

[143] Der Standard, *Asylwerber und der Arbeitsmarkt*, 16 February 2013, p. 10; In Austria, asylum-seekers have access to self-employment and employment three months after the applicant has been admitted to the asylum procedure. Employment is, however, only possible in selected occupations with quota-regulated work permits, i.e. seasonal work in tourism, agriculture or forestry, and only if a labour market test has been passed (Koppenberg, 2014: 66).

[144] Federal Ministry of the Interior, *Wolfgang Taucher neuer Direktor des Bundesamts für Fremdenwesen und Asyl*, Press Release, 17 June 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=654B3854466C52666D65343D&page=31&view=1 (accessed on 1 November 2013).

second instance, country of origin information (COI) and language analysis. Austria also provided one COI expert to support Bulgaria in this field.[145]

In October 2013, the Austrian print media extensively covered the incident that caused the death of several hundred migrants off the Italian island Lampedusa. In a reaction to the disaster, Austrian NGOs and charities organized a vigil in front of the MoI to express their resentment of the EU's asylum policy.[146] The press reported on the subsequent measures taken by the EU, such as targeted financial support for Italy and discussions around further developing the Common European Asylum System (CEAS).[147] Some individuals, however, were concerned that the EU was not properly addressing the issue of irregular migration towards Europe,[148] stating that the reasons that forced people to leave their countries (such as lack of governance, poverty and hunger) must be addressed.[149] Further criticisms encompassed the lack of focus and progress in regards to combatting the smuggling networks that profit from the misery of migrants. Also the need to further extend support to Frontex was raised.[150] In the course of discussing CEAS, the press reported on Austrian considerations. While Austria was not interested in changing the Dublin Regulation,[151] the Minister for the Interior (ÖVP) and the Minster for Foreign Affairs (ÖVP) stressed that Austria was one of the main receiving countries in the EU (see also above) and that a fairer distribution mechanism was needed.[152]

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[145] Federal Ministry of the Interior, December 2013.
[146] Österreich, *Caritas gedenkt der Lampedusa-Opfer*, 5 October 2013, p. 8.
[147] See, for example, Wiener Zeitung, *EU-Spitze besucht Lampedusa*, 10 October 2013, p. 8.
[148] See, for example, Format, *Wo die EU versagt*, 11 October 2013, p.23.
[149] See, for example, Salzburger Nachrichten, *Ursachen der Migration an der Wurzel packen*, 7 October 2013, p. 1.
[150] See, for example, Kronen Zeitung, *Kriegsflüchtlinge oder Armutsmigranten?*, 20 October 2013, p. 8.
[151] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.
[152] See, for example, Salzburger Nachrichten, *Österreich bremst beim Asyl*, 9 October 2013, p. 10.

5. UNACCOMPANIED MINORS

The number of asylum applications lodged by unaccompanied minors (UAMs) fell to 1,187 in 2013, a number, however, still above the low-point of 2010 (943). This is a decrease of 33 per cent from the previous year. As the figure below shows, the developments in asylum applications lodged by UAMs has fluctuated over the past ten years, reaching a high point in 2012 (1,781). The top three nationalities of UAMs applying for asylum in Austria over the last three years were Afghanistan, Algeria and Pakistan. With the increasing number of Syrian nationals applying for asylum in Austria (see Figure 4), the Syrian Arab Republic replaced Pakistan as third main nationality applying for asylum in 2013.

Figure 5: Number of asylum applications lodged by UAMs, 2004–2013
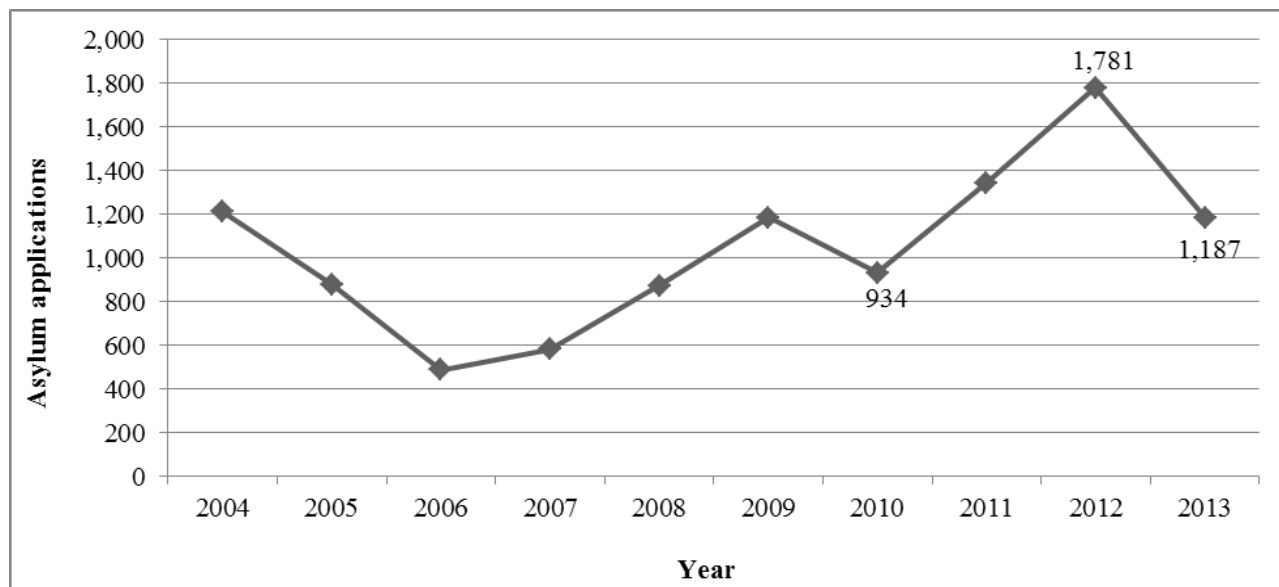
Source: MoI.

In Austria, age assessments are carried out in order to verify whether those persons lodging an asylum application claiming to be a minor, can be recognized as such. The assessment is based on a multi-factorial examination, including radiological methods, as provided for under Article 15 para 1(6) Asylum Act 2005. As displayed in Figure 6, in 2013 999 of the 1,187 persons applying for asylum in Austria as UAMs were found to be adults.

Figure 6: Number of UAMs applying for asylum, recognized as minors and as adults, 2013
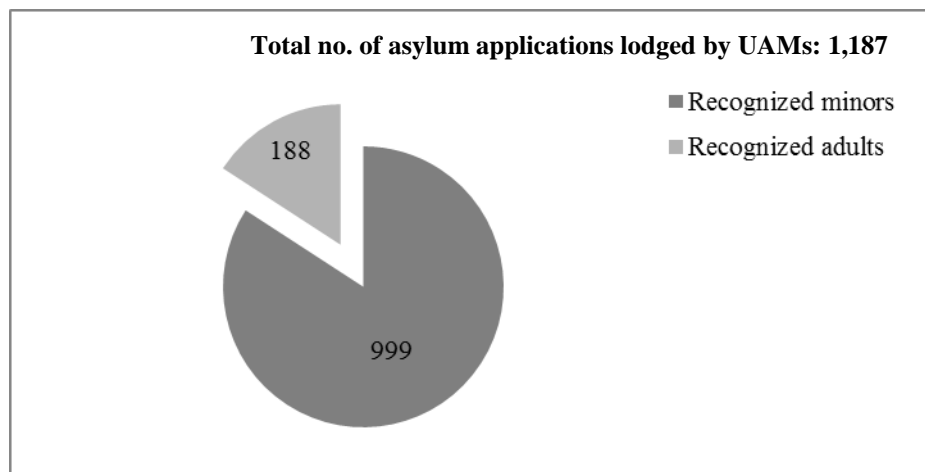
Source: MoI.

In October 2013, an expert opinion commissioned by UNHCR[153] regarding two studies on age assessment procedures in Austria was published. The authors of the expert opinion found that the two reference studies they analyzed showed several shortcomings with regards to compliance with the scientific standards set by the *Arbeitsgemeinschaft für Forensische Altersdiagnostik der Deutschen Gesellschaft für Rechtsmedizin* (AGFAD). They found inter alia that the sample was not representative and not to be generalized. Furthermore, they claimed that the samples were too small to allow them to evaluate the possibility of false diagnosis. The authors suggest running a replication of the studies considering, also, the practical implementation of the assessment, so as to build a profound basis for proposals regarding age assessment procedures in Austria (Ponocny, Ponicny-Seliger, 2013).

In 2013, several national and international projects focusing on specific issues regarding UAMs were implemented in Austria. For example, IOM Vienna implemented the second phase of the project "Cultural Orientation Trainings for Unaccompanied Minor Refugees – CulTrain." The project provides unaccompanied or aged-out minors (with recognized refugee or subsidiary protection status) with information about Austrian society and culture through cultural orientation training, in order to facilitate their integration process into Austrian society. The project is co-funded by the European Refugee Fund and the MoI.[154] Furthermore, in 2013 the MoI and the European Refugee Fund extended their support to a quality assurance project that aims to assist authorities in developing their procedures for processing asylum applications of unaccompanied minors (UBAUM). The project was implemented by UNHCR in cooperation with the Federal Asylum Office.[155] From December 2012 to December 2014, Austria has participated in the project "Closing a Protection Gap 2.0," which was financed by the EU's "Combating Violence Towards Children, Adolescents and Women: Daphne III Programme" (2007–2013) and implemented in cooperation with the Netherlands (project coordinator), Belgium, Cyprus, Germany, Ireland, Portugal and Slovenia. During the first project phase (2009–2011), ten core standards for the guardians of separated children were instituted; the project then developed country reports focussing on their implementation in the practice, legislation and policy of the participating States.[156] The Austrian country report found inter alia that, despite a favourable legal framework, most of the standards are not – or only partially – implemented (Fronek, Rothkappel, 2013: 40–41).

With regards to family tracing, Austria has started developing internal guidelines for caseworkers on family tracing so as to transpose Article 31 para 5 of the Qualifications Directive.[157] Throughout 2013, several fruitful EASO meetings on the topic of family tracing offered contributions and input to these guidelines.[158] The implementation of a project with specific focus on family tracing commenced in 2013. The project, called "Enhancing Capacities in EU Member States and Third Countries to Promote Durable Solutions for Unaccompanied Minors," aims to identify good

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[153] According to UNHCR guidelines, procedures of age assessment must comply with scientific standards (UNHCR (2009), *Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, HCR/GIP/09/08, available at www.refworld.org/docid/4b2f4f6d2.html (accessed on 31 March 2014).

[154] For further information see International Organization for Migration - Country Office for Austria, *Integration - Ongoing Projects*, available at www.iomvienna.at/en/aktivitaeten/integration/laufende-projekte (accessed on 14 March 2014).

[155] Federal Ministry of the Interior, December 2013.

[156] Seperated Children in Europe Programme (SCEP, n.d), *Closing a Protection Gap 2.0*, available at www.scepnetwork.org/p/1/94/guardianship (accessed on 31 March 2014)

[157] Directive 2011/95/EU of the European Parliament and of the Council on 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

[158] Federal Ministry of the Interior, December 2013.

practices in family tracing, and assessment, and in establishing an enhanced reintegration approach. The project was implemented by IOM in the EU Member States Austria, Belgium, Hungary, Italy and The Netherlands, and the third countries Afghanistan, Albania, Iraq, UNSC resolution 1244-administered Kosovo[159] and Pakistan; it is co-funded by the European Return Fund, the Austrian MoI and others.[160]

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[159] Hereinafter referred to as Kosovo/UNSC 1244.

[160] International Organization for Migration - Country Office for Austria, *Family Tracing - Enhancing capacities in EU Member States and third countries to promote durable solutions for unaccompanied minors*, available at http://iomvienna.at/de/aktivitaeten/161-laufende-projekte/unbegleitete-minderjaehrige35/656-family-tracing-enhancing-capacities-in-eu-member-states-and-third-countries-to-promote-durable-solutions-for-unaccompanied-minors-through-identification-of-good-practices-in-family-tracing-and-assessments-as-well-as-the-provision-of-an-enhanced-reintegrat (accessed on 15 April 2014).

6. ACTIONS ADDRESSING TRAFFICKING IN HUMAN BEINGS

6.1 National initiatives

Located at the centre of Europe, Austria is affected by trafficking in human beings as both a transit and destination country. According to the FMEIA, human trafficking in Austria is mostly related to sexual exploitation, slavery-like treatment of domestic servants and child trafficking. Labour exploitation has received much less policy and media attention than the above mentioned aspects of trafficking. In order to coordinate and intensify measures in Austria to combat human trafficking, the Task Force on Combating Human Trafficking was set up in November 2004 under the leadership of the FMEIA. The Task Force is in charge of the development and implementation of National Action Plans. Currently, the third "National Action Plan to Combat Trafficking in Human Beings (2012-2014)" is active.[161] In 2013 a new working group on Trafficking for the Purpose of Labour Exploitation was established within the national Task Force on Combating Human Trafficking, as foreseen by the third National Action Plan. NGOs, international organizations and Social Partners participate in this working group.[162]

As in previous years, the Task Force on Combating Human Trafficking has organized several public information events. For example, in April 2013, an exhibition entitled "Human Trafficking – Slavery in the 21st Century" targeting students age 15 and upwards, took place in the Federal Ministry for Education, Arts and Culture.[163] In addition, for the sixth time, a public event took place on the EU Anti-Trafficking Day in October. The Task Force on Combating Human Trafficking, in cooperation with IOM Vienna, organized an event titled "Joining Forces Against Human Trafficking". This year, the event focused on the topic of human trafficking for the purpose of labour exploitation,[164] which was covered by the media.[165]

As with adult victims of trafficking, it is, according to the BMEIA, difficult to identify trafficked children,[166] which is a necessary prerequisite for providing them the assistance that they need. As one supporting measure, in 2013 the Working Group on Child Trafficking (a subgroup of the Task Force on Combating Human Trafficking) updated the informal brochure published by the Federal Ministry for Economy, Family and Youth, "Child Trafficking in Austria". The brochure provides background information and a checklist to identify trafficked children for different authorities in Austria that could come into contact with the potential target group.[167]

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[161] Federal Ministry for Europe, Integration and Foreign Affairs (n.d.), *Integration and Foreign Affairs, Combatting Trafficking in Human Beings*, available at www.bmeia.gv.at/en/foreign-ministry/foreign-policy/human-rights/main-human-rights-issues/combatting-trafficking-in-human-beings.html (accessed on 14 March 2014).

[162] Federal Ministry of the Interior, December 2013.

[163] Federal Ministry of the Interior, *Bundeskriminalamt informiert Schülerinnen und Schüler zum Thema Menschenhandel*, Press Release, 30 April 2013, available at
www.bmi.gv.at/cms/bk/_news/start.aspx?id=583058732B3746755734673D&page=7&view=1 (accessed on 1 November 2013).

[164] Austrian Development Cooperation, *Gemeinsam gegen Menschenhandel*, Press Release, October 2013, available at www.entwicklung.at/aktuelles/gemeinsam-gegen-menschenhandel/ (accessed on 1 November 2013); Federal Ministry for European and International Affairs et al., *Gemeinsam gegen Menschenhandel – Joining Forces against Human Trafficking*, Press Release, October 2013, available at http://bim.lbg.ac.at/files/sites/bim/Menschenhandelskonferenz%20Task%20Force_2013.pdf (accessed on 1 November 2013).

[165] See, for example, Der Standard, *Vielfach unerkannte modern Sklaverei*, 21 October 2013, p. 2

[166] Federal Ministry for Europe, *Integration and Foreign Affairs, Combatting Trafficking in Human Beings*, available at www.bmeia.gv.at/en/foreign-ministry/foreign-policy/human-rights/main-human-rights-issues/combatting-trafficking-in-human-beings.html (accessed on 14 March 2014).

[167] Federal Ministry for Economy, Family and Youth (2013), *Kinderhandel in Österreich*, available at www.bmeia.gv.at/fileadmin/user_upload/bmeia/media/2-Aussenpolitik_Zentrale/Menschenrechte/Kinderhandel_Neuauflage-D-Web.pdf (accessed on 14 March 2014).

6.2 Cooperation with third countries

Austria signed an agreement with Thailand on international police cooperation on combating trafficking in human beings. In May 2013, six experts from the Thai police came to visit Austria, where they learnt about Austrian measures and strategies in place to address human trafficking – such as investigations targeting international smugglers, the link between human trafficking and prostitution, and cooperation with asylum authorities and civil society actors. The Thai police experts' visit aimed to facilitate knowledge and strategy exchange in combating human trafficking and to intensify cooperation in this field.[168]

Furthermore, in September 2013, the head of the Austrian Central Office for Trafficking in Human Beings and Alien Smuggling within the Federal Criminal Intelligence Service participated in a seminar on combating human trafficking in Beijing (People's Republic of China). The training was organized by IOM together with representatives of the Ministry of Public Security in China and local provinces. The United Kingdom and Belgium also participated. Given the number of trafficked Chinese nationals in Europe (according to Eurostat data, China was among the top three non-EU citizenships of identified trafficked persons in the EU in 2008, 2009 and 2010),[169] the seminar focused on improving the cooperation between European and Chinese authorities.[170]

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[168] Federal Ministry of the Interior, *Kooperation mit Thailand in der Bekämpfung des Menschenhandels*, Press Release, 10 May 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=52387534584F75767049733D&page=48&view=1 (accessed on 1 November 2013).

[169] European Commission, *Trafficking in human beings*. Eurostat Methodologies and Working Papers 2013 edition, p. 51, available at http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf (accessed on 25 March 2014).

[170] Federal Ministry of the Interior, *Kampf gegen Menschenhandel: Führungskraft des Budeskriminalamtes bei Training in Peking*, Press Release, 27 September 2013, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=65623439545470466770343D&page=2&view=1 (accessed on 1 November 2013).

7. MIGRATION AND DEVELOPMENT POLICY

In December 2013, the Working Group on Migration and Development, a group consisting of several NGOs, church-based aid organizations and international organizations in Austria, launched its "Position Paper on Migration and Development". In their paper, the group puts forward recommendations for state and non-state actors in the following areas: (i) coherence between development cooperation and migration policies, (ii) collaboration between development cooperation and diaspora organizations, (iii) funding for diaspora organizations, (iv) capacity building for diaspora organizations in development cooperation, (v) awareness-raising and (vi) support to remittances as a factor for migration and development (Global Responsibility, 2013).

In early 2013, the communication and educational work of the Austrian Development Agency (ADA) in Austria focused on the topic of migration and development. NGO initiatives, in which awareness was raised about the reasons for and the consequences of international migration among the Austrian public, were funded.[171] In 2013, ADA also continued to support the transnational Initiative for Migration and Development (CoMiDe), which aims to enhance coherent migration and development policies in four European countries. Its objective is to initiate cooperation between development NGOs, migrant organizations and communities in Italy, Slovenia, Slovakia and Austria.[172] A further initiative financed by ADA was, for example, the "Pan African Forum – Action Programme 2013". This was a dialogue and culture programme organized by the Pan-African Forum in Austria for Culture and Development Policy (PANAFA) that took place in Vienna in 2013. Activities included information and dialogue events, an exhibition of African art, a culture programme for children and adults, as well as a symposium on the discourse of diaspora driven development in Africa. Primary target audiences were the African diaspora and children and teenagers, as well as the wider public.[173]

In 2013, the Federal Ministry of Finance provided financial support for migration and development initiatives. More precisely, it supported the World Bank Remittances Programme and particularly the execution of studies and the dissemination of information in the area of remittances in the Europe and Central Asia region.[174]

Against the background of the 2nd UN High Level Dialogue on International Migration and Development that took place on 3 and 4 October, and on the occasion of the International Migrants Day, IOM Vienna together with FMEIA organized an event on 17 December 2013 titled "Migration & Development – An Outlook. Potentials of the 2nd UN High-level Dialogue on International Migration and Development 2013 for Austria". The event provided expert speeches on the outcomes of the 2nd UN High-level Dialogue on International Migration and Development and presented the findings of the IOM World Migration Report 2013 titled "Migrant Well-Being and Development" so as to engage the audience in discussion about the future possibilities and impacts for Austria.[175]

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[171] Federal Ministry for European and International Affairs, December 2013.
[172] Ibid.
[173] Austrian Development Cooperation, *Projektliste, Pan African Forum – Aktionsprogramm 2013*, available at www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfirecdlist_pi1[showUid]=755&cHash=16f1c6208933977fc794ae9c6d73fc7f (accessed on 14 March 2014).
[174] Federal Ministry for European and International Affairs, December 2013.
[175] International Organization for Migration - Country Office for Austria, *Migration and Development*, available at www.iomvienna.at/en/aktivitaeten/migration-und-entwicklung/laufende-projekte (accessed on 14 March 2014).

8. IRREGULAR MIGRATION

8.1 Developments at national level

The Austrian print media regularly reported on irregular migration to Austria. Articles communicated the cases of arrested smugglers in different provinces, stating their nationality and routes, as well as the nationality of apprehended smuggled migrants.[176] Official numbers were presented by the Federal Criminal Intelligence Service's annual report on migrant smuggling. The report includes information on smugglers, smuggled migrants and irregular migrants, as well as smuggling routes. The annual report is mainly based on data from the Federal Criminal Intelligence Service's smuggling database and on official acts carried out by the Federal Criminal Intelligence Service, on its own or in cooperation with provincial Offices of Criminal Investigation, and/or foreign authorities.[177]

In 2012, 235 smugglers were apprehended, 18 per cent fewer than in 2011. As the report explains, the reason lies in the changed smuggling strategy that, nowadays, focusses on smuggling large groups of migrants. The number of apprehended smuggled migrants, on the contrary, increased during the same time period by 26 per cent (9,812 smuggled migrants in 2011 and 12,426 in 2012). This increase was explained by the bad security and economic situation in Afghanistan (which is the main country of origin of smuggled migrants), the economic situation in Chechenia (Russia is the second largest country of origin) and the conflict in the Syrian Arab Republic. With regards to the number of persons who irregularly entered Austria, or were staying irregularly in the country, there was an increase of 5 per cent (2011: 11,132; 2012: 11,714).[178]

Figure 7: Number of apprehended smugglers, smuggled migrants and irregular migrants, 2004–2012
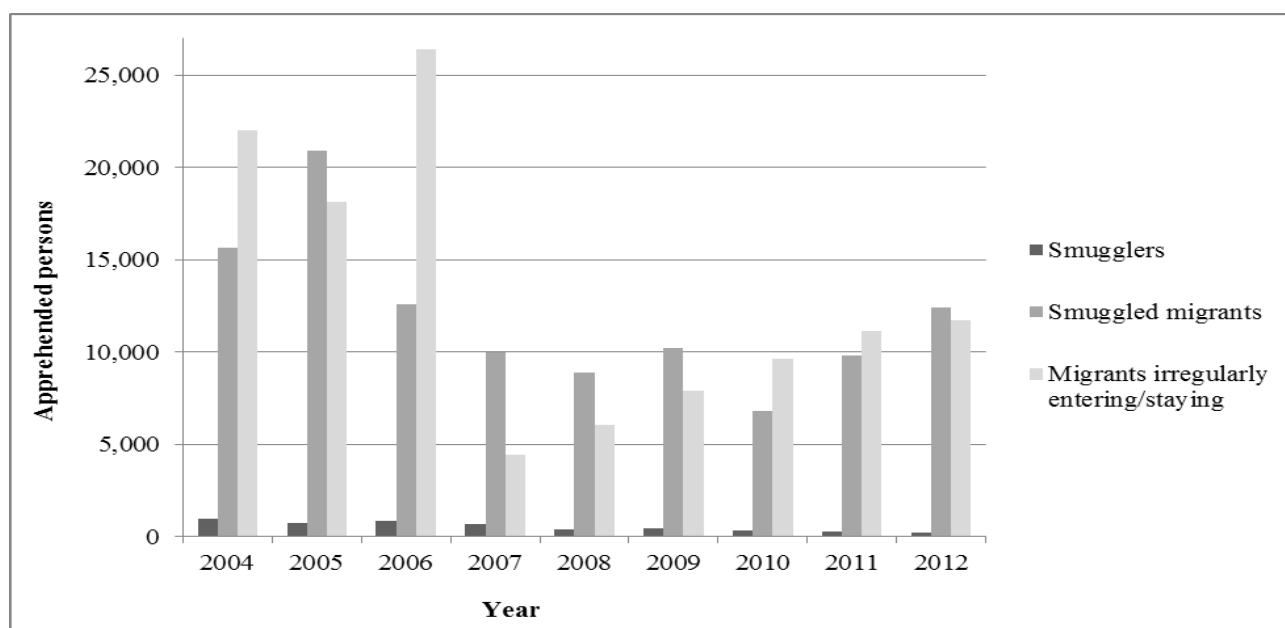
Source: Federal Criminal Intelligence Service.

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[176] See, for example, Die Presse, *Tirol: Polizei nimmt Schlepperbande fest*, 6 June 2013, p. 10, Kronen Zeitung, *Schlepper mit zehn Illegalen in Kleinbus*, 11 April 2013, p. 20.

[177] Federal Criminal Intelligence Service (n.d.), *Organisierte Schlepperkriminalität 2012 Jahresbericht*, available at www.bmi.gv.at/cms/BK/publikationen/files/Schlepperbericht_2012.pdf (accessed on 1 November 2013); Federal Ministry of the Interior, *Mehr Geschleppte, weniger Schlepper*, Press Release, 23 August 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=7930726C4456547A384F633D&page=8&view=1 (accessed on 1 November 2013).

[178] Federal Criminal Intelligence Service (n.d.), *Organisierte Schlepperkriminalität 2012 Jahresbericht*, available at www.bmi.gv.at/cms/BK/publikationen/files/Schlepperbericht_2012.pdf (accessed on 1 November 2013).

In recent years, the Task Force Traiskirchen and the Special Investigation Team East have carried out investigations and targeted actions. Since January 2013, two new special investigation teams have been active in tackling human smuggling and combatting irregular migration. Firstly, the Special Investigation Team South, consisting of 12 police officers from the Burgenland provincial police department and secondly, the Special Investigation Team North, consisting of 12 police officers from the Lower Austria provincial police department. The former Task Force Traiskirchen was integrated into the Special Investigation Team North. Both special investigation teams are subordinate to the Federal Criminal Intelligence Service.[179]

8.2 Cooperation at regional, European and bilateral level

In 2013, developments related to cooperation at regional level include the connection of Special Investigation Teams North and South to a smuggling database run by the FIMATHU (Facilitated Illegal Migration affecting Austria and Hungary) project. The database allows investigators to compare data and exchange information in order to take quicker and more effective action against smugglers. Austria, Hungary and Europol initiated FIMATHU in September 2011. Serbia, Germany, the Czech Republic, Poland, Slovakia, Slovenia, Switzerland, Romania, Bulgaria and Croatia also participate in the project.[180] Within the first six months of 2013, three additional members (Bosnia and Herzegovina, Greece and EULEX/ Kosovo/UNSC 1244) joined the FIMATHU project. [181]

On the European level, Austria took part in the operation "Fake", coordinated by Europol. This operation carried out investigations in five EU Member States (Austria, Czech Republic, Germany, France and United Kingdom) against a criminal organization that specialized in producing counterfeit documents and human smuggling. During an operation in Austria, five suspects were apprehended and further evidence was seized.[182]

On the bilateral level, Austria continued its cooperation with Hungary in the framework of the five-point programme that started in October 2011. Main campaigns have been further developed; for example, there were 120 more joint missions on roads and rail in the joint border region than at the beginning of the programme. Mixed patrols also continued. So-called "Nimrod" patrols composed of policemen from Austria and Hungary were carried out at hot spots on the Hungarian side of the border.[183] Moreover, in March 2013, Austria signed a Bilateral Memorandum of Understanding with the Czech Republic. The Memorandum aims to strengthen cooperation in five particular areas: establishing joint analysis and investigation groups; using Europol's project FIMATHU (see above); regular exchange of information; increasing the effectiveness of policing measures; and continuation of mixed patrols in the common border areas.[184]

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[179] Federal Ministry of the Interior, *Zerschlagung einer afghanischen Schlepperorganisation*, Press Release, 21 February 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=41346C6B6E4C46645437773D&page=75&view=1 (accessed on 1 November 2013).

[180] Ibid.

[181] Federal Ministry of the Interior, *Schlepperbericht 2012 zeigt Anstieg an illegaler Migration und an Schleppungen nach Österreich*, Press Release, 23 August 2013, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=7A6B6E6E505036373934513D&page=2&view=1 (accessed on 1 November 2013).

[182] Federal Ministry of the Interior, *Erfolgreiche Beteiligung der SOKO Schlepperei Nord an Europol-Operation "Fake"*, Press Release, 23 October 2013, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=384973545055664350464D3D&page=0&view=1 (accessed on 1 November 2013).

[183] Federal Ministry of the Interior, December 2013.

[184] Ibid.

9. RETURN

9.1 Cooperation with countries of return

On the matter of return, Austria continued its active cooperation with several countries of origin (e.g. Afghanistan, Pakistan, Morocco and the Russian Federation) in 2013. With regards to cooperation with Afghanistan, for example, two visits took place in 2013, which were covered by the print media.[185] In February, the Austrian Foreign Minister and Vice Chancellor travelled to Afghanistan, where he met with the Foreign Minister, Zalmay Rassoul. They agreed to initiate negotiations about a readmission agreement.[186] In April, a delegation from the MoI travelled to Afghanistan to meet with the Afghan Minister for Refugees and Return Matters to discuss return and reintegration measures. In terms of Austrian-Afghan cooperation on return, an improvement in the issuance of return certificates was envisaged. The MoI delegation was also educated about the security situation in Afghanistan, especially the situation for returnees from Austria.[187]

Cooperation with Pakistan on readmission matters was strengthened throughout 2013. Several meetings with responsible stakeholders took place in Vienna, and a high level mission of a MoI delegation to Islamabad took place in March.[188] Furthermore, in June 2013 Austria deployed an Immigration Liaison Officers (ILO) to Pakistan for a period of two years, with financial support from the EU.[189] According to the ILO, Austria's interests in Pakistan concern combatting crime and terrorism, reducing irregular migration, and the support of return and reintegration of migrants returning from Austria to Pakistan. The ILO is, among other tasks, responsible for facilitating the issuing of travel documents for return purposes (Federal Ministry of the Interior 2014).

In order to strengthen cooperation with Morocco, several meetings with responsible stakeholders took place in Vienna. Also, in October 2013 a delegation from the MoI visited Rabat. The aim was to intensify bilateral cooperation on readmission, especially with regards to the identification of irregularly staying Moroccans in Austria and the validity period of travel documents.[190]

Furthermore, in June 2013 the Russian Federation's deputy Director of the Federal Migration Service visited the Austrian MoI to discuss, among other subjects, cooperation on returns and reintegration projects.[191] In return, a delegation from the MoI visited the Russian Federation in December 2013 to meet with the Russian Federal Migration Service, as well as with several ministries of the Chechen Republic and IOM. The aim of the visit was to better get to know the

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[185] See, for example, Österreich, *Spindelegger in Afghanistan*, 15 February 2013, p. 12.

[186] Federal Ministry for Europe, Integration and International Affairs, *Spindelegger in Kabul: Rücknahme abgewiesener Asylwerber thematisiert*, Press Release, 16 February 2013, available at www.bmeia.gv.at/aussenministerium/pressenews/presseaussendungen/2013/apa-spindelegger-in-kabul-ruecknahme-abgewiesener-asylwerber-thematisiert.html (accessed on 1 November 2013).

[187] Federal Ministry of the Interior, *BMI Delegation zu Migrationsgesprächen in Afghanistan*, Press Release, 16. April 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=44434631646B74624A38413D&page=55&view=1 (accessed on 1 November 2013).

[188] Ibid.

[189] Federal Ministry of the Interior, December 2013.

[190] Federal Ministry of the Interior, December 2013; Federal Ministry of the Interior, *BMI.Expertendelegation zu Gesprächen im Bereich Rückübernahme in Marokko*, News, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=546154552F6F3070566F593D&page=27&view=1 (accessed on 4 March 2014).

[191] Federal Ministry of the Interior, *Intensivierung der Zusammenarbeit mit Russland*, Press Release, 27 June 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=45706A66565878514F70413D&page=26&view=1 (accessed on 1 November 2013).

local socioeconomic situation and particularly the circumstances that await returnees from Austria.[192]

9.2 Enforcement measures

In April 2013, the MoI signed a contract with the municipality of Vordernberg (Styria) for the assignment of services in the new detention centre Vordernberg, which will be put into operation in early 2014.[193] The fact that the municipality of Vordernberg contracted a private sector service provider to run the detention centre created some controversial media response. Several stakeholders (such as NGOs and human rights activists, but also the Austrian Green Party) were concerned that the service provider would be assigned responsibilities concerning the guarantee of public safety.[194] The Austrian Ombudsman Board (AOB)[195] – in charge of monitoring and controlling the public administration of the federal government, the provinces and the municipalities – initiated an investigation to verify whether this is in line with the Austrian Constitution.[196] The MoI (ÖVP), however, provided assurance that this was not an act to privatize detention. Security matters were to remain under the sovereignty of public authorities.[197] By the end of 2013, the issue had not been solved, and the findings of the Austrian Ombudsman Board' assessment were due.

9.3 Assisted Voluntary Return and Reintegration (AVRR)

In 2013, voluntary return was treated as a preferred alternative to deportation in Austria. 1,903 migrants were returned as part of forced return measures, which is an increase in 2013 by 2.7 per cent compared to the previous year. The number of voluntary returns increased by 9.4 per cent from 3,209 migrants in 2012 to 3,512 in 2013.[198]

Table 1: Number of migrants returned, 2012–2013

	Forced returns	Voluntary returns
2012	1,853	3,209
2013	1,903	3,512

Source: MoI.

Existing projects, both general and target-group specific, have been further consolidated and developed. For example, several projects on return counselling were carried out. With regards to assisted voluntary return, IOM Vienna provided support to a total of 2,896 migrants in 2013, with

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[192] Federal Ministry of the Interior, *Österreichische Delegation besuchte Russische Föderation*, Press Release, 16 December 2013, available at www.bmi.gv.at/cms/bmi/_news/bmi.aspx?id=317956657A6366547954633D&page=0&view=1 (accessed on 18 December 2013).

[193] Federal Ministry of the Interior, *Mikl-Leitner und Kogler besuchen das Schubhaftzentrum Vordernberg*, Press Release, 12 April 2013, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=793877505145776F4A52413D&page=56&view=1 (accessed on 1 November 2013).

[194] See, for example, Kurier, *Wirbel um Schubhaft-Zentrum*, 28 October 2013, p. 17.

[195] http://volksanwaltschaft.gv.at/en (accessed on 28 March 2014). The AOB carries out its work based on Art. 148a-j of the Federal Constitutional Act, the Federal Act on the Austrian Ombudsman Board 1982 and the Federal Act on the Implementation of the Optional Protocol of 18 December 2002 Concerning the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

[196] See, for example, Kleine Zeitung, *Volksanwälte prüfen Verträge zu Vordernberg*, 12 November 2013, p. 18.

[197] See, for example, Wiener Zeitung, *Private mischen bei Schubhaftzentrum kräftig mit*, 18 October 2013, p. 1.

[198] Please note that the target groups of forced and voluntary return overlap only partially. Persons with international or subsidiary protection status, for example, cannot be forcibly returned but may decide to return voluntarily.

the financial support of the MoI in part.[199] In addition, the following reintegration projects, co-funded by the MoI and the European Return Fund, were implemented by IOM in 2013:

- Assisted Voluntary Return and Reintegration of Returnees to the Russian Federation/the Chechen Republic;
- Assisted Voluntary Return and Reintegration of Returnees to Georgia;
- Assisted Voluntary Return and Reintegration of Nigerian Nationals;
- Assisted Voluntary Return and Reintegration of Returnees to Afghanistan;
- Assisted Voluntary Return and Reintegration of Returnees to Pakistan;
- Assisted Voluntary Return and Reintegration of Minors and Young Adults from Moldova with Emphasis on the Prevention of (Re-)Trafficking;
- Creation of a Voluntary Return European Network (VREN); [200] and
- Enhancing capacities in EU Member states and third countries to promote durable solutions for unaccompanied minors (through identification of good practices in family tracing and assessments as well as provision of an enhanced reintegration approach;[201]
- Job Placement Assistance for Voluntary Returnees from Austria, Belgium, France and the Netherlands returning to the Kurdistan Region of Iraq (MAGNET). [202]

Furthermore, IOM Vienna implemented the EU-funded project "Coordinated Approach for the Reintegration of Victims of Trafficking Returning from Austria, France, Portugal, Spain and the UK (CARE)".[203]

Further reintegration projects implemented by international organizations, NGOs and church-based aid organizations funded through EC and national funds include, for example:

- European Reintegration Support Organizations network – ERSO (implemented by Caritas Austria and partner organizations in Belgium, France, Germany, the Netherlands, Spain, Cameroon, Morocco, Senegal, Sierra Leone, Togo);[204]
- Monitoring the Situation of Children Returned from EU Member States (implemented by ECPAT Austria and partner organizations in France, Greece, Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo/UNSC 1244, Montenegro and Serbia);[205] and
- Reintegration in Kosovo – Cooperation with Kosovo Authorities and the Economy (implemented by ICMPD).[206]

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[199] International Organization for Migration (IOM), Country Office Vienna, own, unpublished statistics.

[200] VREN is a joint project of the EU Member States Austria, Ireland, Italy, and Great Britain plus Switzerland that focuses on the cooperation and exchange on voluntary return and reintegration matters.

[201] Implemented in cooperation with project partners in the Netherlands (project coordinator), Belgium, Cyprus, Germany, Ireland, Portugal and Slovenia.

[202] MAGNET is a joint project of the following EU Member States: Austria, Belgium, France, and the Netherlands.

[203] For all reintegration projects implemented by IOM Vienna see International Organization for Migration - Country Office for Austria, *Reintegration Assistance - Ongoing Projects*, available at www.iomvienna.at/en/aktivitaeten/reintegrationsunterstuetzung/laufende-projekte (accessed on 3 April 2014).

[204] European Reintegration Support Organisations (ERSO), www.erso-project.eu/ (accessed on 3 April 2014).

[205] Terre des Hommes – Child Protection in Europe (n.d.), *Monitoring the Situation of Children Returned from EU Member States,* available at http://tdh-childprotection.org/projects/monitoring-the-situation-of-children-returned-from-eu-member-states/description (accessed on 3 April 2014).

[206] ICMPD (n.d.), *Project Description*, available at www.icmpd.org/fileadmin/ICMPD-Website/ICMPD-Website_2011/Capacity_building/Illegal_Migration_and_Return/projects/ReKoKo4/December_2013/ReKoKO_IV_info_note_EN_December_2013.pdf (accessed on 11 December 2013).

10. IMPLEMENTATION OF EU LEGISLATION

10.1 Free Movement and the issue of 'welfare tourism'

In 2013, the topic of the opening of the Austrian labour market to citizens of the new Member States Bulgaria and Romania (which joined the EU in 2007) dominated Austrian print media. As of 1 January 2014, Austria – according to the Directive on Free Movement[207] – must lift the last restrictions on the free movement of workers from Bulgaria and Romania and enable them to fully exercise their right to work without a work permit.[208] Since Bulgaria and Romania joined the EU in 2007, their nationals were already able to work in Austria with a work permit according to the Act Governing the Employment of Foreign Nationals as seasonal workers, key workers and – under certain conditions – as other workers.[209] According to data from the Labour Market Service, the number of Bulgarians and Romanians working in Austria under a work permit steadily increased since they joined the EU in 2007. The number of Bulgarians rose from 1,638 in 2007 to 3,866 in 2013, which is a 2.4 times increase; the number of Romanians increased an equal amount from 7,974 in 2007 to 18,945 in 2013.

Figure 8: Number of foreign nationals employed under a work permit, by nationality, 2007–2013
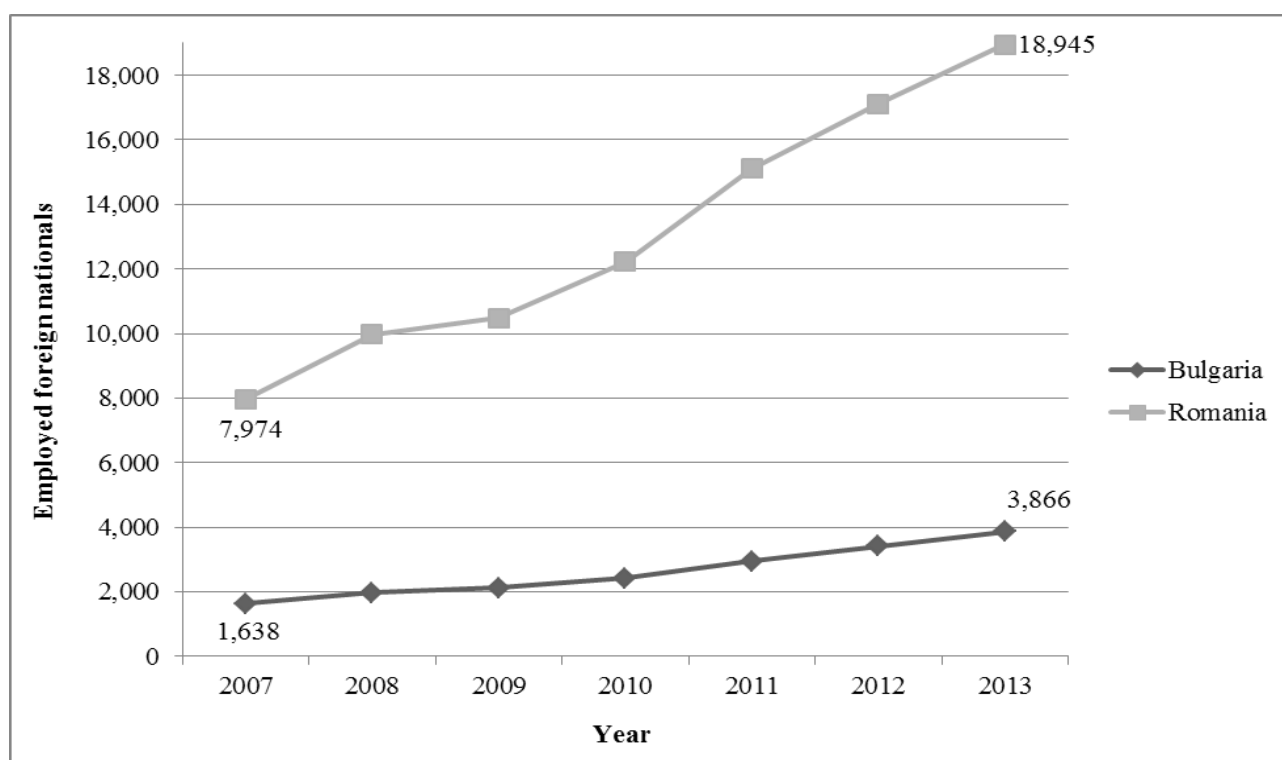
Source: Labour Market Service Austria, special evaluation.

The press reported on a study, commissioned by the FMLSC together with the Federal Ministry for Economy, Family and Youth, which was conducted by the Vienna Institute for International Economic Studies in cooperation with the Institute for Advanced Studies, which provided an

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[207] Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC , 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

[208] European Commission, *End of restrictions on free movement of workers from Bulgaria and Romania*, Press Release, 1 January 2014, available at http://europa.eu/rapid/press-release_MEMO-14-1_en.htm (accessed on 21 March 2014).

[209] Labour Market Service (2012), Informationen zur Ausländerbeschäftigung, available at www.ams.at/_docs/001_uebergangsregelungen_f_beschaeftigung.pdf (accessed on 21 March 2014).

assessment of the economic impact of the free labour market on the Austrian labour market.[210] The study comes to the conclusion that the impact is minimal, as much of the migration from Bulgaria and Romania has already taken place. It is estimated that an additional yearly immigration of 5,500 persons will take place in 2014 and 2015, three fourth of the migrants coming from Romania and one fourth from Bulgaria. This will lead to an expected increase of GDP by 0.009 per cent in 2014 and 0.13 per cent in 2015. The employment rate will rise by 0.18 per cent in 2014 and by 0.28 per cent in 2015, while the unemployment rate will increase by 0.03 per cent in both years.[211]

Various Member States have, however, raised concerns about the consequences of the interface between the free labour market and the coordination of Member States' social security systems. More specifically – as the Austrian press reported – Germany, the United Kingdom, the Netherlands and Austria called, in a letter to the European Commission, for actions against so-called 'poverty immigration'. They feared that the entitlement, which EU law gives to non-active EU migrants, to claim access to healthcare and special non-contributory benefits in cash could lead to 'welfare tourism' and threaten the sustainability of European welfare states.[212] Austria stated that it was not affected by 'welfare tourism' because EU citizens must – in order to immigrate to Austria – prove sufficient means of subsistence or a job. Nevertheless, Austria wanted to show its solidarity with the Member States and give a preventive signal.[213] Thereupon, the European Commission highlighted the fact that applicable EU law provided sufficient means to avoid potential misuse. It, furthermore, stressed that the freedom of movement and residence was a fundamental right of EU citizens that must not be restricted.[214] Later on, the European Commission commissioned a fact-finding study to collect evidence concerning intra-EU mobility of non-active intra-EU citizens, and the budgetary impacts of their entitlements to social benefits.[215] According to the study, the vast majority of EU nationals moving to another EU country do so for work. Hence, in most EU Member States, EU citizens from other Member States use welfare benefits no more intensively than the host country's nationals:

> In the specific case of cash benefits such as social pensions, disability allowances and non-contributory job-seekers allowances financed by general taxation rather than contributions by the individual concerned (so-called special non-contributory cash benefits - SNCBs), the study shows that economically non-active EU mobile citizens account for a very small share of beneficiaries and that the budgetary impact of such claims on national welfare budgets is very low.[216]

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[210] See, for example, Kurier, *45.000 Rumänen sind schon da*, 20 December 2013, p. 16.

[211] Federal Ministry of Labour, Social Affairs and Consumer Protection (n,.d.), *Arbeitsmarktöffnung 2014 – Bulgarien und Rumänien,* available at www.sozialministerium.at/site/Arbeit/Arbeitsmarkt/Arbeitsmarkt_und_EU/Arbeitsmarktoeffnung_2014_Bulgarien_und_Rumaenien (accessed on 21 March 2014); Vienna Institute for International Economic Studies, Institute for Advanced Studies, *Auswirkungen der Arbeitsmarktöffnung am 1. Jänner 2014 auf den Wirtschafts- und Arbeitsstandort Österreich*, August 2013. Available at www.sozialministerium.at/cms/site/attachments/7/9/1/CH2123/CMS1380787177294/auswirkungen_der_arbeitsmarktoeffnung_am_1_1_2014_auf_den_wirtschafts-_und_arbeitsstandort_oesterreich_endbericht.pdf (accessed on 21 March 2014).

[212] See, for example, Wiener Zeitung, *Abschottung in neuer Form*, 7 June 2013, p. 3.

[213] See, for example, Salzburger Nachrichten, *EU soll "Sozialtourismus" unterbinden*, 26 April 2013, p. 9.

[214] See, for example, Der Standard, *EU will Zahlen sehen zu Roma-"Sozialtourismus"*, 26 April 2013, p. 6–7.

[215] ICF GHK, Milieu Ltd, *A fact finding analysis on the impact on the Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence*, 14 October 2013. Available at http://bookshop.europa.eu/en/a-fact-finding-analysis-on-the-impact-on-the-member-states-social-security-systems-of-the-entitlements-of-non-active-intra-eu-migrants-to-special-non-contributory-cash-benefits-and-healthcare-granted-on-the-basis-of-residence-pbKE0413060/ (accessed on 21 March 2014).

[216] European Commission, *Impact of mobile EU citizens on national social security systems*, News, 14 October 2013, available at http://ec.europa.eu/social/main.jsp?langId=en&catId=457&newsId=1980&furtherNews=yes (accessed on 21 March 2014).

10.2 Amendments to the Law Governing Sexual Offences

In the first half of 2013, the Austrian print media reported on the deadline to transpose the Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims,[217] which was passed on 6 April 2013. By that time, Austria was among the countries that had not yet fully transposed it into national law.[218] Later that year, on 1 August 2013, the Amendments to the Law Governing Sexual Offences[219] entered into force. These served to transpose the Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, as well as to transpose the Directive on Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography.[220] Thereby, the definition of 'trafficking in human beings,' as provided by Article 104a of the Criminal Code, was widened so as to include exploitation through organ extraction, labour exploitation, exploitation of begging, and exploitation to commit crimes. Furthermore, the penalties for human trafficking were raised – for example, the maximum prison sentence was increased to up to five years, and the trafficking of minors is punishable by a prison sentence of between one and ten years.

10.3 Dublin Regulation

Under the Dublin Regulation,[221] the Member States must determine, based on a hierarchy of objective criteria (Articles 5 to 14), which Member State bears responsibility for examining an asylum application lodged on their territory. The aim is to avoid multiple applications and to guarantee that each asylum-seeker's case is dealt with by a single Member State. Article 5 of the Asylum Act 2005 provides that an asylum application shall be rejected as inadmissible if another Member State has jurisdiction to examine the application for asylum.

Three decisions were issued in 2013 by Austrian and European courts that relate to the interpretation of the Dublin Regulation in Austria. Firstly, the Asylum Court lodged a request for a preliminary ruling to the Court of Justice of the European Union (CJEU) in August 2012 on the case of Shamso Abdullahi v. Bundesasylamt.[222] The question was inter alia whether the asylum-seeker Shamso Abdullahi had the right, in an appeal against a transfer decision, to request a review of the determination of the Member State responsible, on the grounds that the criteria laid down in the Dublin Regulation have been misapplied. On 10 December 2013, the CJEU ruled that, when a Member State is the first entry state of an asylum-seeker into the EU and has therefore agreed to take charge of that application, the only way in which the asylum-seeker can call the responsibility of that Member State into question is by pleading systemic deficiencies in the asylum procedure and

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[217] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

[218] See, for example, Kleine Zeitung, *Kampf gegen Menschenhandel: Österreich säumig*, 16 April 2013, p. 14.

[219] FLG. I No. 116/2013.

[220] Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA; Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA; Amendments to the Law Governing Sexual Offences 2013, Preamble, p. 2, available at www.justiz.gv.at/web2013/file/2c948485398b9b2a013c629c83f02bdd.de.0/vorbl.pdf (accessed on 19 December 2013).

[221] Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

[222] Court of Justice of the European Union, 10 December 2013, Shamso Abdullahi v. Bundesasylamt (C-394/12), available at http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d6292afa4c832a454990ebbc27910b372e.e34KaxiLc3e Qc40LaxqMbN4OaN8Qe0?text=&docid=145404&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=17477 0 (accessed on 25 March 2014); See International Organization for Migration (2013), *Austria Annual Policy Report 2012*, IOM, Vienna, p. 28, available at www.emn.at/images/stories/2013/APR/APR_2012/AT_EMN_NCP_APR_2012_FINAL.pdf (accessed on 11 March 2014).

in the reception conditions for asylum-seekers because this would put the applicant at risk of being subjected to inhuman or degrading treatment.[223]

Secondly, the Austrian Constitutional Court held, in its decisions from June 2013[224] and September 2013,[225] that in order to avoid a non-justified discrimination, an assessment of the potential violation of Article 8 ECHR (right to respect for private and family life) as foreseen in Article 4 of the Asylum Act 2005 (safe third country) has also to be carried out when examining the legitimacy of a forced transfer according to Article 5 of the Asylum Act 2005 (Dublin) (Ecker, 2013: 81). With the enforcement of the latest amendments to the Asylum Act 2005 on 1 January 2014, Articles 4 and 5 of the Asylum Act 2005 now clearly constitute that an application for international protection is not to be rejected as illegitimate if an assessment finds that a forced transfer would lead to a violation of Article 8 ECHR (Ecker, 2013: 85).

Thirdly, in the case of Mohammed v. Austria (Application no. 2283/12), [226] the ECtHR inter alia decided on the right to effective remedy against Dublin transfers. The applicant was a Sudanese national who arrived in Austria via Greece and Hungary. He argued that his transfer to Hungary would constitute a violation of Article 3 and 13 of the ECHR. With regards to the complaint in respect of Article 13 of the ECHR (right to effective remedy), the ECtHR held that the applicant was deprived of de-facto protection against forced transfer to Hungary in the course of the proceedings concerning his second asylum application while having – at the relevant time – an arguable claim under Article 3 of the Convention in respect of his transfer. The ECtHR, therefore, found a violation of Article 13 in conjunction with Article 3 of the Convention. However, the Court did not find an independent violation of Article 3 ECHR (prohibition of torture). It argued that UNHCR had never requested Member States to refrain from transfers to Hungary, and that it had welcomed a package of legislative amendments adopted in Hungary that eliminated detention of asylum-seekers who filed their applications immediately upon arrival and introduced guarantees related to detention (Matti, 2013).

10.4 Homosexuality as grounds for asylum

In November 2013, the Austrian print media reported about the CJEU's ruling in the joint cases Minister voor Immigratie en Asiel v. X., Y. and Z. v. Minister voor Immigratie en Asiel[227] concerning the interpretation of the Directive on minimum standards,[228] in light of the question of

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[223] Court of Justice of the European Union, 10 December 2013, Shamso Abdullahi v. Bundesasylamt (C-394/12), available at http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d6292afa4c832a454990ebbc27910b372e.e34KaxiLc3eQc40LaxqMbN4OaN8Qe0?text=&docid=145404&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=174770 (accessed on 25 March 2014).

[224] Austrian Constitutional Court, 7 June 2013, U963/2013, available at www.ris.bka.gv.at/Dokumente/Vfgh/JFT_20130607_12U00963_00/JFT_20130607_12U00963_00.pdf (accessed on 17 March 2014).

[225] Austrian Constitutional Court, 27 September 2013, U701/2013, available at www.ris.bka.gv.at/Dokumente/Vfgh/JFT_20130927_13U00701_00/JFT_20130927_13U00701_00.pdf (accessed on 17 March 2014).

[226] European Court of Human Rights, 6 June 2013, Case of Mohammed v. Austria (Application no. 2283/12), available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-120073&#{%22itemid%22:[%22001-120073%22]} (accessed on 17 March 2014).

[227] Court of Justice of the European Union, 7 November 2013, Joint cases Minister voor Immigratie en Asiel v. X., Y. and Z. v. Minister voor Immigratie en Asiel (C-199/12, C-200/12 and C-201/12), available at http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d0f130d628d257b1de6d40ba962eaddc8c091407.e34KaxiLc3eQc40LaxqMbN4OaN4Re0?text=&docid=144215&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=327717 (accessed on 18 March 2014).

[228] Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

granting refugee status on the ground of fear for persecution on account of homosexuality.[229] On 7 November 2013 the CJEU ruled that (i) the existence of criminal laws which specifically target homosexuals means that they are forming a particular social group; (ii) imprisonment which sanctions homosexual acts and which is actually applied constitutes an act of persecution and (iv) that the asylum-seeker cannot reasonably be expected, in order to avoid the risk of persecution, to conceal his/her homosexuality in the country of origin or to exercise reserve in the expression of his/her sexual orientation (Scharnagl, 2013).

The Austrian Freedom Party called the ruling a judicial error, presuming that extended asylum grounds would lead to an unmanageable influx of asylum seekers claiming to be homosexual.[230] The Social Democratic Party of Austria criticized this statement, stressing that homosexuality was already recognized as grounds for asylum in single EU Member States, which was now approved by the CJEU's ruling.[231] The Austrian Green Party welcomed the ruling as a necessary act that would lead to more legal certainty, highlighting that the Austrian Constitutional Court had previously arrived at a similar decision.[232]

According to Sußner the media response to the CJEU's ruling was surprising (Sußner, 2013: 406). In Austria, sexual orientation as a ground for fear of persecution was already mentioned in the materials accompanying the Asylum Act 1991 (Sußner, 2013: 406; Reitshammer, 2013: 15). Furthermore, before the CJEU's ruling there was already a similar practice in Austria. For example, the Asylum Court granted asylum to an Iranian national, arguing that the situation in Iran was so severe that homosexuals must fear persecution.[233] However, the Austrian jurisdiction decides on whether sexual orientation is grounds for fear of persecution without making reference to the assessment criteria laid down in the Minimum Standards Directive (Reitshammer, 2013: 15).[234] Therefore, the Asylum Court ruled in another case that due to the heterogeneity of the group of homosexuals in Gambia, and the lack of systematic persecution, the applicant was not part of a social group.[235] If having assessed the criteria set in Article 10 para 1of the Directive on minimum standards,[236] the court would have, according to Reitshammer, come to a different conclusion (Reitshammer, 2013: 15). With regards to a case in which the Asylum Court found that, in instances of persecution due to ambisexuality, a (partial) reservation from expressing ones sexual orientation is a reasonable burden (which stands in contrast to the CJEU' ruling); Sußner argues that the CJEU's ruling is indeed important for the Austrian jurisdiction (Sußner, 2013: 408).

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[229] See, for example, Salzburger Nachrichten, *Homosexuelle können Asyl beantragen*, 8 November 2013, p. 5.

[230] Austrian Freedom Party, *Vilimsky: Homosexualität darf kein Asylgrund werden*, Press Release, 7 November 2013, available at www.ots.at/presseaussendung/OTS_20131107_OTS0175/vilimsky-homosexualitaet-darf-kein-asylgrund-werden (accessed on 18 March 2014).

[231] Social Democratic Party of Austria, *EuGH-Urteil – Traschkowitsch kritisiert "homophobe Aussagen" von FP-Vilimsky*, Press Relase, 8 November 2013, available at www.ots.at/presseaussendung/OTS_20131108_OTS0093/eugh-urteil-traschkowitsch-kritisiert-homophobe-aussagen-von-fp-vilimsky (accessed on 18 March 2014).

[232] Austrian Green Party, *Antihomosexuelle Gesetze: Grüne fordern Regierungsverhandler auf, Europäische Urteile zu behandeln*, Press Release, 7 November 2013, available at www.ots.at/presseaussendung/OTS_20131107_OTS0131/antihomosexuelle-gesetze-gruene-fordern-regierungsverhandler-auf-europaeische-urteile-zu-behandeln (accessed on 18 March 2014).

[233] Austrian Asylum Court, 17 February 2009, E2 255.708-2/2008, available at www.ris.bka.gv.at/Dokument.wxe?Abfrage=AsylGH&Dokumentnummer=ASYLGHT_20090217_E2_255_708_2_2008_00 (accessed on 2 April 2014); For further examples see Jansen/Spijkerboer 2011.

[234] Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

[235] Austrian Asylum Court, 9 June 2010, A2 405.597-2/2010/8E, available at www.ris.bka.gv.at/Dokument.wxe?Abfrage=AsylGH&Dokumentnummer=ASYLGHT_20100609_A2_405_597_2_2010_00 (accessed on 2 April 2014).

[236] Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

ANNEX

A.1 Translations and abbreviations

The terminology used in the context of this report is predominantly based on the terms and definitions given in the EMN Glossary.[237] In cases where national terms and definitions are used, explanatory information is provided in footnotes.

Table 2: List of translations and abbreviations

English term	English Abbreviation	German term	German Abbreviation
Act Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsgesetz	AuslBG
Administrative High Court	–	Verwaltungsgerichtshof	VwGH
Aliens Police Act	–	Fremdenpolizeigesetz	FPG
Assisted Voluntary Return and Reintegration	AVRR	Unterstützte freiwillige Rückkehr und Reintegration	–
Asylum Act	–	Asylgesetz	AsylG
Asylum Court	–	Asylgerichtshof	AsylGh
Austrian Constitutional Court	–	Verfassungsgerichtshof	VfGH
Austrian Development Agency	ADA	Austrian Development Agency	ADA
Austrian Exchange Service	–	Österreichischer Austauschdienst	OeAD
Austrian Freedom Party	–	Freiheitliche Partei Österreich	FPÖ
Austrian Green Party	–	Die Grünen	–
Austrian Integration Fund	–	Österreischer Integrationsfonds	ÖIF
Austrian Ombudsman Board AOB	AOB	Volksanwaltschaft -	–
Austrian People's Party's	–	Österreichische Volkspartei	ÖVP
Chamber of Labour	–	Arbeiterkammer	AK
Common European Asylum System	CEAS	Gemeinsames Europäisches Asylsystem	GEAS
Common European Framework of Reference for Languages	CEFR	Gemeinsamer Europäischer Referenzrahmen für Sprachen	GeRS
Constitutional Court	–	Verfassungsgerichtshof	VfGH
Country of origin information	COI	Informationen über Herkunftsländer	–
Court of Justice of the European Union	CJEU	Gerichtshof der Europäischen Union	EuGH
European Asylum Support Office	EASO	Europäisches Unterstützungsbüro für Asylfragen	EASO
European Commission	EC	Europäische Kommission	EK
European Convention on Human Rights	ECHR	Europäische Menschenrechtskonvention	EMRK
European Court of Human Rights	ECtHR	Europäische Gerichtshof für Menschenrechte	EGMR
European Integration Fund	EIF	Europäischer Integrationsfonds	EIF
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Refugee Fund	ERF	Europäischer Flüchtlingsfonds	EFF
European Social Fund	ESF	Europäischer Sozialfonds	ESF
European Union	EU	Europäische Union	EU

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[237] European Migration Network (EMN, 2012), *EMN Glossary*, available at: http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/glossary/index_a_en.htm (accessed on 14 March 2014).

Facilitated Illegal Migration affecting Austria and Hungary	FIMATHU	–	–
Federal Administrative Court	–	Bundesverwaltungsgericht	BVwG
Federal Asylum Office	–	Bundesasylamt	BAA
Federal Chancellery	–	Bundeskanzleramt	–
Federal Constitutional Act	–	Bundesverfassungsgesetz	B-VG
Federal Criminal Intelligence Service	–	Bundeskriminalamt	BK
Federal Ministry for Economy, Family and Youth	–	Bundesministerium für Wirtschaft, Fmilie und Jugend	BMWFI
Federal Ministry for Education, Arts and Culture	–	Bundesministerium für Unterricht, Kunst und Kultur	BMUK
Federal Ministry for Europe, Integration and Foreign Affairs	FMEIA	Bundesministerium für Europa, Integration und Äußeres	BMEIA
Federal Ministry for European and International Affairs	FMEIA	Bundesministerium für Europäische und Internationale Angelegenheiten	BMEIA
Federal Ministry of Labour, Social Affairs and Consumer Protection	–	Bundesministerium für Arbeit, Soziales und Konsumentenschutz	BMASK
Federal Ministry of Science and Research	–	Bundesministerium für Wissenschaft unf Forschung	BMWF
Federal Ministry of the Interior	MoI	Bundesministerium für Inneres	BMI
Federal Office for Immigration and Asylum	–	Bundesamt für Fremdenwesen und Asyl	BFA
Federation of Austrian Industries	–	Industriellenvereinigung	IV
Immigration Liaison Officers	ILO	Verbindungsbeamter/in	–
Initial Reception Centre	–	Erstaufnahmestelle	EAST
Initiative for Migration and Development	CoMiDe	–	-
Institute for Advanced Studies	–	Institut für Höhere Studien	IHS
International Centre for Migration Policy Development	ICMPD	–	–
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
Labour Market Service	–	Arbeitsmarktservice	AMS
Main Association of Austrian Social Security Institutions	MAASSI	Hauptverband der österreichischen Sozialversicherungsträger	SV
National Contact Ponint	NCP	Nationaler Kontaktpunkt	NKP
Non-Governmental Organisation	NGO	Nichtregierungsorganisation	NRO
Pan-African Forum in Austria for Culture and Development Policy	PANAFA	–	–
Province	–	Bundesland	–
Public Employment Service	PES	Arbeitsmarktservice	AMS
Red-White-Red Card	RWR Card	Rot-Weiß-Rot Karte	RWR-Karte
Schengen Borders Code	–	Schengener Grenzkodex	–
Schengen Information System	SIS	Schengener Informationssystem	SIS
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
Social Democratic Party of Austria	–	Sozialdemokratische Partei Österreichs	SPÖ
State Secretariat for Integration	–	Staatssekretäriat für Integration	–

The Alliance for the Future of Austria	–	Bündnis Zukunft Österreich	BZÖ
The New Austria and Liberal Forum	Neos	Das Neue Österreich und Liberales Forum	Neos
Unaccompanied minors	UAMs	Unbegleitete Minderjährige	–
United Nations High Commissioner for Refugees	UNHCR	Hoher Flüchtlingskommissar der Vereinten Nationen	UNHCR
Vienna Institute for International Economic Studies	–	Wiener Institut für Internationale Wirtschaftsvergleiche	WIIW

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