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Accurate, timely, interoperable?

Data management in the asylum procedure in Austria

Martin Stiller

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SUMMARY

This study concerns the data that are collected on individuals seeking asylum in Austria during asylum procedures. An initial summary is provided, relating to asylum procedures in Austria and to the various phases of such procedures. In Austria, these phases are limited to "making an asylum application" and "lodging an asylum application". Austrian law has no provision for a separate phase involving "registering asylum seekers", a phase explicitly surveyed in the EMN study template and potentially existing in other EU Member States. Subsequently, the regular asylum procedure and the accelerated asylum procedure are described. The accelerated procedure is only allowed under certain conditions. The main feature distinguishing it from the regular procedure is the shorter period allotted for an asylum decision, which in such procedures is usually negative.

The overview of asylum procedures and the various phases entailed serves as the basis for understanding the details presented below in the study, relating to the responsible authorities and to data collection. Public security service officials and security authorities are responsible for accepting asylum applications in Austria, while the Federal Office for Immigration and Asylum also plays a key role in asylum procedures. In asylum procedures, data are first collected by the security authorities, with the Federal Office for Immigration and Asylum, which is the authority mandated to rule on asylum procedures, obviously collecting additional data. A wide variety of comprehensive data are collected in Austria, relating to various features of the individuals lodging asylum applications and to various aspects of their lives. Examples here include biometric data as well as details of the individuals' health and the extent to which they are vulnerable. These details are kept in written form and also stored in databases. In this regard, the Integrated Administration of Aliens system plays a key role, serving as both a database for storing the collected data as well as a tool that enables facilitated processing of all steps required in asylum procedures. Collected and stored data are compared with other Austrian and European databases. Databases to be mentioned here are, in Austria, the Aliens Information System and, at European level, in particular the Schengen Information System (SIS), the Visa Information System (VIS) and the Eurodac database, with the latter supporting fingerprint matching. In the context of such data comparisons, interoperability presents a challenge for Austria, especially in relation to entering data. The key question relates here specifically to the formal rules that apply when entering data, in other words, whether national procedures can override the rules made at European level. Where data differ, the question also arises as to which data are to be considered "better" or "more correct" and how to decide which data are to be retained or revised. This issue is not likely to be resolved in the near future. In the collection of data on individuals seeking asylum in Austria, provision has also been made for another significant rise in asylum applications, as had occurred in 2015–2016, with appropriate legislation introduced. The Federal Minister of the Interior is now empowered to set up registration points if migration conditions again become similar to the situation in 2015–2016. At such registration points, personal data are to be collected, as well as photos and fingerprints taken. The plan is aimed at ensuring expedited registration throughout Austria.

Austria places value on information and security in relation to collecting data. Individuals seeking asylum are accordingly provided with information sheets in languages they are able to understand and which inform them of how their data are processed. Where required, the content of the information sheets is translated into a familiar language for asylum seekers. Depending on the specific type, the data are processed in separate physical

environments after collection and consequently stored on different servers and hard drives due to data protection regulations. The servers are accessible only via the intranet of the Federal Ministry of the Interior. Under current law, application can be made to have collected data deleted, while certain types of data are similarly to be deleted at junctures specified under law even where no application is made. The latter cases include when the individual concerned obtains Austrian citizenship or after a ten-year period from when the Federal Office for Immigration and Asylum or the Federal Administrative Court hands down a final decision in a procedure.

The COVID-19 pandemic currently affecting Austria has not resulted in any significant change in how data are managed in asylum procedures. Yet some plans for modernizing data management have been moved forward due to the pandemic. Examples of such measures include the procurement of video conference equipment to allow audiovisual interviews of applicants.

1. INTRODUCTION

1.1 Overview of topics and study objectives

Data have indisputably been playing an increasingly significant role in recent decades. Particularly in our digital age, data – and especially personal data – have become so highly valued that this commodity is referred to as a new form of currency or "the rapidly multiplying gold of internet capitalism" (Frankfurter Allgemeine Zeitung, 2020). That said, it is hardly surprising how highly valued (personal) data are or that the "transparent citizen" has already become a reality (Bundesrechenzentrum, 2018). Thus, effectively protecting personal data is now all the more important.

Data are collected in a wide variety of situations and in various areas of life. It is not surprising, then, that data on individuals applying for asylum are collected in asylum procedures and that the State's data needs encroach on such procedures as well. The intention pursued by a State when collecting data in asylum procedures nonetheless appears to differ from that of corporations specialized in data collection. Collecting data in asylum procedures is especially aimed at identifying individuals and verifying their reported reasons for becoming refugees. Asylum systems (and Austria's in particular) accordingly depend on collecting timely, accurate and reliable data and information, to then (potentially) serve as the basis for asylum decisions. After collection, such data can of course also be used in planning changes to the migration system or undergo appropriate meta-analysis to derive indicators or a decision-making basis. The data can also be used towards integrating the individuals accepted into the country in the best way.

Due to the close relationship between EU legal requirements relating to asylum procedures and decisions at national level, the data collected in a particular case are highly relevant not only for the Member State responsible for the decision but also for other EU Member States. It is correspondingly expedient and necessary for the data and information collected to also be correct. In addition, cooperation within the European Union requires a functioning data exchange system, including smooth transmission of collected data and information to the authorities responsible at national and European levels. A major factor here is the interoperability of the databases in which the collected information and data are stored. This is the only way of ensuring accurate results when data are compared, for example using the Schengen Information System or the Visa Information System.

This National Report for Austria therefore focuses on the types of data that are collected on asylum seekers in Austria, from the moment when an application is lodged and until a first-instance decision is issued, and how the data are managed. Recent developments and trends relating to data management are also described. Here details are presented of the measures taken to ensure data collection in the case of a situation comparable to the migratory events of 2015–2016. Also discussed are the challenges and good practices that have previously emerged in Austria in the area of data collection and management.

1.2 Data collection in the European context

The Common European Asylum System is based upon a series of EU legal instruments governing the asylum procedure. However, the management of personal data is only marginally regulated. With the exception of the recast Eurodac Regulation[1] that concerns the processing of biometric data of applicants of international protection for Dublin-related purposes, the registration of personal data in the asylum process is governed by national law. The recast Asylum Procedures Directive[2] sets out some rules in that respect, namely that the applicants must inform the competent authorities of their current place of residence and of any changes thereof as soon as possible, which suggests that this information is collected by the competent authorities. Competent authorities are also allowed to take a photograph of the applicant; however, this is not compulsory under EU law. Crucially, Article 30 of that Regulation proscribes national authorities from disclosing information regarding individual applications or the fact that an application has been made to the alleged actor(s) of persecution or serious harm.

From a privacy and personal data protection perspective, the General Data Protection Regulation[3] is applicable to the processing of personal data in the asylum procedure. This entails the application of a series of data protection safeguards in the collection and further processing of personal data, such as the principles of lawfulness, purpose limitation, data minimization, accuracy, storage limitation and integrity and confidentiality. The data protection regime specific to the handling of personal data in the Eurodac system is covered in the Eurodac Regulation.

Furthermore, the abolition of internal borders in the Schengen area has required strong and reliable management of the movement of persons across the external borders (Art. 77 para 1 Treaty on the Functioning of the European Union),[4] including through robust identity management. In that respect, three centralized information systems have been developed by the EU, which are currently operational: the Schengen Information System (SIS), Visa Information System (VIS) and Eurodac, all of which assist in verifying or identifying third-country nationals falling in different categories and who are on the move. SIS, VIS and Eurodac were originally envisaged to operate independently, without the possibility of interacting with one another. Progressively, there were efforts to provide technical and legal solutions that would enable EU information systems to complement each other. To that end, the Interoperability Regulations[5] adopted on 20 May 2019 prescribe four main components to be implemented: a European Search Portal, a shared Biometric Matching Service, a Common Identity Repository

1 Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of ‚Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 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 and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, OJ L 180, pp. 1–30.

2 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, OJ L 180, pp. 60–95.

3 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, pp. 1–88.

4 Treaty on the Functioning of the European Union, OJ C 326, pp. 47–390.

5 Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, pp. 27–84; Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L 135, pp. 85–135.

and a Multiple Identity Detector. An EU agency, eu-LISA, is responsible for the operational management of these three systems.[6]

The most relevant EU information system in this regard is Eurodac, a biometric database storing fingerprints of applicants for international protection and irregular immigrants found on EU territory. Its primary objective is to serve the implementation of the "Dublin-III-Regulation".[7] Eurodac may also be accessed by national law enforcement authorities and Europol for the purposes of preventing, detecting and investigating terrorist offences and serious crimes. A recast proposal[8] tabled since May 2016 is currently negotiated as part of the revised Common European Asylum System (CEAS), with the aim of expanding the purpose, scope and categories of personal data stored in the system.

1.3 Definitions

The study uses the following definitions, which – unless otherwise stated – are based on the Asylum and Migration Glossary[9] of the European Migration Network:

Application for international protection: A request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of Directive 2011/95/EU (Recast Qualification Directive), that can be applied for separately.

Asylum procedure or Procedure for international protection: Set of measures described in the Directive 2013/32/EU (Recast Asylum Procedures Directive) which encompasses all necessary steps for granting and withdrawing international protection starting with making an application for international protection to the final decision in appeals procedures.

Channelling of the asylum procedure: "The core premise of accelerated and simplified procedures is the differentiation between caseloads for their channelling into distinct case processing modalities. [...] Depending on the results of the analysis, claims will be channelled into appropriate case processing modalities, or as is already done in several Members States [...] into different streams or 'tracks'. Groups, as well as any specific profiles, with high and very low protection rates would be channelled into accelerated and/or simplified procedures, while other cases would be adjudicated under the regular procedure" (UNHCR, n.d.:8 et seqq.).

6 Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011, OJ L 295, pp. 99–137.

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, OJ L 180, pp. 31–59.

8 Proposal for a Regulation of the European Parliament and of the Council on the establishment of ‚Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 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], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast), COM/2016/0272 final - 2016/0132 (COD).

9 European Migration Network, 2018a, 2018b.

Data management: The administrative process that includes all operations that are performed on data or on sets of data, through automated or other means, such as collection, recording, storage, retrieval, use, disclosure by transmission, dissemination or erasure.[10]

Lodging an asylum application: An application for international protection shall be deemed to have been lodged once a form submitted by the applicant or, where provided for in national law, an official report, has reached the competent authorities of the Member State concerned. Member States may require that applications for international protection be lodged in person and/or at a designated place.[11]

Making application for international protection or Making an asylum application: The expression of intent to apply for international protection.

Registering an asylum application: Record the applicant's intention to seek protection (European Migration Network, 2020).

1.4 Methodology

The present study was conducted by the National Contact Point (NCP) Austria in the EMN within the framework of the EMN's 2019–2020 Work Programme. The study follows a common study template (European Migration Network, 2020) with a predefined set of questions developed by the EMN, in order to facilitate comparability of the findings across all Member States.

Legislative texts, national and international publications as well as websites were used as sources. The statistical data presented here were provided by Statistics Austria and the Federal Ministry of the Interior and appropriately structured by the IOM Country Office for Austria.

To supplement the information obtained from secondary research, qualitative semi-structured face-to-face interviews were conducted with experts on asylum and migration, with additional information being requested in writing in some cases. The experts listed below participated in personal interviews:

- Caroline Fraydenegg-Monzello, consultant, Federal Ministry of the Interior, and Markus Waldherr-Radax, controller, Federal Ministry of the Interior;
- Lukas Gahleitner-Gertz, speaker and asylum expert of the non-governmental organization Asylkoordination Österreich;
- Stephan Klammer, head of legal advice at the non-governmental organization Diakonie Flüchtlingsdienst.

10 Definition for the purposes of this study.

11 Art. 6 (2, 3, 4) of 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, OJ L 180, pp. 60–95.

In addition, the following institutions or persons have drafted written contributions:

- Markus Waldherr-Radax, controller, Federal Ministry of the Interior;
- Birgit Einzenberger, head of the legal department, UNHCR Austria.

The study was compiled by Martin Stiller (Legal Associate, IOM Country Office for Austria). Lukas Humer (Research Associate, IOM Country Office for Austria) provided essential input during the development of the study and also prepared the statistical parts of the study.

Special thanks are due to the above mentioned interview partners for having contributed their knowledge and experience in the course of expert interviews and written contributions, as well as to Saskia Heilemann (Research Associate, IOM Austria) for her valuable comments. The author would also like to thank Stefan Fink and Katrin Lusk (interns, IOM Austria) for their support during the different stages of the study preparation. The study was prepared in close cooperation with the Federal Ministry of the Interior.

2. DATA COLLECTION WITHIN THE VARIOUS PHASES OF THE AUSTRIAN ASYLUM PROCEDURE

The Asylum Act 2005[12] is the main legal basis in Austria governing the granting and withdrawal of asylum status (Art. 1 subpara 1 Asylum Act 2005). The act makes a distinction between these phases:

- Making an asylum application and
- Lodging an asylum application

A separate phase of "registering an asylum application", as explicitly surveyed in the EMN study template and potentially existing in other EU Member States, is foreign to the Austrian legal system.[13] The legal provisions applying to the collection of data in these phases of asylum procedures are described in the sections below.

2.1 Making an asylum application

Making an application for asylum precedes an asylum procedure in Austria. The authorities responsible for an asylum procedure and the initial steps are described below.

Responsible authorities

Making an application for international protection is widely accessible in Austria and can be done without formalities (Peyrl et al., 2003:258). An application for international protection is considered to have been made when the individual in question "requests protection from persecution before an official of the public security service or the security authority in Austria" (Art. 17 para 1 Asylum Act 2005), which basically means making an application before police officers or police institutions (Art. 5 para 2 Security Police Act).[14,15] No formal requirements apply to making an application for asylum, and the application can be expressed "in any way at all" (Art. 2 para 1 subpara 13 Asylum Act 2005) as long as the behaviour of the individual making the application allows recognition of the intent to seek protection from persecution in Austria (Schrefler-König and Szymanski, 2018:§ 2 AsylG Anm. 5).

In the event that an individual makes an asylum application before any authority other than the one responsible, Art. 17 para 5 of the Asylum Act 2005 stipulates that this authority has the duty to inform the local security authority or the nearest official of the public security service, basically the police in other words. Both provincial and federal authorities that are not responsible for asylum applications usually refer applicants to the police or the Federal Office for Immigration and Asylum, according to information provided by experts from the Federal Ministry of the Interior.[16]

12 Asylum Act 2005, FLG No. 100/2005, in the version of FLG I No. 69/2020.

13 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

14 Security Police Act, FLG No. 566/1991, in the version of the federal law FLG I No. 113/2019.

15 In addition, for example, an application for international protection of a child born in Austria to a foreigner after that foreigner has been granted asylum or subsidiary protection, can also be submitted in writing to a regional directorate or its branch office (Art. 17 para 3 Asylum Act 2005).

16 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

This contrasts with the claim by a representative of Asylkoordination Österreich, stating that only in isolated cases, depending on the experience of the individual public employee involved, do authorities other than the responsible ones provide individuals seeking asylum with information on where applications are to be made. The representative is not aware of any systematic procedures.[17] A representative of the Diakonie Flüchtlingsdienst suggests as a possible reason the fact that many public employees are not clearly aware of which authority is responsible, in general referring applicants to the Federal Office for Immigration and Asylum, for example, and not to the security authority, which is actually responsible for this. That representative also reported the practice among provincial police administrations of designating specific police stations responsible for accepting such applications. While small police stations do not accept such applications, they do refer individuals to the appropriate police station or accompany them there in such cases. Referring to Vienna by way of example, applications can be made at only one police station, in close proximity to the Regional Directorate of the Federal Office for Immigration and Asylum; one of the reasons given for this is the fact that interpreters are close at hand and more readily available.[18]

In any case, authorities not responsible for accepting asylum applications do not collect any data on individuals seeking to apply for asylum who are referred to the competent authority. In such cases authorities may record a memorandum for internal use but do not collect any additional information.[19]

Initial questioning

After an individual has made an application, officials of the public security service initially question the applicant (Art. 19 para 1 Asylum Act 2005; Art. 42 para 1 Federal Office for Immigration and Asylum Procedures Act).[20] Such questioning is specifically aimed at determining the travel route and the identity of the individual concerned (Art. 19 para 1 Asylum Act 2005). While individuals are also questioned about their reasons for leaving their countries of origin, the initial questioning is not to go into the detailed reasons for becoming a refugee (Art. 19 para 1 Asylum Act 2005) and applicants are explicitly requested to be brief (Schrefler-König and Szymanski, 2018:§ 19 AsylG Anm. 3). This compact initial questioning allows essential information, such as the travel route or identity of a person seeking asylum, to be determined or checked within a short period of time. This is perceived by the Federal Ministry of the Interior as a strength of the initial questioning in its current form.[21]

However, this legal requirement may result in the initial questioning being so brief in practice that applicants often do not relate all their reasons for fleeing, and are only able to explain these for the first time in later procedures. In consequence, the Federal Office for Immigration and Asylum may assume applicants to be giving contradictory or more far-reaching information in later procedures ("increased claims") compared with the details from the initial questioning (Schrefler-König and Szymanski, 2018:§ 19 AsylG Anm. 4).[22] According to the Federal Ministry of the Interior, this is only the case if the applicant presents two completely different factual

17 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

18 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

19 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

20 Federal Office for Immigration and Asylum Procedures Act, FLG I No. 87/2012, in the version of the federal law FLG I No. 29/2020.

21 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

22 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

circumstances. Contradictions or an "increased claim" are not to be assumed if the applicant, in accordance with the instruction to be brief during the initial questioning, gives a general overview and only describes concrete events during the interrogation.[23] With regard to the legal requirement that the initial questioning be brief, the officials of the public security service are conducting themselves properly, but this brevity may nonetheless prove to be a disadvantage for applicants in later procedures, for instance when asked to explain why, during initial questioning, they did not mention other or all reasons for becoming refugees.[24,25] This could only be avoided by the applicant insisting on having all their reasons for fleeing recorded during the initial questioning.[26]

A representative of Asylkoordination Österreich cites an additional weakness of the initial questioning as being the failure to focus on applicants' potential vulnerability. To tackle this deficiency, it is recommended that additional multiprofessional personnel be involved, while also reviewing the interview techniques employed by the officials asking the questions.[27] However, the Federal Ministry of the Interior emphasized that possible vulnerability is already taken into account during the initial questioning of the applicant. In particular, special provisions apply to vulnerable groups of persons (such as minors, unaccompanied minor refugees, disabled persons, elderly persons, pregnant women, single parents with minor children, trafficked persons, persons with severe physical illnesses, etc.) in the admission or asylum procedure.[28]

Processing for identification purposes

During the initial questioning, individuals aged 14 and over are processed for identification purposes (Art. 24 and 42 para 1 Federal Office for Immigration and Asylum Procedures Act). Processing for identification purposes refers to deriving personal data using technical processes to determine biometric or genetic data. Similar to the scope of application under the Security Police Act, processing for identification purposes is generally applied in asylum procedures based on the requirements set out in Articles 64 et seq. of that act, whereas in such procedures only limited identification data may be collected (Art. 24 para 4 Federal Office for Immigration and Asylum Procedures). Specifically included are photos, papillary lines of fingerprints, external physical features and the individual's signature (Art. 2 para 2 Asylum Act 2005).

23 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

24 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

25 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

26 Ibid.

27 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

28 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

2.2 Lodging an asylum application

When the asylum application has been made and the steps required for this phase have been taken, the procedure continues with the next phase, lodging the asylum application.

Responsible authorities

After the measures described in section 2.1 have been taken, the Federal Office for Immigration and Asylum is forwarded the record of initial questioning and a report containing the details listed below (Art. 42 para 2 Federal Office for Immigration and Asylum Procedures Act):

- Time, place and circumstances when the application was made;
- Citizenship information;
- Applicant's travel route (border crossing point);
- Results of processing for identification purposes;
- Results of any search of the applicant.

The Federal Office for Immigration and Asylum subsequently orders action to be taken based on this information (Art. 43 para 1 Federal Office for Immigration and Asylum Procedures Act). The type of action firstly depends on whether the application is considered likely to be admitted (based on the prospects; Art. 28 para 1 Asylum Act 2005; oesterreich.gv.at, 2020; Federal Office for Immigration and Asylum, n.d.a:10). Action also depends on whether or not the applicant is entitled to stay in Austria, for example after entering the country either lawfully or unlawfully (Schrefler-König and Szymanski, 2018:§ 31 AsylG on para 1 and para 1a; Art. 31 para 1 Aliens Police Act 2005;[29] Stiller, 2018:33–34).

Unlawful stay in Austria

If the applicant's stay in Austria is not lawful, for the purpose of continuing the procedure the Federal Office for Immigration and Asylum orders the individual to be brought before an initial reception centre,[30] a regional directorate[31] or a branch office (Art. 43 para 1 subpara 2 (a) Federal Office for Immigration and Asylum Procedures Act). This is the procedure in cases falling under the Dublin III Regulation[32] or where the individual has no de facto protection against removal based on a subsequent application as set out in Art. 12a of the Asylum Act 2005 (Filzwieser et al., 2016:§ 43 Federal Office for Immigration and Asylum Procedures Act K2). Where it is not necessary to transfer the applicant, the authority has the duty to enable the applicant to travel to a

29 Aliens Police Act, FLG I No. 100/2005, in the version of the federal law FLG I No. 27/2020.

30 The initial reception centres (EAST) are organizational units of the Federal Office for Immigration and Asylum, which are located in Traiskirchen (EAST East), St. Georgen im Attergau (EAST West) and at the airport Wien-Schwechat (EAST Airport; § 1 Regulation on the Implementation of the Act Establishing the Federal Office for Immigration and Asylum, FLG II No. 453/2013). Approval procedures are carried out at the initial reception centres.

31 Once the asylum procedure has been approved, the regional directorates or their branch offices assume responsibility for examining the asylum application and conduct the asylum procedure (Federal Office for Immigration and Asylum, n.d.a:12).

32 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, OJ L 180, pp. 31–59.

federal reception centre (distribution centre)[33] at no personal expense (Art. 43 para 1 subpara 2 (b) Federal Office for Immigration and Asylum Procedures Act).

Lawful stay in Austria

Where, on the other hand, the applicant is entitled to stay in Austria, the authority orders the individual to travel to an initial reception centre or a regional directorate within 14 days (Art. 43 para 1 subpara 1 Federal Office for Immigration and Asylum Procedures Act).

Actual lodging of an asylum application

Regardless of the type of specific action ordered by the Federal Office for Immigration and Asylum, the application for international protection is considered lodged when this authority orders the action (Art. 17 para 2 Asylum Act 2005).[34] Here again, action as described above can be omitted in certain cases, such as when the applicant is in detention pending removal (Art. 43 para 2 Federal Office for Immigration and Asylum Procedures Act). In this case, the application is considered lodged after questioning and, if necessary, searching the person, and after processing for identification purposes (Art. 17 para 6 Asylum Act 2005).

Lodging an asylum application alone marks the beginning of an asylum procedure. An asylum procedure is initially conducted as an admission procedure (Schrefler-König and Szymanski, 2018:§ 17 AsylG Anm. 4; Art. 17 para 4 Asylum Act 2005).

Admission procedure

A multifactorial age assessment might be carried out as part of admission procedures where required, or asylum seekers are informed of the house rules in effect at federal reception centres[35] (Art. 29 para 6 Asylum Act 2005). The main concern, though, is to clarify whether Austria or another EU Member State is responsible for the asylum procedure and whether the application is admissible (Federal Office for Immigration and Asylum, n.d.:12).

33 Federal Office for Immigration and Asylum, n.d.a:12. Asylum applicants are distributed from the distribution facilities to accommodations in the individual provinces.

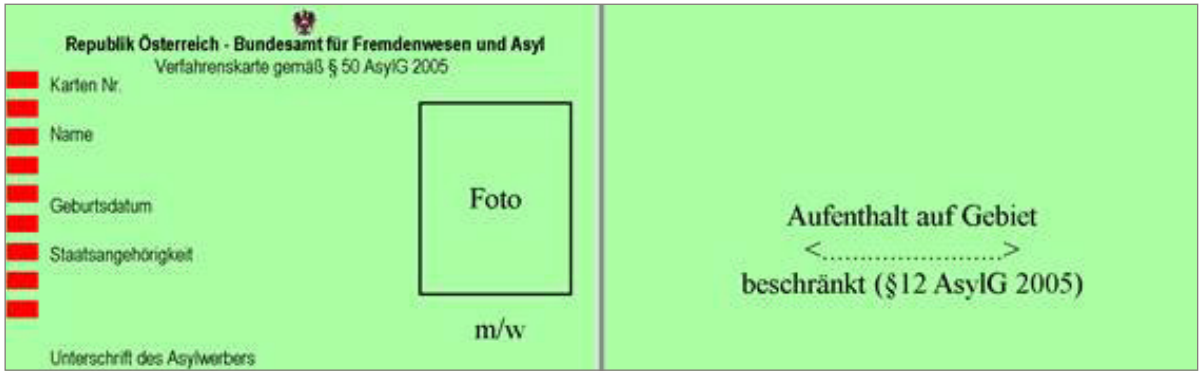
34 There are also cases in which the Federal Office for Immigration and Asylum can refrain from issuing any of the mentioned orders, for example, if the person making the application is in detention pending removal or in criminal custody (Art. 43 para 2 Federal Office for Immigration and Asylum Procedures Act). In such cases, the application shall be considered lodged after the interview and, if applicable, after the search and processing for identification purposes (Art. 17 para 6 Asylum Act 2005).

35 These include the initial reception centres and the distribution centres, from where asylum applicants are distributed to accommodations in the individual provinces (Art. 1 subpara 4 and 5 Federal Basic Care Act 2005, FLG No. 314/1994, in the version of the federal law FLG I No. 53/2019; oesterreich.gv.at, 2020).

2.3 Registration of asylum applicants

An applicant must normally be issued a procedure card (Verfahrenskarte) "without undue delay after the application is lodged" (Art. 50 para 1 Asylum Act 2005).

Figure 1: Card for the admission procedure (with and without residence area restriction)

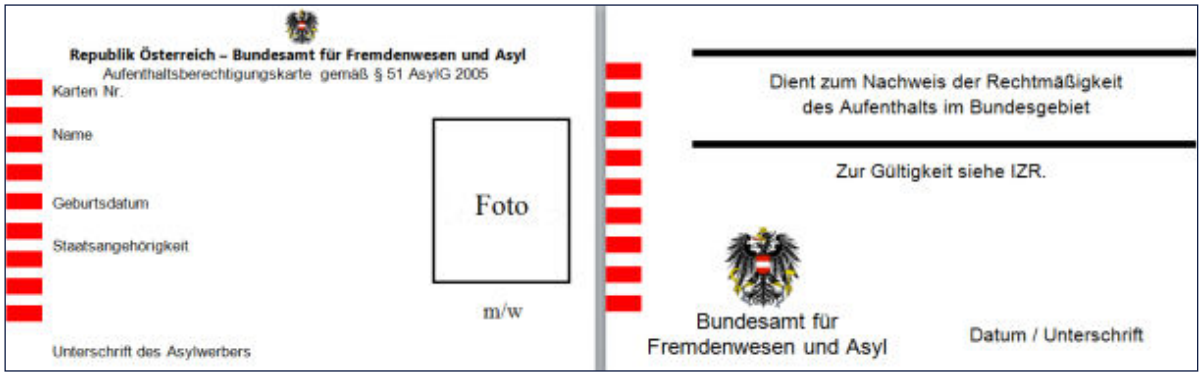


Source: Regulation of the Federal Minister of the Interior on the implementation of the Asylum Act 2005; Annex B: Card for the admission procedure (without residence area restriction), front and back.

Issuing a procedure card corresponds to "registering" as referred to in Art. 6 para 1 of the recast EU Directive on common procedures for granting and withdrawing international protection[36] (Schrefler-König and Szymanski, 2018:§ 50 AsylG Anm. 1). The procedure card also has the function of an ongoing record (Filzwieser et al., 2016:§ 50 AsylG K2), allowing documentation of the steps required for completing the admission procedure (Art. 50 para 1 Asylum Act 2005).

A residence permit card is issued to an applicant admitted to an asylum procedure, with this card serving as the applicant's proof of identity and residence entitlement during the procedure (Art. 51 para 1 Asylum Act 2005).

Figure 2: Residence permit card



Source: Regulation of the Federal Minister of the Interior on the implementation of the Asylum Act 2005; Annex C: Residence permit card, front and back.

36 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, OJ L 180, pp. 60–95.

Issuing a card of this type is nonetheless not particularly relevant for the procedure, so that Austria does not provide for a separate registration phase, according to experts from the Federal Ministry of the Interior.[37]

Similarly, a provision for self-registration, to be equated with making an application, does not currently exist in Austria either. Nor does self-registration play any role in plans for the foreseeable future.[38] Experts from the Federal Ministry of the Interior also point out the difficulties involved in assessing the benefits of self-registration. While self-registration might have resulted in benefits during the migration events in 2015–2016, it is suggested that this would probably not be the case in the current situation, where the number of applications is far lower (refer to figure 3 for specific data).[39]

A representative of Asylkoordination Österreich sees an additional reason for the lack of any self-registration option in the desire on the part of the Federal Ministry of the Interior to maintain the fullest control possible over asylum procedures. According to the obvious view of the authorities, this includes ensuring the physical presence of asylum applicants.[40] A representative of the Diakonie Flüchtlingsdienst also referred to Art. 12 of the Asylum Act 2005, which grants de facto protection from removal to individuals who have applied for asylum. Allowing self-registration could create a legal situation that the authorities would have great difficulties understanding. Thus, no self-registration option is likely to be implemented as long as making an application for asylum means de facto protection from removal, the Diakonie Flüchtlingsdienst representative concludes.[41]

2.4 Actual asylum procedure

The actual asylum procedure begins on completion of the admission procedure (see section 2.2), if Austria is recognized as being responsible for the case (Federal Office for Immigration and Asylum, n.d.:10).

Responsible authorities

The Federal Office for Immigration and Asylum (Art. 2 para 1 subpara 1 Federal Office for Immigration and Asylum Procedures Act) is responsible for conducting the actual asylum procedure. In the context of examining individual applications for asylum, the Federal Office for Immigration and Asylum assesses whether grounds for persecution exist as referred to in the Geneva Refugee Convention,[42] or grounds for granting subsidiary protection or a humanitarian residence permit (Federal Office for Immigration and Asylum, n.d.a:16).

37 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

38 Ibid.

39 Ibid.

40 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

41 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

42 Convention Relating to the Status of Refugees, FLG No. 55/1955, in the version of the federal law FLG III No. 211/2019.

Fast-track procedure

Austria conducts both regular and accelerated asylum procedures.[43] The "fast-track procedure" (Federal Office for Immigration and Asylum, n.d.a:18), as the accelerated procedure is referred to in Austria, is a prime example of "channelling", whereby asylum applications are classified based on predefined criteria and assigned either to the accelerated or the regular asylum procedure stream.[44]

The option of accelerated procedures is derived from Art. 27a of the Asylum Act 2005. Specifically, asylum procedures are permitted to be conducted in an accelerated manner where asylum applicants originate from a country considered to be a safe country of origin (see table 1; Art. 27a Asylum Act 2005 in conjunction with Art. 18 para 1 Federal Office for Immigration and Asylum Procedures Act; Federal Office for Immigration and Asylum, n.d.a:18). Sometimes, however, asylum procedures are conducted as accelerated procedures even where applicants are not from a safe country of origin, according to a representative of the Diakonie Flüchtlingsdienst.[45] In this regard, the Federal Ministry of the Interior[46] stated that this is also legally permissible under the strict conditions set forth in Art. 18 para 1 of the Federal Office for Immigration and Asylum Procedures Act. This also includes cases in which

- serious reasons justify the assumption that a person seeking asylum represents a danger to public security and order;
- the person seeking asylum is attempting to deceive regarding his or her identity or nationality by providing false information or documents or by concealing important information or by withholding documents;
- an application for asylum is obviously unfounded;
- an enforceable return decision, expulsion or exclusion order has been issued against the asylum seeker prior to filing the application for international protection.

43 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

44 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

45 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

46 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

Table 1: States or regions considered by Austria to be safe countries of origin

Europe	Australia and Oceania	North and South America	Asia	Africa
Albania	Australia	Canada	Armenia	Algeria
Bosnia and Herzegovina	New Zealand	Uruguay	Georgia	Benin
Iceland			Mongolia	Ghana
Liechtenstein			Republic of Korea	Morocco
Member States of the European Union				Namibia
Montenegro				Senegal
North Macedonia				Tunisia
Norway				
Serbia				
Switzerland				
Ukraine				
Kosovo*				

**Note:* References to Kosovo shall be understood to be in the context of United Nations Security Council resolution 1244 (1999).
Source: Art. 19 para 1 and 4 Federal Office for Immigration and Asylum Procedures Act, Art. 1 Regulation on the Countries of Origin, FLG II No. 177/2009, in the version of the federal law FLG II No. 145/2019.

Procedures are accelerated by the authorities giving priority to such procedures and processing them more quickly.[47] This also means omitting any detailed investigation of individual cases as is done in regular procedures but taking the investigation steps corresponding to the individual need for protection.[48] The decision is based on the available results of previous interviews and so is taken sooner.[49,50] The Federal Ministry of the Interior pointed out that in the accelerated procedure, processes are carried out in parallel instead of downstream, but still with individual case-specific investigations. Obviously unfounded asylum applications (applications from safe countries of origin as well as countries with a low to unpromising probability of recognition) are to be processed quickly, resulting in an increase in quantity while maintaining a high level of quality.[51]

Cases assigned to the fast-track procedure that end with a positive asylum decision are rather the exception, according to a representative of the Diakonie Flüchtlingsdienst.[52] A positive decision is mostly handed down in cases where detailed interviews reveal relevant grounds for becoming a refugee, which require closer investigation. As a rule, however, fast-track procedures are completed very quickly with a refusal.[53]

Number of fast-track procedures

As part of the drafting of this study, the Federal Ministry of the Interior provided the existing data on the fast-track procedure. There were a total of 12,886 asylum applications in 2019, of which 1,023 applications were filed by nationals of a country of origin considered safe. 53.3 per cent of these applications (1,023 asylum applications) were fast-track procedures (figure 3). The percentage of fast-track procedures was similar in 2014–2016 and 2018–2019, averaging 54 per cent. Only 2017 stands out with an 85.5 per cent share of fast-track procedures. According to the Federal Ministry of the Interior, the reasons included a corresponding prioritization by the Federal Office for Immigration and Asylum in 2017.[54]

47 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

48 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

49 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

50 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

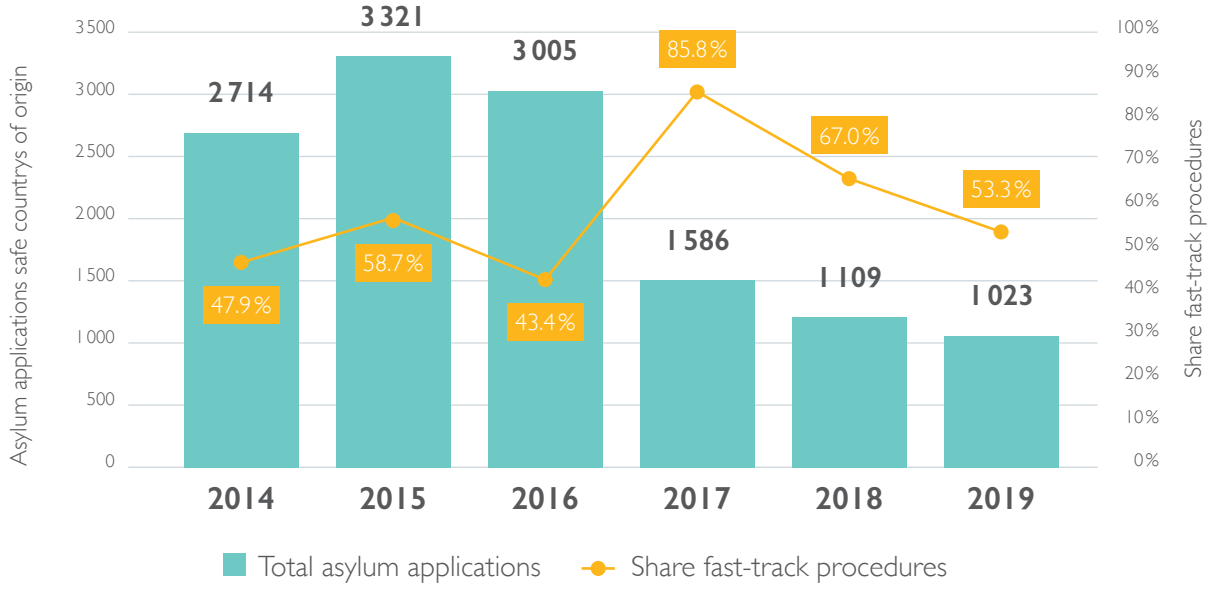
51 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

52 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

53 Ibid.

54 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

Figure 3: Number of asylum applications from nationals of a country of origin considered safe and percentage of accelerated procedures, 2014–2019



Note: Fast-track procedures are initiated when all necessary conditions are met. If it later proves necessary to conduct such a procedure as a regular procedure, the procedure is no longer counted as a fast-track procedure. As a result, it is usually the case that fewer fast-track procedures than are initiated end in decisions. With the exception of 2015, the percentages given in the figure refer to the decisions issued after fast-track procedures. The percentage shown for 2015 is based on the number of procedures initiated.

Source: Written input: Federal Ministry of the Interior, 19 August 2020; Federal Ministry of the Interior, n.d.a; Statistics Austria, n.d.

The Federal Ministry of the Interior does not disclose regularly any figures on fast-track procedures. This practice has been criticized by a representative of Asylkoordination Österreich, referring among other things to a report by the UN High Commissioner for Human Rights (Office of the United Nations High Commissioner for Human Rights, 2018:18). This is regarded as lacking transparency.[55] However, upon request, such as in the context of this study or through parliamentary request, the data are certainly made available by the Federal Ministry of the Interior.

The fast-track procedure was only introduced to Austria in its current form in 2015 (Art. 3 subpara 27 Act Amending the Aliens Law 2015).[56] A similar type of procedure existed before 2015, but it had been necessary to first transfer all asylum seekers to an initial reception centre to decide in which cases to conduct accelerated procedures. In introducing the current type of fast-track procedure, the goal had been to improve processing and adapt procedures to practices in other EU Member States, as well as to accelerate asylum procedures in selected cases. The decision on whether to conduct a fast-track procedure is now taken earlier, specifically when applicants are actually still with the police.[57] This progress contrasts with the assessment by a representative of Asylkoordination Österreich, who sees the fast-track procedure as accelerating processing but criticizes the lack of any improvement in the quality of asylum procedures and describes it as qualitatively inadequate.[58] According to experts with the Federal Ministry of the Interior the asylum procedure has evolved over the past ten to

55 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

56 Act Amending the Aliens Law 2015, FLG I No. 70/2015.

57 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

58 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

fifteen years and the fast-track procedures are part of this evolution. Moreover, according to experts with the Federal Ministry of the Interior, the goals pursued in introducing the fast-track procedure have been achieved, especially a rapid identification of those in need of protection and those not in need of protection.[59]

Since its introduction, no legislative changes have been made to the fast-track procedure.[60] However, practices have reportedly changed in recent months so that, according to a representative of the Diakonie Flüchtlingsdienst, accelerated, actual asylum procedures are now conducted while applicants are still in admission procedures. This means that a decision is already reached on the facts of the asylum application while deciding whether to admit the application and whether Austria is responsible to decide the case (see also section 2.4).[61]

2.5 The phases of asylum procedures in practice

In Austria, the phases of "making an asylum application" and "lodging an asylum application" are normally clearly distinguished in practice as well. The distinction is already rooted in the differing authorities responsible: applications are largely made before police officials or police institutions (see section 2.1.1) whereas applications for asylum are lodged as a result of action ordered by the Federal Office for Immigration and Asylum. A frequent consequence of such an order is for the applicant to be brought to a facility under the Federal Office for Immigration and Asylum (see section 2.2.1). At this point the distinction in competent authorities – and the corresponding end of the phase of "making an asylum application" – becomes evident even to the applicant.[62]

Notwithstanding this distinction in principle, asylum applications are sometimes made in an initial reception centre. While the legal distinction between the phases of "making an asylum application" and "lodging an asylum application" is upheld in such cases, under the actual circumstances it is nonetheless difficult to distinguish the two phases.[63]

The phases described above apply in principle to all asylum procedures, while Austria makes no distinction on the basis of how applicants enter the country – be it via a land crossing or an airport, for instance. Special rules do apply, however, when an application for international protection is made at an airport in Austria where an initial reception centre is located.[64] In such cases the Federal Office for Immigration and Asylum first assesses whether the application is likely to be rejected or refused. Where this is unlikely (Art. 31 para 2 Asylum Act 2005), applicants are permitted to enter and are subsequently brought before the Federal Office for Immigration and Asylum (Art. 31 para 1 Asylum Act 2005). In other cases – where rejection or refusal of the application appears likely – applicants are brought before the initial reception centre located at the airport (Art. 31 para 1 Asylum Act 2005). In both cases the application is considered lodged when the individual is brought before the institution (Art. 31 para 1 Asylum Act 2005).

59 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

60 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

61 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

62 Ibid.

63 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

64 An initial reception centre at an airport is currently only established at the airport Wien-Schwechat (Art. 1 para 4 Regulation on the Implementation of the Act Establishing the Federal Office for Immigration and Asylum, FLG II No. 453/2013).

The means by which applicants enter the country has no bearing on the phases of asylum procedures,[65] and these phases consequently apply to cases involving airports as well, even though the individual phases cannot always be easily distinguished in such cases. According to a representative of the Diakonie Flüchtlingsdienst, this holds true especially for individuals from countries with high recognition rates, such as the Islamic Republic of Iran: due to the high probability of recognition, such persons are immediately allowed to enter Austria.[66]

2.6 The factor of time in asylum procedures

Austrian legislation requires compliance with time limits when processing asylum procedures. These time requirements as well as the actual time required for procedures are discussed in the two next sections.

2.6.1 Legal requirements

No time limit exists for **making** an asylum application in Austria. Similarly, no time limit is explicitly set for **lodging** an application. The Federal Office for Immigration and Asylum is, however, required to order action without delay (Art. 43 para 1 Federal Office for Immigration and Asylum Procedures Act) once it receives the information collected during initial questioning (see section 2.1.2 above; Art. 42 leg. cit). The procedure card is similarly required to be issued without undue delay after the lodging of the application (Art. 50 para 1 Asylum Act 2005). A time limit of three days is specified for issuing the procedure card in the cases enumerated in Art. 43 para 2 of the Federal Office for Immigration and Asylum Procedures Act (Art. 17 para 6 Asylum Act 2005); such cases include when applicants are held in detention pending removal (see section 2.2.1).

The time period allowed for deciding the facts of an application depends on whether the applicant is being held in detention pending removal and whether the procedure is conducted according to regular rules or as a fast-track procedure. With applicants in detention pending removal, cases are to be decided as expeditiously as possible and after no more than three months in any case, either by the Federal Office for Immigration and Asylum or by the Federal Administrative Court (after an appeal for a legal remedy; Art. 22 para 6 Asylum Act 2005).

In the absence of any special legal regulations, regular asylum procedures are to be decided within the period specified in Art. 73 para 1 of the General Administrative Procedures Act 1991,[67] specifically, without undue delay and by no later than six months after receipt of the asylum application.[68] The Federal Office for Immigration and Asylum is required to reach a decision in accelerated procedures by no later than five months but may, of course, decide sooner.[69] This deadline is not binding[70] though, and can be exceeded by one month if

65 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

66 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

67 General Administrative Procedures Act, FLG No. 51/1991, in the version of federal law FLG I No. 58/2018.

68 During the asylum procedure before the Federal Office for Immigration and Asylum, the General Administrative Procedures Act is to be applied on a subsidiary basis. Recodification of an Act Establishing the Federal Office for Immigration and Asylum and Federal Office for Immigration and Asylum Procedures Act as well as amendment of the Asylum Act 2005, the Aliens Police Act 2005, the Settlement and Residence Act, the Citizenship Act 1985, the Federal Basic Care Act 2005 and the Introductory Act to the Administrative Procedure Acts 2008, p. 9. Available at www.parlament.gv.at.

69 Act Establishing the Federal Office for Immigration and Asylum, FLG I No. 87/2012.

70 Act amending the Act Establishing the Federal Office for Immigration and Asylum, the Federal Office for Immigration and Asylum Procedures Act, the Asylum Act 2005, the Aliens Police Act 2005, the Settlement and Residence Act 2005 and the Federal Basic Care Act 2005 (Act Amending the Aliens Law 2015), Government Proposal – Explanatory Notes, p. 13. Available at www.parlament.gv.at.

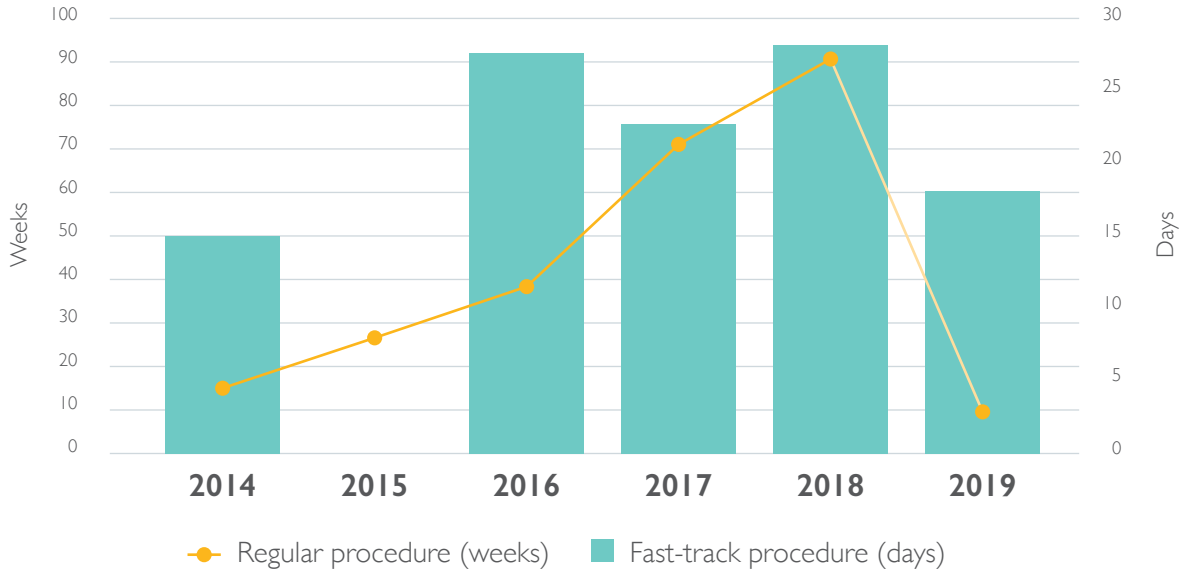
necessary to examine the asylum application thoroughly (Art. 27a Asylum Act 2005). In a complaint procedure, the suspensive effect of a complaint lodged against an administrative decision issued in an accelerated asylum procedure can be lifted (Art. 18 para 1 Federal Office for Immigration and Asylum Procedures Act; Federal Office for Immigration and Asylum, n.d.a:18). This means that the complaint is not recognized as having a suspensive effect, so that the administrative decision can be implemented even before any decision has been reached on the complaint. Yet, another provision affecting complaint procedures requires a decision on a complaint without undue delay and by no later than six months after the complaint is received (Art. 34 para 1 Proceedings of Administrative Courts Act).[71]

The allotted periods have remained unaltered in recent years. The only exception is the provision requiring the procedure card to be issued without undue delay after the lodging of the application, which was enacted in 2015 (Art. 50 para 1 Asylum Act 2005).[72]

2.6.2 Actual duration of procedures

Figures on the average duration of asylum procedures in Austria, from the lodging of the application until a first-instance decision is issued, are shown in figure 4.

Figure 4: Average time of the asylum procedure from submission to first instance decision



Note for the fast-track procedure: Due to the migration events 2015/2016 no published evaluation is available for the year 2015.

Note for the regular procedure: As of 2019, a measurement of the duration of procedures minus the procedures from the migration events of 2015/2016 (asylum application until June 1, 2018) was made.

Source: Written input: Federal Ministry of the Interior, 19 August 2020.

71 Proceedings of Administrative Courts Act, FLG I No. 33/2013, in the version of the federal law FLG I No. 57/2018.

72 Act Amending the Aliens Law 2015, FLG I No. 70/2015.

3. OVERVIEW OF DATA COLLECTED

In Austria, numerous and various types of data are gathered and recorded only once asylum applications are made. Data from authorities not directly involved in asylum procedures are not front-loaded in Austria and data or information-gathering is not outsourced to such authorities. One reason is that, within the framework of statutory mandates, no other authorities collect data relevant for asylum procedures.[73]

3.1 Data collected

Table 2 gives an overview of the data that are collected (for details on the subcategories of data collected see annex A.1). As mentioned above (see section 2), Austria does not have a separate registration phase; nonetheless, data are collected from the start of asylum procedures, that is, when an asylum application is made. Therefore, in the table below, the start of a procedure is considered comparable to "registering".[74]

Table 2: Overview of data collected in Austria during asylum procedure

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In electronic file	PAD[75] (Police)	IFA[76] (Federal Office for Immigration and Asylum)	EDWF[77] (Police)
Name									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					

73 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

74 Ibid.

75 This abbreviation stands for the police protocol system "Logging Reporting Data".

76 This is the "Integrated Administration of Aliens system".

77 This abbreviation stands for the IT system Processing for Identification Purposes Workflow.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paper	In electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Sex									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Biometric data									
Making an asylum application	x		- Processing for identification purposes - Personal description (part of the interview) - 10 fingers rolled	x			x	x	(x)
Lodging an asylum application									
Asylum procedure		(x)	- Documentary analysis - Issuance of asylum cards[78] - Personal description (part of the interview)	x					
Place of birth									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

78 These include, the procedure card, the residence permit card and cards for residence permits according to Art. 54 para 1 Asylum Act 2005. For details, especially regarding the residence permit in cases requiring particular consideration according to Art. 56 Asylum Act 2005 see Bassermann, 2019.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paper	In electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Personal data									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Criminal register									
Making an asylum application								x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview) - EKIS[79]-Information	x					
Financial resources									
Making an asylum application	x		- Written questionnaire (on paper) - Oral (interview, face-to-face)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Information on route taken									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

79 This abbreviation stands for Electronic Criminal Police Information System.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paper	In electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Contact Details									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Accompanied by (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Family members in the (Member) State (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Family members in another (Member) State (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paper	In electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Close relatives (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Health status									
Making an asylum application								x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Education (voluntary information)									
Making an asylum application	x		- Oral (interview, face-to-face) - Written questionnaire (on paper)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Supporting documents									
Making an asylum application	(x)		- Voluntary hand over - Individual search	(x)		(x)	x	x	
Lodging an asylum application									
Asylum procedure		x	- Voluntary hand over	x		(x)			

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paper	In electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Vulnerabilities									
Making an asylum application	(x)		- Determination of personal data	(x)			(x)	x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall) - Determination of age and relationship	x					

Source: Written input: Federal Ministry of the Interior, 19 August 2020.

Information on the education of applicants – for example, information on academic studies, apprenticeships or language skills – is currently not collected statistically in the asylum procedure. In this regard, experts from the Federal Ministry of the Interior explained that this information may also be a topic during interviews and is recorded in writing, as it could be relevant to the claim. However, activities and qualifications are often claimed that are based on very different perceptions on the one hand and do not correspond to reality on the other. Therefore, extensive questioning would be necessary apart from the intention of examining the asylum application, which would require extensive resources.[80]

With regard to the data collected in asylum procedures, representatives of the Diakonie Flüchtlingsdienst and Asylkoordination Österreich put forth the view that not an inordinate amount of data are collected,[81] whereas, according to the former, some of the data are not especially relevant, particularly the data collected when applications are made to the police. In this setting, mostly standard forms are completed, while the information provided and the questions to be answered are said to be unrelated to a specific applicant's request for asylum. It is accordingly unnecessary to collect such information, it is claimed. By way of example, the representative of the Diakonie Flüchtlingsdienst referred to marital status, an item of information that might be relevant, but only in specific cases that would need to be identified as such. It would not be necessary to collect this piece of data generally using a standard form.[82] The Federal Ministry of the Interior pointed out that these data in regards to marital status can be of significant relevance from the point of view of possible future family reunifications/

80 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

81 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020; Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

82 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

move of family members or already existing reference persons in Austria and are also repeatedly requested in parliamentary requests.[83]

The representative of Asylkoordination Österreich additionally criticized a lack of sensitivity on the part of Austrian authorities in handling data and information, in particular when verifying the plausibility of details given by applicants. An example cited here was the handling of the fact that an individual had fled their country of origin due to their secretively practised sexual orientation. There are reportedly cases where such details are verified by questioning other family members also staying in Austria after fleeing. Yet this might be the first time that these individuals have been confronted with the sexual orientation of their family member and they often deny the claim. This could subsequently result in the reason given by the individual for seeking asylum being considered implausible. According to Asylkoordination Österreich, such handling of information completely undermines any trust. While, understandably, the authorities need to verify certain details, they are judged as lacking the necessary sensitivity.[84] In this regard, the Federal Ministry of the Interior pointed out that in practice, extensive training is offered on holding questionings/interrogations, on credibility checks, on dealing with vulnerable groups of persons and so forth, in which the employees of the authorities are specifically trained to consider and process sensitive cases in an appropriate manner.[85]

Experts from the Federal Ministry of the Interior report that some data are not collected in Austria that could be required under certain circumstances. An example here are the data necessary for providing judicial assistance to the International Court of Justice. In war crimes proceedings, the International Court of Justice frequently seeks witnesses, in countries including Austria. Yet the data that would facilitate identification of such witnesses – such as an asylum applicant's exact region of origin – are not systematically collected in Austria. Similarly, no information able to be evaluated using tools is available on applicants' travel routes or reasons for fleeing.[86] Nor are data collected relating to applicants' skills and training levels. Nonetheless, in view of labour market access as required by Art. 15 of the Reception Conditions Directive,[87] it would seemingly be useful to collect such data during ongoing asylum procedures. In Austria, in contrast, steps toward integration are considered by some to be appropriate only once an individual has been recognized as a refugee, a view also reflected in the Integration Act.[88,89]

83 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020. See for example Federal Ministry of the Interior, Beantwortung der parlamentarischen Anfrage betreffend betreffend „Daten Asylverfahren" 758/J vom 10. April 2020, 873/AB (XXVII. GP). Available from www.parlament.gv.at.

84 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

85 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

86 Ibid.

87 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, OJ L 180, pp. 96–116.

88 Integration Act, FLG I No. 68/2017, in the version of the federal law FLG I No. 42/2020.

89 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

3.2 Data management

Several databases are available in Austria for managing asylum application data – depending on the phase of the asylum procedure when they are collected. Table 3 below provides a summary of current databases and the purpose in each case.

Table 3: Databases used in Austria and specific purpose

Procedural step	National authorities that have access to the databases or access to its data		Data shared with other Member States
	Authority	Purpose	Type of Data
PAD – Logging Reporting Data (national database: electronic filing system)			
Making an asylum application	- Police - Federal Ministry of the Interior	- Collection of data from asylum seekers - Initial interview - Processing for identification purposes	
Lodging an asylum application	x	x	
Asylum procedure	x	x	
IFA – Integrated Administration of Aliens System[90]			
Making an asylum application	x	x	DubliNet[91] – Request and Information system of the Dublin Member States
Lodging an asylum application	- Federal Office for Immigration and Asylum - Federal Ministry of the Interior - Police (reading)	- Prospects - Handling of the admission procedure - Asylum procedure	
Asylum procedure	- Federal Office for Immigration and Asylum - Federal Ministry of the Interior - Police (reading)	Asylum procedure	
ZMR – Central Register of Residents (national database)			
Making an asylum application	x	x	
Lodging an asylum application	x	x	
Asylum procedure	Federal Office for Immigration and Asylum	Residence request in asylum procedure	

Source: Written input: Federal Ministry of the Interior, 19 August 2020. Representation by author.

90 This is the central IT application for the needs-based administration of procedures according to asylum and aliens police law conducted by the Federal Office for Immigration and Asylum. As of January 1, 2014, the Integrated Administration of Aliens system replaced the applications for asylum and aliens police law that had previously been managed separately by the Ministry. In addition to the procedure database, the system includes the possibility to create procedure cards and an integrated central register for putting out alerts for search, which enables external authorities, especially the police, to access information, such as measures to terminate residence, arrest orders or exclusion orders (Austrian Court of Audit, 2019:Rz 33).

91 This is a secure electronic network of transmission channels between national authorities processing asylum applications (European Commission, 2003). Among other things, it facilitates the exchange of information between Member States to clarify responsibilities under the "Dublin III Regulation". See for example Art. 17 and 31 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, OJ L 180, pp. 31–59.

3.3 Data quality and cross-checking

Besides actual data collection, the quality of the data is a key factor in achieving the goals set for the data collection process. In Austria, data are cross-checked beginning from when they are collected. Checking is not assigned to a specific phase.

3.3.1 Ensuring data quality

Ensuring the quality of the collected data, and also that the data are complete and materially correct, presupposes avoiding any errors when collecting the data. The first issue to be addressed in this context, according to experts from the Federal Ministry of the Interior, is under what circumstances the collected data are to be viewed as inaccurate and how the inaccuracies might have occurred. In this context, the experts at the Federal Ministry of the Interior refer to examples including spelling or comprehension errors or errors during transcription. Besides such errors, individuals intentionally give false information to conceal their identities in some instances, in order to be able to enter Austria.

To ensure the correctness of the data collected in Austria, data are both corrected and supplemented. Data comparisons are carried out, for instance with data in available documents from applicants' countries of origin, such as travel documents. If discrepancies are discovered during such checks, the inaccurate data are corrected or, in the case of intentionally false information, supplemented, for example by adding an (additional) alias. Rules are also in place to ensure that those items of data that are collected by security authorities as part of processing for identification purposes are also forwarded to the Federal Office for Immigration and Asylum, if the latter previously gathered varying data for the same category (Art. 30 para 1 Federal Office for Immigration and Asylum Procedures Act). This is especially helpful towards clarifying the identity of a foreign national.[92] A defined procedure, handled through the central clearing point of the Vienna Provincial Police Administration, exists for correcting data. Depending on the type of error, officials at the clearing point attempt to correct it, for example by trying to determine the correct spelling. The clearing point then has the data corrected in all systems.[93]

Data quality is a consideration throughout the entire asylum procedure.[94] In Austria, measures to ensure the quality of data are taken not only retroactively but also from the very beginning of procedures. Care is given throughout procedures to ensure that the data collected comply with quality requirements.[95]

For one thing, this means being conscious of data quality when entering the data that have been collected. This is ensured through automatic messages displayed by the system whenever data are entered that do not comply with defined quality criteria, among other means. This kind of system message is defined, for example, for cases where fingerprints or photos are below quality requirements.[96]

92 Recodification of an Act Establishing the Federal Office for Immigration and Asylum and Federal Office for Immigration and Asylum Procedures Act as well as amendment of the Asylum Act 2005, the Aliens Police Act 2005, the Settlement and Residence Act, the Citizenship Act 1985, the Federal Basic Care Act 2005 and the Introductory Act to the Administrative Procedure Acts 2008, p. 22. Available at www.parlament.gv.at.

93 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

94 Ibid.

95 Ibid.

96 Ibid.

Consideration is also given to reducing errors occurring in manual data entry. One example is through providing drop-down menus that allow selections from predefined categories. This is to ensure uniform data entry and to avoid any one data item from being assigned to different categories. In addition, employees of the Federal Office for Immigration and Asylum usually complete a number of training levels comprising various modules. This includes completing an IT module, in which they learn how to handle and manage data, the procedure for collecting data and how to use the Integrated Administration of Aliens system. For police officers, there are special workshops for advanced training and detailed training manuals. Check lists are also provided to ensure that data are collected, stored and retrieved properly.[97]

Despite these efforts, a representative of Asylkoordination Österreich noted, from personal experience, potential for improvement to enable the collection of more reliable data in future. Data currently have to be revised or edited in many cases, for instance due to a name being spelled phonetically or entered incompletely. In the representative's view, there is room for improvement in data quality. More care could reportedly also be taken when collecting data, in particular during initial questioning.[98] The Federal Ministry of the Interior, on the other hand, is of the opinion that the quality of the data collected is very good, especially in comparison with other European countries. However, it happens that documents of persons seeking asylum, from which, for example, the correct spelling of their name can be determined, are often only handed over at a later point in time. Accordingly, the data collected at the beginning of the asylum procedure would have to be subsequently corrected. This correction therefore has nothing to do with the quality of the data collected, but results from the (non-)availability of documents.[99]

In addition to action having later effect, steps aimed at data quality assurance are also taken in Austria after data are collected. One option to be mentioned here is that of also having data checked to some extent by an external party. This option is available especially in cases where an individual requires a document to travel to their home country. Based on the data received (Art. 33 para 4 Federal Office for Immigration and Asylum Procedures Act), the foreign embassy in that particular case checks whether the individual is indeed a citizen of that country. A return travel certificate is only issued once this fact is verified. As a result of verifying the shared data in this way, a high level of data quality and data security can be achieved even after data are collected.[100]

3.3.2 Cross-checking data against national and European systems

The process of collecting data in Austria begins early on for the most part, as soon as an individual makes an asylum application. Police duties include determining applicants' identities and comparing the data collected with national and EU databases. Austria has nationwide databases administered from a central point. Examples of such databases are the register of wanted persons and the Aliens Information System. Local and regional databases are more often associated with administrative penal proceedings and hence see only rare use in asylum procedures.[101] During actual asylum procedures, previously existing data are checked while new data

97 Ibid.

98 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

99 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

100 Ibid.

101 Ibid.

and information are collected that might be relevant for the particular case. Examples of the latter such details include religious and ethnic affiliation. Because such information is especially sensitive, it is not generally collected as part of standard procedures but only if significant for a particular asylum case. Prior to such an instance, the information can be provided voluntarily. Nonetheless, only the categories of data enumerated in Art. 27 of the Federal Office for Immigration and Asylum Procedures Act are subject to cross-checking and quality checking and rendered compatible for database comparisons. Such details include name, gender and date of birth. Legal restrictions, among other things, limit the cross-checking of especially sensitive data against other databases, so that comparisons are either not allowed or do not yield any added information value.[102]

In an international scope, data are cross-checked against European information systems in addition to databases in Austria. Specifically, the Eurodac database[103] is consulted, for fingerprint comparisons, as are the Schengen Information System (SIS)[104] and the Visa Information System (VIS).[105] In an ideal scenario, a query will result in one and the same match in all of these databases.[106] Queries of this kind are mostly aimed at ascertaining individuals' identities, their regular or irregular places of residence, or whether any detention orders have been issued against them. The scope of data that can be queried is limited, however. An example of this is the VIS, which only allows the display of visas issued within the past six months when applying for asylum (Art. 21 VIS-Regulation).[107,108]

3.3.3 Challenges and issues in data comparison

With regard to challenges or issues in cross-checking collected data against data stored in other databases, experts from the Federal Ministry of the Interior referred to the issues currently hampering the interoperability of EU databases, with the problems specifically affecting automated processing. Reference was specifically made to problem areas including data entry. Differences in data always give occasion to the question as to which EU-wide rule governing data entry takes precedence over any diverging rule applying at national level, which data are to be considered "better" or "more correct", and how to decide which data are to be retained or revised. To respond to these issues, automated processing will not be able to offer solutions even in the foreseeable future, so that ultimately manual verification of data will continue to be necessary.[109]

102 Ibid.

103 This is an information system whose purpose it is to assist in determining, through the collection, transmission and comparison of fingerprints, the EU Member State responsible for examining an application for international protection submitted in an EU Member State by third-country nationals or stateless persons under the Dublin III Regulation (Regulation (EU) No 604/2013; see European Migration Network, 2018b:118).

104 This is a common information system that enables the competent authorities in each EU Member State to obtain information on persons for specific purposes through an automated search procedure (European Migration Network, 2018b:296).

105 This is a system for the exchange of visa data between EU Member States, which enables authorized national institutions to enter, update and electronically retrieve visa data (European Migration Network, 2018b:359).

106 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

107 Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), OJ L 218, pp. 60–81.

108 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

109 Ibid.

3.4 Data collection and data management during the COVID-19 pandemic

The spread of COVID-19 in Austria has not resulted in any significant change in how data are managed in asylum procedures. Reportedly this is because the system of data management is complex and less suited to modification within brief periods. Another reason is related to the fact that responsibility for ensuring the technical conditions under which data are collected and administered has been outsourced to external parties. These companies have had to get by with reduced material and/or human resources in part during the COVID-19 pandemic, a situation which did not allow for any modifications.[110]

On the other hand, the implementation of plans for modernizing asylum procedures that had been scheduled prior to the COVID-19 pandemic were able to be launched sooner and to a wider extent than originally anticipated. Examples of such measures include the procurement of video conference equipment to allow remote audiovisual interviews of applicants. As a result of the pandemic and the discontinuation of personal appointments, this type of interview has become standard procedure. With the help of these audiovisual recordings, questioning of applicants can take place despite the restrictions aimed at containing the spread of COVID-19. This practice has proven to be helpful and is likely to be retained even after the COVID-19 pandemic, according to experts from the Federal Ministry of the Interior. Even so, the method reportedly still needs to be evaluated to determine whether video conferences are sufficiently capable of accommodating factors such as non-verbal communication.[111]

Some plans for modernizing procedures have, on the other hand, been postponed in response to the spread of COVID-19. An example here is the introduction of voice biometrics. While voice samples are already collected, actual analysis has been outsourced to an external partner in Sweden. With voice biometrics planned to become a more integral part of asylum procedures in future, contacts with technology partners had already been established prior to the pandemic. Yet, because the pandemic limited activities in many organizations, including the Federal Office for Immigration and Asylum, the priority put on plans to integrate voice biometrics in procedures was reduced.[112]

For reasons indirectly related to the spread of COVID-19, a representative of Asylkoordination Österreich expressed the need for action towards enhanced transparency in handling the data collected. The analysis and disclosure of data are referred to as essential prerequisites for understanding and evaluating policy decisions. In the representative's view, this principle also applies in the COVID-19 pandemic, while the entry of migrants is prohibited de facto. To allow the general public to better comprehend such widely impacting decisions, data related to the decisions should be made available at an earlier point in time in future.[113] From the point of view

110 Ibid.

111 Ibid.

112 Ibid.

113 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

of the Federal Ministry of the Interior, however, the necessary transparency is given. In this regard, reference was made to parliamentary requests and their responses, from which a transparent picture emerges.[114]

3.5 Preventive measures for collecting data in extraordinary migration events

Data collection plays a significant role in asylum procedures in Austria. Legislation has accordingly been adopted that specifies preventive measures in the event of any future migration situation similar to the one in 2015–2016: if, in consultation with the Main Committee of the National Council, the Federal Government issues a regulation recognizing a danger to maintaining public order and safeguarding internal security (Art. 36 Asylum Act 2005), special rules applying to asylum procedures also enter into force. In such cases the Federal Minister for the Interior is empowered to set up registration points (Art. 37 Asylum Act 2005), where asylum seekers will be subject to a process consisting of basically three steps:

- Personal data are collected;
- Photographs are taken;
- Fingerprints are collected.

The plan is aimed at ensuring expedited registration throughout Austria. In terms of data quality, on the other hand, sacrifices are to be made, for example with only flat instead of rolled fingerprints to be collected and no checks of fingerprint quality. It cannot be ruled out, therefore, that omitting quality checks will result in other issues later in the process, while such subsequent potential difficulties will be tolerated in return for expedited collection of initial data on asylum applicants in Austria.[115]

114 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020. See, for example, Federal Ministry of the Interior, Beantwortung der parlamentarischen Anfrage betreffend „Asylanträge während der COVID-19-Krise" 1467/J vom 9. Juni 2020, 1503/AB (XXVII. GP). Available from www.parlament.gv.at; Federal Ministry of the Interior, Beantwortung der parlamentarischen Anfrage betreffend „Umgang mit Corona-Ausnahmesituation im Ayslwesen" 1729/J vom 24. Juni 2020, 1732/AB (XXVII. GP). Available from www.parlament.gv.at; Federal Ministry of the Interior, Beantwortung der parlamentarischen Anfrage betreffend „Rechtsakte im Zusammenhang mit dem 'Corona-Wahnsinn'" 1949/J vom 10. Juli 2020, 1967/AB (XXVII.GP). Available from www.parlament.gv.at.

115 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

4. PROVISION OF INFORMATION TO ASYLUM SEEKERS

In the context of collecting data, Austria ensures that asylum applicants are provided with information relating to data collection and data processing. In Austria, information sheets[116] are distributed to asylum seekers. This information is written in a language that is understood or that can reasonably be assumed to be understood by the particular applicant (Art. 25 para 1 Federal Office for Immigration and Asylum Procedures Act). This information along with the information sheets are provided by the Federal Office for Immigration and Asylum.[117] If no information sheet is available in the language required for a specific applicant, the content of the information is translated orally for the applicant and this translation is recorded in the applicant's file.[118] An information leaflet on asylum procedures is also available for downloading (Federal Office for Immigration and Asylum, n.d.a),[119] in English as well (Federal Office for Immigration and Asylum, 2020).

The information sheets provide details relating to processing for identification purposes and to data processing, to ensure that asylum seekers are aware of how their data are used. In addition, a leaflet on the topic of asylum procedures in Austria, which discusses this subject in detail, is available from the website of the Federal Office for Immigration and Asylum (Federal Office for Immigration and Asylum, n.d.a). Asylum seekers are not informed again later about the data collected in any other phase of asylum procedures.[120]

According to a representative of Asylkoordination Österreich, applicants normally receive a written record of their interviews, containing an additional notice that personal data and interview responses are stored and used in asylum procedures. Yet applicants only receive the interview records after the initial questioning.[121] There are also cases in which this information is passed on to the applicants for the first time by legal counsellors. There are criticisms that, in both cases, the information is provided too late because, by this time, data will already have been collected and stored.[122]

Where asylum seekers do not consent to data processing and subsequently do not cooperate in processing for identification purposes, this behaviour is additionally considered when assessing evidence and hence in the asylum decision (Art. 18 para 3 Asylum Act 2005; Federal Office for Immigration and Asylum, n.d.b).[123] Yet the experts from the Federal Ministry of the Interior are not aware of any such case. Cases are known, however, where asylum applicants apply glue or abrasives to their fingerprints to avoid processing for identification purposes.[124]

116 See Federal Ministry of the Interior, n.d.b.

117 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

118 Ibid.

119 Ibid.

120 Ibid.

121 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

122 Ibid.

123 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

124 Ibid.

5. DATA PROTECTION AND APPLICANT RIGHTS

Data protection also plays a significant role in asylum procedures as personal data are among the types of data collected in such procedures. The following sections describe the steps that have been enacted in Austria and the rights accorded to applicants.

5.1 Data protection safeguards

Controlled access

Under Austrian law, the Federal Office for Immigration and Asylum and the Federal Administrative Court are only permitted to process personal data when necessary for fulfilling their individual duties (Art. 23 para 1 Federal Office for Immigration and Asylum Procedures Act). The security of such data is ensured by storing the data on separate servers belonging to the Federal Ministry of the Interior, accessible only via the ministry's intranet. These cannot, therefore, be accessed by individuals not belonging to the group of authorized users, according to the experts from the Federal Ministry of the Interior.[125]

Control of stored data

Data that are collected based on the Federal Office for Immigration and Asylum Procedures Act are to be physically deleted at junctures specified under law, even if such deletion is not requested. Examples of such instances include when the individual concerned obtains Austrian citizenship, five years after an applicant's death or ten years from when the Federal Office for Immigration and Asylum or the Federal Administrative Court hands down a final decision in a procedure (Art. 23 para 6 Federal Office for Immigration and Asylum Procedures Act).[126]

Data backup

Furthermore, specified categories of data that are processed within the framework of the Central Aliens Register[127] are required to be processed in separate physical environments (Art. 27 para 4 Federal Office for Immigration and Asylum Procedures Act). In concrete terms this means that alphanumeric data, photos, papillary lines of fingerprints and signatures must be stored on different servers and hard drives.[128]

125 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

126 Ibid.

127 The Central Aliens Register contains personal data of aliens which may be processed by the institutions mentioned by law, such as the Federal Minister of the Interior or the provincial police directorates. The aim is to ensure that each of these data processing bodies has access to the data collected (Art. 26 para 1 Federal Office for Immigration and Asylum Procedures Act).

128 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

Controlled sharing

Personal data are only permitted to be shared where this is necessary to allow certain persons or offices that are specifically designated under law to fulfil their duties (Art. 29 para 1 Federal Office for Immigration and Asylum Procedures Act). It can be inferred from the above that data can be used within a certain legal scope for purposes other than asylum procedures.[129,130] An example to be mentioned in this regard is the purpose of assessing any security risks posed by applicants who for instance are suspected of having committed criminal offences and are accordingly listed in the register of wanted persons. Potential security risks can be identified by comparing personal data with entries in the register of wanted persons. In addition to criminal records, information from State protection authorities and other sources can be considered when preparing a threat assessment. Depending on the outcome of the threat assessment, varying types of action can be taken in response, ranging for example from ordering accelerated procedures in moderate cases (Art. 18 para 1 Federal Office for Immigration and Asylum Procedures Act; see section 2.4) to imposing detention pending removal in severe cases (Art. 76 para 2 subpara 1 Aliens Police Act 2005).[131,132]

In principle, it is permissible for authorities to share the personal data of asylum seekers with their countries of origin, but only to a limited extent. According to Art. 33 para 4 Federal Office for Immigration and Asylum Procedures Act officially sharing of this data is permitted, for example, in cases such as when return travel certificates are to be issued, for example because an application for international protection has been rejected or refused, and even prior to a final decision. Such a disclosure may in no case mention that an application for international protection has been made. According to the legislative materials, this approach is in line with the European legal requirements of Art. 49 para 1 subpara d of the General Data Protection Regulation (GDPR),[133] according to which the transfer of this data in the aforementioned cases is based on an important public interest – namely ensuring orderly and efficient enforcement within the asylum and alien systems.[134]

Notwithstanding this provision, a representative of the Diakonie Flüchtlingsdienst has a critical view of the fundamental option of data sharing. This is based on the argument that the data disclosed to an individual's country of origin unambiguously reveal the individual's presence in Austria, from which it can be concluded that the person has applied for international protection. The data are shared at a point in time prior to any final decision, it is noted, so that the outcome of any appeal lodged in the case cannot be anticipated. As a partial solution to this dilemma, a representative of the Diakonie Flüchtlingsdienst suggests changing current laws to allow the sharing of personal data only once procedures have been decided with final effect. The Diakonie Flüchtlingsdienst has apparently been requesting such an amendment for some years as the only option for ensuring fair procedures.[135]

129 Ibid.

130 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

131 Aliens Police Act, FLG I No. 100/2005, in the version of the federal law FLG I No. 27/2020.

132 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

133 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119, pp. 1–88.

134 Material Data Protection Amendment Act 2018, Government Proposal - Explanatory Notes, p. 100. Available at www.parlament.gv.at.

135 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

The circumstance that an individual has applied for international protection must also not emerge if the person's data are forwarded to trusted individuals in the applicant's country of origin to facilitate research in local registries in that country (Federal Administrative Court and Austrian Red Cross/ACCORD, 2018:8).[136] The Supreme Administrative Court has ruled such research as being potentially appropriate and useful in individual cases, but not always necessary. The results of such research are also not binding for Austrian authorities under any circumstances, but are subject to evaluation as evidence based on the discretion of the Federal Office for Immigration and Asylum or the Federal Administrative Court (Federal Administrative Court and Austrian Red Cross/ACCORD, 2018:7).[137] Such investigative activities in relation to individuals would appear to have become less frequent in recent years.[138]

External auditing

The databases operated by the Federal Ministry of the Interior were audited by the Austrian Data Protection Authority in 2017. Among the items examined were the structural measures taken to protect the servers, the mechanisms for responding to potential outages and the persons permitted to physically access the server rooms. The audit identified no serious deficiencies. Recommendations were, however, submitted to the Federal Ministry of the Interior and subsequently implemented.[139]

5.2 Applicants' rights

Asylum seekers in Austria are generally entitled to obtain information under the General Data Protection Regulation, as well as to examine their files under the General Administrative Procedures Act. The right to have data deleted is also accorded as set forth in the GDPR. The right to object, as set out in Art. 21 GDPR,[140] and the right to restriction of processing, as defined in Art. 18 GDPR,[141] are nonetheless precluded under Austrian law. Asylum seekers are to be informed of this restriction by appropriate means (Art. 23 para 3 Federal Office for Immigration and Asylum Procedures Act).

Requests to examine stored data are very infrequent, the experts from the Federal Ministry of the Interior report.[142] Deletion requests are similarly made in isolated cases only and mainly when the data stored in the system could be disadvantageous for applicants to later have the opportunity to obtain a (non-asylum-related) residence permit.[143] Requests to examine data or have data deleted are made directly to the unit within the organization that processes the case, and no meaningful information on the volume of such requests is available from a central point.[144]

136 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

137 Supreme Administrative Court, 21 April 2011, 2011/01/0129.

138 Written input: Birgit Einzenberger, UNHCR Österreich, 24 April 2020, on personal perceptions regarding the disclosure of data in connection with personal investigations in the country of origin.

139 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

140 This right to object provides the person concerned, with the right to object at any time the processing of personal data concerning him/her, which is carried out under certain conditions (Art. 21 para 1 General Data Protection Regulation).

141 The restriction of processing means that the personal data concerned may only be processed under certain conditions (Art. 18 para 3 General Data Protection Regulation).

142 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

143 Ibid.

144 Written input: Federal Ministry of the Interior, 19 August 2020.

6. CHALLENGES, GOOD PRACTICES AND RECENT DEVELOPMENTS

Various challenges relating to data collection and management have been identified, according to information provided by the Federal Ministry of the Interior. In response to these challenges, good practices now applied as standard procedure have been identified. These challenges, good practices and recent developments are presented in detail below.

Challenges

In the view of the Federal Ministry of the Interior, current challenges relate to areas including human resources and funding. One evaluation identified policymakers and administration as facing challenges, especially during the migration events in 2015–2016. Reference was also made here to the personnel situation with security authorities and especially the police, which was lacking the capacities necessary to deal with the situation.[145] Also, it cannot be ruled out that challenges have resulted from the Federal Office for Immigration and Asylum having only limited staff (Federal Office for Immigration and Asylum, 2015).

Experts have also referred to the challenges facing policymakers, who had to remove the legal obstacles preventing data administration. These obstacles mainly emerged upon technical implementation during development of the Integrated Administration of Aliens system.[146]

In addition to the aspects mentioned in section 3.2.3, interoperability brought on additional challenges, mostly affecting units of the Federal Office for Immigration and Asylum. Converting operations to the Integrated Administration of Aliens system as of 1 January 2014 entailed the need to migrate existing data to the new system. In this context, experts report of media discontinuity – where data are transferred from one information medium to another – as well as of delays and reduced data quality due to the merging of different data sources.[147] Also, evaluations of data relating to the number and types of procedures completed could not be performed temporarily, due to initial technical difficulties. Yet complete data relating to asylum cases was due to be available by the end of 2014.[148] As late as February 2016, Statistics Austria reported that Austria had not yet forwarded asylum statistics for 2014 to Eurostat due to technical difficulties experienced at the Federal Office for Immigration and Asylum, while a portion of these data could still not even be reconstructed (Der Standard, 2016).

The Federal Office for Immigration and Asylum also encountered challenges when developing the Integrated Administration of Aliens system, recognizing that not all data management specifications could be implemented. Experts see the reason for these varying specifications in the various units of the organization responsible for

145 Written input: Federal Ministry of the Interior, 19 August 2020.

146 Ibid.

147 Ibid.

148 Federal Ministry of the Interior, Beantwortung der parlamentarischen Anfrage betreffend „Warum werden Teile der Asyl-Statistik geheim gehalten?" 2803/J vom 19 Dezember 2014, 2642/AB (XXV.GP). Available from www.parlament.gv.at.

data management, with each having differing technical requirements for the system, thus making it difficult to find a solution appropriate for all users.[149]

Finally, the training department of the Federal Office for Immigration and Asylum reported on the challenges relating to knowledge transfer that faced the organization.[150]

Good practices

The Federal Office for Immigration and Asylum was set up in Austria in 2014[151] when in a related development the Integrated Administration of Aliens was also introduced.[152] This system is an "administrative database of the Federal Ministry of the Interior for the purpose of mapping the steps of and rulings in asylum procedures affecting Austria" (Statistics Austria, 2018). It replaces the "previously separate applications used in asylum and aliens procedures (in particular the Aliens Register, Asylum Seekers Information System and the Aliens Affairs system)".[153] The experts from the Federal Ministry of the Interior reported that new staff members in particular found the Integrated Administration of Aliens to be highly efficient and practical. An example is the option of being able to take care of individual tasks directly from within the system, such as booking flights via the European Border and Coast Guard Agency (FRONTEX). A very good technical solution has reportedly also been found for participating in DubliNet (European Commission, 2003) – a secure network of electronic channels for transmitting asylum applications among national authorities for processing.[154] Since its launch, the Integrated Administration of Aliens has had to be modified on several occasions for legal or technical reasons. Such modifications include those affecting storage capacity and system speed.[155]

The Integrated Administration of Aliens system especially is used as a standard tool in Austria today. The administrative effort required for asylum and aliens procedures has been reduced as a result of introducing the system (Austrian Court of Audit, 2019:11). Specifically in view of the reduced administrative effort, the experts from the Federal Ministry of the Interior consider the Integrated Administration of Aliens to have proven itself to be a highly effective system. International experts also cite the Integrated Administration of Aliens as a best practice example, with Austria assuming a leading role in this field.[156]

Recent developments

Another significant change relating to data collection is the analysis of data storage media as authorized in Art. 39a of the Federal Office for Immigration and Asylum Procedures Act and introduced through the Act Amending the Aliens Law 2018.[157] This amendment established the legal basis that permits backup copies to

149 Written input: Federal Ministry of the Interior, 19 August 2020.

150 Ibid.

151 Act Establishing the Federal Office for Immigration and Asylum, FLG I No. 87/2012.

152 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

153 Austrian Court of Audit, 2019:Rz 33.

154 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

155 Ibid.

156 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

157 Act Amending the Aliens Law 2018, FLG I No. 56/2018.

be made of storage media – such as mobile phones, USB drives and digital cameras[158] – seized from asylum seekers and analysis of the stored data, where an applicant's identity or travel route cannot be determined based on other evidence. Originally, the capability of analysing storage media elicited high expectations,[159] especially since the knowledge of the identity of asylum seekers and the determination of the travel route are essential for the determination of the EU Member State responsible for the procedure and for the examination of the application for international protection. It was argued that by evaluating the geodata stored on the storage media carried, the travel route can be precisely determined in the future and an application for admission to the responsible Member State can be based on the result of this evaluation. In addition, the storage media can provide valuable information on the origin and identity of the person seeking asylum, for example, by means of photographed but not carried along documents or contact data that indicate the country of origin.[160] In the view of the Federal Ministry of the Interior, the possibility of analysis also plays an essential role with regard to the credibility assessment of the information provided.[161]

Yet up to now there has been no analysis of storage media in practice due to data protection considerations and a lack of technical feasibility.[162,163] Asylkoordination Österreich considers the option of extracting data from storage media to be anything but a "best practice" example, as it has not been demonstrated how useful such analysis would be and how much knowledge is to be gained. This organization considers the assumption alien that persons only use one cell phone or carry it with them during their journey, for instance, on the trip from Kabul to Austria. It is common knowledge that, during refugee travel, mobile phones in particular are often exchanged, sold or lost and then found by others who continue to use the devices. This would seem to make the chance of gaining knowledge slim and under certain circumstances the evaluation of the storage medium may even be counterproductive for the speedy conclusion of the asylum procedure. Any analysis would be at the risk of producing more confusion than clarity. An asylum seeker would for example need to demonstrate and prove that they have not stayed at the places appearing among the data stored on a device. This could both undermine the individual's credibility as well as add difficulty to the asylum procedure.[164]

Some, such as[165] Asylkoordination Österreich and the Diakonie Flüchtlingsdienst, criticize the analysis of storage media on the basis of data privacy considerations.[166,167] The analysis of storage media is criticized because it takes place without court authorization and represents interference in the right to private and family life (Ludwig Boltzmann Institut, 2018:3), and for other reasons.[168] Furthermore, no control exists over the data that are

158 Act Amending the Settlement and Residence Act, the Aliens Police Act 2005, the Asylum Act 2005, the Federal Office for Immigration and Asylum Procedures Act, the Act Establishing the Federal Office for Immigration and Asylum, the Federal Basic Care Act 2005, the Citizenship Act 1985, the University Act 2002, the Higher Education Act 2005, the Act Governing the Employment of Foreign Nationals, the Memorial Sites Act, the Registration Act 1991, the Personal Statute Act 2013, the Civilian Service Act 1986 and the Security Police Act (Act Amending the Aliens Law 2018), Government Proposal – Explanatory Notes, p. 22. Available at www.parlament.gv.at.

159 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

160 Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 34. Available at www.parlament.gv.at.

161 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

162 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

163 This also results from a parliamentary request that refers to the identical regulation in the Aliens Police Act. Bundesministerium für Inneres, Anfragebeantwortung durch den Bundesminister für Inneres Karl Nehammer, MSC zu der schriftlichen Anfrage (639/J) der Abgeordneten Dr. Stephanie Krisper, Kolleginnen und Kollegen an den Bundesminister für Inneres betreffend Entscheidungen des Bundesamtes für Fremdenwesen und Asyl im Jahr 2019: 675/AB. Available from www.parlament.gv.at.

164 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

165 Also Österreichischer Rechtsanwaltskammertag, 2018:20, Austrian Red Cross, 2018:4 et seqq or Ludwig Boltzmann Institut, 2018:3 et seq.

166 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

167 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

168 Ibid.

viewed.[169] In practice, there is no way of distinguishing between data that are "relevant for an asylum procedure" and "data relating to an individual's most intimate personal life".[170] Finally, it cannot be ruled out that data will be exhaustively copied and stored.[171] This dilemma could be partially resolved by introducing fast-track court proceedings for ascertaining the need for and ordering a data analysis.[172] According to the legislative materials, however, this encroachment on fundamental rights associated with the analysis of storage media is justified. The decisive factor is the balancing of interests between the fundamental right to data protection and the public interest in an orderly immigration system, which in this case must be weighted more heavily. An orderly immigration system requires knowledge of the identity of the applicant as well as the reliable determination of Austria's responsibility for conducting the procedure.[173] Furthermore, the Federal Ministry of the Interior pointed out that an evaluation of storage media can only be carried out by law if this is necessary to establish the identity or the country of origin of the foreign person and the purpose of the measure cannot be achieved by milder means (the evaluation thus represents ultima ratio). Likewise, an order for the evaluation of storage media can only be issued if an evaluation has not already been carried out by the officials of the public security service on their own, thus ensuring that the evaluation of the seized storage media is only carried out once. The seized storage media shall be returned to the foreign person without delay as soon as they are no longer required for the evaluation.[174]

169 Ibid.

170 Interview with Lukas Gahleitner-Gertz, Asylkoordination Österreich, 28 April 2020.

171 Interview with Stephan Klammer, Diakonie Flüchtlingsdienst, 5 May 2020.

172 Ibid.

173 Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 34. Available at www.parlament.gv.at.

174 Interview with Caroline Fraydenegg-Monzello and Markus Waldherr-Radax, Federal Ministry of the Interior, 23 June 2020.

7. CONCLUSIONS

The conclusions presented below as well as the overall result are based on the details discussed in this study.

The study reveals that a relatively large quantity of data is collected in asylum procedures in Austria. The EMN study template serving as the basis of this publication lists more than 70 different types of data to be queried in the various Member States. Here the data types are assigned to a wide variety of categories including "Biometric data", "Family members" and "Education". Except for a small portion – for example, information on academic studies, apprenticeships or language skills, that are not collected statistically – Austria collects all of the types of data queried by the template.

The Integrated Administration of Aliens system was created in 2014 for the purpose of collecting and managing data, and since then it has been facilitating data collection and management. In particular new staff members of the Federal Ministry of the Interior regard this system as highly efficient and practical. According to experts from the Federal Ministry of the Interior, the Integrated Administration of Aliens is considered a best practice example on an international level, with Austria assuming a leading role in this field. Challenges were nonetheless encountered when introducing the new system. An example here is the evaluation of data relating to the number and types of procedure completed, which, due to initial technical difficulties, could not be performed temporarily. These difficulties appear to have been resolved, however.

Despite all its negative impact, the COVID-19 pandemic has had a positive effect on how data are managed in Austria. While no fundamental changes were made in this area, the spread of the virus resulted in progress towards digital asylum procedures. Technical solutions were devised that enable interviews to be carried out without applicants having to appear in person before the Federal Office for Immigration and Asylum; data can similarly be collected remotely, of course. This step towards digitization, that will likely be retained even after the COVID-19 pandemic, seems to have the potential to further accelerate and streamline asylum procedures. However, it remains to be seen to what extent, for example, non-verbal communication can also be included in such video conferences.

Although statistical information is regularly collected by the authorities, not all of the data collected is published and specifically processed. This can be seen, for example, in the data collected during asylum procedures as well as from the fact that, for example, information about the category of asylum procedure (whether regular or accelerated) can only be obtained by raising a question in Parliament.

Considering the standard of data protection to which each individual is entitled, as described above, it is surprising for the representatives of non-governmental organizations that European and national law permits the authorities to share applicants' data with their countries of origin – potentially even before any negative decision on the asylum application has become final. Although European law allows this possibility and Austria's interest in ensuring that persons who are obliged to leave Austria (can) do so as quickly as possible is understandable, the point in time at which sharing of the data is possible seems premature. This is because it is not possible to assess whether a negative first-instance decision will be upheld in any appeal proceedings. Certain conditions

do need to be met for officially sharing an applicant's data with the individual's country of origin. Nonetheless, in consideration of the applicant's protection and data privacy, it would be important to postpone sharing until after a final decision. It therefore seems desirable from a data protection perspective to adapt currently applicable national and European legislation accordingly.

ANNEXES

A.1 Data collected in Austria during the asylum procedure

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD [175] (Police)	IFA [176] (Federal Office for Immigration and Asylum)	EDWF [177] (Police)
Name									
Current name									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Birth name									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Previous name(s)									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					

175 This abbreviation stands for the police protocol system "Logging Reporting Data".

176 This is the "Integrated Administration of Aliens system".

177 This abbreviation stands for the IT system Processing for Identification Purposes Workflow.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Pen name (alias)									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Religious name									
n/a									
Other name(s)									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Sex									
Making an asylum application	x	x	- Written questionnaire (on paper) - Oral (interview, face-to-face)	x	x		x	x	
Lodging an asylum application		x	- Written questionnaire (on paper) - Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Biometric data									
Photo									
Making an asylum application	x		- Processing for identification purposes	x			x	x	x
Lodging an asylum application									
Asylum procedure		x	- Documentary analysis - Issuance of asylum cards[178]	x					
Fingerprints									
Making an asylum application	x		- Processing for identification purposes - 10 fingers rolled	x			x	x	x
Lodging an asylum application									
Asylum procedure									
Eye colour									
Making an asylum application	x		- Personal description (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Personal description (part of the interview)	x					

178 These include, the procedure card, the residence permit card and cards for residence permits according to Art. 54 para 1 Asylum Act 2005. For details, especially regarding the residence permit in cases requiring particular consideration according to Art. 56 Asylum Act 2005 see Bassermann, 2019.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Height									
Making an asylum application	x		- Personal description (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Personal description (part of the interview)	x					
Iris Scan									
n/a									

Place of birth

Town (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Region (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Country (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Personal Data

Date of birth									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Citizenship(s)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Civil status (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Criminal record									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Determination of personal data (part of the interview) - EKIS[179]-Information	x					
Financial resources									
Making an asylum application	x		- Written questionnaire (on paper) - Oral (interview, face-to-face)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Oral (interview via phone/ videocall)	x					
Route taken									
Country of origin									
Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

179 This abbreviation stands for Electronic Criminal Police Information System.

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Last place of residence in country of origin (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Last place of residence before entry in the (Member)State (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Date of arrival in the (Member)State									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Information on the route taken									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)

Contact details

Phone number (voluntary information)

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

E-Mail address (voluntary information)

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Current address (voluntary information)

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)

Accompanied by (voluntary information)

Spouse or civil partner

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Children

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Parents

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Other relatives

Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)

Family members in the (Member) State (voluntary information)

Name

Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Residency

Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Citizenship

Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Other

Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Family members in another (Member) State (voluntary information)									
Name									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Close relatives (voluntary information)									
Close relatives in the (Member) State									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Close relatives in another (Member) State									
Making an asylum application	x		- Determination of personal data (part of the interview)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of personal data (part of the interview)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)

Health status

Specifics on health status

Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

reference that a general health check has been carried out

n/a

Education (voluntary information)

School attendance

Making an asylum application	x		- Oral (interview, face-to-face) - Written questionnaire (on paper)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

Academic studies

n/a

Trainings

n/a

Apprenticeships

n/a

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
non-formal work experience									
n/a									
Language skills									
n/a									
Profession									
Making an asylum application	x		- Written questionnaire (on paper) - Oral (interview, face-to-face)	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

Supporting documents

Passport									
Making an asylum application	x		- Voluntary hand over - Individual search	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Voluntary hand over	x					
Travel document									
Making an asylum application	x		- Voluntary hand over - Individual search	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Voluntary hand over	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Reasons for fleeing									
Making an asylum application	x		- Oral (interview, face-to-face) - Written questionnaire (on paper)			x			
Lodging an asylum application							x	x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)			x			
Previous applications									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Religious affiliation (voluntary information)									
Making an asylum application	x		- Determination of personal data (part of the interview)	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Determination of personal data (part of the interview)	x					
Other									
Making an asylum application	x		- Voluntary hand over - Individual search	x					
Lodging an asylum application							x	x	
Asylum procedure		x	- Voluntary hand over	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Reasons for not wanting to be returned to the competent Member State as part of a Dublin procedure									
n/a									
Information on exclusion grounds									
n/a									

Vulnerability

Pregnant

Making an asylum application								x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

Disabilities

Making an asylum application								x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

Elderly

Making an asylum application								x	
Lodging an asylum application									
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)			x			

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Single parent with minor child(ren)									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Victims of trafficking in human beings									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Mental disorders									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					
Victims of torture, physical or sexual violence (female genital mutilation)									
Making an asylum application									
Lodging an asylum application								x	
Asylum procedure		x	- Oral (interview, face-to-face) - Oral (interview via phone/ videocall)	x					

Procedural step	Authority responsible for data collection		Method of data collection	Type and place of storage of the collected data			Name of database(s)		
	Police	Federal Office for Immigration and Asylum		In a database	On paoer	In an electronic file	PAD (Police)	IFA (Federal Office for Immigration and Asylum)	EDWF (Police)
Unaccompanied minor refugees									
Making an asylum application	x		- Determination of personal data	x			x	x	
Lodging an asylum application									
Asylum procedure		x	- Determination of age and relationship	x					

Note: Some of these data (denoted by n/a in the matching cell) are not recorded and some only in various documents, and are not accessible for technical evaluation. A printed questionnaire is used initially to collect the data, which are then processed electronically.
Source: Written input: Federal Ministry of the Interior, 19 August 2020.

A.2 List of translations and abbreviations

English term	English abbreviation	German term	German abbreviation
administrative decision	–	Bescheid	–
Asylum Act 2005	–	Asylgesetz 2005	AsylG 2005
Electronic Criminal Information System	–	Elektronisches Kriminalpolizeiliches Informationssystem	EKIS
Federal Law Gazette	FLG	Bundesgesetzblatt	BGBl.
Federal Office for Immigration and Asylum	–	Bundesamt für Fremdenwesen und Asyl	BFA
Federal Office for Immigration and Asylum Procedures Act	–	BFA-Verfahrensgesetz	BFA-VG
federal reception centers		Betreuungseinrichtung des Bundes	
European Border and Coast Guard Agency – FRONTEX	–	Europäische Agentur für die Grenz- und Küstenwache – FRONTEX	–
General Administrative Procedures Act 1991		Allgemeines Verwaltungs-verfahrensgesetz 1991	AVG
in conjunction with		iVm.	
Initial Reception Centre	–	Erstaufnahmestelle	EAST
Integrated Administration of Aliens system	–	Integrierte Fremdenadministration	IFA
Integration Act		Integrationsgesetz	IntG
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
non-governmental organization	NGO	Nichtregierungsorganisation	NRO

Official Journal of the European Union	OJ	Amtsblatt der Europäischen Union	ABl.
officials of the public security service	–	Organe des öffentlichen Sicherheitsdienstes	–
persons granted asylum	–	Asylberechtigte	–
Provincial Police Directorate(s)	–	Landespolizeidirektion(en)	LPD
Regulation on Countries of Origin		Herkunftsstaaten-Verordnung	HStV
Schengen Information System	SIS	Schengener Informationsystem	SIS
Security authority		Sicherheitsbehörde	
system for comparing fingerprint data of applicants for asylum	Eurodac	System zum Abgleich der Fingerabdruckdaten von Asylwerbern	Eurodac
Visa Information System	VIS	Visa-Informationssystem	VIS

A.3 References*

Austrian Court of Audit

2019 Bericht des Rechnungshofes zum Bundesamt für Fremdenwesen und Asyl. Available at www.rechnungshof.gv.at.

Austrian Red Cross

2018 Stellungnahme zum Fremdenrechtsänderungsgesetz 2018 - FrÄG 2018. Available at www.parlament.gv.at.

Bassermann, M.-A.

2019 Overview of National Protection Statuses in Austria. International Organization for Migration, Vienna. Available at www.emn.at.

Bundesrechenzentrum

2018 Der gläserne Mensch ist Realität. Das Recht auf Privatsphäre leidet. Available at www.brz.gv.at (accessed 21 September 2020).

Der Standard

2016 Flüchtlinge: Statistik Austria für „neutrale" Datenerhebung, 4 February 2016. Available at www.derstandard.at (accessed 15 October 2020).

European Commission

2003 Transmission of asylum applications between member states - DubliNet now operational. Available at https://ec.europa.eu (accessed 21 August 2020).

European Migration Network

2018a Asylum and Migration Glossary 6.0: a tool for better comparability produced by the European Migration Network. Available at https://ec.europa.eu.

2018b Glossar zu Asyl und Migration Version 5.0: Ein Instrument zur besseren Vergleichbarkeit - erstellt vom Europäischen Migrationsnetzwerk. Available at www.emn.at.

2020 Accurate, timely, interoperable? Data management in the asylum procedure: Common Template for the EMN Study 2020. Available at ec.europa.eu.

Federal Administrative Court and Austrian Red Cross/ACCORD

2018 Länderkundliche Ermittlungen: Möglichkeiten und Grenzen Dokumentation des Symposiums vom 17. Mai 2018. Available at www.ecoi.net.

Federal Ministry of the Interior

n.d.a Asylum statistics 2014–2019. Available at www.bmi.gv.at (accessed 7 December 2020).

n.d.b Information an AsylwerberInnen entsprechend Art. 29 (3) EURODAC-VO (Verordnung (EU) 603/2013 vom 26 Juni 2013). Available at www.bfa.gv.at.

Federal Office for Immigration and Asylum

2015 Regionaldirektion Kärnten bekommt neue Außenstelle. Available at www.bfa.gv.at (accessed 15 October 2020).

2020 Asylum Procedure. Available at www.bfa.gv.at.

n.d.a Asylverfahren. Available at www.bfa.gv.at.

n.d.b Merkblatt über Pflichten und Rechte von Asylwerbern. Available at www.bfa.gv.at.

*All hyperlinks provided were operating at the time of publication.

Filzwieser, C., M. Frank, M. Kloibmüller and J.R. Raschhofer

2016 Asyl- und Fremdenrecht. Neuer Wissenschaftlicher Verlag, Vienna.

Frankfurter Allgemeine Zeitung

2020 Sie haben und sie steuern uns, 4 January 2020. Available at www.faz.net (accessed 29 October 2020).

Ludwig Boltzmann Institut

2018 Stellungnahme zum Entwurf betreffend das Fremdenrechtsänderungsgesetz 2018. Available at www.parlament.gv.at.

oesterreich.gv.at

2020 Leben in Österreich. Available at www.oesterreich.gv.at (accessed 21 August 2020).

Office of the United Nations High Commissioner for Human Rights

2018 Report of mission to Austria focusing on the human rights of migrants, particularly in the context of return.

Österreichische Rechtsanwaltskammertag

2018 Stellungnahme zu Entwurf Fremdenrechtsänderungsgesetz 2018 – FrÄG 2018. Available at www.parlament.gv.at.

Peyrl, J., T. Neugschwendtner and C. Schmaus

2003 Fremdenrecht: Asyl, Ausländerbeschäftigung, Einbürgerung, Einwanderung, Verwaltungsverfahren. 6th newly revised edition 2017. ÖGB Verlag, Verlag des Österreichischen Gewerkschaftsbundes GmbH, Vienna.

Schrefler-König, A. and W. Szymanski (eds.)

2018 Fremdenpolizei- und Asylrecht. Manz Verlag Wien, Vienna.

Statistics Austria

2018 Standard-Dokumentation Metainformationen (Definitionen, Erläuterungen, Methoden, Qualität) zur Asylstatistik für EUROSTAT. Available at www.statistik.at (accessed 19 October 2020).

n.d. Asylum applications 2000–2019 according to nationality. Available at www.statistik.at (accessed 7 December 2020).

Stiller, M.

2018 Impact of Visa Liberalizations on Austria. International Organization for Migration, Vienna. Available at www.emn.at.

United Nations High Commissioner for Refugees (UNHCR)

n.d. Fair and Fast: UNHCR Discussion Paper on Accelerated and Simplified Procedures in the European Union. Available at www.refworld.org.

EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was launched in 2003, by the European Commission and by order of the European Council, in order to satisfy the need for a regular exchange of reliable information in the field of migration and asylum at 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) and in Norway.

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

The NCP Austria – based on an agreement with the Federal Ministry of the Interior – is located in the Research and Migration Law Department of the country office for Austria of the International Organization for Migration (IOM). The IOM office was established in 1952 when Austria became one of the first Member States 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 corresponding national projects and programmes.

The main tasks of the NCPs in implementing the work programme of the EMN include drafting the annual policy reports and studies covering specific topics, responding to Ad-Hoc Queries launched by other NCPs or the European Commission, carrying out activities to increase the EMN visibility, and networking within several fora. In addition, the NCPs in each country also set up national networks 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 and information, which are supplemented where necessary through additional information collected directly. EMN studies are prepared in accordance with common study templates in order to achieve comparable results within the EU and Norway. Since comparing results frequently proves challenging, the EMN has produced a Glossary, which ensures that similar definitions and terminology are used in all national reports.

On completion of national reports, the European Commission with the support of a service provider drafts a synthesis report, which summarizes the most significant results from the individual national reports. In addition, topic-based policy briefs, referred to as EMN Informs, are prepared as succinct summaries and comparisons of national findings on key selected topics. All national studies, synthesis reports, Informs and the Glossary are available on the website of the European Commission Directorate-General for Migration and Home Affairs.

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