

AUSTRIA

ANNUAL POLICY REPORT

2015

Saskia Koppenberg

AUSTRIA – ANNUAL POLICY REPORT 2015



International Organization for Migration (IOM)

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Country Office for Austria
National Contact Point Austria in the
European Migration Network
Nibelungengasse 13/4, 1010 Vienna
Tel.: +43 1 585 33 22 0
Fax: +43 1 585 33 22 30
E-mail: iomvienna@iom.int, ncpaustria@iom.int
Internet: www.iomvienna.at, www.emn.at

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EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was launched in 2003 by the European Commission 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 – pursuant to an agreement with the Federal Ministry of Interior – 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 focussed 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 European Commission 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, informs and the Glossary are available on the website of the [European Commission Directorate-General Migration and Home Affairs](#).

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EXECUTIVE SUMMARY

The *Annual Policy Report 2015* has been produced within the framework of annual reporting by 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 2015 and provides related information on policy and public debates. The topics covered are: international protection (asylum); unaccompanied minors and other vulnerable groups; legal migration and mobility, including integration; migration and development; irregular migration, including smuggling; return; and countering trafficking in human beings.

In 2015 the political and legislative developments in the field of asylum and migration as well as policy and public debates were influenced by the migration movements along the Western Balkan route and the sharp increase in the number of asylum applications. In terms of legislative developments, the Austrian asylum and migration law was amended in 2015 by the Act Amending the Aliens Law 2015, which entered into force on 20 July 2015. The amendment affects the areas of asylum, aliens police, settlement and residence, and basic welfare support. With this amendment the relevant national legislation has been adapted in accordance with EU legislation, with a decision of the provincial governors on the flexible management of the reception of asylum-seekers, and with national and European high court rulings.

Significant policy developments took place in the context of a sharp increase in migrants and refugees arriving in Europe from the Middle East, South-East Asia and Africa. Despite being a country with only internal Schengen borders, in 2015 Austria was one of the most affected countries by strong migration inflows and by transit flows through the Western Balkan route as well as by significant numbers of asylum-seekers. Almost 90,000 asylum applications were lodged in Austria in the year 2015. Against this background, Austria introduced temporary border controls in autumn 2015 and erected additional border control facilities. In addition, Austria increased its cooperation with several third countries (e.g. UNSC resolution 1244-administered Kosovo, Montenegro and Serbia) as well as with neighbouring EU Member States (e.g. Germany, Hungary and Slovenia) in order to prevent and counteract irregular migration and the smuggling of migrants. In terms of policies, the increased promotion of refugee integration is also worth highlighting. Against the background of large numbers of asylum-seekers originating from countries with a high recognition rate, the Austrian Federal Government adopted in 2015 an Integration Package providing funds from the federal budget to finance measures aimed at the integration of persons granted asylum and of beneficiaries of subsidiary protection. Also, the Federal Ministry for Europe, Integration and Foreign Affairs presented jointly with the Expert Council for Integration a 50-Point Plan for integrating this particular target group.

Among the various topics covered in this report, asylum was the topic most intensively covered in the Austrian media in 2015. In fact, asylum-related articles accounted for 60 per cent of all monitored media articles. Media reporting focused on the controversial debates surrounding the Act Amending the Aliens Law 2015 and the draft Act Amending the Asylum Act 2005. In addition, refugee and migration movements across the Mediterranean Sea and through the Balkan states that arrived in or transited through Austria were intensively covered by the media. Besides the movements as such, the topics reported included arrivals at the Austrian borders and

at Austrian railway stations, donations and support provided by citizens and civil society organizations and the opening or closing of borders.

1. INTRODUCTION

1.1 Purpose

The *Annual Policy Report 2015* has been produced within the framework of the European Migration Network (EMN),¹ which was established by Council Decision 2008/381/EC in May 2008.² The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters, with the aim of supporting policymaking at European Union (EU) and national levels as well as of disseminating this information among the general public.

This is the twelfth annual policy report³ compiled by the National Contact Point (NCP) Austria in the EMN, covering the period from 1 January to 31 December 2015. The purpose of the annual policy report is to provide an overview of the most significant political and legislative developments on asylum and migration in Austria as well as a review of the political and public debates in the area of asylum and migration. A specific emphasis has been placed on changes related to developments at EU level. The report covers these topics: international protection (asylum); unaccompanied minors and other vulnerable groups; legal migration and mobility, including integration; migration and development; irregular migration, including smuggling; return; and countering trafficking in human beings.

1.2 Methodology and Definitions

The *Annual Policy Report 2015* was produced by the NCP Austria in the EMN following common specifications developed by the EMN, in order to facilitate comparability between the findings from all Member States. At the same time, the format was flexible to a certain degree, so as to allow the production of output that targets the national audience. The terminology used in the context of this report is based on the terms and definitions given in the EMN Glossary (EMN, 2014).

In order to allow concise reporting and to facilitate comparability, the *Annual Policy Report 2015* only reflects significant developments and debates as have been defined on the basis of the criteria listed 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 methodology of conducting previous annual policy reports, the referenced sources of information include: press releases and websites from relevant ministries, journals, studies, reports, legislative proposals, legislation, court rulings, parliamentary debates, as well as press and online media articles from the main daily and weekly newspapers and news websites in Austria. In the latter case, press articles dealing with migration and asylum issues were collected throughout the year, within the framework of continuous media monitoring, in order to gain an

¹ More information on the EMN is available at www.emn.at/en (accessed on 8 March 2016).

² Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC), 21 May 2008, OJ L 131/7.

³ Previous versions from 2004 to 2014 are available at www.emn.at/en/publications/annual-policy-reports (accessed on 8 March 2016).

overview of the most important public debates. The *Annual Report 2015 on Asylum and Migration Policy in Austria – Contribution to Commission and to EASO Annual Reports*, which was developed in cooperation with the Federal Ministry of the Interior as well as the Federal Office for Immigration and Asylum, the Federal Ministry of Labour, Social Affairs and Consumer Protection and the Federal Ministry for Europe, Integration and Foreign Affairs, provides the basis for the *Annual Policy Report 2015*.

This report was written by Saskia Koppenberg (Research Associate, IOM Country Office for Austria) under the supervision of Julia Rutz (Head of Research and Migration Law, IOM Country Office for Austria). Thanks go to Rainer Lukits (Legal Associate, IOM Country Office for Austria) for reviewing the legal sections and to Nina Birner (Research and Communications Associate, IOM Country Office for Austria) for conducting research. Thanks go also to Olha Bilous (Intern, IOM Country Office for Austria) for her assistance in preparing this report.

2. OVERVIEW OF ASYLUM AND MIGRATION POLICY DEVELOPMENTS

2.1 Legislative Developments in 2015

In 2015 Austrian asylum and migration legislation underwent a change through the Act Amending the Aliens Law 2015,⁴ which entered into force on 20 July 2015. With this amendment, the relevant national legislation has been adapted in accordance with: EU legislation, namely the recast Reception Directive (2013/33/EU),⁵ the recast Procedures Directive (2013/32/EU)⁶ and the Dublin III Regulation (No 604/2013);⁷ with the decision of the conference of provincial governors of 18 November 2014 regarding the flexible management of reception and care of asylum-seekers; and with national and European high court rulings (Völker/Arnez, 2015:77).

The Act Amending the Aliens Law 2015 amended the following acts: Act Establishing the Federal Office for Immigration and Asylum,⁸ Federal Office for Immigration and Asylum Procedures Act,⁹ Asylum Act 2005 (hereinafter Asylum Act),¹⁰ Aliens Police Act 2005 (hereinafter Aliens Police Act),¹¹ Settlement and Residence Act,¹² and Federal Basic Welfare Support Act 2005 (hereinafter Federal Basic Welfare Support Act).¹³ The Act Amending the Aliens Law 2015 comprises changes including the following relevant items, which are described in more detail in the thematic chapters of this report:

Federal Office for Immigration and Asylum Procedures Act:

- Revision of the asylum admission procedure with exceptions for unaccompanied minors;
- Changes regarding the suspensive effect;
- Expansion of return counselling;
- Introduction of the possibility of also issuing return decisions against foreigners with more permanent residence status;
- Expanded scope of legal counselling.

Asylum Act:

- Application for international protection must now be filed with the police or security authorities;
- Adjustments of the conditions under which asylum applications are inadmissible;
- Introduction of an accelerated asylum procedure;

⁴ FLG I No. 70/2015.

⁵ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L 180/96.

⁶ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013, OJ L 180/60.

⁷ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 29 June 2013, OJ L 180/31.

⁸ FLG I No. 87/2012, in the version of FLG I No. 70/2015.

⁹ FLG I No. 87/2012, in the version of FLG I No. 84/2015.

¹⁰ FLG I No. 100/2005, in the version of FLG I No. 70/2015.

¹¹ FLG I No. 100/2005, in the version of FLG I No. 121/2015.

¹² FLG I No. 100/2005, in the version of FLG I No. 122/2015.

¹³ FLG No. 405/1991, in the version of FLG I No. 70/2015.

- Features characterizing a victim of violence are defined more clearly.

Aliens Police Act:

- Revision of provisions governing detention pending removal and changes in special provisions for minors;
- Enumeration of criteria for evaluating whether any risk of absconding exists;
- Revision of terms of tolerated stay;
- Change of visa requirements for third-country nationals holding a residence permit from another Schengen country.

Settlement and Residence Act:

- Attractiveness of Temporary Residence Permit – Researcher enhanced;
- Expansion of the option of applying for a residence permit within Austria;
- Adaptation of the grounds for refusing to grant a residence title;
- Changes in the time period of eligibility for a Permanent Residence – EU residence title.

Federal Basic Welfare Support Act:

- Restructuring of initial reception;
- Changes regarding entitlement to basic welfare support;
- Rules for the assessment of special needs of vulnerable persons.

The Act Amending the Aliens Law 2015 was intensely discussed in the Austrian parliament but also by various actors (e.g. advocacy groups, associations, international organizations, legal experts, ministries, non-governmental organizations and the social partners) and in the Austrian media. During the review procedure a total of 51 advisory opinions were submitted.¹⁴ Particularly controversial were the proposed changes regarding an accelerated asylum procedure, the provisions on legal counselling and the possible loss of basic welfare support when the suspensory effect of a complaint is lifted.¹⁵

2.2 Planned Legislative Developments in 2016

In the beginning of November 2015 the Federal Ministry of the Interior presented to the National Council a draft federal act to amend the Asylum Act.¹⁶ The draft sent out for review specifically sets forth changes in the areas of right of residence, documentation of the right of residence and family reunification.

The amendment specifies that according to European law the status of a person granted asylum includes a right of entry and residence that would initially be limited to a three-year period. The right of residence would be subsequently renewed *ex lege* for an indefinite period of validity if

¹⁴ Parliament of the Republic of Austria, *Fremdenrechtsänderungsgesetz 2015 (92/ME)*, available at www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00092/index.shtml (accessed on 20 April 2016).

¹⁵ See, for example, Der Kurier, *Strengerer Asylrecht: SPÖ lässt ÖVP zappeln*, 16 February 2016, available at <http://kurier.at/politik/inland/strengerer-asylrecht-spo-e-laesst-die-oevp-innenministerin-noch-zappeln/114.036.037> (accessed on 20 April 2016); Parliament of the Republic of Austria, *Innenausschuss stimmt Fremdenrechtsnovelle mit S-V-T-Mehrheit zu*, Parliament Correspondence No. 488, 7 May 2015, available at www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0488/index.shtml (accessed on 20 April 2016); Völker/Arnez, 2015:79–80.

¹⁶ Draft for review: Act Amending the Asylum Act 2005, Text Comparison, available at www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00166/imfname_480072.pdf (accessed on 14 January 2016).

there are no conditions that require the initiation of a procedure to withdraw the asylum status (Art. 2 para 1 subpara 15 and Art. 3 para 4 draft Federal Act Amending the Asylum Act 2005). Where a family procedure is involved, the amendment specifies that the family member's temporary right of residence would expire on the same date as the permit of the family member from whom the residence status is derived (Art. 3 para 4b leg. cit.). Another proposal is to issue a special card to persons granted asylum for the purpose of proof of identity and of documenting legal residence status (Art. 51a leg. cit.). Regarding family reunification, the draft act proposes that in future certain conditions (Art. 60 para 2 subpara 1–3 Asylum Act) would have to be met in cases where application is made for the entry of a family member more than three months after effective asylum status is granted to the eligible individual (Art. 35 para 1 draft Federal Act Amending the Asylum Act 2005). Furthermore, the amendment specifies that, in the case of beneficiaries of subsidiary protection, family members can apply for family reunification at the earliest three years after effective subsidiary protection status is granted to the eligible individual (Art. 35 para 2 leg. cit.).

The draft Act Amending the Asylum Act 2005 was controversially debated in the media, mainly with regard to the introduction of a temporary asylum status but also the extension of the waiting time before the family members of beneficiaries of subsidiary protection can apply for family reunification.¹⁷ During the review procedure a total of 50 advisory opinions were submitted.¹⁸ By the end of 2015, the parliamentary procedures had not yet been concluded and it remains to be seen whether any changes will be made to the draft act and if so which.

¹⁷ See, for example, Die Presse, *Mikl-Leitner: "Müssen Österreichs Attraktivität senken"*, 3 November 2015, available at http://diepresse.com/home/politik/innenpolitik/4857449/MiklLeitner_Mussen-Oesterreichs-Attraktivitaet-senken?_vl_backlink=/home/index.do (accessed on 21 April 2016); Wiener Zeitung, *UNHCR kritisiert Pläne zu "Asyl auf Zeit"*, 3 November 2015, available at www.wienerzeitung.at/nachrichten/top_news/783887_Regierung-sieht-Asyl-auf-Zeit-vor-allem-als-Signal.html (accessed on 21 April 2016).

¹⁸ Parliament of the Republic of Austria, *Asylgesetz 2005, Änderung (166/ME)*, available at www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00166/index.shtml (accessed on 21 April 2016).

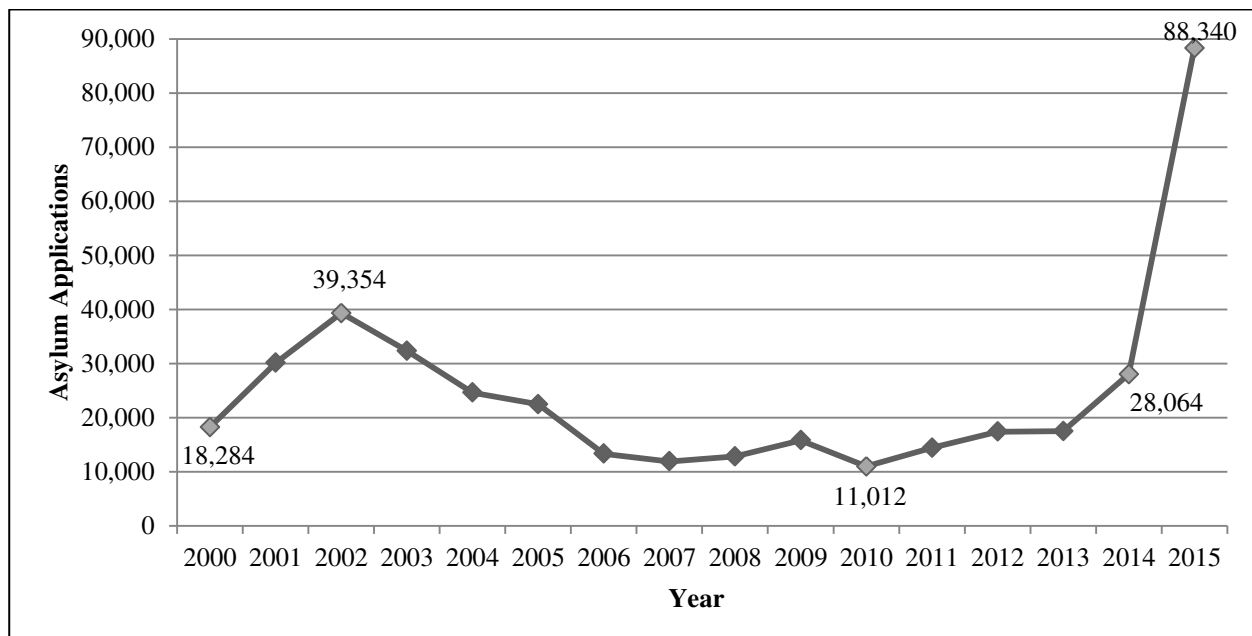
3. INTERNATIONAL PROTECTION (ASYLUM)

3.1 Trends in Asylum Applications

According to the Federal Ministry of the Interior, for many years Austria has been contributing to international refugee protection in an exceptional way. Again in 2015, Austria was at the very forefront among EU Member States both in terms of total asylum applications as well as the per-capita rate.¹⁹ According to data from Eurostat, among the EU-28, Austria ranked fourth in 2015 in relation to the absolute number of first-time asylum applicants and third in relation to first-time asylum applicants per million inhabitants.²⁰

Austria found itself in an exceptional situation without precedent in 2015.²¹ This is reflected in the data displayed in Figure 1. In 2015 Austria recorded 88,340 asylum applications; that is more than three times as many as in the previous year (2014: 28,064 asylum applications).

Figure 1: Asylum Applications in Austria (2000–2015)



Source: Federal Ministry of the Interior, Asylwesen – Statistiken; Statistics Austria, Applications for Asylum 2000–2014 by Citizenship.

The increase in the number of asylum applications mainly originates in the strong increase of asylum applications from Afghan (+20,399 asylum applications), Syrian (+16,808) and Iraqi (+12,497) citizens. These countries were the main countries of origin in 2015. In the case of the Republic of Iraq this represents a striking development since the country became the third main country of origin in 2015, while in 2014 it had ranked only seventh (Federal Ministry of the Interior, n.d.).

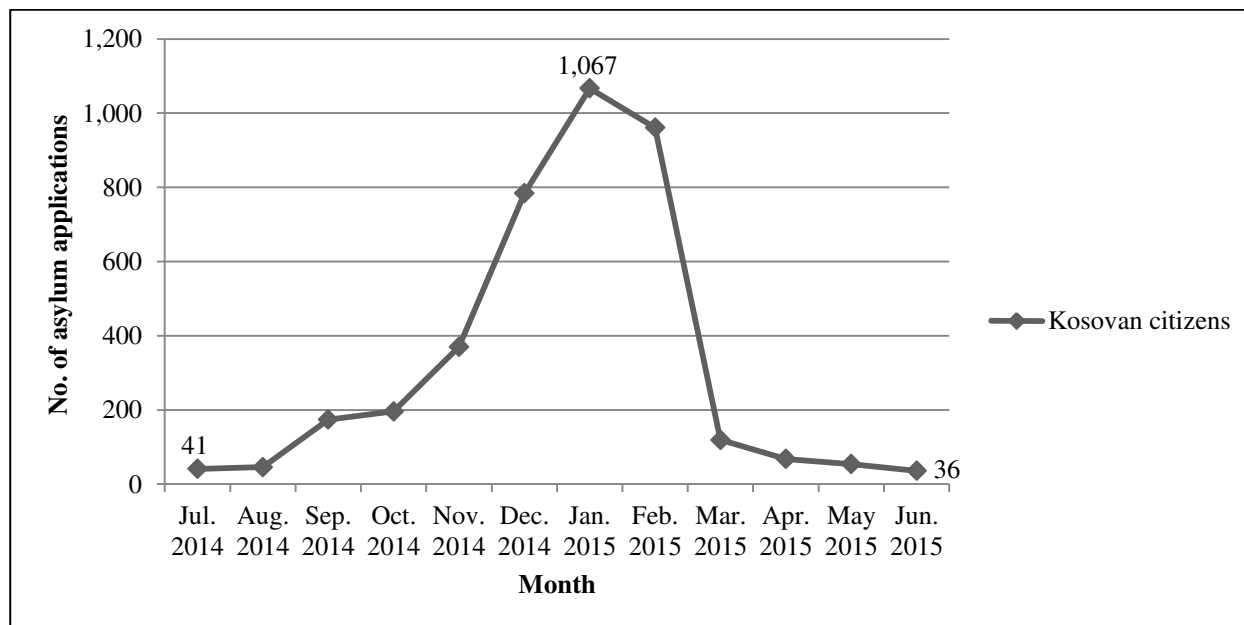
¹⁹ Written input by the Federal Ministry of the Interior, Department III/5 (Asylum and Alien Matters), 9 February 2016.

²⁰ Eurostat, *Record number of over 1.2 million first time asylum seekers registered in 2015*. Newsrelease 44/2016, 4 March 2016, available at <http://ec.europa.eu/eurostat/documents/2995521/7203832/3-04032016-AP-EN.pdf/790eba01-381c-4163-bcd2-a54959b99ed6> (accessed on 18 April 2016).

²¹ Written input by the Federal Ministry of the Interior, Department III/5 (Asylum and Alien Matters), 10 February 2016.

In late 2014 and early 2015 Austria experienced an unusually large number of asylum applications filed by citizens of UNSC resolution 1244-administered Kosovo.²² While there were only 41 applicants in July 2014, the number sharply increased to 1,067 applicants in January 2015, representing a 26-fold increase. Five months later, in June 2015, the number of Kosovan applicants was down again to 36, a number similar to that recorded one year before (see Figure 2).

Figure 2: Number of Asylum Applications lodged by Kosovan Citizens in Austria (July 2014–June 2015)



Source: Federal Ministry of the Interior, Asylwesen – Statistiken.

Kosovan citizens need a visa to enter the Schengen area, which means that they often enter Austria irregularly, transiting through Serbia and Hungary. However, because Kosovo/UNSC 1244 is considered by Austria to be a safe third country (Art. 1 Countries of Origin Ordinance),²³ such persons have little chance of being granted protection status. A sharp increase in the return rate of Kosovan citizens was subsequently recorded for 2015, including individual removal and removal by charter flight (see for example Frontex Joint Return Operations in Section 8.1.1),²⁴ while also assisted voluntary returns increased (see Section 8.2.2).

The Austrian media reported about the large increase in asylum-seekers from Kosovo/UNSC 1244. According to media reports, the economic crisis and high unemployment are the reasons for Kosovan citizens to leave their country. Moreover, there have been rumours that an asylum application in Austria is linked with financial benefits. The Austrian Federal Minister of the Interior (Austrian People's Party) therefore called for fast-track asylum procedures for citizens from safe third countries and for countermeasures in the countries of origin.²⁵ In response to the rumours regarding the asylum procedure in Austria and in order to

²² Hereinafter referred to as Kosovo/UNSC 1244.

²³ FLG II No. 177/2009, in the version of FLG II No. 47/2016.

²⁴ Written input by the Federal Ministry of the Interior, Department III/5 (Asylum and Alien Matters) 9 February 2016.

²⁵ See, for example, Die Presse, *Steigende Asylzahlen: Ansturm aus dem Kosovo*, 3 February 2015, available at http://diepresse.com/home/politik/innenpolitik/4654358/Steigende-Asylzahlen_Ansturm-aus-dem-Kosovo?_vl_backlink=/home/politik/index.do (accessed on 15 April 2016).

speak about the increase in numbers of asylum applications from Kosovan citizens, the Austrian Federal Minister of the Interior travelled to Kosovo/UNSC 1244 in mid-February,²⁶ where she agreed with her Kosovar counterpart to step up joint efforts against irregular migration.²⁷ Also, the Federal Ministry of the Interior started an information campaign in the two largest newspapers in Kosovo/UNSC 1244 in late February 2015. The campaign informed readers of the poor prospects of receiving asylum in Austria.²⁸ In the Austrian media, however, doubts were expressed about the effectiveness of the campaign, claiming it would not address the drivers of migration, i.e. the lack of prospects in the country of origin.²⁹

3.2 Resettlement and Humanitarian Admission

In addition to the asylum applicants referred to in Section 3.1, Austria is admitting a total of 1,500 Syrian refugees from the transit countries Jordan, Lebanon and Turkey through a humanitarian admission programme (HAP).³⁰ In 2015 the second phase of the humanitarian admission programme for Syrian refugees (HAP II) was still ongoing. As part of the second phase, it is planned to bring 400 Syrian refugees with family ties to Austria as well as another 600 Syrian refugees submitted by the United Nations High Commissioner for Refugees (UNHCR). HAP is being carried out by the Federal Ministry of the Interior in cooperation with UNHCR and the International Organization for Migration (IOM).³¹

In early 2015 the Federal Ministry for Europe, Integration and Foreign Affairs put out a tender for providing integration measures to benefit 600 Syrian refugees arriving in Austria as part of HAP II in collaboration with UNHCR (Federal Ministry for Europe, Integration and Foreign Affairs, 2015a). The contract was awarded to ARGE Resettlement (a working group made up of the non-governmental organizations Caritas, Diakonie and the Red Cross) and the Austrian Integration Fund; the group has since been providing a special integration programme to these particularly vulnerable individuals.³²

²⁶ See, for example, Die Presse, *Kosovo: Mikl-Leitner will "Massenauswanderung" stoppen*, 10 February 2015, available at http://diepresse.com/home/politik/innenpolitik/4659505/Kosovo_MiklLeitner-will-Massenauswanderung-stoppen (accessed on 15 April 2016).

²⁷ Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

²⁸ Federal Ministry of the Interior, *Mikl-Leitner plädiert für Schaffung einer "Task-Force Westbalkan"*. News, 13 March 2015, available at www.bmi.gv.at/cms/bmi/_news/bmi.aspx?id=7A66397A71647461774D4D3D&page=0&view=1 (accessed on 5 February 2016).

²⁹ Wiener Zeitung, *Legal oder illegal ist ihnen egal*, 20 February 2015, available at www.wienerzeitung.at/meinungen/kommentare/736370_Legal-oder-illegal-ist-ihnen-egal.html (accessed on 15 April 2016).

³⁰ Ibid.

³¹ Federal Ministry of the Interior, *Humanitäre Aktion Syrien*, available at www.bmi.gv.at/cms/BMI_Asylwesen/syrien/start.aspx (accessed on 12 January 2016).

³² Written input by the Federal Ministry of the Interior, Department III/5 (Asylum and Alien Matters), 10 February 2016.

3.3 Reception of Applicants for International Protection

3.3.1 Measures to Address Challenges in the Initial Reception and Accommodation

The drastic increase in applications for asylum, reaching an historic level in 2015 (see Section 3.1), led to a shortage of capacities within Austria's asylum and reception system. The Austrian media also reported about this situation.³³

Since May 2015 the Austrian Federal Ministry of the Interior has taken several immediate emergency measures to ensure proper accommodation of asylum-seekers. These include:

- Appeal to the public to make available housing for asylum-seekers;³⁴
- Erection of tents on Federal State property;
- Container dwellings;³⁵
- Selection of eight military barracks as potential reception facilities;³⁶
- Use of the Vordernberg centre (for detention pending removal) as an initial clearing point for asylum-seekers;³⁷
- An agreement with Slovakia for the accommodation of 500 refugees in Slovakia. Based on the agreement, Slovakia assumed the task of housing and feeding the refugees, while Austria is responsible for care and security on location and for completing asylum procedures. The preliminary term of the agreement is two years.³⁸

In order to coordinate measures and to find a structured response to the challenges posed by the initial reception and accommodation of the asylum-seekers, a crisis board (*Krisenstab*) under the Federal Ministry of the Interior was set up in May 2015, consisting of representatives of the Ministry of the Interior, the Ministry of Defence, the provinces, firefighters' associations and non-governmental organizations.³⁹ A board to coordinate the "acute migration situation" (*Koordinierungsstab „akute Migrationslage“*) was additionally set up under the Federal Ministry of the Interior on 17 August 2015, with the task of accommodating asylum-seekers quickly and effectively within the basic welfare support system. Another coordination board for the "migration situation/security police" (*Koordinierungsstab „Migrationslage/Sicherheitspolizei“*) became operational as of 27 August 2015. This board acts

³³ See, for example, OE24, *Asylwerber: Im Jänner 365 % mehr*, 8 January 2015, available at www.oe24.at/oesterreich/politik/Asylwerber-Im-Jaenner-365-mehr/171660445 (accessed on 19 April 2016).

³⁴ Federal Ministry of the Interior, *Unterkünfte für Kriegsflüchtlinge*. News, 3 August 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=5937366E4A303765737A6B3D&page=36&view=1 (accessed on 8 December 2015).

³⁵ Federal Ministry of the Interior, *Aufnahmestopp Traiskirchen*. News, 4 August 2015, available at www.bmi.gv.at/cms/bmi/_news/bmi.aspx?id=442F6370706A347747536F3D&page=5&view=1 (accessed on 8 December 2015).

³⁶ Federal Ministry of the Interior, *Verordnung sieht acht Kasernen-Standorte als Betreuungsstellen vor*. News, 22 December 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=7A2F4C64636A2F554E2F513D&page=1&view=1 (accessed on 5 January 2016).

³⁷ Federal Ministry of the Interior, *Krisensitzung zur Versorgung der Kriegsflüchtlinge*. News, 15 May 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=484C6B567A3057624445633D&page=61&view=1 (accessed on 8 December 2015).

³⁸ Federal Ministry of the Interior, *Mikl-Leitner: "Österreichisch-slowakische Asylkooperation beispielgebend für Europa"*. News, 21 July 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=3057395A77426F777524D3D&page=40&view=1 (accessed on 9 December 2015).

³⁹ Federal Ministry of the Interior, *Krisensitzung zur Versorgung der Kriegsflüchtlinge*. News, 15 May 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=484C6B567A3057624445633D&page=57&view=1 (accessed on 8 December 2015).

as an information hub, making information on current migration flows available to decision makers (Federal Ministry of the Interior, 2015:64–65).

Furthermore, the Federal Constitutional Act Concerning the Accommodation and Allocation of Foreigners in Need of Aid and Protection⁴⁰ (hereafter Constitutional Act) entered into effect on 1 October 2015. Through the so-called “right to overrule” specified in the act, the Federal State can establish accommodation facilities even in municipalities that express opposition to such plans. To do so, several conditions have to be met. There has to be a need, the reception quota must not be fulfilled, the Federal State is entitled to dispose of the property, and preponderant interests of safety, health and environmental protection may not be disregarded.⁴¹ Prior to being passed, the Constitutional Act was controversially discussed amongst the political parties. On the one hand the Austrian Green Party, the Austrian People’s Party and the Social Democratic Party of Austria called for solidarity and stressed the need to equally distribute the task of accommodating asylum-seekers in Austria. On the other hand the Austrian Freedom Party criticized the draft, saying that the Federal State would be interfering with the competencies of the provinces and municipalities.⁴²

3.3.2 Restructuring of the Reception System and Admission Procedure

An amendment to the Federal Basic Welfare Support Act⁴³ now provides for new structures of the initial reception system. The amendment became law on 20 July 2015 as part of the Act Amending the Aliens Law 2015.⁴⁴ In addition to the initial reception centres at Traiskirchen and Thalham, the Federal Ministry of the Interior established seven other federal distribution centres to enable decisions on Austria’s responsibility for an asylum application to be taken in the actual province where the application is filed. The centres are located in Carinthia (Ossiach), Lower Austria (temporarily at Traiskirchen), Salzburg (Gaisberg), Styria (Fehring), Tyrol (Innsbruck, responsible for Tyrol und Vorarlberg), Upper Austria (Bad Kreuzen) and Vienna (Nussdorfer Straße, responsible for the provinces of Vienna and Burgenland).⁴⁵ The media also reported about the establishment of the new distribution centres. With the amendment entering into force on 20 July, of the seven planned distribution centres those in Vienna, Salzburg, Upper Austria and probably Lower Austria are supposed to begin operations. According to the Federal Ministry of Interior, the remaining centres will need a longer lead time until autumn 2015. Until then, provisional accommodation will be provided.⁴⁶

In order to alleviate pressure, there was a shift away from the initial reception centres as the focus of the application and admission procedure. As of 20 July 2015, applications for asylum

⁴⁰ FLG I 120/2015.

⁴¹ Federal Ministry of the Interior, *Durchgriffsrecht des Bundes tritt in Kraft*. News, 1 October 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=4A436E364242646D4A52553D&page=13&view=1 (accessed on 9 December 2015).

⁴² Parliament of the Republic of Austria, *Flüchtlingsquartiere: Bundesrat stimmt Durchgriffsrecht des Bundes zu*. Parliament Correspondence No. 999, 25 September 2015, available at www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0999/index.shtml (accessed on 19 April 2016).

⁴³ FLG No. 405/1991, in the version of FLG I No. 70/2015.

⁴⁴ FLG I No. 70/2015.

⁴⁵ Federal Ministry of the Interior, *Neues Konzept der Grundversorgung: Verteilerquartiere nehmen Arbeit auf*. News, 17 July 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=4D5967704932436A2B4F453D&page=41&view=1 (accessed on 8 December 2015).

⁴⁶ See, for example, Neue Kronen Zeitung Online, *Trotz neuem Gesetz nicht alle Asyl- Verteilerzentren starten pünktlich*, 14 July 2015, available at www.krone.at/Nachrichten/Nicht_alle_Asyl-Verteilerzentren_starten_puenktlich-Trotz_neuem_Gesetz-Story-462390 (accessed on 14 April 2016).

can no longer be filed with an initial reception centre but must be lodged before the police or security authorities (Art. 17 para 1 Asylum Act).⁴⁷ Following fingerprinting, photographing and initial questioning by the police, the Federal Office for Immigration and Asylum has to give instructions as to which initial reception centre or Regional Directorate of the Federal Office the foreigner has to go or to be transferred (Art. 43 para 1 Federal Office for Immigration and Asylum Procedures Act). With this instruction the asylum application is considered officially lodged (Art. 17 para 2 Asylum Act) and the admission procedure starts (Art. 29 para 1 Asylum Act). In addition, the admission procedure is not exclusively carried out at the initial reception centres but also at the Regional Directorates of the Federal Office for Immigration and Asylum.⁴⁸ To manage the sharp rise in the number of asylum applications, the Federal Office for Immigration and Asylum enlarged its staff in 2015, recruiting an additional 500 employees, and decided to increase the number of branch offices in the provinces by seven. The first of the seven new branch offices opened in December 2015 in Carinthia (Klagenfurt).⁴⁹ With the shift away from the initial reception centre as the focus of the admission procedure, the requirement to be present at the initial reception centre, as a specific aspect of the obligation to cooperate, was also repealed (Art. 15 para 3a and para 3b Asylum Act).⁵⁰

3.3.3 Basic Welfare Support

The Act Amending the Aliens Law 2015 led to changes in the entitlement to basic welfare support provided by the Federal State.⁵¹ In accordance with Art. 3 para 1 of the recast Reception Directive (2013/33/EU),⁵² foreigners now lose their right of residence and consequently also their entitlement to basic welfare support when the suspensory effect of a complaint is lifted (Art. 2 para 7 Federal Basic Welfare Support Act). Basic welfare support may nonetheless be provided, for example until voluntary return (Art. 3 para 6 Federal Basic Welfare Support Act). Even where they lose entitlement to such support, until their departure foreigners must be assured access to emergency healthcare (Art. 3 para 1 Federal Basic Welfare Support Act) as specified in Art. 20 para 5 of the recast Reception Directive (2013/33/EU).

Furthermore, Art. 17 para 4 of the recast Reception Directive (2013/33/EU) specifies the possibility of excluding those individuals from basic welfare support who have adequate means of subsistence at the time of receiving support; this option is also applied to basic welfare support when supplied by the Federal State (Art. 3 para 1 subpara 6 Federal Basic Welfare

⁴⁷ FLG I No. 100/2005, in the version of FLG I No. 70/2015.

⁴⁸ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 12, available at www.parlament.gv.at/PAKT/VHG/XXV/II/I_00582/fname_401629.pdf (accessed on 14 January 2016).

⁴⁹ Federal Office for Immigration and Asylum, *Regionaldirektion Kärnten bekommt neue Außenstelle*. News, 23 December 2015, available at www.bfa.gv.at/presse/news/detail.aspx?nwid=4F5A4739736D75797369513D&ctrl=796C386F347944696937796A68352F47503437326B513D3D&nwo=0 (accessed on 5 January 2016).

⁵⁰ A schema of the old and new model can be accessed at: Federal Ministry of the Interior, *Aufnahme und Betreuung von Asylwerbern*, available at www.bmi.gv.at/cms/cs03picturesbmi/BMI_NEWS_INT%20-%20ASYL_UND_FREMDENWESEN/GRAFIK_VERTEILERQUARTIERE/D_14745.jpg (accessed on 10 March 2016).

⁵¹ The Federal State and the provinces hold joint competencies in the area of providing basic welfare support. The Federal State is mainly responsible for asylum-seekers in the admission procedure, while in later stages of the asylum procedure the provinces are competent (AT EMN NCP, 2015:16, 49–50).

⁵² Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L 180/96.

Support Act). Previously, such individuals were first provided with basic welfare support and then charged the costs later.⁵³

Under the Federal Basic Welfare Support Act, basic welfare support can now also be reduced or withdrawn where the individual in question has with intent seriously threatened the life, health or freedom of another person within the reception facility, and where certain facts justify the assumption that the individual will repeat such an act (Art. 2 para 4 subpara 3 Federal Basic Welfare Support Act). As practice has shown, creating this possibility was a necessary measure in order to maintain security in reception facilities and the personal safety of staff.⁵⁴

In addition, through a resolution passed by the National Council on 9 December 2015, selected maximum amounts paid out for various basic welfare support measures as set forth in Art. 9 of the Basic Welfare Support Agreement⁵⁵ were increased.⁵⁶ The increases, ranging from EUR 3.50 to EUR 80 depending on the support measure, enter into (retroactive) effect as of August 2015, October 2015 or January 2016. A previous increase of selected maximum amounts was decided upon back in 2013.⁵⁷ An overview is provided in Table 1.

Table 1: Overview of Increased Selected Maximum Amounts laid down Art. 9 of the Basic Welfare Support Agreement

Basic welfare support measure	Rate according to: Basis Welfare Support Agreement	Rate according to: Agreement from 2013 between the federal government and the provinces		Rate according to: Agreement from 2015 between the federal government and the provinces	
	Amount	Amount	Effect from	Amount	Effect from
Accommodation and food per day and person in organized reception facilities					
	EUR 17	EUR 19	January 2012	EUR 20.50 EUR 21	October 2015 January 2016
Food per month and person in case of individual accommodation					
<i>for adults</i>	EUR 180	EUR 200	March 2013	EUR 215	January 2016
<i>for minors</i>	EUR 80	EUR 90	March 2013	EUR 100	January 2016
<i>for unaccompanied minors</i>	EUR 180	–	–	EUR 215	January 2016
Rent per month and person/family in case of individual accommodation					
<i>for one person</i>	EUR 110	EUR 120	March 2013	EUR 150	January 2016
<i>for a family (minimum two persons)</i>	EUR 220	EUR 240	March 2013	EUR 300	January 2016
Rent, food and care per day and unaccompanied minor					
<i>in apartment-sharing group</i>	EUR 75	EUR 77	January 2012	EUR 95	August 2015
<i>in residential home</i>	EUR 60	EUR 62	January 2012	EUR 63.50	January 2016
<i>in supervised or other accommodation</i>	EUR 37	EUR 39	January 2012	EUR 40.50	January 2016

⁵³ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 33, available at www.parlament.gv.at/PAKT/VHG/XXV/II/I_00582/fname_401629.pdf (accessed on 14 January 2016).

⁵⁴ Ibid. p. 32.

⁵⁵ FLG I No. 80/2004.

⁵⁶ Agreement between the Federal Government and the Provinces Pursuant to Article 15a of the Federal Constitutional Act, Concerning an Increase of Selected Maximum Amounts Laid Down in Art. 9 of the Basis Welfare Support Agreement, Resolution of the National Council, available at www.parlament.gv.at/PAKT/VHG/XXV/BNR/BNR_00279/fname_493137.pdf (accessed on 12 January 2016).

⁵⁷ Agreement between the Federal Government and the Provinces Pursuant to Article 15a of the Federal Constitutional Act, Concerning an Increase of Selected Maximum Amounts Laid Down in Art. 9 of the Basis Welfare Support Agreement, FLG. I No. 46/2013.

Source: Agreement between the Federal Government and the Provinces Pursuant to Article 15a of the Federal Constitutional Act, Concerning an Increase of Selected Maximum Amounts Laid Down in Art. 9 of the Basis Welfare Support Agreement, FLG. I No. 46/2013; Agreement between the Federal Government and the Provinces Pursuant to Article 15a of the Federal Constitutional Act, Concerning an Increase of Selected Maximum Amounts Laid Down in Art. 9 of the Basis Welfare Support Agreement, Resolution of the National Council, available at www.parlament.gv.at/PAKT/VHG/XXV/BNR/BNR_00279/fname_493137.pdf (accessed on 12 January 2016); Basic Welfare Support Agreement – Art. 15a Federal Constitutional Act, FLG I No. 80/2004.

3.4 International Protection Procedures

3.4.1 Procedural Changes

The Act Amending the Aliens Law 2015 resulted in a number of changes to the asylum procedure in order to accommodate changes in legal requirements of the EU. Some of the relevant changes are described below.

Austrian law has, for example, been modified in accordance with Art. 35 of the recast Procedures Directive (2013/32/EU),⁵⁸ which specifies equal treatment of persons granted asylum and beneficiaries of subsidiary protection with respect to determining the first country of asylum. Austrian law now requires an application for asylum to also be rejected as inadmissible where the applicant has been granted subsidiary protection in another Member State of the European Economic Area or in Switzerland (Art. 4a Asylum Act).⁵⁹

The circumstances under which the Federal Office for Immigration and Asylum can lift the suspensory effect of a complaint were modified to accommodate Art. 46 para 6 of the recast Procedures Directive (2013/32/EU) (Art. 18 para 1 Federal Office for Immigration and Asylum Procedures Act). Two cases were added: firstly, where serious grounds exist for assuming that the asylum-seeker constitutes a danger to national security; and, secondly, where the asylum-seeker refuses to comply with the requirement to allow fingerprints to be taken. On the other hand, the case where the application for asylum is not made at the earliest possible time was eliminated.⁶⁰

An accelerated procedure has been introduced in compliance with Art. 31 of the recast Procedures Directive (2013/32/EU) (Art. 27a Asylum Act). Such a procedure is to be initiated in cases where the suspensory effect of a complaint can be lifted (Art. 18 para 1 Federal Office for Immigration and Asylum Procedures Act) and a decision must be taken within a maximum of five months; the period can nonetheless be exceeded if necessary for completing an appropriate, full examination of the case. Since applicants are not legally entitled to a decision within five months, no complaint may be filed on grounds of delay.⁶¹

A ruling on a complaint filed against the withdrawal of asylum status or subsidiary protection status has to be handed down within a now abbreviated three-month period (Art. 21 para 2a Federal Office for Immigration and Asylum Procedures Act). In view of the international and

⁵⁸ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), 29 June 2013, OJ L 180/60.

⁵⁹ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 11, available at www.parlament.gv.at/PAKT/VHG/XXV/II/I_00582/fname_401629.pdf (accessed on 14 January 2016).

⁶⁰ Ibid. p. 6.

⁶¹ Ibid. p. 13.

European legal framework underlying the issue, withdrawal of such status is considered only in serious cases, for instance when an individual is convicted of an exceptionally serious offence or when a war crime or a crime against humanity is involved.⁶²

In transposition of Art. 27 para 2 (b) of the Dublin III Regulation (No 604/2013),⁶³ a complaint that is lodged in a Dublin procedure against an order to remove a foreigner from the country will by force of law not have any suspensory effect in future (Art. 16 para 2 Federal Office for Immigration and Asylum Procedures Act). The period allowed for lodging such a complaint will be one week in future (Art. 61 Aliens Police Act)⁶⁴. The Federal Administrative Court rules on whether to recognize any suspensory effect in such cases (Art. 17 Federal Office for Immigration and Asylum Procedures Act).

When foreigners voluntarily return to their country of origin during a procedure before the Federal Administrative Court, the proceedings are to be discontinued. This is to avoid having to file the case as devoid of purpose upon voluntary departure and subsequently having to start a new procedure when the individual re-enters Austria. Instead, the discontinued procedure is continued if the person re-enters or re-applies for asylum within two years (Art. 24 para 2a Asylum Act).

3.4.2 Efficiency and Quality

In 2015 several changes were aimed at an increased efficiency and quality of asylum procedures in Austria. For example, the scope of legal assistance provided before the Federal Administrative Court was – in the framework of the Act Amending the Aliens Law 2015 – expanded to include participation in hearings involving complaints against an order of removal from the country or against withdrawal or reduction of basic welfare support, as well as representation in procedures concerning complaints against a decision on an application for international protection (Art. 52 para 1 Federal Office for Immigration and Asylum Procedures Act); all of these additions are based on provisions of EU law. Pursuant to Art. 27 para 5 of the Dublin III Regulation (No 604/2013), foreigners who do not apply for asylum are also entitled to legal assistance, while Art. 20 para 1 of the recast Procedures Directive (2013/32/EU) specifies that legal assistance provided before a court also includes participation in the hearing. The legal assistance provided in cases involving reduction or withdrawal of basic welfare support benefits is based on Art. 26 of the recast Reception Directive (2013/33/EU).

To ensure the quality of the interpretation provided in asylum procedures, UNHCR and the Association of Austrian Adult Education Centres launched a course in late 2015 to train interpreters for asylum procedures. The course curriculum is based on the training manual prepared in consultation with the Federal Office for Immigration and Asylum during the QUADA (Quality Interpreting in Asylum Procedures) project.⁶⁵

⁶² Ibid. p. 7.

⁶³ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 29 June 2013, OJ L 180/31.

⁶⁴ FLG I No. 100/2005, in the version of FLG I No. 121/2015.

⁶⁵ Federal Office for Immigration and Asylum, *Lehrgang für Dolmetscherinnen und Dolmetscher im Asylverfahren*. News, 27 May 2015, available at www.bfa.gv.at/presse/news/detail.aspx?nwid=45783761474D327851356F3D&ctrl=796C386F347944696937796A68352F47503437326B513D3D&nwo=1 (accessed on 11 December 2015).

3.5 Cooperation with the European Asylum Support Office (EASO) and Support to Member States

Within the framework of the operating plans of the European Asylum Support Office (EASO), Austria has regularly assisted other EU Member States in managing and resolving challenges in the area of asylum since 2010. Assistance was provided through these activities in 2015:

- To Bulgaria in the field of information on countries of origin;
- To Greece in the field of information on countries of origin (in particular the Islamic Republic of Iran and Iraq);
- To Hungary by participating in the “Mapping Mission” Hungary;
- To Italy in the area of Dublin procedures.⁶⁶

Furthermore, Austria participated in various activities related to information on countries of origin. Among these were collaboration in the preparation of country reports on Afghanistan, Eritrea, Pakistan and Somalia.⁶⁷

As a member of the EASO steering group to which the contractor of the ongoing independent evaluation of EASO’s activities has to report (Chetail/De Bruycker/Maiani, 2016:487), Austria plays an active role in the external evaluation of EASO. Also, in the context of EASO emergency support, Austria participated in an evaluation project regarding the usefulness of joint processing in Greece.⁶⁸

Austria was also active in providing training-related activities. For example in 2015 Austria held train-the-trainer sessions in Estonia, Germany and Malta⁶⁹ and conducted study visits (trainings, information exchange) for staff members of asylum authorities in other countries (e.g. Bulgaria).⁷⁰

Austria also provided support to other Member States who experienced pressure on their national asylum systems. For example, in the context of the European Commissions’ hotspot approach⁷¹ Austria deployed experts to the hotspot on the Greek island of Lesbos and to the IT Dublin unit in Italy.⁷² Greece and Italy are the first two Member States where this hotspot approach is currently being implemented. When the governments of Croatia, Serbia and Slovenia requested assistance from the European Commission in October 2015 to help in the care of refugees, the Austrian Federal Ministry of the Interior organized the transport of relief supplies in line with the EU emergency assistance mechanism.⁷³

⁶⁶ Written input by Federal Office for Immigration and Asylum, Public Affairs Directorate, 16 February 2016.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ European Commission, *The Hotspot approach to managing exceptional migratory flows*, available at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/2_hotspots_en.pdf (accessed on 4 April 2016).

⁷² Written input by Federal Office for Immigration and Asylum, Public Affairs Directorate, 16 February 2016.

⁷³ Federal Ministry of the Interior, *Österreich hilft Kroatien, Slowenien und Serbien bei der Bewältigung der Flüchtlingssituation*. News, 5 November 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=48454E486F6462425777453D&page=4&view=1 (accessed on 9 December 2015).

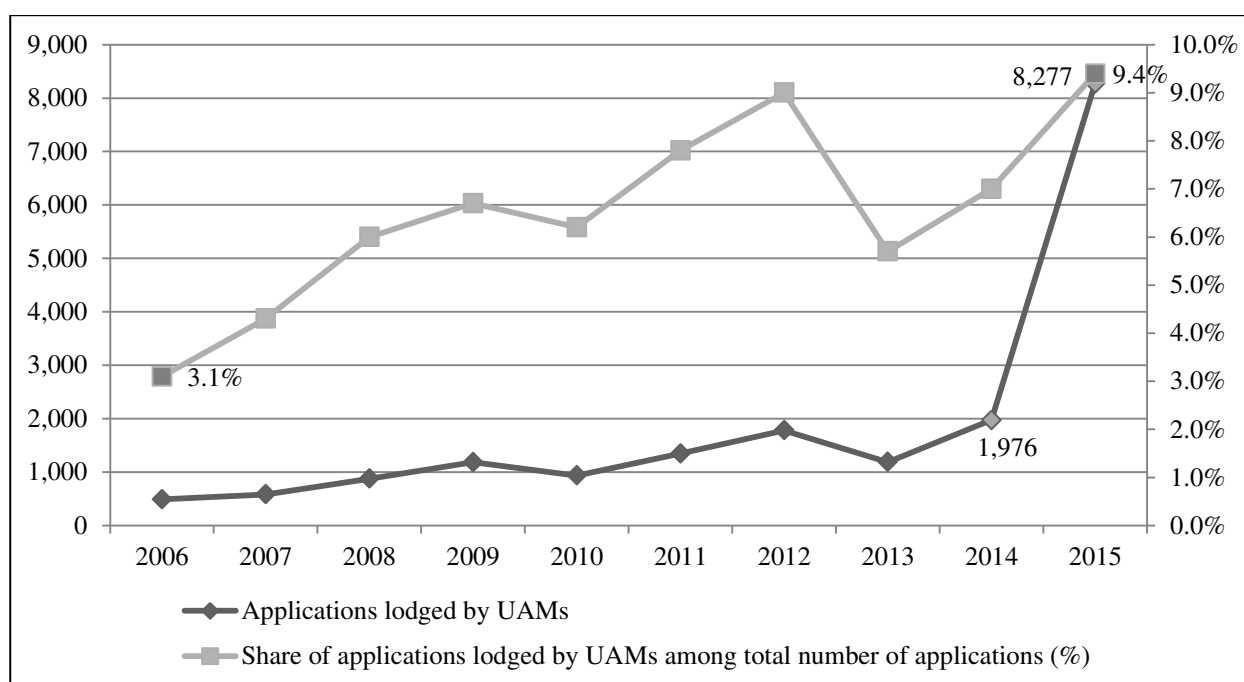
4. UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

4.1 Trends in Asylum Applications

Since 2006 the share of asylum applications lodged by unaccompanied minors (UAMs) among the total number of asylum applications in Austria has increased (see Figure 3). In 2006, 3.1 per cent of the total number of asylum applications were lodged by UAMs, while the figure in 2015 was 9.4 per cent. Only in 2010 and 2013 was the trend regressive.

With the sharp increase in the number of asylum application in 2015 (see Figure 1 in Section 3.1), 9.4 per cent of applications being lodged by UAMs means that there has also been a sharp increase in the total number of UAMs lodging an asylum application. While in 2014 there were 1,976 UAMs applying for asylum in Austria, in 2015 Austria had to accommodate a total of 8,277 asylum-seeking UAMs, which is four times as many.

Figure 3: Asylum Applications Lodged by Unaccompanied Minors in Austria, Total and Share (2006–2015)

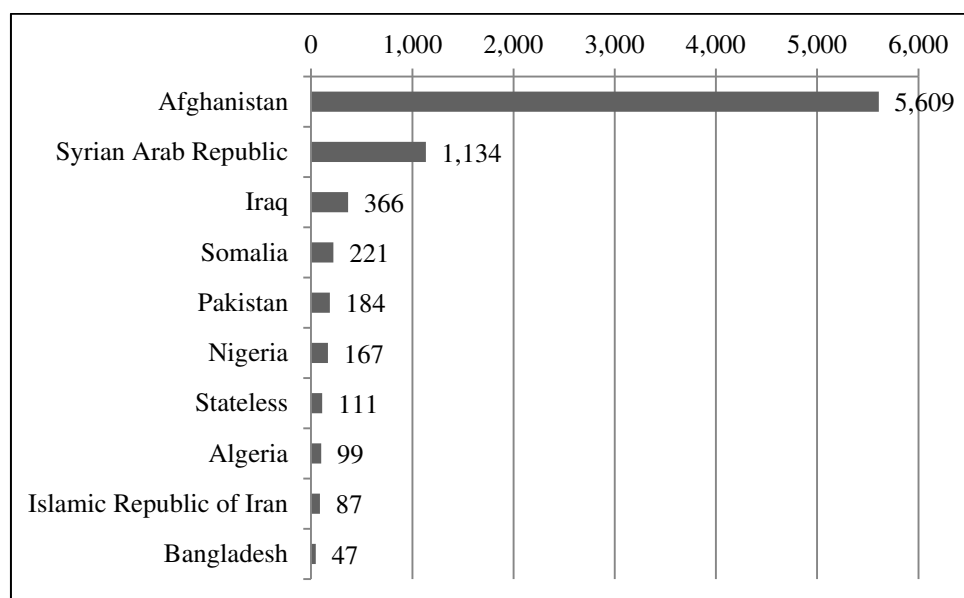


Source: Federal Ministry of the Interior, Asylwesen – Statistiken, own calculation.

As Figure 4 shows, Afghanistan was by far the main country of origin of UAMs applying for asylum in Austria in 2015 (5,609 applications or 68% of all asylum applications lodged by UAMs). Already since as earlier as 2007, Afghanistan has been the main country of origin of UAMs seeking asylum in Austria.⁷⁴

⁷⁴ Medien-Servicestelle Neue Österreicher/innen, *Minderjährige Flüchtlinge: 6.000 bis Ende September*, available at http://medienservicestelle.at/migration_bewegt/2015/11/20/minderjaehrige-fluechtlinge-6-000-bis-ende-oktober/ (accessed on 4 April 2016).

Figure 4: Asylum Applications Lodged by Unaccompanied Minors in Austria by citizenship, top 10 (2015)



Source: Federal Ministry of the Interior, Asylwesen – Statistiken.

4.2 The Situation of Unaccompanied Minors in Austria

Due to a shortage of reception capacities in the provinces of Austria in 2015, several hundred unaccompanied minors (UAMs) had to be accommodated at the initial reception centres or at other reception facilities of the Federal State, even after admission to the asylum procedure, a stage at which they are usually distributed to reception facilities in the provinces.⁷⁵ The Austrian media reported about the unsatisfactory accommodation situation.⁷⁶ The Ombudsman Board – after carrying out an investigation procedure initiated on its own initiative – found deficits in the care and reception of asylum-seeking UAMs. According to the Ombudsman Board, action was required in the areas of guardianship, accommodation, maximum amounts and access to education.⁷⁷ Other stakeholders, such as non-governmental organizations, church-affiliated organizations and political party representatives, also called for more reception facilities for asylum-seeking UAMs as well as for an increase in the maximum amounts of basic welfare support and adjustment to the levels provided under child and youth services standards.⁷⁸

Later, in May 2015, the governors of the provinces agreed at their regular conference to distribute UAMs between the provinces according to a quota that is in proportion to their

⁷⁵ UMF – Arbeitsgruppe unbegleitete minderjährige Flüchtlinge, *Februar 2015: 740 UMF befinden sich in der Bundesbetreuung*, available at <http://umf.asyl.at/aktuell/> (accessed on 4 April 2016).

⁷⁶ See, for example, Wiener Zeitung, *Kritik an Unterbringung von minderjährigen Flüchtlingen*, 19 February 2015, available at www.wienerzeitung.at/nachrichten/oesterreich/politik/736010_Kritik-an-Unterbringung-von-minderjaehrigen-Fluechtlingen.html (accessed on 15 April 2016).

⁷⁷ Volksanwaltschaft, *Serie Kinderrechte: Mangelnde Betreuung von unbegleiteten minderjährigen Flüchtlingen*, available at <http://volksanwaltschaft.gv.at/artikel/serie-kinderrechte-mangelnde-betreuung-von-unbegleiteten-minderjaehrigen-fluechtlingen> (accessed on 4 April 2016).

⁷⁸ See, for example, Diakonie Österreich, *Agenda Asyl: Minderjährige Asylsuchende werden im Stich gelassen!* Press Release, 4 February 2015, available at www.ots.at/presseaussendung/OTS_20150204_OTS0012/agenda-asyl-minderjaehrige-asylsuchende-werden-im-stich-gelassen (accessed on 4 April 2016); Grüner Klub im Parlament, *Korun/Baur: Nach Quotenerfüllung geht es jetzt um Qualität und realistische Tagsätze*. Press Release, 19 February 2015, available at www.ots.at/presseaussendung/OTS_20150219_OTS0101/korunbaur-nach-quotenerfuellung-geht-es-jetzt-um-qualitaet-und-realistische-tagsaetze (accessed on 4 April 2016).

population (up to now there has been only an overall quota for asylum-seekers). The provincial governors also committed to create additional reception facilities.⁷⁹

Furthermore, as part of increasing selected maximum amounts paid for basic welfare support, the daily amounts for UAMs were increased depending on the type of accommodation as of August 2015 and January 2016.⁸⁰ The maximum amount for rent, food and care per person and day was increased by EUR 20 for UAMs living in apartment-sharing groups (totalling EUR 95) and by EUR 3.50 for those living in residential homes (totalling EUR 63.50) and in supervised accommodation or in other accommodation (totalling EUR 40.50) (see Table 1 in Section 3.3.3).

Further legislative developments regarding UAMs applying for asylum were introduced through the Act Amending the Aliens Law 2015,⁸¹ which became effective on 20 July 2015. In distinction to the new rules applying to the admission procedure (see Section 3.3.2), an application for asylum made at an initial reception centre by a minor under the age of 14 continues to be considered filed if the minor's interests are not able to be safeguarded by a legal representative and the application is confirmed in the presence of the minor's legal advisor at the centre (Art. 10 para 6 Federal Office for Immigration and Asylum Procedures Act).⁸² Unaccompanied minors aged 14 and over are always required to be brought to the initial reception centre after they apply for asylum. Their legal advisor also acts as legal representative as from the time of their arrival (Art. 10 para 3 Federal Office for Immigration and Asylum Procedures Act) and is required to be present during every interview (not only at the initial reception centre) (Art. 49 para 3 Federal Office for Immigration and Asylum Procedures Act). Furthermore, in cases of asylum-seeking minors whose applications are rejected, the Federal Office for Immigration and Asylum is generally required to apply alternatives to detention pending removal for minors over 14 (previously only up to age 16), unless certain facts justify the assumption that such alternatives will not achieve the purpose of detention (Art. 77 para 1 Aliens Police Act).⁸³ This amendment was introduced to comply with the recast Reception Directive (2013/33/EU).⁸⁴ The regulation unexceptionally prohibiting minors below the age of 14 from being kept in detention pending removal (Art. 76 para 1 Aliens Police Act) remains valid.

4.3 Other Vulnerable Groups

According to the Glossary of the European Migration Network (EMN) and in line with EU Directives, vulnerable persons include minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been

⁷⁹ See, for example, Die Presse, *Länder beschließen Quote für unbegleitete Minderjährige*, 6 May 2015, available at <http://diepresse.com/home/politik/innenpolitik/4724858/Laender-beschliessen-Quote-fur-unbegleitete-Minderjaehrige> (accessed on 4 April 2016).

⁸⁰ Agreement between the Federal Government and the Provinces Pursuant to Article 15a of the Federal Constitutional Act, Concerning an Increase of Selected Maximum Amounts Laid Down in Art. 9 of the Basis Welfare Support Agreement, Resolution of the National Council, available at www.parlament.gv.at/PAKT/VHG/XXV/BNR/BNR_00279/fname_493137.pdf (accessed on 12 January 2016).

⁸¹ FLG I No. 70/2015.

⁸² FLG I No. 87/2012, in the version of FLG I No. 84/2015.

⁸³ FLG I No. 100/2005, in the version of FLG I No. 121/2015.

⁸⁴ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L 180/96.

subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation (EMN, 2014:301).

Generally, as part of the Act Amending the Aliens Law 2015 and in order to transpose Art. 22 para 1 of the recast Reception Directive (2013/33/EU) into Austrian law, any (possible) special needs are assessed upon admission to basic welfare support and subsequently taken into account to the greatest possible extent (Art. 2 para 1 Federal Basic Welfare Support Act).⁸⁵ In compliance with Art. 21 of the recast Reception Directive (2013/33/EU), family relationships, ethnic particularities and the special needs of vulnerable persons (formerly: women and children) are now required to be taken into account when assigning such individuals to reception facilities (Art. 2 para 2 Federal Basic Welfare Support Act).

The features defining persons who have been subjected to violence are now defined more clearly, thereby implementing Art. 24 para 3 of the recast Procedure Directive (2013/32/EU). Furthermore, asylum-seekers who have suffered serious forms of emotional, physical or sexual violence are now also considered as falling into this category, to which special admission procedure rules apply (Art. 30 Asylum Act).⁸⁶ Yet, compared with the previous wording, no changes result when applying the provision in practice, since such cases had already been covered by the existing clause “or as a result of a similar event”.⁸⁷

⁸⁵ FLG. No. 405/1991, in the version of FLG I Nr. 70/2015.

⁸⁶ FLG I 100/2005, in the version of FLG I No. 70/2015.

⁸⁷ Act Amending the Aliens Act 2015, Government Proposal, Explanatory Notes, p. 14, available at www.parlament.gv.at/PAKT/VHG/XXV/II/II_00582/fname_401629.pdf (accessed on 18 January 2016).

5. LEGAL MIGRATION AND MOBILITY

5.1 Economic Migration

5.1.1 *Instruments for Managing Labour Migration*

With regard to the immigration of individuals in the category of “skilled workers in shortage occupations” under the Red-White-Red Card, each year a new list is published that defines the occupations falling under the category of “shortage occupations”. Hence, in November 2014, the Federal Minister of Labour, Social Affairs and Consumer Protection issued – in consultation with the Federal Minister of Science, Research and Economy – the new Regulation for Skilled Workers for 2015.⁸⁸ The regulation lists eleven shortage occupations in which third-country nationals can obtain a “Red-White-Red Card” as skilled workers in 2015. The listed shortage occupations are as follows: milling machinists, asphalt roofers, metal turners, agricultural machinery mechanics, roofers, mechanical engineering technicians, high-voltage electrical technicians, welders and flame cutters, tool, die and punch makers, (other) sheet metal workers and (other) high-voltage electrical technicians.⁸⁹ In November 2015 the new version of the Regulation for Skilled Workers for 2016⁹⁰ was issued. The regulation lists only eight shortage occupations, some of which are similar to those of the previous year: milling machinists, metal turners, mechanical engineering technicians, roofers, mechanical engineers, high-voltage electrical technicians, high-voltage electrical engineers and nursing professionals who are currently in the process of having their professional qualifications recognized and have started the additional training required before the end of 2015.

The Settlement Regulation of the Federal Government defines the number of residence titles subject to quota and the maximum numbers of work permits for temporarily employed aliens and harvest workers. The regulation for the year 2015 was issued in December 2014. The Settlement Regulation 2015⁹¹ limits the numbers of such permits that may be issued that year to a maximum of 5,432 residence titles subject to quota, up to 4,500 work permits for temporarily employed foreigners (i.e. seasonal workers) and up to 700 work permits for harvest workers (Art. 1 and 2 Settlement Regulation 2015). The Settlement Regulation 2016⁹² was issued on 21 December 2015 and provides for the same contingents for temporarily employed foreigners and harvest workers as in 2015 but a quota of 5,656 for residence titles subject to quota, which is slightly higher than in the previous year (Art. 1 and 2 Settlement Regulation 2016).

With the entering into force of the Act Amending the Aliens Law on 20 July 2015,⁹³ third-country nationals holding a residence title from another Schengen country will in future no longer require a visa in order to work temporarily in Austria (Art. 24 para 3 Aliens Police Act).⁹⁴ While this has changed, they may still need a work permit, a posting permit or an EU posting confirmation.⁹⁵

⁸⁸ FLG II No. 278/2014.

⁸⁹ For a comparison of shortage occupations in 2012 to 2015 see Gächter/Manahl/Koppenberg, 2015:47–48.

⁹⁰ FLG II No. 329/2015.

⁹¹ FLG. II No. 361/2014.

⁹² FLG II No. 445/2015.

⁹³ FLG I No. 70/2015.

⁹⁴ FLG I No. 100/2005, in the version of FLG I No. 121/2015.

⁹⁵ Written input by the Federal Ministry of Labour, Social Affairs and Consumer Protection, 5 April 2016.

5.1.2 Students and Researchers

As a result of the Act Amending the Aliens Law that entered into effect on 20 July 2015, the option of applying within Austria for a residence permit was expanded to include students and researchers:

- Third-country nationals who are exempt from the scope of the Act Governing the Employment of Foreigners⁹⁶ as a result of their scientific activity in research and teaching or as part of their education are now entitled to file an application during their legal stay in Austria (Art. 21 para 2 subpara 9 Settlement and Residence Act);⁹⁷
- Third-country nationals who have a certificate, issued by a school in Austria or another country, which shows that they have passed the Austrian secondary education examinations can apply for a residence permit within the country (Art. 21 para 2 subpara 10 Settlement and Residence Act);
- Foreign graduates from an Austrian university may now obtain written confirmation of legal stay for a further six months, applying to any category of the Red-White-Red Card (i.e. very highly qualified workers, skilled workers in shortage occupations, other key workers, university graduates or self-employed key workers). Previously, this was only possible for the category of university graduates. Accordingly, foreign graduates holding such confirmation may now apply in Austria for any category of the Red-White-Red Card, and not only for the category of university graduates (Art. 21 para 2 subpara 8 Settlement and Residence Act; Art. 5 para 23 Act Amending the Aliens Law 2015).⁹⁸

Further changes implemented through the Act Amending the Aliens Law 2015 aim at making the Temporary Residence Permit – Researcher more attractive.⁹⁹ Individuals applying for a Temporary Residence Permit – Researcher are required to present an employment agreement with the research institution,¹⁰⁰ whereas the previously required declaration of liability is no longer necessary.¹⁰¹ Due to the requirement to accept liability towards all regional authorities for the applicant's residence and return expenses, in the past research institutions were frequently unwilling to sign an employment agreement with such individuals. By dropping the requirement for the employment agreement to contain a declaration of liability, it is expected that the Temporary Residence Permit – Researcher will become more attractive for all research institutions.¹⁰²

5.1.3 Skills Recognition

In Austria the formal recognition of qualifications acquired abroad is not uniformly regulated. Instead, different institutions are competent and the recognition procedures vary depending on the purpose of skills recognition (to attend further education or to seek employment) and on the

⁹⁶ FLG No. 218/1975, in the version of FLG I No. 113/2015.

⁹⁷ FLG I No. 100/2005, in the version of FLG I No. 122/2015.

⁹⁸ FLG I No. 70/2015.

⁹⁹ Written input by the Federal Ministry of the Interior, Department III/4 (Residence, Civil Status and Citizenship Affairs), 10 February 2016.

¹⁰⁰ Art 67 para 1 subpara 3 Settlement and Residence Act, FLG I No. 100/2005, in the version of FLG I No. 122/2015.

¹⁰¹ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 30 f., available at www.parlament.gv.at/PAKT/VHG/XXV/II/II_00582/fname_401629.pdf (accessed on 14 January 2016).

¹⁰² Written input by the Federal Ministry of the Interior, Department III/4 (Residence, Civil Status and Citizenship Affairs), 10 February 2016.

nature of the employment pursued (regulated versus non-regulated occupations). A further distinction is made between qualifications acquired in another country of the European Economic Area or in third countries (Bichl, 2015). The current government programme correspondingly cites the need for Austrian legislation governing the recognition of qualifications acquired abroad (Republic of Austria, 2013:28). Draft legislation aimed at simplifying procedures for the recognition of occupational qualifications and education completed in other countries was sent out by the Austrian Federal Government for review in late 2015. The planned Federal Act on the Simplification of Procedures for the Recognition and Evaluation of Foreign Education and Occupational Qualifications (Recognition Act)¹⁰³ is intended to help individuals who provide evidence of having completed education or acquired occupational skills in another country to find employment matching their qualifications in the Austrian job market and to promote their integration in the labour market.¹⁰⁴

5.1.4 Efforts to Prevent Social Dumping

An amendment to the Employment Contract Law Adaptation Act¹⁰⁵ entered into effect as of 1 January 2015 and introduced changed provisions on the verification of pay levels. It was specified that any failure to pay the minimum level of remuneration as defined in a law, regulation or collective agreement is subject to an administrative penalty. The previous provision applied only to cases of not meeting the minimum level of base pay.¹⁰⁶

As a practical measure to combat social dumping, the Economic Chamber of the province of Burgenland set up a “Moonlighting Hotline” in January 2015. Under the number 05-90907-1234 individuals can report illegal employment. The reported information is subsequently passed on to the finance police.¹⁰⁷

¹⁰³ Federal Act Establishing the Federal Act on the Simplification of Procedures for the Recognition and Evaluation of Foreign Education and Occupational Qualifications (Recognition Act) and Amending the Education Documentation Act, Ministerial Proposal, Legal Text, available at www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00176/imfname_495272.pdf (accessed on 6 January 2016).

¹⁰⁴ Federal Act Establishing the Federal Act on the Simplification of the Procedures for the Recognition and Valuation of Foreign Educational and Professional Qualifications (Recognition Act) and Amending the Education Documentation Act, Ministerial Proposal, Explanatory Notes, p. 1, available at www.parlament.gv.at/PAKT/VHG/XXV/ME/ME_00176/imfname_495274.pdf (accessed on 6 January 2016).

¹⁰⁵ Federal Act Amending the Employment Contract Law Adaptation Act, the Workers Relinquishment Act, the Workers Protection Act, the Working Time Act, the Construction Workers’ Annual Leave and Severance Pay Act and the Unemployment Insurance Act 1977 (Act Amending the Labour and Social Law 2014), FLG I No. 94/2014.

¹⁰⁶ Federal Ministry of Labour, Social Affairs and Consumer Protection, *Lohnkontrolle*, available at www.sozialministerium.at/site/Arbeit_Behinderung/Arbeitsrecht/Entlohnung_und_Entgelt/Lohnkontrolle/Lohnkontrolle (accessed on 10 December 2015).

¹⁰⁷ Federal Ministry of the Interior, *Maßnahmenpaket gegen Schwarzarbeit und Lohndumping*. News, 20 February 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=3632763365626430762B633D&page=83&view=1 (accessed on 8 December 2015).

5.2 Integration

5.2.1 Integration Report

The fifth annual Integration Report was presented jointly by the Federal Ministry for Europe, Integration and Foreign Affairs, the independent Expert Council for Integration¹⁰⁸ and Statistics Austria on 16 July 2015.¹⁰⁹ As in previous years, it consists of three parts:

The first part represents a report by the Expert Council for Integration, which explains in detail the concept of “integration” as well as providing a review of the integration policy measures implemented within the previous five years and setting forth guidelines for future policies (Expert Council for Integration, 2015). The selected measures that are presented in the Integration Report as successfully implemented during the past years include: early childhood language training, German language training, communication of values, integration dialogue, and pre-departure integration measures implemented at Austrian representations abroad. The report lists education and the labour market as future areas of action, while stressing the need to approach integration within a holistic social context and to create an image of Austria as a country favouring plurality and inclusion (Federal Ministry for Europe, Integration and Foreign Affairs, 2015b:2–6).

The second part of the Integration Report is the statistical yearbook entitled “migration & integration”, published by Statistics Austria. It provides insight into data relating to migrants and to the areas of population, work and occupation, education, health, security, housing, and naturalization; subjective impressions are presented at the end. The indicators for the subjectively perceived integration climate in Austria demonstrate that crises such as the rise of the “Islamic State” and terrorist attacks in Europe influence the integration climate. After a positive trend between 2010 and 2014, the number of people who stated that the integration of migrants was progressing “badly” or “very badly” increased from 51.5 per cent in 2014 to 59.5 per cent in 2015 (Federal Ministry for Europe, Integration and Foreign Affairs/Statistics Austria, 2015:91).

The third part of the Integration Report consists of material from the database of integration projects in Austria, featuring good practices followed by member organizations of the Advisory Board on Integration.^{110, 111}

¹⁰⁸ The Expert Council for Integration is affiliated to the Federal Ministry for Europe, Integration and Foreign Affairs and consists of experienced and respected public figures. Headed by Univ.-Prof. Dr. Heinz Fassmann, its task is to foster and monitor the development of the Austrian integration policy, taking into account science and practice (Federal Ministry for Europe, Integration and Foreign Affairs, *Expert Council*, available at www.bmeia.gv.at/en/integration/expert-council/, accessed on 11 April 2016).

¹⁰⁹ Federal Ministry for Europe, Integration and Foreign Affairs, *Einladung: Präsentation des Integrationsberichts 2015*. Press Release, 15 July 2015, available at www.ots.at/presseaussendung/OTS_20150715_OTS0039/einladung-praesentation-des-integrationsberichts-2015 (accessed on 11 April 2016).

¹¹⁰ The Advisory Board on Integration consists of representatives from the federal government, the provinces, the association of local authorities and cities, the social partners, the Federation of Austrian Industries and non-governmental organizations. Under the chairmanship of Franz Wolf, General Manager of the Austrian Integration Fund, the Advisory Board on Integration facilitates networking, cooperation, coordination and knowledge transfer between all stakeholders in order to implement the National Action Plan for Integration (Federal Ministry for Europe, Integration and Foreign Affairs, *Advisory Board on Integration*, available at www.bmeia.gv.at/en/integration/advisory-board-on-integration/, accessed on 11 April 2016).

¹¹¹ Federal Ministry for Europe, Integration and Foreign Affairs, *Datenbank "Integrationsprojekte in Österreich"*, available at www.bmeia.gv.at/integration/datenbank-integrationsprojekte/ (accessed on 8 January 2016).

5.2.2 Promoting Integration of Specific Groups: Refugees

Against the background of rapidly increasing numbers of asylum-seekers, in particular originating from countries with a high recognition rate (see Section 3.1), several developments in Austria in 2015 were in line with the aim of creating specific integration measures that are tailored to the needs of the group of persons granted asylum and beneficiaries of subsidiary protection.

In July 2015 a task force under the Expert Council for Integration published an expert paper on the integration of persons granted asylum and beneficiaries of subsidiary protection, confirming the need, within integration measures, to distinguish between third-country nationals in general and beneficiaries of international protection in particular (Expert Council for Integration – Task Force, 2015).

On 11 September 2015, shortly after the expert paper was published, the Austrian Federal Government held closed consultations during which an Integration Package (Republic of Austria, 2015) was adopted that would provide funds from the federal budget to finance measures, by all of the ministries, aimed at the integration of persons granted asylum and of beneficiaries of subsidiary protection. The Integration Package makes available EUR 75 million in funding to be used for purposes such as the language integration of refugees and EUR 70 million for measures specifically aligned with labour market integration. Various measures are already being implemented. An example is the Competency Check programme, run on behalf of the Federal Ministry of Labour, Social Affairs and Consumer Protection by the Public Employment Service since late August 2015; the aim is to identify the qualifications individuals in Vienna bring with them.¹¹² Another measure is the voluntary integration year in which persons granted asylum and beneficiaries of subsidiary protection may participate starting from 2016, as announced by the Federal Ministry of Labour, Social Affairs and Consumer Protection in October 2015. This is designed to provide refugees with employment, while at the same time giving them opportunities for improving both language proficiency and for better integration.¹¹³

With regard to learning the German language, the Federal Ministry of Education and Women's Affairs has earmarked EUR 25 million in additional funds for language learning courses. The stated goal of this measure is to improve – especially the language – integration of children and young refugees as well as other late school-entrants.¹¹⁴ In early 2015 the Federal Government also announced the creation of additional space in German courses especially to accommodate 7,300 persons granted asylum, mainly for recognized refugees from Syria.¹¹⁵ In the summer of

¹¹² Federal Ministry of Labour, Social Affairs and Consumer Protection, *Hundstorfer: Asylberechtigte rasch in den Arbeitsmarkt eingliedern*. News, 11 September 2015, available at www.bmask.gv.at/site/Startseite/News/Hundstorfer_Asyloberechtigte_rasch_in_den_Arbeitsmarkt_eingliedern (accessed on 30 September 2015).

¹¹³ Federal Ministry of Labour, Social Affairs and Consumer Protection, *Freiwilliges Integrationsjahr soll Jobchancen für Asylberechtigte verbessern*. News, 22 October 2015, available at www.sozialministerium.at/site/Soziales/News/Freiwilliges_Integrationsjahr_soll_Jobchancen_fuer_Asyloberechtigte_verbessern (accessed on 16 December 2015).

¹¹⁴ Federal Ministry of Education and Women's Affairs, *Heinisch-Hosek: Integrationsbericht 2015 bestätigt den eingeschlagenen Weg des österreichischen Schulsystems!* Press Release, 16 July 2015, available at www.bmbf.gv.at/ministerium/vp/2015/20150716.html (accessed on 4 December 2015).

¹¹⁵ Federal Ministry for Europe, Integration and Foreign Affairs, *7.300 neue Deutschkursplätze für syrische Flüchtlinge*. Press Release, 16 April 2015, available at www.bmeia.gv.at/das-

2015 the Federal Ministry for Europe, Integration and Foreign Affairs disclosed that German courses would be expanded to accommodate an additional 10,000 participants.¹¹⁶

At the end of the main school holidays in summer 2015, the issue of the increase in refugee children who were going to attend school in Austria for the first time was discussed frequently in the media. In this context the Austrian media reported about the financial as well as the pedagogical challenges. Concerns were also raised that the traumatic experiences the children had suffered would hinder their learning progress at school.¹¹⁷ In preparation for this situation, the Federal Ministry of Education and Women's Affairs launched several campaigns in mid-August 2015 to provide information on the legal, educational and organization aspects of enrolling refugee children in schools. Art. 1 of the 1985 Compulsory Schooling Act¹¹⁸ specifies the requirement for all children residing in Austria, regardless of citizenship, to attend school. The Federal Ministry of Education and Women's Affairs held compulsorily attended information events at all school supervisor conferences, school director meetings and at university colleges of teacher education, alongside cooperative programmes with the Federal Ministry of the Interior, the teacher education colleges and extra-scholastic initiatives and youth organizations. An accompanying circular was issued in September 2015.¹¹⁹

Later in 2015, on 19 November, the Federal Ministry for Europe, Integration and Foreign Affairs presented jointly with the Expert Council for Integration a 50-Point Plan targeted specifically at integrating beneficiaries of asylum or subsidiary protection.¹²⁰ The plan was acknowledged and agreed to by the Austrian Council of Ministers on 26 January 2016.¹²¹ Based on the seven fields of action set forth in the National Action Plan for Integration (Austrian Federal Government, 2010), for each field of action the 50-Point Plan lists measures that have been adapted, specified and prioritized for implementation, with a view to the special challenges in integrating beneficiaries of international protection (Federal Ministry for Europe, Integration and Foreign Affairs/Expert Council for Integration, 2015:6).

5.2.3 Non-discrimination

In its annual report on racism, the non-governmental organization ZARA¹²² reports on racist assaults and incidents in Austria; the report is therefore an important qualitative data source. The presented statistics are not representative but reflect the cases that have been reported to the

ministerium/presse/aussendungen/2015/04/7300-neue-deutschkursplaetze-fuer-syrische-fluechtlinge/ (accessed on 6 October 2015).

¹¹⁶ Federal Ministry for Europe, Integration and Foreign Affairs, *Integrationsbericht 2015*. Press, 16 July 2015, available at www.bmeia.gv.at/das-ministerium/presse/aktuelles/integrationsbericht-2015/ (accessed on 9 October 2015).

¹¹⁷ See, for example, Der Standard, *Flüchtlingskinder an Schulen: Lernen unter Belastung*, 20 September 2015, available at <http://derstandard.at/2000022405222/Schule-Wenn-Erlebtes-am-Lernen-hindert> (accessed on 20 April 2016).

¹¹⁸ FLG No. 76/1985, in the version of FLG I No. 104/2015.

¹¹⁹ Federal Ministry of Education and Women's Affairs, *Flüchtlingskinder und -jugendliche an österreichischen Schulen*. Press Release, 26 August 2015, available at www.bmbf.gv.at/ministerium/vp/2015/20150825.html (accessed on 4 December 2015).

¹²⁰ Federal Ministry for Europe, Integration and Foreign Affairs, *50 Punkte zur erfolgreichen Integration*. Press, 19 November 2015, available at www.bmeia.gv.at/das-ministerium/presse/aktuelles/integrationsbericht-2015/ (accessed on 4 December 2015).

¹²¹ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, 17 February 2016.

¹²² ZARA – Civil Courage and Anti-Racism Work was founded in 1999 with the goal of promoting civil courage in Austria and combating racism. Their anti-racism work comprises counselling, prevention and public awareness raising. (ZARA – Zivilcourage und Anti-Rassismus-Arbeit, available at www.zara.or.at, accessed on 7 April 2016).

organization. According to the current racism report (see ZARA, 2016), the number of racist incidents that were reported in 2015 reached 927, which is an increase by 16.8 per cent compared with 2014. In particular the number of racist postings, hate speeches and stereotyped remarks regarding “the enemy” that were spread through the internet increased. Particularly striking was the proliferation of racist online content related to refugees. According to the report’s statistics, two thirds of all registered racist incidents occurring on the internet were targeted against refugees and those organizations and individuals supporting them.¹²³

An “Anti-discrimination and Anti-intolerance Hotline” under the number 050 11 50 – 4242 was put into operation at the Federal Ministry for Europe, Integration and Foreign Affairs in January 2015. The hotline provides help to those affected by discrimination due to ethnic group membership, national origin or religion. The purpose of the hotline is to act as a central clearinghouse for victims, referring them to the corresponding contact points, while raising visibility and increasing awareness. Partnering organizations are the Ombudsman for Equal Treatment and ZARA.¹²⁴

5.2.4 Other Aspects of Integration

The Federal Act on the External Legal Relationships of Islamic Religious Societies (Islam Act 2015)¹²⁵ entered into effect on 31 March 2015. The Islam Act regulates the rights and obligations of Islamic religious communities in Austria. The law introduced changes in areas such as the capacity of religious societies to maintain themselves and funding provided from outside Austria. Other matters addressed by the law are rules governing religious counselling in state institutions, protection of religious holidays, and dietary rules.¹²⁶ The new Islam Act was adopted by the National Council on 25 February 2015. The Social Democratic Party of Austria and the Austrian People’s Party voted for the Islam Act while the opposition parties remained sceptical and voted unanimously against it. The vote took place after almost three years of discussion and controversial debates in the National Council (see for example Koppenberg, 2015:24). Several Muslim associations and organizations mobilized their members against the new law. One passage was particularly criticized, namely the requirement for Islamic religious communities to raise the funds for ongoing activities through the religious community itself, or through its ethnic community or its members in Austria. Several Muslim organizations saw themselves disadvantaged compared with other religious communities. According to the Social Democratic Party of Austria, however, the law was balanced and the Austrian People’s Party referred to it as a model for Europe. The opposition parties the Austrian Green Party and the NEOS criticized that requiring Muslims – and no other religious communities – to ensure financial transparency puts this group under general suspicion. The Austrian Freedom Party stated that the current draft of the Islam Act was not adequate for counteracting radical Islamism in Austria. The Team Stronach for Austria was sceptical with regard to proper implementation of the act.¹²⁷ According

¹²³ ZARA – Zivilcourage und Anti-Rassismus-Arbeit, *Rassismus erreicht neues Level. Zahl der Internet-Fälle nahezu verdoppelt – Hetze gegen Geflüchtete dominiert*. Press Release, 21 March 2015, available at www.zara.or.at/_wp/wp-content/uploads/2016/03/ZARA_PA-RR2015_fin.pdf (accessed on 11 April 2016).

¹²⁴ Federal Ministry for Europe, Integration and Foreign Affairs, *Hotline gegen Diskriminierung und Intoleranz*, available at www.bmeia.gv.at/integration/hotline-gegen-diskriminierung/ (accessed on 23 December 2015).

¹²⁵ FLG I No. 39/2015.

¹²⁶ Federal Ministry for Europe, Integration and Foreign Affairs, *Islamgesetz*, available at www.bmeia.gv.at/integration/islamgesetz/ (accessed on 10 December 2015).

¹²⁷ Parliament of the Republic of Austria, *Nationalrat beschließt neues Islamgesetz*, Parliament Correspondence No. 152, 25 February 2015, available at www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0152/ (accessed on 20 April 2016).

to media reports, many issues could be clarified during the negotiations and some paragraphs were changed before adoption of the Islam Act. Fuat Sanaç, president of the Islamic religious community in Austria, drew a positive conclusion during an interview with the Austrian Press Agency, stressing that nowhere else is Islam as well protected by the state as in Austria.¹²⁸

5.3 Managing Migration and Mobility

5.3.1 International Cooperation

Austria is an active member of the General Directors' Immigration Services Conference (GDISC), which is an informal network to facilitate practical cooperation among immigration services in Europe. Besides the EU Member States, the members of the GDISC network include the three EU candidate countries (Iceland, the former Yugoslav Republic of Macedonia, and Turkey), the potential EU candidate Bosnia and Herzegovina, and two Schengen-associate countries (Norway and Switzerland).¹²⁹ The twelfth annual Conference was held in Vienna in June 2015 on the topic of the "Driving force for practical cooperation". The conference took place against the background of increasing numbers of asylum-seekers and the challenges these create for asylum and immigration authorities. The objective of the conference was, firstly, to exchange practical experience on issues specifically related to accelerated procedures and, secondly, to discuss the development of asylum and migration policy in the light of future needs. In addition to the directors of the asylum authorities of the relevant Member States, the conference was also attended by representatives of the European Commission and the European Asylum Support Office (EASO) as well as of international organizations.¹³⁰

5.3.2 Schengen Governance

Schengen was an issue discussed on several occasions during the year, both in a bilateral and a multilateral context (e.g. during the Salzburg Forum Ministerial Conference held in St. Pölten in May 2015; see Section 7.3). With the aim of reviewing compliance with the Schengen acquis applying to external borders, an evaluation team appointed by the European Commission inspected the sites at the Vienna-Schwechat airport and at the Wiener Neustadt Ost airfield in February 2015. As part of this inspection, the air borders were evaluated in terms of staff and level of training, checks and procedures, accommodation of persons rejected at the border, and with regard to the processing of criminal acts in connection with persons apprehended at the border or within the framework of compensatory measures (cases related to the smuggling of migrants or drug offences).¹³¹ The evaluation team, active under the leadership of the European Commission within the framework of the Schengen evaluation mechanism, also reviewed the Federal Ministry of the Interior to verify implementation of EU legal principles in the area of

¹²⁸ Der Standard, *Islamgesetz: Glaubensgemeinschaft nun mit Gesetz zufrieden*, 26 July 2015, available at <http://derstandard.at/2000019745190/Islamgesetz-Glaubensgemeinschaft-nun-mit-Gesetz-zufrieden> (accessed on 20 April 2016).

¹²⁹ GDISC, *About GDISC*, available at www.gdisc.org/about-us/ (accessed on 7 April 2016).

¹³⁰ Federal Office for Immigration and Asylum, *Konferenz der europäischen Asyl- und Migrationsbehörden*. News, 26 June 2015, available at www.bfa.gv.at/presse/news/detail.aspx?nwid=6D5153622F4745384D57733D&ctrl=796C386F347944696937796A68352F47503437326B513D3D&nwo=1 (accessed on 30 November 2015).

¹³¹ Police Administration of the Federal Province of Lower Austria, *Schengen Evaluierung. Prüfbesuche im Bereich der LPD Niederösterreich*. Reports, 6 March 2015, available at www.polizei.gv.at/noe/start.aspx?nwid=7A6841342F4F7475546A493D&ctrl=3734335266674D385951343D&nwo=16 (accessed on 10 December 2015).

return policy. Another area was the national coordination centre for the European border surveillance system (EUROSUR). Based on the results of this evaluation, the “Schengen Committee” at European level defined options for improving procedures and identifying good practices, which were subsequently placed before the Council of the European Union for adoption.¹³²

5.3.3 Border Management and Control

One of the most reported topics in the Austrian media in September 2015 was the situation at the train stations in Vienna and Salzburg, which served as major hubs for refugee movements via the Western Balkan route (for further information see Section 7.1). According to the Austrian Federal Railways, several thousand refugees arrived on a daily basis by bus and train to Vienna to continue their journey towards Germany.¹³³ The circumstances were exceptional and the Red Cross and Caritas feared an impending humanitarian and public health disaster if more trains were to arrive.¹³⁴ In the face of the tense situation, the Austrian civil society was very helpful. The Austria media reported about a variety of relief efforts. According to Caritas, for example, 27,000 tons of material aid was donated at the Vienna Westbahnhof train station by citizens and citizen groups for travelling refugees during one weekend alone. The donations were sorted and distributed by around 540 volunteers coordinated by Caritas.¹³⁵ Later in September, the media reported on a turnaround of border policy. Whereas previously the irregular entry and transit of refugees had been tolerated, Germany decided now to introduce temporary border controls at the German-Austrian border, whereupon Austria introduced controls at its borders with Italy, Slovenia, Hungary and Slovakia.¹³⁶

Securing Austria's Borders:

In the face of continually strong migration flows, Austria introduced temporary border controls on 16 September 2015.¹³⁷ As a result, border controls are possible at any time and at any land and air border crossing point in response to the current situation. Crossing of the border is permitted only at border crossing points.¹³⁸ To better manage the migration flows, it was decided to deploy the Austrian armed forces to assist in security police duties.¹³⁹ The Federal Ministry of

¹³² Police Administration of the Federal Provinces of Vienna, *Prüfbesuch in Österreich*. Press, 18 February 2015, available at

www.polizei.gv.at/wien/presse/eu/eu.aspx?nwid=6967705369524B564755413D&ctrl=3734335266674D385951343D&nwo=5 (accessed on 10 December 2015); Written input by the Federal Office for Immigration and Asylum, Public Affairs Directorate, 24 February 2016.

¹³³ Die Presse, “Ein Vorbild für ganz Europa”, 7 September 2015, available at http://diepresse.com/home/politik/aussenpolitik/4814813/Ein-Vorbild-fur-ganz-Europa?_vl_backlink=/home/index.do (accessed on 20 April 2016).

¹³⁴ Der Standard, *Aufregung um Sonderzüge für Flüchtlinge*, 27 September 2015, available at <http://derstandard.at/2000022861835/Aufregung-um-Sonderzuege-fuer-Fluechtlinge> (accessed on 21 April 2016).

¹³⁵ Der Kurier, *Flüchtlingskoordinator: "Kapazität war nicht ausgeschöpft"*, 8 September 2015, available at <http://kurier.at/chronik/wien/fluechtlingskoordinator-hacker-kapazitaet-in-wien-war-nicht-ausgeschoepft/151.439.097> (accessed on 20 April 2016).

¹³⁶ See, for example, Salzburger Nachrichten, *Liveticker-Nachlese: Flüchtlinge dürfen weiter nach Deutschland*, 15 September 2015, available at www.salzburg.com/nachrichten/dossier/fluechtlinge/sn/artikel/liveticker-nachlese-fluechtlinge-duerfen-weiter-nach-deutschland-165821 (accessed on 20 April 2016).

¹³⁷ Federal Ministry of the Interior, *Grenzkontrollen bis Februar 2016 verlängert*. News, 16 November 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=2F3757665868792B5832513D&page=0&view=1 (accessed on 9 December 2015).

¹³⁸ Written input by the Federal Office for Immigration and Asylum, Public Affairs Directorate, 24 February 2016.

¹³⁹ Ibid.

the Interior additionally presented plans in October 2015 providing for a six-month training programme for border control officers. As of 1 January 2016, 200 police officers can commence with the programme.¹⁴⁰

Finally, on 16 November 2015, the Federal Ministry of the Interior disclosed its plans for police security measures to be implemented on the Slovenian border in two stages. The first stage entails structural modification of the Spielfeld border crossing point, more frequent patrols, partial erection of a border fence along a distance of four kilometres and preparations for a 25-kilometre border fence. A second phase includes the capability of erecting the 25-kilometre border fence in sections within 48 hours.¹⁴¹

Support to other (Member) States:

In response to increased use of the migration routes across the Mediterranean Sea and through the Balkan states, the Federal Ministry for Europe, Integration and Foreign Affairs proposed five measures on 22 August 2015 for a solidly unified approach by the EU: 1) combating the causes; 2) local security; 3) protection of the external EU border; 4) cooperation and monitoring along the West Balkans transit route; and 5) refugee management within the EU.¹⁴²

In 2015 Austria supported other EU Member States as well as other countries in various ways. As part of the operations of EU border management agency Frontex, for example, Austrian police officers participated in the Joint Operations listed below:

- “Focal Points Land 2015”: seven officers were deployed to assist in border security in Bulgaria, Greece, Hungary and Poland;
- “Flexible Operation at Land Border Western Balkan 2016”: two officers were deployed in Hungary to assist in border security at the Hungarian-Serbian land border;
- “Triton 2016”: one officer was deployed to screen documents in Sicily;
- “RABIT Greek Islands (Rapid Border Intervention Teams)” and “Hotspot Greek Islands”: a total of 21 police officers were deployed to assist in border security and in registering migrants in Greece.¹⁴³

Additionally, Austria provided operational assistance for establishing reception centres, referred to as “hotspots”, at Europe’s external borders. In October 2015 two police officers from the national pool were posted to Italy for Frontex deployment.¹⁴⁴ In addition, three Austrian police officers were posted to Warsaw to be deployed as border management experts in Frontex

¹⁴⁰ Federal Ministry of the Interior, *200 neue Polizisten für grenz- und fremdenpolizeiliche Aufgaben*. News, 7 October 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=6D5A69336350736A4771383D&page=11&view=1 (available at 9 December 2015).

¹⁴¹ Federal Ministry of the Interior, *Stärkung der Spezialisten im Kampf gegen den Terror*. News, 16 November 2015, available at www.bmi.gv.at/cms/bmi_asyl_betreuung/_news/bmi.aspx?id=31533330424C71626743343D&page=0&view=1 (accessed on 21 January 2016).

¹⁴² Federal Ministry for Europe, Integration and Foreign Affairs, *Fünf Ansätze zur Behandlung der Flüchtlingskrise*. Press Release, 22 August 2015, available at www.bmeia.gv.at/das-ministerium/presse/aussendungen/2015/08/fuenf-ansaeetze-zur-behandlung-der-fluechtlingskrise/ (accessed on 7 December 2015).

¹⁴³ Written input by the Federal Office for Immigration and Asylum, Public Affairs Directorate, 24 February 2016.

¹⁴⁴ Federal Ministry of the Interior, *Elf Aufnahmезentren in Italien und Griechenland*. News, 15 October 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=374339504232634F3839343D&page=8&view=1 (accessed on 9 December 2015).

units.¹⁴⁵ Furthermore, beginning in June 2015 the Federal Ministry of the Interior posted alternating groups of 40 police officers to the Serbian-Hungarian border to assist in activities aimed at reinforced security of the external EU border.¹⁴⁶ This personnel pool was increased to 80 police officers as of July 2015.¹⁴⁷ Also, 10 Austrian document advisors were deployed at the following nine sites overall in 2015: Abu Dhabi/Dubai, Amman, Ankara, Athens, Bangkok, Beirut, Istanbul, Moscow and New Delhi. Their responsibilities included advising and training two groups to identify document fraud, specifically consulate staff when granting visas and airline personnel at airport check-in counters.¹⁴⁸

¹⁴⁵ Written input by Federal Office for Immigration and Asylum, Public Affairs Directorate, 24 February 2016.

¹⁴⁶ Federal Ministry of the Interior, *Verstärkte Überwachung der EU-Außengrenze*. News, 10 June 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=49555942613255502F34513D&page=53&view=1 (accessed on 9 December 2015).

¹⁴⁷ Federal Ministry of the Interior, *80 österreichische Polizisten an der serbisch-ungarischen Grenze*. News, 1 July 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=546F3468456D504B67646B3D&page=46&view=1 (accessed on 9 December 2015).

¹⁴⁸ Written input by Federal Office for Immigration and Asylum, Public Affairs Directorate, 24 February 2016.

6. MIGRATION AND DEVELOPMENT

In 2015 the topic of migration and development became more prominent in the Austrian Development Cooperation. In view of the sharp increase in the number of asylum applications submitted in Austria in 2015 (see Section 3.1), in June of that year the Federal Minister for Europe, Integration and Foreign Affairs (Austrian People's Party) expressed his conviction that the pressure from migration could be eased through funding from the Austrian Development Cooperation.¹⁴⁹ This was followed by the release in December of the three-Year-Programme on Austrian Development Policy for the years 2016 to 2018. The programme, which was developed during the course of 2015, focuses for the first time on migration as one of the main topics.¹⁵⁰ With regard to migration the programme aims at improving the living conditions in countries of origin through development cooperation, thereby addressing the underlying causes of forced and irregular migration. In addition, the programme aims at harnessing the abilities and know-how of the migrants and diaspora members living in Austria for use in development-related activities in their countries of origin (Federal Ministry for Europe, Integration and Foreign Affairs, 2016:7, 28–29). In order to achieve this, the three-year-programme lists the following four actions in the area of migration:

- Improvement of living conditions by creating income opportunities and framework conditions for sustainable economic activities;
- Cooperation with partner countries in order to promote rule of law and good governance, in particular in the policy areas of labour market, social system and mobility, which are relevant for migration;
- Promotion of peace and tolerance as a response to extremism and radicalization;
- Cooperation at EU and UN levels (Federal Ministry for Europe, Integration and Foreign Affairs, 2016:30).

In 2015, the Austrian Development Cooperation funded several projects in the area of migration and development. Examples include the European networking conference “African Diaspora Youth Forum in Europe”, which was organized by the Association of African Students in Austria in order to support African students in Austria in building their potential, developing leadership skills and building networks.¹⁵¹ Funding was also provided for a study implemented by the International Centre for Migration Policy Development (ICMPD) and called “Link Up! Financing diaspora entrepreneurship”. The study analyses the existing challenges in Austria to the support of diaspora entrepreneurs, while identifying the needs of diaspora entrepreneurs to help them to better contribute to their country of origin.¹⁵² Financial support was also provided to

¹⁴⁹ Parliament of the Republic of Austria, *Stufenplan zur Erhöhung der EZA: Kurz ringt noch um Finanzierung*. Parliament Correspondence No. 625, 10 June 2015, available at www.parlament.gv.at/PAKT/PR/JAHR_2015/PK0625/ (accessed on 20 April 2016).

¹⁵⁰ Austrian Development Agency, *Berufsbildung als Schwerpunkt im Dreijahresprogramm verankert*. Press Release, 9 December 2015, available at www.entwicklung.at/presse/berufsbildung-als-schwerpunkt-im-3jp/ (accessed on 20 April 2016).

¹⁵¹ Austrian Development Cooperation, *Projektliste – Vertragsnummer 2397-26/2015*, available at [www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfiredlist_pi1\[showUid\]=1185&cHash=458b2e731ecdc36582a44f0e3ab718b7](http://www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfiredlist_pi1[showUid]=1185&cHash=458b2e731ecdc36582a44f0e3ab718b7) (accessed on 12 January 2016).

¹⁵² Austrian Development Cooperation, *Projektliste – Vertragsnummer 2784-01/2015*, available at

the EU Emergency Trust Fund for Africa, with the aim of creating stability and addressing root causes of irregular migration and displaced persons in Africa.¹⁵³

[www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfirecdlist_pi1\[showUid\]=1113&cHash=ed8f659eb3eb37d0e6eabeb917df8cb0](http://www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfirecdlist_pi1[showUid]=1113&cHash=ed8f659eb3eb37d0e6eabeb917df8cb0) (accessed on 20 April 2016).

¹⁵³ Austrian Development Cooperation, *Projektliste – Vertragsnummer 2815-00/2015*, available at [www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfirecdlist_pi1\[showUid\]=1259&cHash=05ad473673d4446fa0af96570e96c504](http://www.entwicklung.at/zahlen-daten-und-fakten/projektliste/?tx_sysfirecdlist_pi1[showUid]=1259&cHash=05ad473673d4446fa0af96570e96c504) (accessed on 20 April 2016).

7. IRREGULAR MIGRATION INCLUDING SMUGGLING

7.1 Trends at National Level

Migrants and refugees from the Middle East, South-East Asia and Africa have been crossing the Mediterranean for Europe in growing numbers since 2011. 2015 was, however, marked by the sharpest increase of arrivals to Europe, which totalled 1,046,599 according to data collected through IOM's Displacement Tracking Matrix. Of the arriving migrants and refugees, 50 per cent were Syrian and 20 per cent Afghan citizens. The vast majority of arrivals were recorded in Greece (82%).¹⁵⁴ Despite being a country with only internal Schengen borders, Austria experienced strong migration inflows and transit flows in 2015 as part of these developments. According to UNHCR estimates, between 1 October and 31 December 2015 Austria recorded 478,983 arrivals.¹⁵⁵ These migration movements dominated reports in the Austrian media in 2015. One focus was on irregular migration into Austria with the help of smugglers. For example, the Austrian media regularly reported about refugees who were abandoned by their smugglers on the Austrian motorways, causing traffic-related challenges.¹⁵⁶ Articles also featured cases of smugglers arrested in different provinces, stating their nationality and routes, as well as the nationality of apprehended smuggled migrants – many of them refugees.¹⁵⁷ A distressing climax of smuggling activities in Austria in 2015 was reached on 27 August with the tragic discovery of 71 dead bodies in a refrigerator truck on the A4 motorway in Burgenland. The refugees had suffocated en route. This news also made headlines abroad. Numerous organizations and politicians expressed their deep regrets.¹⁵⁸

7.2 Measures to Combat Smuggling

The Federal Ministry of the Interior and the Federal Ministry of Justice presented a five-point joint plan in July 2015 for targeted action to combat migrant smuggling. The plan includes: 1) blanket inspections of all international trains arriving from Hungary; 2) more extensive controls in near-border regions; 3) increased staff for the Criminal Intelligence Service Austria; 4) stricter

¹⁵⁴ IOM, *Mixed Migration Flows in the Mediterranean and Beyond – Compilation of available Data and Information, Reporting Period 2015*, available at <http://doe.iom.int/docs/Flows%20Compilation%202015%20Overview.pdf> (accessed on 7 April 2016).

¹⁵⁵ UNHCR, *Europe Refugees and Migrants Emergency Response - Daily Estimated Arrivals per Country - Flows through Western Balkans Route*, available at <http://data.unhcr.org/mediterranean/country.php?id=502#> (accessed on 12 April 2016).

¹⁵⁶ See, for example, Der Kurier, *Immer mehr Flüchtlinge werden auf Autobahnen ausgesetzt*, 4 August 2015, available at <http://kurier.at/chronik/oesterreich/immer-mehr-fluechtlinge-werden-auf-oesterreichs-autobahnen-ausgesetzt/145.192.304> (accessed on 20 April 2016); ORF ON Niederösterreich, *Bereits 1.700 Flüchtlinge aufgegriffen*, 5 August 2015, available at <http://noe.orf.at/news/stories/2724953> (accessed on 20 April 2016).

¹⁵⁷ See, for example, Kleine Zeitung Online, *An nur einem Tag: 74 Flüchtlinge im Burgenland aufgegriffen*, 24 June 2015, available at www.kleinezeitung.at/k/politik/innenpolitik/4761805/Migration_An-nur-einem-Tag-74-Fluechtlinge-im-Burgenland-aufgegriffen (accessed on 20 April 2016), Kleine Zeitung Online, *Flüchtlinge auf A4 ausgesetzt*, 20 February, 2015, available at www.kleinezeitung.at/k/chronik/4667539/Festnahme_Fluechtlinge-auf-A4-ausgesetzt (accessed on 20 April 2016).

¹⁵⁸ See, for example, Neue Kronen Zeitung Online, *"Lkw der Schande" sorgt für weltweite Schlagzeilen*, 28 August 2015, available at www.krone.at/Welt/Lkw_der_Schande_sorgt_fuer_weltweite_Schlagzeilen-Pressestimmen-Story-469332 (accessed on 20 April 2016); Wiener Zeitung, *Flüchtlingsdrama schockiert Europa*, 27 August 2015, available at www.wienerzeitung.at/nachrichten/top_news/771081_Deutscher-Innenminister-will-Oesterreich-helfen.html (accessed on 20 April 2016).

administrative penal provisions against migrant smugglers; and 5) the appointment of specialized public prosecutors.¹⁵⁹

Over the whole of 2015, the Federal Ministry of the Interior reported an increase in operations and arrests in cases related to migrant smuggling.¹⁶⁰ Austria also cooperated in international investigations that led to the arrest of suspected members of international migrant smuggling networks, such as the “Limax” operation on 24 March 2015 (taking place in Austria, the Czech Republic, France, Germany, Hungary, Kosovo/UNSC 1244 and Slovakia)¹⁶¹ and the operation “Mahmoud” that took place under Europol leadership on 2 December 2015 (conducted in Austria, Greece, Sweden and the United Kingdom).¹⁶²

7.3 International Cooperation

Due to the increasing number of refugees and migrants that arrived in Austria via the Western Balkan route in 2015, the Austrian Federal Ministry of the Interior stepped up international cooperation. The Austrian Federal Minister of the Interior (Austrian People’s Party), noting that pan-European solutions cannot be implemented overnight, announced a number of short-term measures that needed to be taken independently.¹⁶³ Hence, in 2015 Austria reinforced cooperation with several third countries as well as with neighbouring EU Member States in the area of preventing and counteracting irregular migration; examples are given below.

- Austria, Slovenia and Croatia practised regular, in-depth exchange and mutually conferred on measures. Austria also posted security officers to assist their counterparts in Slovenia, specifically in monitoring the Slovenian–Croatian border, providing support to the Slovenian police at transit centres and patrolling as part of mixed teams with Slovenian police officers.¹⁶⁴
- Regular strategic meetings were held between Austria, Germany, Liechtenstein, Luxembourg and Switzerland to exchange information and coordinate efforts.¹⁶⁵
- The Austrian Federal Minister of the Interior held talks with high-ranking official representatives and fellow-ministers from Croatia, Hungary, Kosovo/UNSC 1244, Montenegro and Serbia, while signing an agreement with Hungary and Serbia that

¹⁵⁹ Criminal Intelligence Service Austria, *5-Punkte-Plan zum verschärften Kampf gegen Schlepperei*. News, 29 July 2015, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=426633576E62666F4834773D&page=6&view=1 (accessed on 30 November 2015).

¹⁶⁰ Police Administration of the Federal Provinces of Upper Austria, *Schlepperring ausgehoben*. Reports, 22 September 2015, available at www.polizei.gv.at/ooe/start.aspx?nwid=376E714B4E7A5863634C633D&ctrl=3734335266674D385951343D&nwo=6 (accessed on 5 January 2016).

¹⁶¹ Federal Ministry of the Interior, *Schlepper-Netzwerk ausgeforscht*. News, 25 March 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=633532763353497A6469633D&page=74&view=1 (accessed on 9 December 2015).

¹⁶² Criminal Intelligence Service Austria, *Europaweite Operation gegen Schleppernetzwerk mit österreichischer Beteiligung*. News, 2 December 2015, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=6F4742726E507A666E376B3D&page=0&view=1 (accessed on 5 January 2016).

¹⁶³ Die Presse, *Flüchtlingswelle: Polizisten aus Österreich für Ungarns Grenze*, 10 June 2016, available at http://diepresse.com/home/politik/innenpolitik/4751663/Polizisten-aus-Oesterreich-fur-Ungarns-Grenze?_vl_backlink=/home/index.do (accessed on 19 April 2016).

¹⁶⁴ Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

¹⁶⁵ Ibid.

provided for infrared cameras and Austrian police officers to be deployed along the Serbian–Macedonian border.¹⁶⁶

- A trilateral letter of intent was signed by Austria, Hungary and Serbia – with the former Yugoslav Republic of Macedonia joining later – to provide for increased cooperation in combating migrant smuggling along the Western Balkan route.¹⁶⁷
- At a meeting, the Austrian Federal Minister of the Interior and her Czech colleague emphasized the key role played by joint patrols along the Austrian–Czech border, the common police cooperation centre and the Austrian–Czech analysis and investigation team.¹⁶⁸
- The Austrian Federal Ministry of the Interior and the Regional Police Directorate of Carinthia stipulated further cross-border police activities with the Police Directorate of the Italian City of Udine: joint targeted campaigns, mixed-team patrols, mutual exchange of police officers during large events and a more extensive exchange of information to improve planning and coordination of police measures in the border region.¹⁶⁹
- Austria and Germany set up an interim Austrian–German police cooperation centre in Passau, Germany to assist in evaluating and coordinating the situation involving migrants, refugees and asylum-seekers on both sides of the border, to provide support in implementing measures in the event that border controls are reintroduced temporarily, to provide support in verifying documents, and to assist in the transfer or return of foreigners.¹⁷⁰

As of 1 January 2015 Austria took over the presidency of the Salzburg Forum Central European security partnership for the first half of 2015. The member countries are Austria, Bulgaria, Croatia, Czech Republic, Hungary, Poland, Romania, Slovakia and Slovenia. The Salzburg Forum focuses on three levels of cooperation: 1) cooperation at EU level; 2) regional cooperation within the Salzburg Forum; and 3) cooperation with third countries (especially with the West Balkan countries).¹⁷¹ At the ministers' conference of the Salzburg Forum in St. Pölten, Lower Austria in May 2015, common measures for combating the smuggling of migrants as well as plans for deepening partnerships with several organizations were discussed, specifically with Frontex, the European Asylum Support Office (EASO) and the United Nations High Commissioner for Refugees (UNHCR). The Austrian Federal Ministry of the Interior also organized a migration workshop within the framework of the Salzburg Forum in April 2015. The topics covered included irregular migration and asylum as well as cooperation with West Balkan countries.¹⁷² Bulgaria presided over the Salzburg Forum in the second half of 2015 during which

¹⁶⁶ Federal Ministry of the Interior, *Österreichische Unterstützung für verstärkten Schutz der serbisch-mazedonischen Grenze*. News, 20 February 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=7166324C51385A61696D773D&page=83&view=1 (accessed on 9 December 2015).

¹⁶⁷ Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

¹⁶⁸ Police Administration of the Federal Province of Vienna, *Treffen mit Tschechien*. Press, 28 July 2015, available at www.polizei.gv.at/wien/presse/eu/eu.aspx?nwid=7452666267766F747A41343D&ctrl=3734335266674D385951343D&nwo=1 (accessed on 10 December 2015); Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

¹⁶⁹ Ibid.

¹⁷⁰ Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

¹⁷¹ Salzburg Forum, available at www.salzburgforum.org/ (accessed on 5 February 2016).

¹⁷² Federal Ministry of the Interior, *Workshop der Asyl- und Migrationsexperten unter österreichischem Vorsitz*. News, 24 April 2015, available at

a meeting of the heads of the anti-migrant smuggling units of all member countries was held in Sofia, Bulgaria.¹⁷³ While attending the ministers' conference of the Salzburg Forum in Sofia, Bulgaria in November 2015, the ministers adopted the "Alliance on Current Challenges in the Area of Migration". This document, drawn up at the initiative of Austria, defines a common approach for meeting the migration situation, including measures at three levels: 1) operational cooperation (border management, combating migrant smuggling etc.); 2) structural cooperation (increased capacities, information exchange, etc.); and 3) EU level cooperation (close cooperation with EASO, Frontex, EUROPOL, broadening the Frontex mandate, etc.).¹⁷⁴

www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=3337465870655A2B6565343D&page=68&view=1 (accessed on 9 December 2015).

¹⁷³ Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 4 February 2016.

¹⁷⁴ Ibid.

8. RETURN

8.1 Forced Return

8.1.1 Cooperation on Joint Return Actions

Within the framework of implementing its forced return measures, Austria hosted 12 Frontex Joint Return Operations in 2015, seven more than in 2014 (Koppenberg, 2015:45). Six of the Joint Return Operations departed for Kosovo/UNSC 1244, in January, March, April, August, September and November 2015. In total more than 405 persons were returned to Kosovo/UNSC 1244 including more than 161 from Austria. This represents at least a threefold increase compared with 2014, when only 52 persons returned to Kosovo/UNSC 1244 from Austria in only three Joint Return Operations hosted by Austria. This has to be seen in the context of the unusually high number of Kosovan asylum-seekers recorded in Austria in late 2014 and early 2015 (see Section 3.1). The Member States participating in the 2015 operations included France, Germany, Hungary, Iceland, Romania and Sweden. Three other Joint Return Operations departed for Nigeria, in February, June and November 2015. In total, 77 persons were returned to Nigeria including 11 from Austria. The participating Member States included Bulgaria, Czech Republic, Germany, Greece, Hungary, Ireland, Italy, Norway, Poland, Spain, Sweden and Switzerland. Two Joint Return Operations departed for Armenia and Georgia, in November and December 2015. In total, more than 18 persons were returned to Armenia (including at least one from Austria) and more than 29 persons to Georgia. The participating Member States included Germany, Greece, Iceland, Italy, Lithuania, Spain and Sweden. Finally, one Joint Return Operation departed for Côte d'Ivoire in June 2015. In total, 19 persons were returned to Côte d'Ivoire but none from Austria. The participating Member States included Bulgaria, Greece, Italy, Norway, Poland, Spain and Switzerland.¹⁷⁵

8.1.2 Measures Terminating Residence and Detention Pending Removal

The Act Amending the Aliens Law 2015¹⁷⁶ entailed a change of the conditions for issuing a return decision against third-country nationals with more permanent residence status. Where the conditions for an entry ban lasting more than five years exist as specified in Art. 53 para 3 subpara 6, 7 or 8 Aliens Police Act,¹⁷⁷ return decisions can now also be issued against third-country nationals with more permanent residence status (Art. 9 para 4 subpara 1 Federal Office for Immigration and Asylum Procedures Act).¹⁷⁸ This is in line with established case law and rulings by the European Court of Human Rights (ECtHR), according to which termination of residence can be imposed even in cases of more permanent residence status if warranted by exceptionally serious circumstances. Such circumstances are, for example, those laid down in Art. 53 para 3 subpara 6 Aliens Police Act regarding elements of terrorist offences. This legislative change is to be seen in the context of current discussions centred on so-called “foreign

¹⁷⁵ Frontex, *Archive of Operations*, available at <http://frontex.europa.eu/operations/archive-of-operations/?year=&type=&host> (accessed on 11 April 2016).

¹⁷⁶ FLG I No. 70/2015.

¹⁷⁷ FLG I No. 100/2005, in the version of FLG I No. 121/2015.

¹⁷⁸ FLG I No. 87/2012, in the version of FLG I No. 84/2015.

fighters” and fighters for the “Islamic State” and aims to achieve leverage based on aliens law against members of terrorist groups.¹⁷⁹

The Act Amending the Aliens Law 2015 also brought about several legal changes of the measures terminating residence, which were revised based on high court rulings and EU regulations:

- In a ruling issued on 19 February 2015,¹⁸⁰ the Administrative High Court determined that, based on legally undefined criteria indicating a “risk of absconding”, it had been unlawful to impose detention pending removal on an Eritrean citizen who was in a procedure under the Dublin III Regulation (No 604/2013).¹⁸¹ Consequently, criteria indicating a risk of absconding were specified in Art. 76 para 3 of the Aliens Police Act.¹⁸²
- Based on Art. 8 of the recast Reception Directive (2013/33/EU),¹⁸³ Art. 76 para 2 Aliens Police Act now expressly requires any detention pending removal to be proportionate. Criteria for evaluating whether any risk of absconding exist are now enumerated under Art. 76 para 3 Aliens Police Act.¹⁸⁴
- The Constitutional Court ruled on 12 March 2015¹⁸⁵ that the uniform complaint against detention pending removal, as set forth in the former version of Art. 22a of the Federal Office for Immigration and Asylum Procedures Act,¹⁸⁶ was unconstitutional. Such a complaint could be lodged against the decision ordering detention pending removal, the apprehension as well as the detention itself. The court saw the reason for the unconstitutionality in the lack of a uniform procedural law applying to complaints against detention pending removal. Based on this ruling, para 1a was added to Art. 22a Federal Office for Immigration and Asylum Procedures Act.¹⁸⁷ The new paragraph specifies that the procedural rules which govern complaints against acts based on administrative powers to directly issue orders and take coercive measures also apply to complaints against detention pending removal.¹⁸⁸

¹⁷⁹ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes p. 4, available at www.parlament.gv.at/PAKT/VHG/XXV/II_00582/fname_401629.pdf (accessed on 18 January 2016).

¹⁸⁰ Austrian Administrative High Court, 19 February 2015 Ro 2014/21/0075.

¹⁸¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast), 29 June 2013, OJ L 180/31; Austrian Administrative High Court, *Schubhaft gegen Asylwerber zur Überstellung in einen anderen „Dublin-Staat“ derzeit nicht zulässig*. Press Release, 18 March 2015, available at www.vwgh.gv.at/medien/03-1-schubhaft.html (accessed on 23 December 2015).

¹⁸² Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 22–23, available at www.parlament.gv.at/PAKT/VHG/XXV/II_00582/fname_401629.pdf (accessed on 14 January 2016).

¹⁸³ Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), 29 June 2013, OJ L 180/96.

¹⁸⁴ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes, p. 21–24, available at www.parlament.gv.at/PAKT/VHG/XXV/II_00582/fname_401629.pdf (accessed on 25 January 2016).

¹⁸⁵ Austrian Constitutional Court, 12 March 2015, G 151/2014, G 172/2014, G 184-185/2014.

¹⁸⁶ FLG I No. 87/2012, in the version of FLG I No. 40/2014.

¹⁸⁷ FLG I No. 87/2012, in the version of FLG I No. 84/2015.

¹⁸⁸ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes p. 2, 7–8, available at www.parlament.gv.at/PAKT/VHG/XXV/II_00582/fname_401629.pdf (accessed on 15 January 2016).

- In compliance with Art. 16 of the Return Directive (2008/115/EC),¹⁸⁹ detention pending removal is in future required to take place at special detention facilities, i.e. the Vordernberg detention centre and police detention centres. An exception has been defined where required on account of the alien's health condition. In such instances the individual can be detained in the medical facilities of the Vienna court prison or at a suitable hospital (Art. 78 and 79 Aliens Police Act).¹⁹⁰

8.1.3 Protection from Removal

In 2015 the system of tolerated stay was fundamentally revised in order to create legal certainty both for foreigners and for the authorities.¹⁹¹ The revised paragraph 1 of Art. 46a Aliens Police Act now provides an overview of all conditions for tolerated stay. Specifically, the stay of an alien has to be tolerated as long as (i) a return decision was imposed but the removal is not admissible due to the principle of *non-refoulement*; (ii) the removal is not possible due to actual reasons for which the alien is not responsible (e.g. no travel document); or (iii) a return decision is temporarily inadmissible due to the right to protection of private and family life. Furthermore, Art. 46a para 4 Aliens Police Act specifies that the Federal Office for Immigration and Asylum has to issue a Card for Tolerated Stay upon application or on the authorities' initiative where the conditions laid down in para 1 apply. The card is valid for one year from the date of issue (Art. 46a para 5 Aliens Police Act). The stay is considered tolerated once the Card for Tolerated Stay has been issued or even before once the conditions for tolerated stay had been legally established (Art. 46a para 6 Aliens Police Act).

8.2 Voluntary Return

8.2.1 Legal Developments

In the course of drafting the Act Amending the Aliens Law 2015, it was specified that voluntary return always has to be given priority over forced removal. Therefore, aliens may now receive return counselling at any point during procedures (Art. 52a para 1 Federal Office for Immigration and Asylum Procedures Act); the provision is no longer limited to asylum-seekers. Under certain circumstances individuals are, however, obliged to participate in a return counselling session unless they have not already done so during the current procedure, specifically in cases where a return decision is issued against an alien or notice is given of a forthcoming negative asylum decision or of the suspension of de facto protection against removal (Art. 52a para 2 Federal Office for Immigration and Asylum Procedures Act).

8.2.2 Voluntary Return and Reintegration Assistance

Austria treats voluntary return as a preferred alternative to forced returns. The country thus supports the implementation of measures and projects by partners that provide voluntary return and reintegration assistance.

¹⁸⁹ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, 24 December 2008, OJ L 348/98.

¹⁹⁰ Act Amending the Aliens Law 2015, Government Proposal, Explanatory Notes p. 24, available at www.parlament.gv.at/PAKT/VHG/XXV/II/I_00582/fname_401629.pdf (accessed on 15 January 2016).

¹⁹¹ Ibid. p. 18–20.

In 2015 the IOM Country Office for Austria assisted 4,126 voluntary returnees through the General Humanitarian Return Programme, the largest assisted voluntary return programme in Austria. The majority of these returnees were funded by the Federal Ministry of the Interior. Compared with the previous year, when there were only 2,299 assisted voluntary returns, this represents an increase of almost double. The main country of return in 2015 was Kosovo/UNSC 1244, which had ranked only second in 2014. This change took place against the background of an unusually large increase in the number of asylum applications made by Kosovan citizens in Austria in late 2014 and early 2015 (see Section 3.1). The second main country of return in 2015 was the Republic of Iraq, which had not even been among the top 10 in 2014. This development might well be related to the fact that the number of asylum applications by Iraqi citizens increased considerably in 2015 (+12,497 compared with 2014), which made the Republic of Iraq the third main country of origin of asylum-seekers in 2015, whereas it had ranked only seventh in 2014 (see Section 3.1) (IOM CO Austria, 2015:1; IOM CO Austria, 2016:1). Besides IOM, other organizations also provide assistance to voluntary returnees, mainly in the form of return counselling. These organizations include: the association Verein Menschenrechte Österreich, funded by the European Union, the Austrian Federal Ministry of the Interior and the province of Lower Austria;¹⁹² Caritas together with LEFÖ (Information, Education and Support for Migrant Women), funded by the Asylum, Migration and Integration Fund (AMIF) of the European Union and the Austrian Federal Ministry of the Interior;¹⁹³ the association Menschen.Leben, receiving support from the European Return Fund and the Austrian Federal Ministry of the Interior¹⁹⁴ and the provincial Government of Carinthia.¹⁹⁵

In addition to assisted voluntary return, the following reintegration projects were implemented in 2015:

- RESTART – Reintegration Assistance for Voluntary Returnees to Afghanistan, Pakistan and the Russian Federation/ the Chechen Republic:¹⁹⁶
 - Implemented by: IOM Country Office for Austria;
 - Funding: Asylum, Migration and Integration Fund (AMIF) of the European Union and the Austrian Federal Ministry of the Interior.
- Coordinated Approach for the Reintegration of Victims of Trafficking (CARE) from Austria, France, Portugal, Spain and the United Kingdom:¹⁹⁷
 - Implemented by: IOM Country Office for Austria in cooperation with the IOM Country Offices for France, Portugal, Spain and the United Kingdom;

¹⁹² Verein Menschenrechte Österreich, *Rückkehrberatung*, available at www.verein-menschenrechte.at/rueck.html (accessed on 12 April 2016).

¹⁹³ Caritas Austria, *Projekt „IRMA“ – Rückkehrberatung*, available at www.caritas.at/hilfe-beratung/migrantinnen-fluechtlinge/beratung-vertretung/rueckkehrhilfe-reintegration/ (accessed on 12 April 2016).

¹⁹⁴ Menschen.Leben, *Freiwillige Rückkehr*, available at www.menschen-leben.at/freiwillige-rueckkehr-gelinderes-mittel-wien/ (accessed on 12 April 2016).

¹⁹⁵ Province of Carinthia, *Freiwillige Rückkehr in die Heimat*, available at www.ktn.gv.at/297293_DE-Fluechtlingswesen-Freiwillige_Rueckkehr_in_die_Heimat (accessed on 12 April 2016).

¹⁹⁶ IOM CO Austria, *RESTART - Reintegration Assistance for Voluntary Returnees to Afghanistan, Pakistan and the Russian Federation/ the Chechen Republic*, available at www.iomvienna.at/en/restart-reintegration-assistance-voluntary-returnees-afghanistan-pakistan-and-russian-federation (accessed on 12 April 2016).

¹⁹⁷ IOM CO Austria, *CARE: Coordinated Approach for the Reintegration of Victims of Trafficking*, available at www.iomvienna.at/en/care-coordinated-approach-reintegration-victims-trafficking-0 (accessed on 12 April 2016).

- Funding: European Return Fund and the Federal Ministry of the Interior (for Austria).

8.2.3 International Cooperation

Each year around 2,000 persons are repatriated to Kosovo as a result of bilateral readmission agreements between EU Member States and Kosovo/UNSC 1244.¹⁹⁸ In the second half of 2014 and at the beginning of 2015, Kosovo/UNSC 1244 was one of the main countries of origin of asylum-seekers in Austria (Koppenberg, 2015:27–28; see Section 3.1); such individuals have only little chance of being granted protection status, however. According to the Austrian Federal Ministry of the Interior, reintegration can be sustainable only under stable structures in the countries of return. Hence, Austria, in partnership with Finnish authorities (National Institute for Health and Welfare, Ministry of Employment and the Economy) and the Hungarian Ministry of the Interior, implemented over a two year period the twinning project “Strengthening Readmission and Sustainable Reintegration in Kosovo” which came to a close in February 2015. The EU-funded project was aimed at assisting the Kosovan authorities in putting in place a permanent structure to administer the reintegration support of returnees. More precisely, the project facilitated the sustainable reintegration of returnees in Kosovo through (i) strengthening of administrative and institutional capacities of relevant institutions; and (ii) ensuring the provision of comprehensive socioeconomic measures to beneficiary families. At the concluding conference which took place on 21 January 2015 in Gjakova, the “Handbook on Sustainable Reintegration of Repatriated Persons into Kosovo’s Society” was presented following the completion of the project.¹⁹⁹

¹⁹⁸ European Union, *Strengthening Readmission and Sustainable Reintegration in Kosovo*. Press Release, 26 February 2013, available at http://eeas.europa.eu/delegations/kosovo/documents/press_corner/press_releases/2013/130226_strengthening_re_admission_and_sustainable_reintegration_in_kosovo_en.docx (accessed on 21 April 2016).

¹⁹⁹ Federal Ministry of the Interior, *Projekt für Reintegration von Rückkehrern in den Kosovo*. News, 28 January 2015, available at www.bmi.gv.at/cms/BMI/_news/BMI.aspx?id=66424F684F4556374574553D&page=89&view=1 (accessed on 9 December 2015).

9. COUNTERING TRAFFICKING IN HUMAN BEINGS

9.1 National Initiatives

Located in the centre of Europe, Austria continues to be affected as a transit and destination country of trafficking in human beings. According to estimates, the most frequent phenomena of human trafficking in Austria include human trafficking for sexual exploitation, slave-like situations of domestic servants and child trafficking.²⁰⁰ According to the Federal Ministry for Europe, Integration and Foreign Affairs and the Federal Ministry of the Interior, Chinese women trafficked into prostitution were not only discovered in massage parlours but recently also in brothels. The increase in social media recruitment has continued in 2015. Investigations continue of cases involving suspicion of trafficking in and the exploitation of (Bosnian) minors for the purposes of committing punishable acts (especially property crimes). Moreover, it has been observed that two forms of exploitation occur in combination: Bulgarian victims of human trafficking are exploited both sexually and for begging.²⁰¹ Victims originate mainly from Eastern Europe (Bulgaria, Romania and Hungary), Africa (Nigeria) and Asia (the Philippines). Around 75 per cent of victims are EU citizens.²⁰²

In order to address the issue of trafficking in human beings, Austria set up the Task Force on Combating Human Trafficking in November 2004 under the leadership of the Federal Ministry for Europe, Integration and Foreign Affairs and chaired by Ambassador Elisabeth Tichy-Fisslberger. Representatives of all competent ministries, including their outsourced agencies, the provinces, as well as non-governmental organizations, cooperate closely within the Task Force in order to combat trafficking in human beings in Austria.²⁰³ Within the framework of five meetings and in its three working groups, the Task Force on Combating Human Trafficking continued its work programme in 2015, focusing on trafficking of children, prostitution and labour exploitation.²⁰⁴

In the following, the main developments in 2015 in terms of national initiatives are outlined.

9.1.1 National Action Plan and Reporting

On 21 April 2015 the fourth National Action Plan for Combating Human Trafficking for the years 2015–2017 (Federal Ministry for Europe, Integration and Foreign Affairs, 2015c) was adopted by the Austrian Federal Government. Based on the previous action plans, the current action plan additionally comprises new aspects that have been assimilated from the practical experience and recommendations submitted by working groups as well as from evaluations by international stakeholders, including the Council of Europe's Group of Experts on Action against

²⁰⁰ Federal Ministry for Europe, Integration and Foreign Affairs, *Combatting Trafficking in Human Beings*, available at www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/combating-trafficking-in-human-beings/ (accessed on 12 April 2016).

²⁰¹ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs and by the Federal Ministry of the Interior, 4 February 2016.

²⁰² European Commission, *Together against Trafficking in Human Beings – Austria*, available at http://ec.europa.eu/anti-trafficking/content/nip/austria_en (accessed on 14 April 2016).

²⁰³ Federal Ministry for Europe, Integration and Foreign Affairs, *Combatting Trafficking in Human Beings*, available at www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/combating-trafficking-in-human-beings/ (accessed on 12 April 2016).

²⁰⁴ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs and by the Federal Ministry of the Interior, 4 February 2016.

Trafficking in Human Beings (GRETA). At the same time the Federal Government formally accepted the third Austrian Report on Combating Human Trafficking 2012–2014 (Federal Ministry for Europe, Integration and Foreign Affairs, 2015d). The report describes how the National Action Plan for that period was implemented.²⁰⁵

On 12 October 2015 GRETA published its second evaluation report on Austria (GRETA/Council of Europe, 2015). The report assesses progress made over the last four years in implementing the Council of Europe's Convention on Action against Trafficking in Human Beings.²⁰⁶ Positive developments recognized by GRETA include, for example, the establishment of specialized support structures for male victims of trafficking and a counselling centre for undocumented migrant workers (UNDOK) and the increase of penalties. In response to existing needs, GRETA calls on Austria to offer all potential victims of trafficking an effective recovery and reflection period, set up a comprehensive and coherent statistical system on trafficking in human beings, and to adopt as a matter of priority a national referral mechanism for child victims of human trafficking.²⁰⁷ With regard to the latter, the Federal Ministry for Europe, Integration and Foreign Affairs refers to ongoing work in 2015 on a national referral mechanism for child victims of trafficking that should soon be completed.²⁰⁸ The Austrian media also covered the GRETA report. This was generally seen as recognition of Austria's success in combating human trafficking. The media also pointed out, however, that according to the GRETA report measures in Austria were focused on woman who are sexually exploited but should also target other issues, especially child trafficking.²⁰⁹

9.1.2 Awareness Raising

As in previous years, for the eighth time the Federal Ministry for Europe, Integration and Foreign Affairs – as leader of the Austrian Task Force on Combating Human Trafficking – organized the conference “Joining Forces Against Human Trafficking” on the occasion of the EU Anti-Trafficking Day 2015. The conference took place at the Diplomatic Academy of Vienna on 14 October 2015. This year's event focussed on the topics of human trafficking in times of increasing migratory flows and exploitation in care and domestic work.²¹⁰

9.1.3 Identification of Potential Victims

In 2015 workshops were held regularly for labour inspectorate staff with the aim of raising awareness of human trafficking and of labour exploitation and to facilitate identification of

²⁰⁵ Federal Ministry for Europe, Integration and Foreign Affairs, *Combatting Trafficking in Human Beings*, available at www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/combating-trafficking-in-human-beings/ (accessed on 12 January 2016).

²⁰⁶ Council of Europe's Convention on Action against Trafficking in Human Beings, 16.V.2005, Council of Europe Treaty Series - No. 197.

²⁰⁷ Council of Europe, *Publication of GRETA's second report on Austria*. Press Release, 12. October 2015, available at www.coe.int/t/dghl/monitoring/trafficking/Docs/Press_releases/2nd_eval_reports/PR_AUT_en.asp (accessed on 12 April 2016).

²⁰⁸ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, 4 February 2016.

²⁰⁹ See, for example, ORF.at, *Europarat will von Wien mehr Kampf gegen Menschenhandel*, 12 October 2015, available at <http://orf.at/stories/2303781/> (accessed on 14 April 2016); Salzburger Nachrichten, *Europarat fordert von Österreich Kampf gegen Kinderhandel*, 12 October 2015, available at www.salzburg.com/nachrichten/welt/politik/sn/artikel/europarat-fordert-von-oesterreich-kampf-gegen-kinderhandel-169187/ (accessed on 14 April 2016).

²¹⁰ Task Force on Combating Human Trafficking, *Joining Forces against Human Trafficking – Invitation and Programme*, 14 October 2015, available at <http://bim.lbg.ac.at/sites/files/bim/attachments/einladung-veranstaltung-gemeinsam-gegen-menschenhandel.pdf> (accessed on 13 April 2016).

victims of human trafficking. Similar trainings were previously held for the police, justice officers and the finance police.²¹¹

Also, officials of the Federal Office for Immigration and Asylum and employees of ORS Service GmbH, a private firm responsible for caring for asylum-seekers in federal reception centres, participated in training sessions organized by the IOM Country Office for Austria and focused on the identification of (potential) trafficked persons in the asylum procedure. The trainings were held together with the Criminal Intelligence Service Austria, the LEFÖ Intervention Center for Trafficked Women, the Men's Health Center and the Drehscheibe youth crisis centre of the City of Vienna, within the context of the project "Identification of potential trafficked persons in the asylum procedure – IBEMA". The project is co-financed by the European Asylum, Migration and Integration Fund (AMIF) and the Austrian Federal Ministry of the Interior.²¹²

9.1.4 Provision of Information and Support to Victims

In Austria, victims of human trafficking and labour exploitation can obtain a Residence Permit for Individual Protection as specified in Art. 57 Asylum Act,²¹³ which allows them to apply for a work permit without a prior labour market test. Integrating such individuals into the labour market is nonetheless challenging, since they are frequently faced with difficult social situations and are rarely able to find suitable employment. A meeting of the Federal Ministry of Labour, Social Affairs and Consumer Protection and the Vienna Public Employment Service with representatives of the LEFÖ Intervention Center for Trafficked Women resulted in administrative measures aimed at integrating this special category of individuals into the case management process of the Vienna provincial office of the Public Employment Service and providing them with focused assistance. Women affected by these issues can now participate in training and receive special support in finding employment. This action has improved the situation of the individuals affected.²¹⁴

Established in 2013, the project MEN VIA, which is run by the Men's Health Center and assists male victims of human trafficking, was evaluated highly positively in an initial, interim review. The Federal Ministry of Labour, Social Affairs and Consumer Protection raised the amount of project funding considerably. In April 2015 MEN VIA was therefore able to open a partially supervised shelter and to provide more extensive care to trafficked men.²¹⁵

Following an initial positive evaluation, the funds granted to UNDOK contact point providing trade union support to undocumented workers were also increased considerably.²¹⁶ Providing services on a low-threshold basis, UNDOK is an important stakeholder in identifying people who have been subjected to labour exploitation.²¹⁷

²¹¹ Written input by the Federal Ministry of Labour, Social Affairs and Consumer Protection, 3 February 2016.

²¹² IOM CO Austria, *IBEMA - Identification of potential trafficked persons in the asylum procedure*, available at <http://iomvienna.at/en/ibema-identification-potential-trafficked-persons-asylum-procedure> (accessed on 13 April 2016).

²¹³ FLG I No. 100/2005, in the version of FLG I No. 70/2015.

²¹⁴ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, 4 February 2016; Written input by the Federal Ministry of Labour, Social Affairs and Consumer Protection 3. February 2016.

²¹⁵ Ibid.

²¹⁶ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, 4 February 2016.

²¹⁷ UNDOK – Anlaufstelle zur gewerkschaftlichen Unterstützung UNDOKumentiert Arbeitender, available at <http://undok.at> (accessed on 18 April 2016).

9.2 International Cooperation

Austria cooperates with third countries as well as Interpol and Europol and is engaged in several bilateral and multilateral initiatives and forums.²¹⁸ This includes police action to identify trafficked persons. In March 2015, for example, Austria participated in an operation coordinated by Europol and involving checks in brothels, massage parlours and restaurants situated in the countries of Austria, Cyprus, Slovenia and Switzerland. The objectives were to identify instances of trafficking in human beings originating primarily in China, to seek out key players in international trafficking networks operating in Europe, and to verify patterns of criminal activity and potential structures of organized crime.²¹⁹

²¹⁸ European Commission, *Together against Trafficking in Human Beings – Austria*, available at http://ec.europa.eu/anti-trafficking/content/nip/austria_en (accessed on 14 April 2016).

²¹⁹ Criminal Intelligence Service Austria, *Europaweite Aktion gegen den Menschenhandel*. Press, 20 March 2015, available at www.bmi.gv.at/cms/bk/_news/start.aspx?id=38544548573847695035673D&page=16&view=1 (accessed on 30 November 2015).

ANNEX

A.1 List of Translations and Abbreviations

English term	English abbreviation	German term	German abbreviation
Act Amending the Aliens Law		Fremdenrechtsänderungsgesetz	
Act Establishing the Federal Office for Immigration and Asylum	–	BFA-Einrichtungsgesetz	BFA-G
Act Governing the Employment of Foreigners	–	Ausländerbeschäftigungsgesetz	AuslBG
Administrative High Court	–	Verwaltungsgerichtshof	VwGH
Advisory Board on Integration	–	Integrationsbeirat	–
Aliens Police Act	–	Fremdenpolizeigesetz	FPG
Association of Austrian Adult Education Centres	–	Verband österreichischer Volkshochschulen	–
Asylum Act	–	Asylgesetz	AsylG
Asylum, Migration and Integration Fund	AMIF	Asyl-, Migrations- und Integrationsfonds	AMIF
Austrian Development Agency	ADA	Agentur der Österreichischen Entwicklungszusammenarbeit	ADA
Austrian Freedom Party	–	Freiheitliche Partei Österreich	FPÖ
Austrian Green Party	–	Die Grünen	–
Austrian Ombudsman Board	AOB	Volksanwaltschaft	–
Austrian Parliament		Österreichisches Parlament	
Austrian People's Party	–	Österreichische Volkspartei	ÖVP
Basic Welfare Support Agreement	–	Grundversorgungsvereinbarung	GVV
Card for Tolerated Stay	–	Karte für Geduldete	–
Compulsory Schooling Act		Schulpflichtgesetz	
Constitutional Court	–	Verfassungsgerichtshof	VfGH
Contact point for union support for undocumented workers	–	Anlaufstelle zur gewerkschaftlichen Unterstützung undokumentiert Arbeitender	UNDOK
Council of Europe's Group of Experts on Action against Trafficking in Human Beings	GRETA	Expertengruppe des Europarats für die Bekämpfung des Menschenhandels	GRETA
Countries of Origin Ordinance	–	Herkunftsstaaten-Verordnung	HStV
Criminal Intelligence Service Austria	–	Bundeskriminalamt	BK
European Asylum Support Office	EASO	Europäisches Unterstützungsbüro für Asylfragen	EASO
European border surveillance system	EUROSUR	Europäisches Grenzüberwachungssystem	EUROSUR
European Commission		Europäische Kommission	

European Court of Human Rights	ECtHR	Europäischer Gerichtshof für Menschenrechte	EGMR
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Union	EU	Europäische Union	EU
Expert Council for Integration		Expertenrat für Integration	
Federal Administrative Court	–	Bundesverwaltungsgericht	BVwG
Federal Basic Welfare Support Act	–	Grundversorgungsgesetz Bund	GVG-B
Federal Constitutional Act	–	Bundesverfassungsgesetz	B-VG
Federal Constitutional Act Concerning the Accommodation and Allocation of Foreigners in Need of Aid and Protection	–	Bundesverfassungsgesetz über die Unterbringung und Aufteilung von hilfs- und schutzbedürftigen Fremden	–
Federal Council		Bundesrat	
Federal Law Gazette	FLG	Bundesgesetzblatt	BGBL
Federal Ministry for Europe, Integration and Foreign Affairs	–	Bundesministerium für Europa, Integration und Äußeres	BMEIA
Federal Ministry of Education and Women's Affairs		Bundesministerium für Bildung und Frauen	
Federal Ministry of Labour, Social Affairs and Consumer Protection	–	Bundesministerium für Arbeit, Soziales und Konsumentenschutz	BMASK
Federal Ministry of the Interior	–	Bundesministerium für Inneres	BMI
Federal Office for Immigration and Asylum	–	Bundesamt für Fremdenwesen und Asyl	BFA
Federal Office for Immigration and Asylum Procedures Act	–	BFA-Verfahrensgesetz	BFA-VG
General Directors' Immigration Services Conference	GDISC	Konferenz der Generaldirektoren der Einwanderungsbehörden	GDISC
Humanitarian Admission Programme	HAP	Humanitäres Aufnahmeprogramm	HAP
International Centre for Migration Policy Development	ICMPD	International Centre for Migration Policy Development	ICMPD
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
LEFÖ (Information, Education and Support for Migrant Women)	LEFÖ	LEFÖ (Beratung, Bildung und Begleitung für Migrantinnen)	LEFÖ
LEFÖ Intervention Center for Trafficked Women	–	LEFÖ Interventionsstelle für Betroffene von Frauenhandel	LEFÖ-IBF
National Contact Point	NCP	Nationaler Kontaktpunkt	NKP
National Council		Nationalrat	
NEOS – The New Austria	NEOS	NEOS – Das Neue Österreich	NEOS
police administration of the province	–	Landespolizeidirektion	LPD
Public Employment Service Austria	–	Arbeitsmarktservice Österreich	AMS

Red-White-Red Card	–	Rot-Weiß-Rot – Karte	–
Regulation for Skilled Workers	–	Fachkräfteverordnung	–
Residence Permit for Individual Protection	–	Aufenthaltsberechtigung besonderer Schutz	–
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
Settlement Regulation	–	Niederlassungsverordnung	NLV
Social Democratic Party of Austria	–	Sozialdemokratische Partei Österreichs	SPÖ
tolerated stay	–	Duldung	–
United Nations	UN	Vereinte Nationen	VN
United Nations High Commissioner for Refugees	UNHCR	Flüchtlingshochkommissariat der Vereinten Nationen	UNHCR

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