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## ANNUAL REPORT ON MIGRATION AND ASYLUM 2021

Prisca Ebner

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Nibelungengasse 13/4, 1010 Vienna
Tel.: +43 1 585 33 22 0
Email: iomvienna@iom.int, emnaustria@iom.int
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# EXECUTIVE SUMMARY

The Annual Policy Report 2021 has been produced within the framework of annual reporting by the National Contact Points (NCPs) in the European Migration Network (EMN). The report outlines the most significant political and legal developments in the field of asylum and migration in Austria in 2021. These developments are contextualized by information about civil society initiatives and public debates. Infobox 1 outlines the most significant developments in Austria in 2021.

**Infobox 1: Key developments in 2021**

1. The COVID-19 pandemic resulted in (temporary) measures being introduced in 2021 in the areas of aliens law, social and educational support, labour market integration, health information, border controls, removals from the country and on-site assistance in order to mitigate the negative impact of the pandemic as far as possible.

2. Since 1 January 2021, the newly established Federal Agency for Reception and Support Services company with limited liability has also been responsible for the service areas of legal advice and legal representation, return counselling and return assistance, human rights monitoring, and interpreting and translation services.

3. Various legislative amendments relating to labour migration were implemented in 2021. These are aimed at securing the demand for skilled workers, promoting the attractiveness of Austria as a business location, and preventing social dumping and labour exploitation.

**Overarching Changes to the National Migration and Asylum System**

The COVID-19 pandemic resulted in (temporary) measures being introduced in 2021 in order to mitigate the negative impact on migrants and refugees as far as possible. As a result of the COVID-19 pandemic, special provisions relating to the execution of aliens law were extended to 30 June 2022, largely in order to reduce social contact. In addition, the newly established Federal Agency for Reception and Support Services company with limited liability has, since 1 January 2021, also been responsible for the service areas of legal advice and legal representation, return counselling and return assistance, human rights monitoring, and interpreting and translation services.

**Regular Migration**

The entry into force of the Withdrawal Agreement between the United Kingdom of Great Britain and Northern Ireland and the European Union (EU) has resulted in changes for Austrian employers, British nationals living in Austria and their family members since 1 January 2021.

In the area of labour migration, measures in 2021 were aimed in particular at increasing the attractiveness of Austria as a business location and ensuring that its demand for skilled workers can be met. Accordingly, the Regulation for Skilled Workers and the quota regulation on the temporary employment of foreign nationals in tourism and in agriculture and forestry were enacted for 2021. Moreover, amendments to the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act resulted in the adoption of a new Registered Seasonal Worker Regulation, which makes it easier for seasonal workers to obtain work permits if certain criteria are met. It was announced that there would no longer be a maximum number for seasonal workers and harvest workers as of the Settlement Regulation 2022.

The prevention of social dumping and labour exploitation was also driven forward in 2021. For instance, the transposition of the EU Posting of Workers Directive into national law creates new protection standards for foreign workers. Immigration and citizenship procedures were a major topic of public debate, as were migrants' working conditions and rights.

**International Protection**

In 2021, the issue of international protection was marked in Austria by an increase in the number of applications for asylum, which gave rise to various challenges, for instance in the area of housing. Since 1 January 2021, the Federal Agency for Reception and Support Services company with limited liability has been responsible for providing legal advice at the Federal Office for Immigration and Asylum and before the Federal Administrative Court, including the provision of human rights observers, interpreters and translators. In addition, the Constitutional Court issued a ruling in 2021 that annulled regulations in two decrees that restricted the employment of asylum seekers on the grounds that these decrees were unlawful as they had not been properly promulgated. There were also media reports of calls for humanitarian admission or relocation.

**Minors and Youth**

Between February and June 2021, a Commission on the Best Interests of the Child examined the legal framework and its practical implementation for children in asylum and right-to-remain procedures. This was driven by media, political and civil society debates about the removal of minors. Building on the Commission's report, recommendations on procedural guarantees for minors were made. Parliament also called on the Federal Government to further improve the protection and legal status of children. Key points include, in particular, safeguarding quick guardianship for unaccompanied minor refugees and paying special attention to the best interests of the child in asylum procedures. In order to counteract negative side effects of the measures to contain the spread of COVID-19, the focus in 2021 was on promoting language learning to support the integration of children and young people.

**Integration and Inclusion**

In the area of integration, there was a focus in 2021 on measures to mitigate the negative impact of the COVID-19 pandemic. Integration priorities also included: (1) the labour market, transmission of values and German-language skills, (2) promoting women's equality, (3) a focus on interaction and volunteer work, and

(4) preventing parallel societies and extremism. Publicly and in civil society, the main focus in 2021 was on tackling racism and preventing discrimination.

Since 2021, all German courses have been organized in a standardized way and assigned centrally by the Austrian Integration Fund. The range of German courses was expanded in 2021 to include specialized language courses in the restaurant and catering, hotel, tourism and grocery sectors. In addition, the compulsory orientation and values courses were extended to three days from 1 January 2022.

The COVID-19 vaccination is available free of charge to everyone living in Austria. Moreover, specific services for persons granted asylum, beneficiaries of subsidiary protection status and migrants were initiated in 2021. These include the provision of interpreters to assist doctors in their consultations with patients receiving the vaccination. The amount of multilingual information on COVID-19 was also increased. In addition, funding was provided in 2021 for projects that focus on mitigating the negative impact of the COVID-19 pandemic for persons at risk of poverty or social exclusion and on preventing and protecting against violence.

**Borders and Schengen**

In 2021, EU border management regulations were implemented in national law with the aim of improving interoperability. This involves the implementation of the common electronic Entry/Exit System (EES) and the expansion of the Schengen Information System (SIS). In addition, the Passport Act Amendment 2021, which takes account of new international standards and simplifies the verification of documents, came into force on 2 August 2021. In accordance with the EU directive, this also applies to identity cards and residence documents of EU citizens and their family members.

The border controls at the Austrian borders with Slovenia and Hungary were continued in 2021 due to the migration situation. In addition, temporary border controls with Slovakia and Czechia were introduced in Austria in spring 2021 in the context of the COVID-19 pandemic.

**Irregular Migration**

In 2021, Austria expanded the use of drones in border areas in order to organize personnel deployment more efficiently. The Federal Ministry of the Interior launched and supported information campaigns on the risks and dangers of irregular migration, prospects in countries of origin and voluntary return. The campaigns were rolled out online, and in some cases also by means of telephone and direct communication, in several countries of origin and transit that are relevant for Austria, including Pakistan and countries in the Western Balkan region.

In terms of cooperation with third countries, the Western Balkan region was a central focus in 2021. One example of this is the Joint Coordination Platform in Vienna, which began operating on 1 January 2021. The platform is designed to improve migration management and focuses on operational cooperation in areas such as border management, expulsions and the fight against the smuggling of migrants in the Western Balkan region.

## Trafficking in Human Beings

The National Action Plan to Combat Trafficking in Human Beings 2021–2023 was published in June 2021. The key elements are: (1) strengthening of (inter)national cooperation, (2) prevention through the provision of information and awareness-raising, (3) victim protection and prosecution of perpetrators, and (4) monitoring and research measures. In the context of the COVID-19 pandemic, there was also a focus on labour exploitation and the increased vulnerability of certain occupational groups.

In 2021, the focus in Austria in the area of prevention was on providing information to and raising awareness among (potential) trafficked persons as well as on raising awareness among certain occupational groups that could come into contact with them.

## Return

The Federal Agency for Reception and Support Services company with limited liability has been responsible for return counselling and return assistance since 1 January 2021. The tasks include: (1) clarification during return counselling of the individual's prospects, in particular with regard to the option of voluntary return and the support services available within this context; and (2) in the event of a decision to return voluntarily, return assistance, which is understood to refer to the measures and necessary organizational steps in the course of a voluntary return. As of 1 January 2021, the compulsory return counselling sessions are only to be provided once the return decision against the asylum seeker or lawfully resident third-country national is final or enforceable/practicable. Exceptions apply to cases such as unlawfully resident third-country nationals and accelerated procedures. The possibility of receiving voluntary return counselling at any stage of the procedure has been retained. Compulsory return counselling is designed in particular to encourage voluntary return in order to avoid the obligation to leave the country being enforced by the authorities.

The area of return was also marked by international developments in 2021. Among others, the Constitutional Court issued a ruling in September 2021 that recognizes the issuing of a return decision and removal to Afghanistan following the Taliban takeover of the country as a violation of constitutionally guaranteed rights (Art. 2 and 3 European Convention on Human Rights).

# 1 INTRODUCTION

## 1.1 Background

The Annual Policy Report 2021 was produced within the framework of the European Migration Network (EMN),[1] which was established by Council Decision 2008/381/EC in May 2008.[2] The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters, with the aim of supporting policymaking at European Union (EU) and national levels as well as of disseminating this information among the general public. This is the eighteenth annual policy report[3] compiled by the National Contact Point (NCP) Austria in the EMN, covering the period from 1 January to 31 December 2021. The purpose of the annual policy report is to provide an overview of the most significant political and legislative developments relating to asylum and migration in Austria. It also intends to summarize the political and public debates in the area of asylum and migration. The report covers the following topics:

(a) Regular Migration;
(b) International Protection;
(c) Minors and Youth;
(d) Integration and Inclusion;
(e) Borders and Schengen;
(f) Irregular Migration;
(g) Trafficking in Human Beings;
(h) Return.

## 1.2 Methodology and definitions

In preparing the Annual Policy Report 2021, the NCP Austria followed common specifications developed by the EMN to facilitate comparability of the findings from all Member States. The terminology used within this report is based on the terms and definitions in the EMN Glossary 6.0 (EMN, 2018) (unless otherwise stated), including the following key terms:

- **Inclusion:** An approach that values diversity and aims to afford equal rights and opportunities to everyone by creating conditions which enable the full and active participation of every member of society (ECRI, n.d.).

- **Integration:** In the EU context, a dynamic, two-way process of mutual accommodation by all immigrants and residents of EU Member States.

1 More information on EMN Austria is available at www.emn.at (accessed 2 April 2022).
2 Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC), 21 May 2008, OJ L 131, pp. 7–12. Available at https://eur-lex.europa.eu.
3 Previous reports from 2004 to 2020 are available from www.emn.at (accessed 2 April 2022).

- **International protection:** In the EU context, protection that encompasses refugee status and subsidiary protection status.

- **Irregular migration:** Movement of persons to a new place of residence or transit that takes place outside the regulatory norms of the sending, transit and receiving countries.

- **Pushback:** Various measures taken by States which result in migrants, including asylum seekers, being summarily forced back to the country from where they attempted to cross or have crossed an international border without access to international protection or asylum procedures or denied of any individual assessment on their protection needs which may lead to a violation of the principle of *non-refoulement* (OHCHR, 2021).

- **Refugee:** In the EU context, either a third-country national who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Art. 12 (Exclusion) Directive 2011/95/EU (Recast Qualification Directive)[4] does not apply.

- **Social dumping:** The practice whereby workers are given pay and/or working and living conditions which are substandard compared to those specified by law or collective agreements in the relevant labour market, or otherwise prevalent there.

- **Third-country national:** Any person who is not a citizen of the European Union within the meaning of Art. 20(1) Treaty on the Functioning of the European Union (TFEU)[5] and who is not a person enjoying the European Union right to free movement, as defined in Art. 2(5) Regulation (EU) 2016/399 (Schengen Borders Code).[6]

In order to allow for concise reporting and comparability, the Annual Policy Report 2021 reflects only significant developments and debates as have been defined based on the criteria listed in the study specifications. These include amended or new legislation, strategic developments, fundamental political changes, and developments with high political priority or a significant impact on migrants.[7] A significant debate was defined as one taking place in the Austrian Parliament or among relevant ministries, political parties or civil society stakeholders, and which consequently received wide media coverage.

4 Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, OJ L 337, pp. 9–26.

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

6 Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, pp. 1–52.

7 This follows the methodology as outlined in the specifications for EMN NCP contributions to the Commission and EUAA Annual Reports. See EMN Austria, 2022.

Based on the methodology used in previous annual policy reports, the referenced sources of information include: press releases and websites of relevant ministries and government agencies, journals, studies, reports, policy documents, draft and enacted legislation, court rulings, parliamentary debates, as well as online media articles from the main daily newspapers in Austria. Media articles dealing with migration and asylum issues were collected throughout the year through continuous media monitoring in order to gain an overview of the most important public discussions.

The basis for the Annual Policy Report 2021 is the "Annual Report 2021 on Migration and Asylum in Austria – Contribution to Commission and to EUAA Annual Reports",[8] which was prepared in cooperation with the Federal Ministry of the Interior as well as the Federal Chancellery, the Federal Ministry of Labour, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, and the Federal Office for Immigration and Asylum.

The report was prepared by Prisca Ebner (Research Assistant) under the supervision of Saskia Heilemann (Research Associate). Martin Stiller (Legal Associate) provided legal advice. Special thanks go to Florian Piringer (Research Intern) for his support regarding research, statistics and editing.

8 EMN Austria, Annual Report 2021 on Migration and Asylum in Austria: Contribution to Commission and to EUAA Annual Reports. Available at www.emn.at.

# 2 OVERARCHING CHANGES TO THE NATIONAL MIGRATION AND ASYLUM SYSTEM

In 2021, the continued expansion of the Federal Agency for Reception and Support Services company with limited liability led to widespread changes in the organization of the migration and asylum system in Austria. Further, the COVID-19 pandemic resulted in (temporary) measures being introduced in 2021 in the areas of aliens law, social and educational support, labour market integration, health information, border controls, removals from the country and on-site assistance in order to mitigate the negative impact of the pandemic as far as possible. These developments are described in more detail below.

As early as 2017, the government programme stipulated the creation of a new federal agency, owned by the Federal Government, to take on tasks in the area of asylum and aliens law, which until then had mainly been performed by external service providers for the Federal Government.[9] The Federal Agency for Reception and Support Services company with limited liability was established in 2019.[10] Since 1 December 2020, the federal agency has – as an outsourced organization of the Federal Government – been responsible for administering material reception conditions to applicants of international protection under federal care. As of 1 January 2021, the federal agency is also responsible for the service areas of legal advice and legal representation, return counselling and return assistance, human rights monitoring, and interpreting and translation services (see 4.3 and 10.1). The establishment and launch of the Federal Agency for Reception and Support Services company with limited liability had a high political priority and was debated extensively at national level. The key objective thereby was to be able to guarantee the assurance and quality of all assigned areas of responsibility at the highest level in the interests of the individuals who are cared for, advised and represented (EMN Austria, 2021:10). In particular, the fact that a state-owned limited liability company had taken over the provision of legal advice was viewed critically by civil society (see 4.3; Asylkoordination Österreich, 2021a).

The year 2021 was marked by the short- and medium-term consequences of the COVID-19 pandemic in the areas of migration and asylum too. The pandemic has a negative impact on the entire cycle of international migration: starting with migrants' flight or departure from their countries of origin, their entry into countries of transit and destination, their stay in these countries and their onward journey, and the return to their countries of origin, the migration process was shaped by the forced immobility and increased vulnerability of migrants due to the pandemic (McAuliffe et al., 2021:11). Analysis conducted by the European Migration Network (EMN) revealed that the impact of border closures, travel restrictions and hygiene measures was particularly noticeable. EU Member States consequently introduced emergency measures to keep systems operational and to mitigate the impact on migrants and citizens as much as possible (EMN and OECD, 2021). Among other things, Austria introduced measures to secure the demand for qualified key and skilled workers as well as fixed-term workers (see 3.2 and 3.3). There was also a focus on integration services for minors and young people (see 5.3) as well as for adults, in particular with regard to language learning and information about the COVID-19 pandemic and vaccination (see 6.3 and 6.4). In Austria, the COVID-19 pandemic also

9 Government Proposal - Explanatory Notes: Federal Act Establishing the Federal Agency for Reception and Support Services company with limited liability, 594 of the supporting documentation XXVI Legislative Term. Available at www.parlament.gv.at.

10 Federal Act Establishing the Federal Agency for Reception and Support Services company with limited liability, FLG I No. 53/2019.

resulted in temporary border controls (see 7.1) and new challenges related to trafficking in human beings and irregular migration (see 8.1 and 9.1).

In general, existing special legal provisions in the area of aliens law were extended several times in Austria in 2021 and currently apply until 30 June or 30 September 2022.[11] The reason for the extensions was that by then the pandemic situation showed no signs of easing. The primary aim of the special provisions was to prevent unnecessary gatherings such as queues (Parliamentary Administration, 2021j). Specifically, this relates to the option of extending: (1) the written submission of the pledge of allegiance when Austrian citizenship is awarded, and (2) the waiver of the obligation to provide information when holders of the "Permanent Residence – EU" residence permit are absent for a period of longer than 12 months. The following are also to be extended: (3) the option to submit applications for renewal or change of purpose of residence permits and asylum extension applications by post or electronically, and (4) the accommodation of unaccompanied minors seeking asylum in Regional Directorates and their branch offices in the event of closures of initial reception centres (Parliamentary Administration, 2021c). The amendments relate to the Asylum Act 2005,[12] the Citizenship Act 1985,[13] the Federal Office for Immigration and Asylum Procedures Act,[14] and the Settlement and Residence Act.[15]

11 Federal Act Amending the Citizenship Act 1985, the Settlement and Residence Act, the Federal Office for Immigration and Asylum Procedures Act and the Asylum Act 2005, FLG I No. 110/2021.

12 Asylum Act 2005, FLG I No. 100/2005 in the version of federal law FLG I No. 110/2021.

13 Citizenship Act 1985, FLG No. 311/1985 in the version of federal law FLG I No. 206/2021.

14 Federal Office for Immigration and Asylum Procedures Act, FLG I No. 87/2012 in the version of federal law FLG I No. 206/2021.

15 Settlement and Residence Act, FLG I No. 100/2005 in the version of federal law FLG I No. 206/2021.

# 3 REGULAR MIGRATION

In 2021, regular immigration to Austria was affected by factors such as developments related to the Withdrawal Agreement between the United Kingdom of Great Britain and Northern Ireland[16] and the EU. In addition, various legislative amendments relating to labour migration were implemented in 2021. These were aimed at ensuring that the demand for skilled workers could be met and at increasing the attractiveness of Austria as a business location. There were new developments in the area of seasonal work in particular, for example the Registered Seasonal Worker Regulation. Progress was also made in securing qualified key and skilled workers, especially in the fields of medicine and care. Last but not least, the COVID-19 pandemic has also further exacerbated precarious working conditions and the risk of labour exploitation in many places. To counteract this, there were also new developments in 2021 designed to prevent social dumping and labour exploitation.

## 3.1 Statistical developments and Brexit

The United Kingdom left the European Union on 31 December 2020 (Federal Chancellery, n.d.). The Brexit Implementing Regulation[17] was promulgated on 23 December 2020 in order to implement the agreement on the withdrawal of the United Kingdom from the EU and the changes in residence law effective as of 1 January 2021. This regulation specifies the provisions of the directly applicable Withdrawal Agreement, in particular on procedural law for the residence of British nationals and their family members in Austria after 31 December 2020 (EMN Austria, 2021:19). This has resulted in changes for Austrian employers, British nationals living in Austria and their family members. British nationals who entered the country before 31 December 2020 with the intention to live in Austria were able to obtain special status under the Withdrawal Agreement until 31 December 2021. In this case, it was possible to apply for an "Article 50 TEU" residence permit in 2021. This permit entitles the holder to settle in the country and to undertake paid employment and self-employed economic activities.

A total of 9,458 "Article 50 TEU" applications were filed in connection with Brexit in 2021 (BMI, 2022e:61). British nationals who came to Austria after 31 December 2020 and who had not lived here previously cannot obtain this special status and must apply for a residence permit such as the Red-White-Red Card (RWR Card) (Federal Chancellery, n.d.; MoI, 2020b).[18] In 2021, the number of first-time residence permits issued was 32,939, an increase of 79 percent over the previous year (2020: 18,388). A total of 168,105 residence permits were issued in 2021, which means that the total number is also higher than in 2020 (2020: 151,029; BMI, 2021k:48f., 2022e:77f.).

16 Hereinafter referred to as the "United Kingdom".

17 Brexit Implementing Regulation, FLG II No. 604/2020.

18 Written input: Federal Ministry of the Interior, Department V/2 (Residence and Citizenship) and Unit III/1/c (Alien-related Legislation), 21 January 2022.

## 3.2 Temporary employment and seasonal work

In 2021, the temporary employment of third-country nationals in Austria was regulated first by the residence permits in the annual Settlement Regulation that are subject to quota requirements[19] and second by a seasonal quota regulation[20] that defines quotas for the temporary employment of foreign nationals in tourism and in agriculture and forestry. The aim is to ensure the development of an orderly labour market and to allocate residence permits to the provinces according to their capabilities and needs (Art. 13 para 1 Settlement and Residence Act).[21] Also, the additional need for seasonal workers for the calendar year shall be met.

- The Settlement Regulation 2021 came into force in February 2021.[22] This regulation governed the total number of residence permits in Austria that are subject to quota requirements (6,020) and their breakdown by residence permit and province. In addition, it defined the maximum numbers of residence and work permits for temporarily employed foreign nationals (4,400) and foreign harvest workers (200) for 2021.

- The regulation on the temporary employment of foreign nationals in tourism and in agriculture and forestry (Seasonal Quota Regulation)[23] for 2021 came into force on 1 January 2021. In March 2021, farmers in Lower Austria argued that the quota for harvest workers was too limited and that more workers were necessary, also stating that this came on top of the challenges caused by COVID-19 travel restrictions and economic developments (ORF.at, 2021c). The regulation was amended in April 2021, with the quota for agriculture and forestry being increased for Lower Austria. In addition, the amount by which the quota may be temporarily exceeded during seasonal peak periods in agriculture and forestry was increased from a maximum of 30 per cent to a maximum of 50 per cent provided that the quotas are observed on an annual average.[24] Another amendment in November 2021 allowed certain quotas to be exceeded in December 2021 provided that the quotas are observed on an annual average.[25]

As of 2022, further measures have been introduced to facilitate seasonal work: a new Registered Seasonal Worker Regulation and a change to the regulation of maximum numbers. An expansion of the RWR Card is also under review.

- An amendment to the Act Governing the Employment of Foreign Nationals[26] and the Settlement and Residence Act was promulgated on 30 December 2021.[27] The legislative amendment came into force

19 The background to this was until the end of 2021 Article 13 of the Settlement and Residence Act, according to which the Federal Government is to define by regulation for each calendar year the number of temporary residence permits and the maximum number of work permits for foreign nationals in temporary employment. This provision will cease to apply as of 2022.

20 The background is Article 5 of the Act Governing the Employment of Foreign Nationals. According to this, the Federal Minister for Labour may admit foreign seasonal workers in a specific industry, occupational group or region on a temporary basis; or foreign harvest workers on a short-term basis (Art. 5 para 1 subpara 1 and 2 Act Governing the Employment of Foreign Nationals). The prerequisite is a temporary additional need for workers that cannot be met by the workforce in Austria or by citizens of the European Economic Area or Switzerland or by registered seasonal workers (Humer and Spiegelfeld, 2020).

21 Settlement and Residence Act, FLG I No. 100/2005 in the version of federal law FLG I No. 206/2021.

22 Settlement Regulation 2021, FLG II No. 96/2021.

23 Seasonal Quota Regulation 2021, FLG II No. 601/2020.

24 Amendment to the Regulation on temporary employment of foreign nationals in tourism and in agriculture and forestry in 2021, FLG II No. 180/2021; Written input: Federal Ministry of Labour, 25 January 2022.

25 Amendment to the Regulation on temporary employment of foreign nationals in tourism and in agriculture and forestry in 2021, FLG II No. 472/2021; Written input: Federal Ministry of Labour, 25 January 2022.

26 Act Governing the Employment of Foreign Nationals, FLG No. 218/1975 in the version of federal law FLG I No. 54/2021.

27 Federal Act Amending the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, FLG I No. 217/2021.

on 1 January 2022 and includes a new Registered Seasonal Worker Regulation: seasonal workers will in future be able to obtain work permits outside quotas and without a labour market test if they meet certain criteria. The seasonal workers must have been employed in Austria under quotas for at least three months in each of at least three calendar years in the same industry (tourism/agriculture/forestry) between 2017 and 2021. They must also register by December 2022. Subsequently, they can obtain work permits in the industry every year as registered seasonal workers without a labour market test and quota place. The reason for the Registered Seasonal Worker Regulation is the fact that many businesses have been employing the same seasonal workers for many years. However, restricting the employment of third-country nationals and the labour market test often led to planning uncertainties. Moreover, businesses were increasingly faced with a shortage of labour due to the COVID-19 pandemic (Federal Ministry of Agriculture, Regions and Tourism, 2021a).

- In addition, maximum numbers for seasonal and harvest workers will no longer be defined in the Settlement Regulation as of 2022.[28] It is noted in the government proposal that this did not have a noticeable control effect on labour market policy in the past and hindered needs-based admission. The aim of the amendment is to simplify the requirements for the temporary employment of seasonal and harvest workers from third countries and to better adapt these requirements to labour supply needs.[29] However, the Federal Minister for Labour may continue to issue seasonal quota regulations.[30] Accordingly, the Seasonal Quota Regulation 2022 was promulgated on 22 December 2021.[31]

- In addition, in a motion for a resolution on 16 December 2021, the Federal Minister for Labour was asked to examine regulations that enable key workers in seasonal work to access the RWR Card.[32] The RWR Card proves that skilled workers from third countries are entitled to settle on a temporary basis and to work for a particular employer (migration.gv.at, n.d.). The objective is to create year-round prospects for long-term seasonal workers through the RWR Card.[33] The background for the development in seasonal work is the high demand for labour and the fact that many businesses have switched to year-round operation (Parliamentary Administration, 2021h). The current provisions would only allow limited access for seasonal workers in the case of year-round operation and are not always sufficiently attractive for qualified staff.[34] A draft assessment for a corresponding change in the law was presented in April 2022.[35]

28 The Settlement Regulation 2022 was promulgated on 20 December 2021. As in 2021, a total of up to 6,020 residence permits that are subject to quota requirements may again be issued in 2022 under the Settlement Regulation. A maximum number for seasonal workers and harvest workers is no longer defined in the Settlement Regulation for 2022. See: Settlement Regulation 2022, FLG II No. 567/2021.

29 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, 1162 of the supporting documentation XXVII Legislative Term. Available at www.parlament.gv.at.

30 Written input: Federal Ministry of Labour, 25 January 2022.

31 Seasonal Quota Regulation 2022, FLG II No. 569/2021.

32 Resolution of the National Council on 16 December 2021 on "All-year perspective for seasonal workers through the Red-White-Red-Card" (230/E XXVII Legislative Term). Available at www.parlament.gv.at.

33 Ibid.

34 Report of the Committee for Labour and Social Affairs on the motion by the Members of Parliament Franz Hörl, Barbara Neßler and colleagues regarding "All-year perspective for seasonal workers throught the Red-White-Red-Card", 1233 of the supporting documentation to the stenographic protocols of the National Council XXVII Legislative Term. Available at www.parlament.gv.at.

35 Draft - Explanatory Notes: Amendment of the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005. Available at www.ris.bka.gv.at (accessed 3 May 2022).

## 3.3 Qualified key and skilled workers

In the event of a long-term labour shortage that cannot be met by the existing national labour force, the Federal Minister for Labour is to define shortage occupations for the following year by regulation, to secure Austria's role as a centre of business and employment (Article 13 of the Act Governing the Employment of Foreign Nationals). Shortage occupations are occupations for which no more than 1.5 job seekers are registered per vacancy; these are defined in the Regulation for Skilled Workers at Federal State and provincial level. Third-country nationals can then apply for a RWR Card in these occupations.[36]

To meet the demand for skilled workers in Austria, the Regulation for Skilled Workers 2021[37] came into force on 1 January 2021. There were 45 shortage occupations nationwide and between two (Carinthia and Lower Austria) and 43 (Upper Austria) further shortage occupations in the provinces. Across the country, 11 fewer occupations were listed than in 2020,[38] with doctors being added as a shortage occupation group in 2021 and chefs among the occupations to be removed from the list. In addition, the Regulation for Skilled Workers 2022 was promulgated on 22 December 2021. It specifies 66 shortage occupations nationwide and up to 49 regionally specific shortage occupations.[39] The number of occupations has increased significantly compared with 2021, which is due to the shortage of skilled workers, especially in technical occupations and also in the health and tourism sectors (Federal Ministry of Labour, 2021e). In 2021, 714 RWR Cards were issued to skilled workers in shortage occupations, corresponding to approximately 40 per cent of the total number of RWR Cards issued (1,778; MoI, 2022e:63). The number of RWR Cards issued to skilled workers in shortage occupations increased by 49 per cent over the previous year (2020: 479; MoI, 2021j:34, 2022e:63).

In 2021 there was a focus on securing skilled workers in the care sector, which was driven by the developments of the COVID-19 pandemic. Through the establishment of the Care Task Force, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection launched a strategy process involving the key stakeholders. The aim of this process is to work out how different target groups, including foreign staff, can be encouraged to train in nursing and care professions and prepared for work in this sector. The aim is to further develop the long-term care system, amongst other things through validation and/or recognition of qualifications acquired abroad (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021a:2–3). Qualified nurses and care workers must have the training they completed abroad recognized in Austria by means of a validation process. According to a decree issued by the Federal Minister for Labour in April 2022, qualified care workers can already obtain a RWR Card during the ongoing validation process, if they are permitted to work pursuant to Art. 34 Health Care and Nursing Act[40] and meet all other requirements.[41] This accelerated approval procedure is designed to facilitate the labour market integration of highly qualified healthcare staff (Der Standard, 2021k).

36 RWR cards are issued to very highly qualified workers, skilled workers in shortage occupations, other key workers (employed and self-employed) as well as to graduates of Austrian universities and colleges of higher education and start-up founders (migration.gv.at, n.d.).

37 Regulation for Skilled Workers 2021, FLG II No. 595/2020.

38 Written input: Federal Ministry of Labour, 25 January 2022.

39 Regulation for Skilled Workers 2022, FLG II No. 573/2021.

40 Health Care and Nursing Act, FLG No. 108/1997 in the version of federal law FLG No. 82/2022.

41 Written input: Federal Ministry of Labour, 7 July 2022.

The situation at the City of Vienna's Immigration and Citizenship authority (Municipal Department 35) was picked up by the media in 2021. There was criticism of long processing times, short opening hours and the difficulty of contacting the department by phone; the reason given was a lack of staff (Der Standard, 2021m; Die Presse, 2021c; Kurier, 2021d). There was also a rise in residence-permit-related complaints to the Austrian Ombudsman Board in 2021 (ORF.at, 2021i). In response, the City of Vienna opened a Business Immigration Office in October 2021, in cooperation with the Vienna Business Agency and Public Employment Service Vienna. This is a service centre for qualified key and skilled workers from abroad (Stadt Wien, 2021c, 2021d; Vienna Business Agency, 2021). The service centre processes applications for residence documents and provides advice on residence and employment law in multiple languages (Kurier, 2021f; ORF.at, 2021q). The Business Immigration Office is designed to relieve some of the pressure on Municipal Department 35 of the City of Vienna (Immigration and Citizenship) and strengthen Vienna as a business location. The aim is to bring together all processes at a central site so that residence procedures can be handled in a faster and more straightforward way in the future (Stadt Wien, 2021c, 2021d; Vienna Business Agency, 2021). In addition, planned steps include an increase in staff, a service call centre and a digitalization campaign (Austrian Ombudsman Board, 2021).

## 3.4 Countering social dumping and labour exploitation

Protection from wage and social dumping and the transposition of relevant EU directives has a high priority in Austria. The EU directive concerning the posting of workers[42] states that the principle of equal treatment with local workers must also be applied to posted workers. To transpose the principle into national law, amendments to the Act to Combat Wage and Social Dumping came into force on 1 and 10 September 2021.[43] The legislative amendment adapts instruments for prosecution and takes measures to reduce bureaucracy. In addition, protection standards have been established for foreign employees who are posted or leased to Austria. For instance, employees who have been posted or leased to Austria for more than one year (long-term posting) are comprehensively protected by Austrian labour law after one year of residence (Federal Ministry of Labour, 2021c).[44]

In 2021, action was taken against wage and social dumping, benefit fraud and irregular employment amongst other things in the construction industry.[45] An amendment to the Construction Workers' Annual Leave and Severance Pay Act came into force on 1 August 2021.[46] With the introduction of a personnel information system (IT system), relevant, current data of persons employed on construction sites is to be recorded and retrieved. This includes, for example, data on registration with social insurance and/or the Construction Workers' Annual Leave and Severance Pay Fund. In the case of foreign employees, it should be possible to query whether the employee holds authorization, confirmation or a residence permit for the specific

42 Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (text with EEA relevance), OJ L 173, pp. 16–24.

43 Federal Act Amending the Act to Combat Wage and Social Dumping, the Temporary Employment Act and the Employment Contract Law Adaptation Act, FLG I No. 174/2021.

44 Written input: Federal Ministry of Labour, 7 July 2022.

45 Motion Federal Act Amending the Construction Workers' Annual Leave and Severance Pay Act - Explanation (1773/A XXVII Legislative Term). Available at www.parlament.gv.at.

46 Federal Act Amending the Construction Workers' Annual Leave and Severance Pay Act, FLG I No. 157/2021.

employment at the building site that is documented at the Public Employment Service. The IT system is used by means of a construction ID card, which is issued to employees.[47] The construction ID card is intended to enable those responsible for building sites to check whether the required information has been received for workers employed on a building site. The responsible inspection authorities should be able to access current data in order to speed up inspection procedures at the building site.[48]

Recruitment, working conditions and employment rights of migrants were also key focus areas for international and civil society organizations as well as in research in 2021. For example, the International Organization for Migration (IOM), Country Office for Austria, advocated for placing the ethical recruitment and protection of migrant workers in supply chains on the political agenda (IOM Austria, 2021c:4). In July 2021, Austria joined the Global Policy Network on Recruitment with the aim of participating in an international exchange of views, sharing experiences and harmonizing regulation structures (IOM Austria, 2021d:1). UNDOK, the association for union support for undocumented workers, drew attention to the challenges faced by migrants and asylum seekers in securing residency and living-wage employment. UNDOK concluded that the COVID-19 crisis had further exacerbated the situation since many in precarious employment had lost their jobs and dependencies had increased (Austrian Trade Union Federation, 2021; UNDOK, 2021:1). Studies also showed, above all, the problematic situations and labour law issues faced by people in what are known as system-relevant professions: a study conducted by the Vienna University of Economics and Business examined the working conditions of migrant and refugee Amazon delivery drivers during the COVID-19 pandemic (Kohlenberger et al., 2021b). Another study supported by the Chamber of Labour highlighted the situation of migrant key workers at Hygiene Austria and Post AG (Neuhauser et al., 2021). Furthermore, a study conducted by the Working Life Research Centre, Vienna revealed the problematic situations in the cleaning sector, in which a disproportionate number of people with a migratory background are employed (Chamber of Labour Vienna, 2021; Stadler, 2020).

47 Written input: Federal Ministry of Labour, 10 March 2022; Motion Federal Act Amending the Construction Workers' Annual Leave and Severance Pay Act - Explanation (1773/A XXVII Legislative Term). Available at www.parlament.gv.at.

48 Written input: Federal Ministry of Labour, 10 March 2022.

# 4 INTERNATIONAL PROTECTION

In 2021, the issue of international protection was marked in Austria by an increase in the number of applications for asylum, which gave rise to various challenges, for instance in the area of housing. With regard to asylum procedures, there were new developments related to the provision of legal advice by the Federal Agency for Reception and Support Services company with limited liability and also legal adjustments to asylum seekers' access to the labour market. The call for humanitarian admission, in particular, shaped public debate in Austria in 2021.

## 4.1 Statistical developments and the COVID-19 pandemic

Despite some travel restrictions and border controls related to the COVID-19 pandemic, the number of asylum applications in 2021 increased to its highest level since 2016. As shown in Figure 1, 39,930 applications were made in 2021, equating to an increase of around 170 per cent over the previous year. An increased number of applications were made for international protection in Austria, especially from July onwards. In this context, it is important to mention the partial lifting of border controls and travel restrictions as the pandemic progressed (see 7.1). As in 2020, Syrian nationals made up the largest group of asylum seekers, with 16,281 applications, followed by Afghan nationals with 8,739 applications. These two countries accounted for just under 63 per cent of all asylum applications submitted in 2021. Other major countries of origin were Morocco (1,920), Somalia (1,695) and Pakistan (1,362; MoI, 2022a:4). According to the Criminal Intelligence Service Austria, one reason for the increase is the worsening reception conditions in the Western Balkan region, which drives refugees – who have usually been in these regions for some time – to continue their journey (see also 8.1; Kurier, 2021g; Wiener Zeitung, 2022).

In March 2021, the evaluation of the existing statistics on asylum and foreign nationals was the subject of a parliamentary motion for a resolution (Parliamentary Administration, 2021b).[49] The driver was to examine ways of publishing the data and to ensure transparency when processing the collected data (ibid.). The results and measures derived from them are to be presented to the National Council.[50] The Social Democratic Party of Austria criticized the lack of data on asylum decisions and called for more comprehensive monthly statistics, including data on Dublin procedures, withdrawal procedures, material reception conditions and fast-track procedures (ibid.). Similarly, civil society actors repeatedly called for more comprehensive statistics on asylum and alien affairs (Asylkoordination Österreich, 2021b). The Federal Ministry of the Interior then initiated an associated evaluation process, with scientific support being provided by St. Pölten University of Applied Sciences (MoI, 2021d:2). Furthermore, the Federal Ministry of the Interior stated that statistics on asylum and foreign nationals and their publication are developed in a continuous internal evaluation and optimization process. It is planned to adapt the asylum statistics in 2022, taking account of the results of this evaluation.[51] Asylum statistics for 2021 have already seen new developments compared with the previous

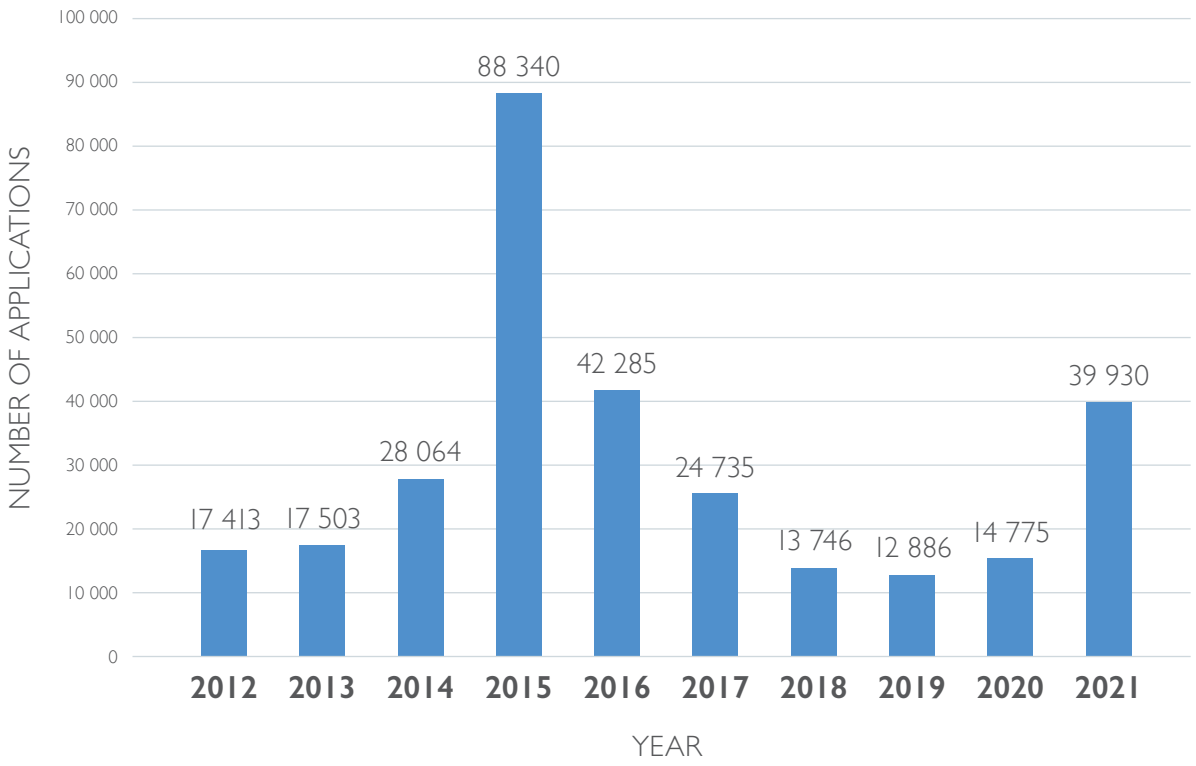
49 Resolution of the National Council on 24 March on the evaluation of the Federal Ministry of the Interior's asylum and aliens law statistics (146/E XXVII Legislative Term). Available at www.parlament.gv.at.

50 Ibid.

51 Written input: Federal Office for Immigration and Asylum, Federal Ministry of the Interior, Department V/8 (Asylum) and III/1 (Legislation), 26 January 2022.

year. For example, data on material reception conditions and on original asylum seekers (new arrivals) was included for the first time. In addition, data on minors seeking asylum was broken down in more detail into three groups: "born after arrival", "accompanied minors" and "unaccompanied refugee minors" (MoI, 2022a).

**Figure 1: Number of applications made for international protection in Austria (2012–2021)**




*Source:* MoI, 2020a:4, 2022a:1.

## 4.2 Asylum applications

The public debate about alleged pushbacks at Austrian borders continued in 2021. The previous year, non-governmental organizations had accused Austrian police officers of carrying out pushbacks at the Austrian-Slovenian border (Border Violence Monitoring Network, 2020; Der Standard, 2020). In 2021, civil society actors set up a 24-hour telephone hotline called Alarm Phone Austria to help people apply for asylum and to document rejections at the border (Push-Back Alarm Österreich, 2021). The accusations were denied by the Federal Ministry of the Interior (Der Standard, 2020).

On 1 July 2021, the Provincial Administrative Court of Styria upheld a complaint against the exercise by the administrative authority of a direct power to issue orders and to use force at the border crossing point between Austria and Slovenia on 28 September 2020. The complainant had been intercepted at the border without a travel document and had indicated that he was in need of asylum. He was subsequently searched, stripped and rejected at the border. Rejection of the complainant at the border crossing point to Slovenia by a law enforcement body was deemed unlawful, as was the fact that the complainant was made to undress

completely during the search. The court concluded that pushbacks are to some extent systematically applied in Austria.[52] In response to the court finding, the Federal Ministry of the Interior ordered an evaluation of the official action and initiated a revision procedure (MoI, 2021h:6). An internal review of the incidents found no evidence of any misconduct on the part of the officers involved, according to the Federal Ministry of the Interior (MoI, 2022d:2). Non-governmental organizations made another pushback allegation in September 2021. In an incident on 25 July 2021, the return of a Somali minor to Slovenia was among the events reported to have occurred (Asylkoordination Österreich, 2021i; ORF.at, 2021n). On 16 February 2022, the Provincial Court of Styria confirmed that the rejection of the complainant at the border was unlawful as it disregarded the existing de facto protection against removal and deprived the complainant of his right to the initiation of an asylum procedure and thus of protection against removal (Asylkoordination Österreich, 2022b; Die Presse, 2022; Kurier, 2022). The incidents were widely reported in the Austrian media (Der Standard, 2022a; ORF.at, 2022a).

## 4.3 Legal counselling and material reception conditions

A key development concerns legal advice. Since 1 January 2021, the newly established Federal Agency for Reception and Support Services company with limited liability has been responsible for providing legal advice at the Federal Office for Immigration and Asylum and before the Federal Administrative Court (see 2 and 10.1; EMN Austria, 2021:22–23). In addition to the legal provision of Article 13 of the Federal Act Establishing the Federal Agency for Reception and Support Services Company with Limited Liability,[53] organizational and institutional measures – for example, establishing freedom from instructions in terms of subject matter and setting up an advisory board on quality – ensure that the legal advice provided by the federal agency is independent and not subject to instructions in terms of its content (MoI, 2020c). This development has been accompanied by extensive public debate since the Federal Agency for Reception and Support Services company with limited liability was established in 2019. Non-governmental organizations were concerned about the independence of the federal agency and whether it would provide fair and appropriate services, especially for asylum seekers with a negative first-instance decision (Asylkoordination Österreich, 2020). The Federal Ministry of Justice and the federal agency guaranteed that there would be no requirement to follow instructions in practice and that the legal advice provided would be independent (Der Standard, 2021a; Die Presse, 2021d). In order to enforce standardized quality criteria, a course for all active legal counsellors was launched in 2021. Stricter qualification requirements now apply to all future employees in this field (Fussenegger, 2021:80). In July 2021, the Federal Ministry of Justice reported favourably on the first six months in which the Federal Agency for Reception and Support Services company with limited liability had been fully operational. Quality standards are said to have been maintained or even improved, partly because staff must now have a legal degree (ORF.at, 2021g). However, the organization Asylkoordination Österreich argues that there is still a conflict of interest (Asylkoordination Österreich, 2021a).

Furthermore, the quality of material reception conditions, especially housing, was the subject of media and civil society debate, which focused in particular on the situation of minors in federal reception centres (see 5.2).

52 Provincial Administrative Court of Styria, 1 July 2021. LVwG 20.3-2725/2020.

53 Federal Act Establishing the Federal Agency for Reception and Support Services company with limited liability, FLG I No. 53/2019.

The Federal Ministry of the Interior stated that the increasing number of applications for international protection in autumn 2021 placed a strain on the capacities for asylum procedures and material reception conditions, and that federal reception centres that had been shut down needed to be reopened (FRA, 2021b:21). Reception centres also had to be reopened or new accommodation found in a number of provinces (Der Standard, 2021u; ORF.at, 2021r, 2021s). Non-governmental organizations criticized the lack of flexibility in accommodating asylum seekers when application numbers fluctuated in the provinces (Asylkoordination Österreich, 2021j). In December 2021, the United Nations High Commissioner for Refugees (UNHCR) in Austria called for a quick solution to ease the housing and reception situation for asylum seekers. According to UNHCR Austria, the federal reception centres were at the limits of their capacity, which had a negative impact on adequate reception and care for asylum seekers (UNHCR Austria, 2021d).

## 4.4 Labour market access for asylum seekers

On 23 June 2021, the Constitutional Court revoked two decrees issued by the (then) Federal Ministry of Labour, Social Affairs, Health and Consumer Protection and Federal Ministry of Economic Affairs and Labour.[54] Among other things, the decrees provided that asylum seekers may only be employed in harvest or seasonal work. The Constitutional Court examined a complaint brought by a sheet metal business and subsequently revoked two decrees on work permits for asylum seekers on the grounds that they were unlawful. The reason given was that the underlying decrees should be classified as regulations and should thus have been promulgated in the Federal Law Gazette, but this was not done.[55] Hence, the two decrees were revoked for formal reasons.[56] Non-governmental organizations welcomed this revocation and the step towards improved access to work and apprenticeships for asylum seekers (Asylkoordination Österreich, 2021g; Caritas Österreich, 2021d; SOS Mitmensch, 2021c).

After the Constitutional Court's decision had been announced, the Federal Minister for Labour issued a decree to the Public Employment Service on 14 July 2021[57] clarifying that applications for work permits must be processed in accordance with the provisions of Articles 4 and 4b of the Act Governing the Employment of Foreign Nationals[58] and the associated rulings of the high courts.[59] The legislation provides for a preliminary labour market test that is designed to get people into work, primarily Austrian nationals and foreign workers who are already integrated in the labour market. As a result, admission of asylum seekers to the labour market continues to be restricted (Federal Ministry of Labour, 2021a). It is argued that restricted access to the labour market is partly due to the tight labour market conditions in the wake of the COVID-19 pandemic (Federal Ministry of Labour, 2021d:2).

54 Constitutional Court Austria, 23 June 2021. Beschäftigungsverbot für Asylwerber ist verfassungswidrig, V_95-96_2021.

55 Ibid.

56 Written input: Federal Office for Immigration and Asylum, Federal Ministry of the Interior, Department V/8 (Asylum) and III/1 (Legislation), 26 January 2022.

57 Decree of July 14, 2021, CN 2021-0.502.591. See Federal Ministry of Labour, 2021a.

58 Act Governing the Employment of Foreign Nationals, FLG No. 218/1975 in the version of federal law FLG I No. 54/2021.

59 Written input: Federal Ministry of Labour, 25 January 2022.

## 4.5 Humanitarian admission and relocation

Austria did not implement a relocation programme or humanitarian admission programme for refugees in 2021. Nevertheless, the topic was debated in Austria in 2021, with part of the debate being focused on the conditions in refugee camps on Greek islands (#Relocationcannotwait, 2021; Globale Verantwortung, 2021; SOS Kinderdorf, 2021c). There was media coverage of the calls from representatives of Austrian civil society for Austria to take in refugees, especially families and minors, from Greek refugee camps (Der Standard, 2021q; Die Presse, 2021a; Kurier, 2021c; ORF.at, 2021a).

The debate also focused on the situation of Afghan refugees following the Taliban's takeover of Afghanistan in August 2021. On 19 October 2021, the Austrian foreign minister stated that Austria had to date evacuated 340 people from Afghanistan (Federal Ministry for European and International Affairs, 2021c). However, Austria does not provide for direct admission of Afghan nationals (without a valid residence permit in Austria) from the region. If certain conditions are met, family members of beneficiaries of protection who are resident in Austria have the option to apply for a visa at an Austrian representation authority abroad. The reason given by the Federal Ministry of the Interior was the high overall numbers of Afghan nationals who have made an application for asylum in Austria and the associated services provided by Austria. Austria therefore prioritizes developing prospects and protective capacity in the region (MoI, 2021f:2–3). The position taken by the Austrian Federal Government was criticized by opposition parties (Die Presse, 2021g; ORF.at, 2021m). The Austrian Federal President was among those who urged for refugees from Afghanistan to be admitted (Salzburger Nachrichten, 2021b). In August 2021, a broad alliance of 31 civil society organizations called for the launch of a humanitarian admission programme, the evacuation of family members, an end to removal measures and rapid granting of protection (#aufstehn et al., 2021). UNHCR Austria welcomed the announced increase of humanitarian aid for Afghans in need, but also called for solidarity-based admission programmes and for facilitation of family reunification for separated Afghan families (UNHCR Austria, 2021c). There were also media reports of towns and municipalities offering to take in refugees from Afghanistan (Die Presse, 2021g; ORF.at, 2021l).

Finally, the debate on humanitarian admission was given new impetus in December 2021 by the situation of migrants and refugees at the Polish-Belarusian border. Austrian refugee aid organizations urged for support and admission of refugees (Amnesty International et al., 2021), for aid organizations to be given access to people stranded in the border area, and for humanitarian corridors to be set up (ECRE, 2021). There was a general call for humanitarian admission programmes to be resumed in Austria (Caritas Österreich, 2021e; SOS Mitmensch, 2021d).

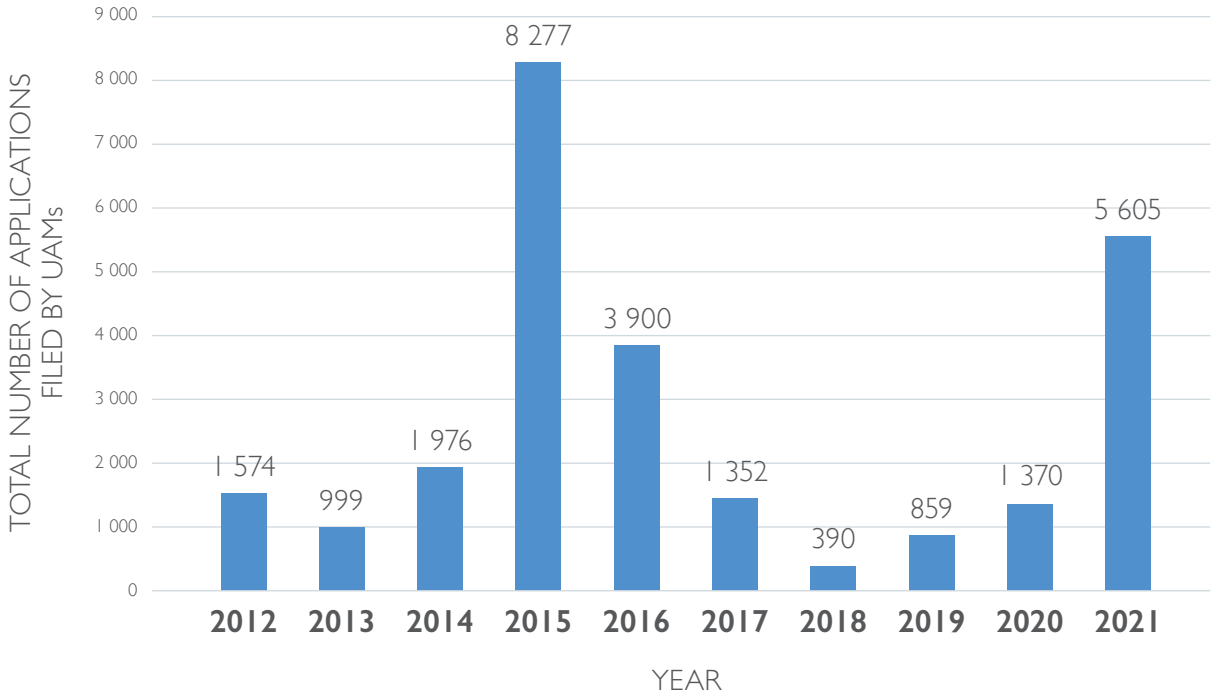
# 5 MINORS AND YOUTH

In 2021 public focus fell on protection of minors in the asylum sector; this was driven by media, political and civil society debates about the removal of minors and resulting establishment of the Commission on the Best Interests of the Child. Its recommendations, primarily on improving accommodation, guardianship and care, as well as legal examination of children's rights, have been widely discussed. Mitigation of the negative corollary effects of COVID-19 prevention measures in the field of integration, in particular with regard to children and young people learning German, were also central.

## 5.1 Statistical developments

In 2021 there was a significant increase in applications for international protection submitted by unaccompanied minors, as there was in asylum applications overall (see 4.1). At 5,605, applications from unaccompanied minors were at their highest since 2015 (see Figure 2). This represents an increase of some 309 per cent compared to the previous year. There was thus a greater rise in the number of asylum applications from unaccompanied minors than in the number of total asylum applications. Between 2016 and 2021, unaccompanied minors from Afghanistan were by far the biggest group of nationals applying for international protection in Austria (MoI, 2016:26ff., 2017:25ff., 2018:24ff., 2019:24ff., 2020a:25ff., 2022a:20ff.).

**Figure 2: Number of applications for international protection submitted in Austria by unaccompanied minors (2012–2021)**




*Source:* MoI, 2012:12, 2013:13, 2014:10, 2015:10, 2016:25, 2017:24, 2018:24, 2019:24, 2020a:24, 2022a:19.

During the period from January to December 2021, of the 5,605 applications submitted by unaccompanied minors during this period, just 1,279 applications were progressed (MoI, 2022b:5). The Federal Ministry of the Interior stated that the remaining applications were subject to procedures under the Dublin III Regulation or to age assessment procedures, or led to secondary movement of migrants. Thus in 2021, 200 unaccompanied minors were declared to be adults after having their ages checked and there were consequently 59 final Dublin return decisions (MoI, 2022b:5, 9, 61). Further information regarding the status or whereabouts of the remaining applicants was unavailable because there is little exchange of data on secondary movement of migrants, amongst other reasons (Der Standard, 2022b). The Commission on the Best Interests of the Child (see 5.2) analysed circumstances that lead to the "absconding" of unaccompanied minors and stressed the associated dangers, such as child trafficking and exploitation (Commission on the Best Interests of the Child, 2021:192–195, 225). Asylkoordination Österreich also criticized the disappearance of many unaccompanied minors and highlighted potential dangers (Asylkoordination Österreich, 2021c, 2022a). In December 2021 the parliamentary groups finally announced that annual statistics about the disappearance of refugee children and youth would be published in future (Parliamentary Administration, 2021i).

In 2021, another 469 final decisions concerning unaccompanied minors were taken, 166 of which were final decisions to grant asylum and 201 of which were final decisions for grant of subsidiary protection status. Two residence permits for exceptional circumstances were granted.[60] Furthermore, five final return decisions concerning unaccompanied minors were taken and there were eight forced removals from the country of unaccompanied minors (MoI, 2022b:79, 84). Furthermore, there were 60 forced removals from the country of accompanied minors in 2021 (MoI, 2022b:85).

## 5.2 Protection of minors in the asylum procedure

The focus on protection of minors in the asylum procedure in Austria in 2021 mainly concerned accommodation, removal and guardianship. This was triggered by public discussions concerning the removal of two families with children who had grown up in Austria, some of whom had been born here, in January 2021 (see Infobox 2; Der Standard, 2021f; Parliamentary Administration, 2021a).

**Infobox 2: Debate on the removal of minors and establishment of the Commission on the Best Interests of the Child**

There was a major response in Austria to the impending removals of families with well-integrated children at the start of 2021. Initially schoolmates and neighbours protested against the removals and politicians from a range of parties demanded a humanitarian solution (Der Standard, 2021c; Heute, 2021; ORF.at, 2021b). The Federal Ministry of the Interior referred to the final return decision and the illegal residence in Austria by the families in question (ORF.at, 2021b).

60 Written input: Federal Ministry of the Interior, Department V/8 (Asylum) and III/1 (Legislation), 22 June 2022.

On 28 January 2021 the removals took place, with police being involved, and accompanied by demonstrations (Der Standard, 2021d; Kurier, 2021a). The procedure was criticized by civil society (Caritas Österreich, 2021a; Netzwerk Kinderrechte, 2021; SOS Kinderdorf, 2021a). More than 50 schools sent a letter of protest (SOS Mitmensch, 2021a) and there were demonstrations in several provinces (Der Standard, 2021e, 2021g; Kronen Zeitung, 2021a). The cases were also debated by politicians. The Federal President stated that he was dismayed and exhorted that priority be given to children's rights (Der Standard, 2021e). The Austrian Vice-Chancellor (Austrian Green Party) described the removals as inhumane and demanded a review by the Federal Ministry of the Interior (Der Standard, 2021d). Criticism also came from politicians from the Social Democratic Party of Austria, NEOS – The New Austria and the Austrian Green Party, and from within the Austrian People's Party (ÖVP; Der Standard, 2021e; Wiener Zeitung, 2021b). The Federal Ministry of the Interior pointed out the legal situation and stated that delaying or refraining from the removals would undermine the (supreme) court decision (MoI, 2021k). In the end, the Federal Government agreed on intervention of the Commission on the Best Interests of the Child in the conflict, headed up by the former President of the Supreme Court, Dr Irmgard Griss, to review the cases (Der Standard, 2021h; Die Presse, 2021b; Wiener Zeitung, 2021c).

In February 2021, the Federal Ministry of Justice appointed a Commission on the Best Interests of the Child. This was headed up by the former President of the Supreme Court and was composed of academic and practising experts (Der Standard, 2021i). This commission reviewed the legal framework and its practical application for children in asylum and right-to-remain procedures and drew up a Europe-wide comparison (Federal Ministry of Justice, n.d.). Civil society organizations welcomed the setting up of the Commission on the Best Interests of the Child (SOS Kinderdorf, 2012; Caritas Österreich, 2021b). The Commission produced a corresponding report in July 2021. This stipulated that many areas of execution in asylum and alien affairs only inadequately uphold children's rights and the best interests of the child and proposed measures to improve protection of refugee children in Austria. The report contained the following recommendations, among others (Commission on the Best Interests of the Child, 2021:234–240):

(a) anchor the determination of the best interests of the child in substantive asylum and aliens law;
(b) provide legal counselling for minors;
(c) review the system for age assessment;
(d) safeguard and conduct procedures that are suitable for children;
(e) determine the child's best interests in removal cases;
(f) ensure standardization and guardianship from the outset;
(g) ensure suitable accommodation and reception facilities; and
(h) prevent statelessness.

In its response, the Ministry of Justice noted that improving the protection of minor refugees was an essential matter and announced that it would take further measures. The aim of these measures would be to improve provisions regarding guardianship of unaccompanied minors, to reform the maintenance advance payment and fee claims, and to change legislation on the determination of the best interests of the child (Federal Ministry of Justice, 2021). The report by the Commission on the Best Interests of the Child was widely supported. The

United Nations High Commissioner for Refugees (UNHCR) in Austria welcomed the proposals for firmer embedding of the best interests of the child in the legal system and immediate appointment of a guardian (UNHCR Austria, 2021b). In June 2021 UNHCR Austria devised recommendations for implementation on precedence of the best interests of the child in the context of the asylum procedure (UNHCR Austria, 2021a). Civil society organizations, such as Asylkoordination Österreich, Caritas, Diakonie and SOS Kinderdorf, also backed the recommendations by the Commission on the Best Interests of the Child (Asylkoordination Österreich, 2021f; Caritas Österreich, 2021c; Diakonie Österreich, 2021; SOS Kinderdorf, 2021b).

On 5 October 2021, Parliament called on the Federal Government to do even more to improve the protection and legal status of children, in response to the report by the Commission on the Best Interests of the Child. This demand pertained mostly to safeguarding quick guardianship for unaccompanied minor refugees and to paying special attention to the best interests of the child in asylum procedures (Parliamentary Administration, 2021e).[61] In October 2021 the Constitutional Court also noted that in the case of removals, the particular vulnerability of children increased expectations of administrative and court procedures. Accordingly, the country of origin information must not only be up to date, but also expressly address the situation of minors (Parliamentary Administration, 2021g). One recommendation by the Commission on the Best Interests of the Child that was often taken up in public is accommodation and care in suitable facilities. In October 2021 the Austrian Ombudsmen for Children and Youth and SOS Kinderdorf Austria criticized the fact that unaccompanied minors were accommodated for too long in Federal State initial reception centres, where age-appropriate care could not be guaranteed (Der Standard, 2021t; KIJA, 2021). UNHCR Austria furthermore pointed to a lack of space and resources for care due to the limited accommodation situation in government centres. In particular there was a lack of learning and recreational provision (UNHCR Austria, 2021d). Numerous organizations demanded a rapid relocation of children and young people in provincial accommodation (#FairLassen, 2021).

On 22 December 2021, the Federal Ministry of the Interior noted that numerous recommendations of the Commission on the Best Interests of the Child were already being applied or in the process of being implemented. The Federal Ministry of the Interior conducted an in-depth analysis – taking into account all relevant norms and judicature – and a review of the issue from a legal perspective, with the involvement of scientific experts within the framework of an advisory board.[62] Measures taken encompass inter alia the adaptation of internal work documents, in-depth training for personnel and an internal evaluation at the ministry (MoI, 2021b).[63] In autumn 2021 the "Independent Legal Advice" department of the Federal Agency for Reception and Support Services company with limited liability drew up a child welfare policy which took account of the outcome of the Commission on the Best Interests of the Child (Federal Agency for Reception and Support Services, 2022:6). In February 2022, on the other hand, the Commission on the Best Interests of the Child criticized the fact that in its view none of its recommendations had yet been implemented (ORF.at, 2022b).

61 Resolution on the protection of unaccompanied minor refugees, 1120 of the supporting documentation XXVII Legislative Term - Committee Report National Council - Resolution Text. Available at www.parlament.gv.at.

62 Written input: Federal Office for Immigration and Asylum, Federal Ministry of the Interior, Department V/8 (Asylum) and III/1 (Legislation), 26 January 2022.

63 Ibid.

## 5.3 Integration and education of minors and youth

The goal of Austrian integration policy is to counter existing inequalities in educational attainment and competency level among pupils with and without a migratory background (Expert Council for Integration, 2020:3–4). In the context of the COVID-19 pandemic, learning support for children was continued and further expanded in 2021, as was social and material support to help them attend school (#weiterlernen, 2020; Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021c, 2021j).

Central to these efforts is summer school with German support classes for children and accompanying courses for parents, which was held for the first time in the summer of 2020 as a consequence of the COVID-19 pandemic (Expert Council for Integration, 2021:63). A decision was made in December 2021 to integrate summer school into the regular school system. An amended law creates the option of support lessons outside regular instruction times, thereby transferring expanded summer school into the regular school system.[64] This means that in future, summer school will be staged every year at the end of the summer holidays (Parliamentary Administration, 2021j). One focus is on language-sensitive instruction and on support for pupils so they can overcome their language deficiencies.

Pupils from German support classes or courses[65] are to be given the option after completing summer school to take the standardized tests to redetermine their language level. In the process the form of German support classes that pupils require in the following semester will be determined (Federal Ministry of Education, Science and Research, n.d.). As a result, they have the option of switching to regular classes with a German support course or of attaining the status of a regular pupil.[66] The attitude of teachers to German support classes and courses in Austria was raised as part of a study conducted by the University of Vienna (University of Vienna, 2021). More than 80 per cent of the 1,267 teachers surveyed would prefer an integrative language support model rather than German support classes. The teachers highlighted social exclusion of pupils, lack of support in other subjects and lack of suitable training as criticisms of the German support classes (Schwab et al., n.d.:1–2).

In addition to language support, a work priority set by the Federal Chancellery, which is responsible for integration, and the Austrian Integration Fund is to strengthen and support women and girls with a migratory background (see 6.2; Austrian Integration Fund, 2021g). September 2021 saw the launch of new initiatives of the Austrian Integration Fund aimed at discussing opportunities with girls and young women with a migratory background and at strengthening their sense of self-determination (Austrian Integration Fund, 2021h, 2021i,

64 Government Proposal - Explanatory Notes: Federal Act Amending the School Organization Act, the School Education Act for Working Adults, the School Hours Act 1985, the Basic Act on the Maintenance of Compulsory Schools, Act on Federal Schools for Agriculture and Forestry, the Compulsory Schooling Act 1985, the Higher Education Act 2005 and the Second COVID-19 Higher Education Act, 1171 of the supporting documentation XXVII Legislative Term. Available at www.parlament.gv.at.

65 Since the school year 2018/19, students who are unable to follow lessons due to a lack of language skills have been taught in separate German support classes or in German support courses parallel to lessons. The assignment to a German support class or to a German support course is made on the basis of MIKA-D (Measuring Instrument for Competence Analysis - German). It is determined whether the student receives exceptional status and whether he or she is assigned to a German support course due to deficient German skills or to a German support class due to insufficient German skills (Federal Ministry of Education, Science and Research, n.d.).

66 Government Proposal - Explanatory Notes: Federal Act Amending the School Organization Act, the School Education Act for Working Adults, the School Hours Act 1985, the Basic Act on the Maintenance of Compulsory Schools, Act on Federal Schools for Agriculture and Forestry, the Compulsory Schooling Act 1985, the Higher Education Act 2005 and the Second COVID-19 Higher Education Act, 1171 of the supporting documentation XXVII Legislative Term. Available at www.parlament.gv.at.

2021g). November 2021 saw the publication of a brochure against violence and for self-determination of girls with a migratory background (Austrian Integration Fund, 2021l). The objective is to make them more aware of the rights and opportunities they have as girls and women in Austria and to promote their sense of self-determination (Austrian Integration Fund, 2021g).

Another focus of integration work in 2021 was the promotion of training or qualifications, inter alia also with an eye to the labour market in the context of the COVID-19 pandemic (Public Employment Service, 2021b). U25, a service centre for all young people aged 15 to 25 living in Vienna, was opened on 18 January 2021. This contact point of Public Employment Service Vienna and the City of Vienna helps young people to pursue their education and career (Public Employment Service, 2021a), also including, in particular, young people who have been granted asylum (Public Employment Service, 2021b). The objective is to concentrate the resources and services at a single site in order to improve support for adolescents and young adults as they transition from school to working life and beyond into their initial years of gainful employment (Stadt Wien, 2021b). A research report analysing the FIMAS project interviews looked at the status of labour market integration of refugees aged 15 to 24 years who came to Austria between 2011 and 2020. The report concluded that the majority of the young refugees subjectively perceived the search for employment to be one of the most difficult challenges in integrating into Austria (Baumgartner et al., 2021:9).

# 6 INTEGRATION AND INCLUSION

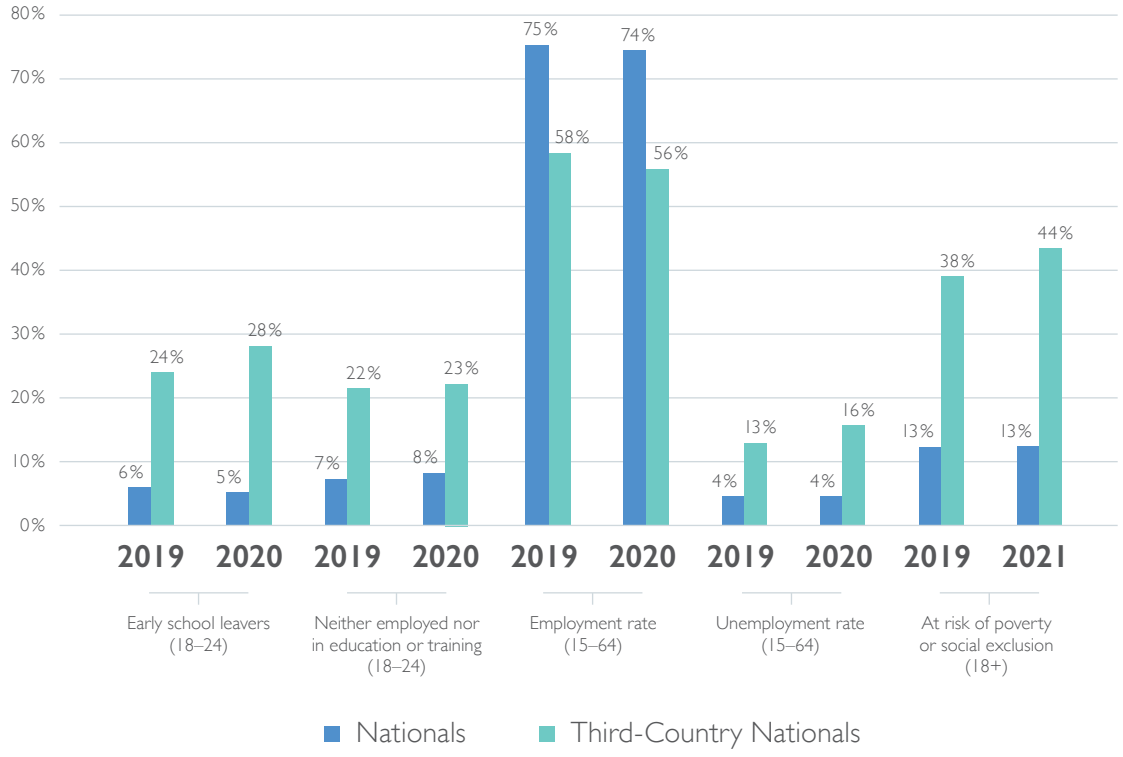
In 2021 the focus in Austria also turned to strategic developments and measures to increase integration and inclusion. Above all this concerned measures to alleviate the negative effects of the COVID-19 pandemic on integration, including multilingual information on prevention measures and vaccination. There were also new developments with regard to education and language learning, as well as antidiscrimination measures.

## 6.1 Statistical developments and the COVID-19 pandemic

As regards integration, a general focus in 2021 was on analysing the impacts of the COVID-19 pandemic on migration and integration. In the annual Integration Report 2021, the Expert Council for Integration highlighted in particular the labour market situation, challenges in the areas of education and youth, and the effect on women (Expert Council for Integration, 2021). In July 2021 a study by the Vienna University of Economics and Business revealed that people with a refugee and migratory background experienced additional stresses as a result of home schooling, employment conditions, unemployment, lack of social contacts and cramped living conditions (Kohlenberger et al., 2021a:36). A special analysis in November 2021 by the FIMAS Refugee Panel on labour market integration of refugees in Austria concluded that primarily female refugees and those with a high (tertiary) standard of education experienced a deterioration in the labour market situation during the pandemic and highlighted the relevance of social networks (Landesmann and Leitner, 2021:10). The Women's Integration Survey by the Public Employment Service pointed out hurdles when accessing the labour market and multiple stresses for refugee women in Austria (see 6.4; Felix et al., 2021:8–9).

The key integration indicators in Figure 3 based on Eurostat data from 2020 show that third-country nationals of employable age are employed less often than Austrian nationals (-18 percentage points) and have a higher unemployment rate (+12 percentage points). At the start of the COVID-19 pandemic, the situation worsened, especially for third-country nationals. Whilst the unemployment rate for Austrian nationals in 2020 was the same as for 2019, unemployment for third-country nationals rose by around three percentage points (EMN, 2020:6, 2021:7). Also, in 2020 more young third-country nationals left school prematurely (+23 percentage points compared to Austrian nationals) and were more frequently neither employed nor in education and training (+15 percentage points). The biggest difference is between Austrian nationals and third-country nationals with regard to the threat of poverty or social exclusion, which has further intensified since the start of the COVID-19 pandemic. Whilst the number of Austrian nationals was around 13 per cent in 2020 and 2019, in 2020 44 per cent of third-country nationals were exposed to this risk, which means an increase of six percentage points compared to 2019 (EMN, 2020:6, 2021:7).

**Figure 3: Central integration indicators broken down by nationality (2019–2020)**




*Source:* EMN, 2020:6, 2021:7; Eurostat, 2022.

In 2021 measures were implemented in Austria to combat poverty and social exclusion. The Federal Act to Combat Pandemic-Related Poverty Impacts (COVID-19 Act on Poverty)[67] lays the groundwork for various measures to support low-income groups of the population in the ongoing COVID-19 pandemic. These measures include financial aid for households receiving social assistance or minimum benefit and the provision of additional resources to prevent COVID-19-related evictions and to ensure secure housing.[68] Non-Austrian citizens are also entitled to benefits or assistance as long as they meet the requirements set down in the law or in the directive.[69] The objective is to mitigate the additional financial burdens caused by COVID-19, to safeguard existing housing arrangements, to open up new perspectives with regard to housing and to prevent homelessness.[70] As a result, a special directive of the Federal Minister for Social Affairs, Health, Care and Consumer Protection to combat poverty related to COVID-19 came into force in February 2021. It funds projects that focus on mitigating the negative impacts of the COVID-19 pandemic on individuals at risk of poverty or exclusion (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021d). This set of people also includes non-Austrian citizens (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2020).

67 COVID-19 Act on Poverty, FLG I No. 135/2020 in the version of federal law FLG I No. 250/2021.

68 A total of EUR 34 million was budgeted for child allowances and energy cost subsidies; the funds for COVID-19-related eviction prevention and housing security amount to EUR 24 million for the years 2021 to 2023.

69 Written input: Federal Ministry of Social Affairs, Health, Care and Consumer Protection, Department V/A/1 (General Issues and Coordination in EU Affairs), 26 January 2022.

70 Ibid.

Furthermore, there was a strong emphasis in the integration sector on access to health information. The transmission of multilingual information about COVID-19 and low-threshold, widespread availability of COVID-19 vaccinations took priority in Austria in 2021 (Austrian Integration Fund, 2021c). Anyone residing in Austria can receive a COVID-19 vaccination free of charge.[71] In addition, special services were also initiated for persons granted asylum and beneficiaries of subsidiary protection status. In September 2021, a vaccination campaign was started at the Austrian Integration Fund Integration Centre with the City of Vienna and with the support of the Samaritan Federation, later also in other provinces. At these vaccination centres, physicians are assisted if necessary by interpreters from the Austrian Integration Fund with a command of Arabic and Dari-Farsi (Austrian Integration Fund, 2021k).

On-site multilingual information is intended to make access to the vaccinations as open and easy as possible (Austrian Integration Fund, 2021j). Examples of new information channels include: (1) online advice about basic COVID-19 information for migrants and refugees with limited German-language skills (Austrian Integration Fund, 2021k); (2) a campaign in Austrian Integration Fund German courses focusing on free COVID-19 vaccinations (ibid.); and (3) campaigns on social media (Austrian Integration Fund, 2021a). In collaboration with migrant organizations and media as well as integration ambassadors from the ZUSAMMEN:ÖSTERREICH (TOGETHER:AUSTRIA) initiative, information was disseminated on COVID-19 and the vaccination and on current valid safety measures.[72] The Austrian Minister for Health also addressed the Austrian population with a migratory background in video appeals in different languages (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021h, 2021i).

## 6.2 National integration strategy and priorities

"Encourage and challenge" is the guiding principle in Austrian integration policy. The two-fold aim is to provide governmental support but also to get migrants involved out of a sense of personal responsibility (Expert Council for Integration, 2021:4–5). In June 2021, the Federal Minister for Integration presented the current priorities in integration policy (see Infobox 3). These include: (1) the labour market, transmission of values and German-language skills; (2) promoting women's equality; (3) a focus on interaction and volunteer work (Federal Chancellery, 2021f). Another focus (4) was to put a stop to segregation and extremism (Federal Chancellery, 2021d). In addition, the Austrian Federal Government drew up (5) a national strategy for countering antisemitism in 2021, which defines concrete measures also with regard to integration (Federal Chancellery, 2021b:125–137). To coordinate the operational implementation of the strategy, a special task force for Austrian-Jewish cultural heritage was set up at the Federal Chancellery.[73] Furthermore, there was a general focus on reducing the negative effects on integration of the COVID-19 pandemic (see 6.1).

71 This also applies to people who have no social insurance number (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021b). To receive the vaccination, people need only present a picture ID and an e-card (Austrian social health insurance card) if they have one (Stadt Wien, 2021a).

72 Written input: Federal Chancellery, Directorate General II (Integration, Cultural Office and Ethnic Groups), 25 January 2022.

73 Written input: Federal Chancellery, Department IV/6 (Security Policy) and Federal Chancellery, Stabstelle Österreichisch-Jüdisches Kulturerbe, 20 January 2022.

**Infobox 3: Integration focus 2021**

1. **Labour market, transmission of values and knowledge of German:** Due to the impact of the COVID-19 pandemic, discussion has centred on a "comeback", focusing on the labour market, values and language learning. The intention is that this should be achieved through online formats, subject-specific German courses and German support classes for children (see 5.3 and 6.3; Federal Chancellery, 2021f).

2. **Support for women:** Support for women with a migratory background is a central priority in integration efforts. To this end, there were calls for funding in 2021 to support projects for protecting women from violence and for empowering women and girls with a migratory background. The main objective is to counter domestic violence and to strengthen the self-determination of women with a migratory background (Federal Chancellery, 2021e).

3. **Volunteer-based initiatives:** Since June 2021, the Austrian Integration Fund has been supporting volunteer-based integration initiatives that are designed to promote integration in municipalities and regions and to strengthen societal cohesion locally. The activities can range from mentoring, tandem and buddy programmes to German study groups or initiatives advocating inclusion in associations and sport or the transmission of values and a better understanding of the cultures in Austria, as well as labour market integration or volunteer work (Austrian Integration Fund, 2021e, 2021f).[74] The objective is to strengthen community life in rural municipalities and to assist migrants in becoming linguistically and culturally integrated (Austrian Integration Fund, 2021e).

4. **Extremism and segregation:** A further priority in integration policy in 2021 involved cooperative efforts to counter extremism, segregation and so-called political Islam. As a result, five priorities for action were worked out at the international conference held in conjunction with the *Vienna Forum on Countering Segregation and Extremism in the Context of Integration* in October 2021. They included, among other things, greater cooperation at expert level, the sharing of best practices, collaboration with partner countries and stepped-up research efforts (Federal Chancellery, 2021h).

5. **Antisemitism prevention:** Austria promotes efforts to prevent antisemitism in cooperation with the Jewish Community of Vienna. To this end, a sensitization module was created for the Austrian Integration Fund orientation and values courses and will be a fixed part of the courses from 2022 (Austrian Integration Fund, 2022). In addition, there are plans to offer training courses for individuals who are multipliers with respect to integration.[75] A manual providing helpful guidance and options for action was also produced (Federal Chancellery, 2021c). The objective is to teach refugees and migrants that Austria bears special historical responsibility and that there is no room in Austria for antisemitism, and to empower all employees to counter antisemitism effectively (Austrian Press Agency, 2021).[76]

74 Written input: Federal Chancellery, Directorate General II (Integration, Cultural Office and Ethnic Groups), 25 January 2022.

75 Multipliers are, for example, German language trainers, integration counsellors or employees of public authorities.

76 Written input: Federal Chancellery, Directorate General II (Integration, Cultural Office and Ethnic Groups), 25 January 2022.

## 6.3 Changes in German as well as orientation and values courses

Language learning is central in the field of education and training of adults, in this case it being a question of a change in organization of German courses. Since 1 January 2021, all German courses have been organized in a standardized manner and assigned centrally by the Austrian Integration Fund (Federal Chancellery, 2020). In previous years, German courses were organized not only by the Austrian Integration Fund but also by other authorities, for instance the Public Employment Service or the provinces, and participation was linked to different requirements (ORF.at, 2020). The intention is that central processing should henceforth create national uniform framework conditions and more efficient processes, as well as quality standards from which migrants will benefit (Austrian Integration Fund, 2020).[77] One focus of the centralized Austrian Integration Fund course offerings is to support women in the integration process. So, steps are being taken to enhance the range of childcare options during courses in line with women's needs. Moreover, where necessary, it is now possible for the first time nationwide to extend extra individual aid in addition to the course to help people attain the intended language level (EMN Austria, 2021:40).

To facilitate labour market integration and language learning, the range of specialized Austrian Integration Fund language courses was expanded in 2021. Since February 2021, specialized language courses have been available for the restaurant and catering trade, for the hotel industry, for tourism and from May 2021 also for the grocery business. All this is being done in cooperation with the Vienna Economic Chamber (Austrian Integration Fund, 2021d, 2021b). The objective is to enable migrants who work (or would like to work) in these sectors to utilize the time during the COVID-19 restrictions to improve their German-language skills, to build up pertinent vocabulary and thereby add to their qualifications (Austrian Integration Fund, 2021b, 2021d).

Furthermore, the government programme stipulates the expansion of orientation and values courses (Austrian Federal Government, 2020:145). In November 2021, the Federal Chancellery announced that the compulsory orientation and values courses would be lengthened from one to three days effective 1 January 2022. As a result, persons granted asylum or beneficiaries of subsidiary protection status aged 15 or older as well as third-country nationals receiving social assistance are required to complete a 24-hour course rather than an eight-hour one (Federal Chancellery, 2021i). The objective of this longer course is to be able to transmit the fundamental values of community life in Austria in an even more in-depth and comprehensive manner. The Federal Chancellery views these compulsory values courses as an essential building block for successful integration because they convey important prerequisites for living life in Austria.[78] Equality and self-determination for women is a cross-cutting priority. Moreover, new modules are being added on volunteer work and on the prevention of antisemitism (see 6.2; ibid.).

## 6.4 Fighting racism and discrimination

In 2021, ZARA – Civil Courage and Anti-Racism Work documented and handled 1,977 reports of racism. More than half of the incidents (1,117) occurred on the Internet. Other incidents occurred in public places (273),

77 Written input: Federal Chancellery, Directorate General II (Integration, Cultural Office and Ethnic Groups), 25 January 2022.

78 Ibid.

in connection with goods and services (185) and in government institutions, such as departments and educational institutions (112). According to ZARA's Racism Report, it is mainly women that are affected by racist and anti-Muslim attacks in public, with the interaction between racism and sexism being seen as the reason (ZARA, 2022:8). The results of the Women's Integration Survey also showed that refugees in Austria are confronted by gender-specific and anti-Muslim forms of discrimination. Almost one in four people surveyed stated they had experienced discrimination at least once in a social context. Whilst female refugees primarily recognize the headscarf and thus the visibility of their (presumed) adherence to Islam as a trigger, men mainly ascribe their experience of discrimination to their "origin" or their status as a refugee (Felix et al., 2021:10, 81). The Austrian media mainly reported on the so-called "Islam map" presented in May 2021 by the "Dokumentationsstelle politischer Islam", also known as the "Austrian Fund to Document Religiously Motivated Political Extremism", and the Integration Minister. The map shows more than 600 Muslim associations and organizations (Der Standard, 2021p; ORF.at, 2021f). Criticisms included the fact that these associations and organizations have been suspected of extremism and that this is driving social division (SOS Mitmensch, 2021b). The Integration Minister rejected these accusations, saying that the "Islam map" was not about a general suspicion against Muslims, but about transparency and the fight against the ideology of political Islam.[79]

In the field of the fight against racism, in 2021 the focus was first and foremost on recording prejudicial motives in the context of hate crime. Hate crimes require the existence of prejudice against a certain group in society that serves as the motivation for the crime. The backdrop is that in the prosecution of these crimes since 1 November 2020, the motives for prejudice have also been fully recorded. These motives fall into the following categories: age, disability, gender, skin colour, national/ethnic origin, religion, sexual orientation, social status and world view (Melichar, 2021). The development came about because of the implementation of national and EU regulations, which was driven forward inter alia by a pilot project of the Institute for the Sociology of Law and Criminality. Training courses and seminars were offered to police and multipliers in 2021 to raise their awareness of hate crimes (Fuchs, 2021; Melichar, 2021). A national action day against hate crimes was also staged in November 2021 under the direction of the security forces (MoI, 2021v). The objective of the measure was to have a role model effect and to protect hate crime victims more effectively (MoI, 2021p).

In this context the media mainly seized on a study by the European Agency for Fundamental Rights on "Police Racial Profiling: Police Attitudes to Establishment of Identity and Searches". The study compared the experiences of certain population groups with regard to police attitudes. In Austria 25 per cent of respondents stated that they had been stopped by the police in the last 12 months; in the case of people from sub-Saharan Africa it was 49 per cent (FRA, 2021c:8). The disproportionate stopping of dark-skinned people has received a lot of media attention (Der Standard, 2021o; Kurier, 2021b; ORF.at, 2021e). ZARA referred to racism in the police and demanded implementation of the independent complaints service for victims of police violence announced in the government programme (Die Presse, 2021f; ORF.at, 2021j). The Federal Ministry of the Interior dismissed the accusation and stated that police checks of people always took place on the basis of the applicable law and information received. It ruled out a general suspicion of certain groups of people and a structural problem with racial profiling (MoI, 2021c:2).

79 Written input: Federal Chancellery, Directorate General II (Integration, Cultural Office and Ethnic Groups), 1 July 2022.

# 7 BORDERS AND SCHENGEN

In the area of borders and Schengen, the effects of the COVID-19 pandemic were still being felt in 2021. This was evident not only with regard to entry regulations but also in respect of border management. Legal adjustments were also made in Austria to implement EU legal requirements. Austrian border management focused primarily on temporary border controls with Hungary and Slovenia, but also with other neighbouring countries. In addition, cooperation with third countries was strengthened, especially to support border management at the EU's external borders.

## 7.1 Austrian border management

In the context of the COVID-19 pandemic, Austria reimposed temporary border controls on its borders with neighbouring countries. They included comprehensive controls on Austria's borders with Slovakia and Czechia for the period from 9 January 2021 to 28 May 2021. In addition, random checks were performed at all border crossing points along the border with Slovakia (MoI, 2021e) to verify adherence to the COVID-19 precautionary measures. These border controls were reimposed in January 2021 in response to the COVID-19 infection figures.[80] Moreover, on 15 January 2021, Austria introduced mandatory online registration (pre-travel clearance) prior to each entry into the country (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021e). Regulations regarding quarantine and proof of negative test results were adjusted throughout the year 2021, in accordance with the COVID-19 situation (Federal Ministry of Agriculture, Regions and Tourism, 2021b; Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021f, 2021g, 2021k).[81]

Three legal adjustments were made to entry into and exit from Austria in 2021 in order to ensure a uniform approach throughout the EU.

- Work was done on increasing the security of identity cards and to make the use of false documents more difficult (Ortner, 2021). On 20 June 2019, a respective EU regulation[82] was passed, which made it necessary to make changes to national legislation.[83] The amendment of the Austrian Passport Act in 2021,[84] which was promulgated in July 2021, takes into account new international developments and standards regarding document security when issuing Austrian travel documents and simplifies the verification of documents (MoI, 2021r). In accordance with the EU regulation, the new rules also apply to identity cards of EU citizens and to residence documents issued to EU citizens and their family members exercising their right to free movement.

80 Repeal of the Regulation on the temporary reintroduction of border control at internal borders with certain neighbouring countries, FLG II No. 226/2021.

81 COVID-19 Entry Regulation 2021, FLG II No. 276/2021 in the version of federal law FLG II No. 491/2021.

82 Regulation (EU) 2019/1157 of the European Parliament and of the Council of 20 June 2019 on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement, OJ L 188, pp. 67–78.

83 Government Proposal - Explanatory Notes: Amendment to the Passport Act 2021, 860 of the supporting documentation XXVII Legislative Term. Available at www.parlament.gv.at.

84 Amendment to the Passport Act 2021, FLG No. 839/1992 in the version of federal law FLG I No. 123/2021.

- The Act to Adapt EU Information Systems,[85] promulgated on 13 December 2021, expands the legal framework for the Schengen Information System (SIS). The SIS is a database to support external border controls and cooperation with law enforcement authorities. In addition, new ways of conducting biometric searches and automatic fingerprint identification are to be used among all Member States (Parliamentary Administration, 2021f). The driving factor for this development is the implementation of EU regulations into national law. Prior to this, existing EU information systems for fighting crime and controlling borders were not networked with each other. The objective is to ensure interoperability for successful police cooperation and to ensure security (ibid.).

- In addition, the Act to Adapt EU Information Systems includes provisions on the common electronic Entry/Exit System (EES). Besides recording travel movements of third-country nationals into and out of the Schengen Area, EES also automatically calculates the length of their stay, generates warnings of overstays for the Member States and saves alphanumeric and biometric data of third-country nationals (Parliamentary Administration, 2021f). Furthermore, technical and organizational implementation efforts were stepped up with an eye to putting the system into service at the end of September 2022. Here too, the driving factors were the implementation obligations pertaining to the pertinent EU regulations and the task of preparing the different EU information systems for networking by making them interoperable. The objective is to improve border controls by systematically recording third-country nationals and their travel movements into and out of the Schengen Area.[86]

Temporary controls on Austria's borders with certain neighbouring countries were introduced with the aim of safeguarding national security and preserving public peace and order. According to the Austrian Federal Government, this protection of Austria's internal border is necessary as long as the protection of the EU external borders is deemed insufficient (Austrian Federal Government, 2020:139). In April 2021, a regulation was issued to impose temporary border controls on Austria's borders with Slovenia and Hungary for the period from 12 May to 11 November 2021.[87] In a subsequent regulation, these border controls were extended to 11 May 2022.[88] During this period, the borders can only be crossed at duly designated border crossing points. The increased number of apprehensions of irregular migrants prompted Austria to step up security on its border with Hungary and technical tools such as helicopters, thermal imaging cameras and drones were deployed (FRA, 2021b:9). In particular, the use of drones in the immediate border area was expanded in 2021 (MoI, 2021n). The use of drones should enable the more efficient deployment of personnel in the immediate border area (Provincial Police Directorate of Vienna, 2021). In addition, a number of priority actions were carried out in the second half of 2021 (MoI, 2021q, 2021t). The reasons cited are secondary movement of migrants, risks connected to terrorism and organized crime, and the situation on the EU external borders (European Commission, 2022). However, the EU Commission has been calling for an end to border controls as they contradict the principle of freedom of movement within the Schengen area (Der Standard, 2021v).

85 Act to Adapt EU Information Systems, FLG I No. 206/2021.

86 Written input: Federal Ministry of the Interior, Unit V/6/a (Border Management - Legal Affairs), 21 January 2022.

87 Temporary reintroduction of border controls at the internal borders with Slovenia and Hungary, FLG II No. 186/2021.

88 Temporary reintroduction of border controls at the internal borders with Slovenia and Hungary, FLG II No. 457/2021.

## 7.2 International cooperation

In 2021, efforts were made to strengthen cooperation with third countries in the area of border management. A number of new agreements and other forms of bilateral and multilateral cooperation with third countries were concluded or entered into force. A *Memorandum of Understanding on enhanced cooperation in the area of internal security* was signed with North Macedonia and Montenegro in 2021, to enhance cooperation in the field of registration procedures and border surveillance.[89] Furthermore, the Vienna-based Joint Coordination Platform (JCP) started work in January 2021 with the aim of improving coordination with countries along the Eastern Mediterranean Route and the Western Balkan region in the areas of return, asylum, border management, and combating trafficking in human beings and migrant smuggling (see 8.2).[90]

Austria also contributed to international cooperation in the area of border management through a number of practical measures in 2021. The background to Austria's engagement is the pledge to support EU Member States at the external border (Austrian Federal Government, 2020:127). Fifteen Austrian police officers were sent to the borders between Serbia and North Macedonia and North Macedonia and Greece to support the authorities on the ground (MoI, 2021o). Austria has also supported EU Member States along the border with Belarus, with the aim to stabilize the migration situation at the Belarus border (Federal Chancellery, 2021g). First, there have been diplomatic efforts, such as the Belarus Conference in Vienna in November 2021 (Federal Ministry for European and International Affairs, 2021d). Second, 13 officers from Austria's Cobra special unit have assisted in the monitoring of the Lithuania-Belarus border since August 2021 (Federal Ministry for European and International Affairs, 2021b).

In the media, particular attention was paid to reports that Austrian police officers are allowed to patrol on Hungarian territory (ORF.at, 2021o). Apparently, they are allowed to stop people there, establish their identity and search them. The legal basis for the "mixed patrol duty" is the Prüm Treaty (Kleine Zeitung, 2021c). This treaty was signed by Austria in May 2005 and aims to deepen cross-border cooperation between the contracting states.[91] According to media reports, although this mixed patrol duty has led to fewer irregular border crossings locally in the short term, such crossings have subsequently shifted southwards (ibid.). Critics of this cooperation have argued that there is a lack of accommodation for asylum seekers in Hungary that complies with human rights (ORF.at, 2021p).

89 Written input: Federal Ministry of the Interior, Unit I/4/b (International Treaties), 26 January and 9 March 2022.

90 Written input: Federal Ministry of the Interior, Joint Coordination Platform, 20 January 2022.

91 Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration, 27 May 2005. Available at https://data.consilium.europa.eu.

# 8 IRREGULAR MIGRATION

In 2021, Austria continued to focus on preventing irregular migration to Austria. In addition to intensified border controls, there was also use of preventive measures and information campaigns to combat trafficking. Furthermore, there was a focus on international cooperation, especially with the Western Balkan region. In particular, the new Vienna-based Joint Coordination Platform (JCP) should lead to better cooperation.

## 8.1 Prevention of irregular migration

In 2021, the number of detected cases of irregular migration in Austria remained high (FRA, 2022:11). According to the Criminal Intelligence Service Austria in its annual situation report on smuggling and trafficking in human beings, 41,171 people who had crossed the border into Austria irregularly – some with the help of smugglers – or were staying in Austria irregularly were apprehended in 2021. Most of them came from the Syrian Arab Republic and Afghanistan (Criminal Intelligence Service Austria, 2022:12, 17). There were a total of 3,570 charges of migrant smuggling, which is twice the number recorded the previous year, and 400 smugglers were arrested (MoI, 2022f). It was also evident that smugglers were making increasing use of social networks as platforms, e.g. TikTok (Kleine Zeitung, 2021b). According to the Criminal Intelligence Service Austria, most of those apprehended came to Europe via the Balkan Route. Often, these were Syrians or Afghans who had already been in the Western Balkan region for several months and then travelled on to Western/Central Europe (Kleine Zeitung, 2021c; Kurier, 2021e, 2021g). A further reason for the rise in the number of apprehended persons was the increase in COVID-19-related border controls (Der Standard, 2021j).

In addition to increased border controls (see 7.1), organized smuggling of migrants was also combated through a number of preventive measures in 2021 (MoI, 2021l). For instance, multilingual flyers with safety instructions were given out to lorry drivers, to provide information on possible hiding places and to give advice on checks before departure and during breaks (Criminal Intelligence Service Austria, n.d.b). Lorries represented a strategic choice of transport by smugglers for a number of reasons, including the fact that, in general, freight traffic did not come to a stop during the COVID-19 pandemic (Der Standard, 2021j; OÖ Nachrichten, 2021). The media also reported numerous apprehensions of trafficked migrants in lorries and trucks (Kronen Zeitung, 2021b; Kurier, 2021g). Working with freight carriers is intended to strengthen the fight against organized smuggling of migrants (MoI, 2021l).

## 8.2 International cooperation

For Austria, the Western Balkans are a key area of focus for its cooperation in the field of migration management (MoI, 2021a:3). Relevant activities were further expanded in 2021, with the JCP central to this effort. Based in Vienna, the JCP started its activities on 1 January 2021 and established contacts with the European Commission, EU agencies, interested Member States, international organizations and partners in the Western Balkan region. The work of the JCP aims to contribute to the improvement of operational cooperation in regional migration management along the route in the areas of return, border management, asylum, and

the fight against smuggling of migrants and trafficking in human beings (MoI, 2021g:3).[92] The background to the establishment of the JCP was the Vienna Declaration on effectively combating irregular migration along the Eastern Mediterranean Route,[93] adopted at a Ministerial Conference on 22 and 23 July 2020. The JCP received the necessary mandate and guidelines in the course of a further Ministerial Conference held on 23 and 24 June 2021, where the Prague Declaration on Political Guidelines for the Joint Coordination Platform was adopted.[94] The JCP focuses on the coordination of existing initiatives and measures against irregular migration along the Eastern Mediterranean and Western Balkan routes. Ongoing risk and needs analyses, as well as the creation of an overview of migration-related challenges and current security policy developments along the route, enable the rapid identification of requirements and the communication of relevant support options. Route monitoring and analysis is carried out in close cooperation with various departments of the Federal Ministry of the Interior and European agencies (MoI, 2021g:2–3).[95]

In June 2021, the Austrian Federal Government invited heads of government to a Western Balkans Summit in Vienna with a focus on cooperation against irregular migration (Die Presse, 2021e; Kleine Zeitung, 2021a). A meeting of the Austrian-led cooperation forum – the Western Balkans Task Force – also took place in November 2021 (Criminal Intelligence Service Austria, 2021d). The motivation is the commitment to support EU Member States at the external border in terms of border protection and control, as well as the foreign policy prioritization of the Western Balkan region (Austrian Federal Government, 2020:127–128). In addition, agreement was reached on a work package on increased cooperation to prevent irregular migration and a return programme with Bosnia and Herzegovina (Der Standard, 2021l; ORF.at, 2021d). Austrian non-governmental organizations expressed criticism of the return programme in the media. The specific criticisms were the lack of constitutional asylum procedures in Western Balkan countries, as well as poor reception and living conditions for refugees (Asylkoordination Österreich, 2021d).

In addition to international networking, Austria also worked in 2021 on information campaigns in countries of origin and first reception to reduce irregular migration by raising awareness of risks and dangers, including those relating to trafficking in human beings.[96] On 28 January 2021, the Federal Ministry of the Interior launched an online campaign entitled "Myths about Migration" on social media in the following countries of origin and initial reception: Afghanistan, Egypt, Iraq, Lebanon and Pakistan (MoI, 2021i). On 18 March 2021, the campaign was extended to the transit countries of Serbia and Bosnia and Herzegovina, and on 27 August to Tajikistan.[97] In addition, the Federal Ministry of the Interior is a project partner of two information campaigns financed by the Asylum, Migration and Integration Fund (AMIF), both of which were launched on 1 January 2021: (1) the PARIM campaign in Pakistan, jointly with the International Centre for Migration Policy Development (ICMPD) and Bulgaria; and (2) the WBAware campaign for transit migrants in the Western Balkan region, jointly with the International Organization for Migration (IOM) and Germany. The motivation for the information campaigns is to counter misinformation around irregular migration both in the countries

92 Written input: Federal Ministry of the Interior, Joint Coordination Platform, 20 January 2022.

93 Vienna Declaration on effectively combating irregular migration along the Eastern Mediterranean Route, 24 July 2020. Available at https://data.consilium.europa.eu.

94 Salzburg Forum Ministerial Conference, 23–24 June 2021, Prague. Available at https://data.consilium.europa.eu; Written input: Federal Ministry of the Interior, Joint Coordination Platform, 20 January 2022.

95 Written input: Federal Ministry of the Interior, Joint Coordination Platform, 20 January 2022.

96 Written input: Federal Ministry of the Interior, Unit I/4/c (Bilateral and Multilateral Affairs) and Department V/7 (Aliens Police), 25 January 2022.

97 Written input: Federal Ministry of the Interior, Unit V/5/b (International Migration Communication), 25 January 2022.

of origin relevant for Austria and along the migration routes through proactive online communication, and to inform migrants about the possible risks, dangers and consequences. Specific objectives include highlighting the risks of irregular migration, prospects in the regions of origin and the possibilities of voluntary return, as well as creating a counter-narrative to misinformation.[98]

At EU level, Austria participated in a pilot project of the European Union Asylum Agency (EUAA)[99] in North Africa and the Niger in 2021. The pilot project aims to strengthen asylum expertise and capacities in Northern African states and the Niger as well as knowledge transfer between EU member states and participating partner states. In this context, the Federal Ministry of the Interior and the Federal Office for Immigration and Asylum participated in a conference in Egypt on "International protection and persons with specific protection needs in North Africa and Niger" from 11 to 14 October 2021.[100]

As a result of developments in Afghanistan, there was also a major geographical focus in 2021 on this region. On 21 and 22 September, an Austrian-initiated workshop entitled "Afghanistan – Joint EU Response in the Field of Migration and Security" was held in Vienna. The European Commission, interested EU Member States and international partners such as the United Nations High Commissioner for Refugees (UNHCR), IOM and ICMPD took part in the event (MoI, 2021u). The objective was to exchange views on the changing security and migration situation and to discuss measures in Afghanistan and neighbouring countries, including on cooperation against irregular migration (ibid.).

98 Written input: Federal Ministry of the Interior, Unit V/5/b (International Migration Communication), 25 January 2022.

99 Until 19 January 2022: European Asylum Support Office (EASO).

100 Written input: Federal Ministry of the Interior, Department V/8 (Asylum) and III/1 (Legislation), 27 June 2022.

# 9 TRAFFICKING IN HUMAN BEINGS

According to the Federal Ministry for European and International Affairs, trafficking in human beings for the purposes of sexual exploitation, labour exploitation and child trafficking is particularly widespread in Austria (Federal Ministry for European and International Affairs, n.d.). Preventing and combating trafficking in human beings continued to be a national priority in 2021. As in the previous year, the COVID-19 pandemic posed challenges to these efforts. The National Action Plan to Combat Trafficking in Human Beings 2021–2023 reflects these new realities. In addition, prevention and awareness-raising measures were developed in 2021 to aid early identification and protection of trafficked persons.

## 9.1 General developments and the National Action Plan

Trafficking in human beings is a serious violation of human rights. In Austria, the offence of "trafficking in human beings" pursuant to Art. 104a Criminal Code[101] forms a key legal basis in this regard. According to Art. 104a Criminal Code, trafficking in human beings includes sexual exploitation, exploitation through organ removal, labour exploitation, exploitation for begging and exploitation for committing punishable acts (Criminal Intelligence Service Austria, n.d.a). Furthermore, in Austria, persons who fall under Art. 217 Criminal Code – "cross-border trafficking for prostitution" – are also considered to be trafficked persons (Stiller, 2022). In 2021, a total of 119 individuals were identified as trafficked persons, 75 of them under Art. 104a Criminal Code and 44 under Art. 217 Criminal Code.[102] Compared to the previous year, this represents an increase of about 34 per cent, with the number of individuals identified under Art. 217 Criminal Code almost doubling (Criminal Intelligence Service Austria, 2021a:86). Interestingly, when one looks at the figures prior to the start of the COVID-19 pandemic, the number of individuals identified as trafficked persons was also exactly 119 (Criminal Intelligence Service Austria, 2020:23).

The National Action Plan sets out the objectives, responsibilities, timeframes and indicators for the national work on combating trafficking in human beings. The Council of Ministers adopted the 6th National Action Plan to Combat Trafficking in Human Beings 2021–2023 on 28 July 2021 (Federal Chancellery, 2021a; Federal Ministry for European and International Affairs, 2021a). It is based on practical experience, recommendations of the working groups and evaluations by international organizations (Parliamentary Administration, 2021d). The main themes of the Action Plan include: (1) strengthening national and international cooperation to combat trafficking in human beings; (2) prevention through education and awareness-raising among different target groups; (3) victim protection and prosecution of perpetrators; and (4) measures in the areas of monitoring and research (ibid.). In addition, the Working Group against Labour Exploitation, which is part of the Austrian Task Force on Trafficking in Human Beings, published a report on the measures implemented in 2018–2020 (Task Force on Combating Human Trafficking, 2021a:17). The report states that significant progress has been made as a result of implementation of comprehensive measures, but that systematic efforts and adaptations to new circumstances will still be needed in the future (Task Force on Combating Human Trafficking, 2021d:5).

101 Criminal Code, FLG No. 60/1974 in the version of federal law FLG I No. 242/2021.

102 Written input: IOM Austria, Counter-Trafficking Unit, 25 April 2022.

In particular, the COVID-19 pandemic has led to new challenges in the area of trafficking in human beings, which have given rise to the need for new measures in 2021. The precarious conditions and increased vulnerability to exploitation and trafficking of sex service providers is a prime example here (Criminal Intelligence Service Austria, 2021a:30–31; Task Force on Combating Human Trafficking, 2021c, 2021d:32–33). Measures taken during the pandemic led to an increase in illegal prostitution in apartments and hotels. This not only had negative consequences for trafficked persons, such as a lack of health checks and an increased risk of violence, it also hampered the identification of trafficked persons and reduced their willingness to cooperate with the police (Stiller, 2022:35). Support measures have included multilingual information on financial support services, such as how to apply for the COVID-19 hardship fund (Task Force on Combating Human Trafficking, 2021c:38).

The Criminal Intelligence Service Austria has also become increasingly aware of the precarious working conditions and risk of exploitation and human trafficking among harvest workers, seasonal workers and care workers (MoI, 2021m). According to experts, this is due to the COVID-19-related increase in the number of people living in poverty (see also 6.1). Their economic plight makes them more vulnerable to exploitation. It also has an impact on children who, due to the precarious situation of their families, feel forced to contribute financially and as a result find themselves in exploitative working conditions (Stiller, 2022:36). Labour exploitation is to be counteracted through prevention work, strengthening the legal framework and improving the transparency of supply chains (Parliamentary Administration, 2021d). In 2021, as part of the implementation of the National Action Plan to Combat Trafficking in Human Beings, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection funded three Social Responsibility Network projects[103] that focus on the prevention of labour exploitation in supply chains.[104] In 2021, the Working Group against Labour Exploitation set as one of its priority areas the issue of "seasonal work in agriculture". The relevant federal ministries, inspection bodies, social partners and reception centres worked together on awareness-raising measures aimed at workers in the agricultural sector; they also participated in the Rights4AllSeasons campaign of the European Labour Authority (Federal Ministry of Labour, 2021b).[105] The Federal Ministry of Social Affairs, Health, Care and Consumer Protection also provides long-term funding to the victim protection organization MEN VIA for trafficked males and to the UNDOK contact organization for workers without (or without secure) residence status or with limited access to the labour market who are affected by extreme exploitation. Funding is also given to the Austrian Trade Union Federation's multilingual legal advice services for migrants who find themselves in a precarious social situation.[106]

## 9.2 Combating trafficking in human beings

As a result of COVID-19, online platforms have increasingly become a key element in the planning and execution of criminal activities (Criminal Intelligence Service Austria, 2021a:33). The exploitation of children is facilitated, in particular, by social media and the Internet (Stiller, 2022:36). In 2021, targeted investigations

103 The projects are: (1) "Nachhaltige Lieferketten für erneuerbare Energien" (2021–2022); (2) "Die Auswirkungen der Covid-19-Pandemie auf Arbeitsverhältnisse in globalen Lieferketten" (2020–2022); and (3) "Arbeitsausbeutung in der Lieferkette erfolgreich bekämpfen" (2018–2021).

104 Written input: Federal Ministry of Social Affairs, Health, Care and Consumer Protection, Department V/A/1 (General Issues and Coordination in EU Affairs), 26 January 2022.

105 Written input: Federal Ministry of Labour, 25 January 2022.

106 Written input: Federal Ministry of Social Affairs, Health, Care and Consumer Protection, Department V/A/1 (General Issues and Coordination in EU Affairs), 26 January 2022.

against trafficking in human beings on the Internet and the Dark Web were strengthened in Austria through the use of modern information technologies. The objective is to further improve the identification of potential victims of trafficking in human beings and to take action against criminal networks (Criminal Intelligence Service Austria, 2021a:33). Furthermore, financial flows in connection with human trafficking were looked at more closely in 2021. The conference organized by the Task Force on Combating Trafficking in Human Beings in October 2021 was entitled Follow the Money: Financial Aspects in Combating Trafficking in Human Beings. The areas of focus included the role of the financial sector in the fight against this form of crime and the extent to which trafficked persons can be identified and protected through analysis and tracking of financial flows (IOM Austria, 2021b:4).

Moreover, the National Action Plan 2021–2023 envisages increased cooperation and coordination between Austria and the European Union (EU) (Federal Ministry for European and International Affairs, 2021a:20–22; Parliamentary Administration, 2021d). In the area of combating trafficking in human beings, Austria has previously been involved in international collaborative initiatives. The EU Twinning Project in Serbia, which started in 2018, was concluded in January 2021 (Ludwig Boltzmann Institute, n.d.a). The aim of the project was to strengthen the capacities of relevant institutions to combat all forms of trafficking in human beings in Serbia and to align national policies with EU standards (Ludwig Boltzmann Institute, n.d.b). Furthermore, several international antitrafficking operations took place in 2021 (Joint Action Days). For example, from 31 May to 6 June 2021, targeted operations to combat trafficking for labour exploitation were carried out across Europe (Criminal Intelligence Service Austria, 2021b). From 28 June to 4 July 2021, there were targeted operations to combat child trafficking in Europe (Criminal Intelligence Service Austria, 2021c). Another operation, organized by Interpol, was Operation Liberterra, which took place from 5 to 8 July 2021 (Federal Ministry for European and International Affairs, 2021a:20–22). From 8 to 12 November, Europe-wide targeted operations took place in various establishments and in the border area (Criminal Intelligence Service Austria, 2021e).

A key priority in 2021 was to protect minors and to put a stop to child trafficking. Major agenda items for 2021–2023 are to set up a nationwide protection organization for trafficked children, to raise awareness about this subject and to improve the process of identifying these children (Task Force on Combating Human Trafficking, 2021b:16). The Commission on the Best Interests of the Child considers the purpose of this organization to be to keep trafficked children from going into hiding and thereby prevent the associated risks of dependencies and exploitation (see 5.2; Commission on the Best Interests of the Child, 2021:42, 292). According to a recently published EMN study, in its efforts to raise public awareness of the issue of trafficking in human beings, the City of Vienna has focused in particular on child trafficking and offers regular training for child and youth welfare workers in this area (Stiller, 2022:20).

## 9.3 Prevention measures and awareness-raising

In the area of prevention, there was a particular focus on education, awareness-raising and sensitization of (potential) victims of trafficking in human beings. To this end, among other things, poster campaigns and campaigns on social media were initiated to raise awareness on the various forms of trafficking in human beings (Parliamentary Administration, 2021d). The National Action Plan 2021–2023 provides for further measures, such as the development of mother-tongue information material and its distribution to relevant

bodies (Federal Ministry for European and International Affairs, 2021a:28). Training sessions for administrative bodies that potentially come into contact with trafficking in human beings play a key role.

During the period 2021–2023, training sessions and events to raise awareness of various aspects of human trafficking are to be intensified among selected professional groups, such as judges, embassy staff, media representatives, schools, diplomatic missions, international organizations and professionals working in the field of migration and asylum (Federal Ministry for European and International Affairs, 2021a:18–22). The training programme of the Federal Office for Immigration and Asylum in 2021 (Task Force on Combating Human Trafficking, 2021d:32) also focused on training in identifying trafficked persons in the asylum procedure and in procedures under aliens law.[107] Training sessions in 2021 led by the International Organization for Migration (IOM), Country Office for Austria, for staff of the Federal Agency for Reception and Support Services company with limited liability – and in which among others MEN VIA also actively participates – produced successful results. Numerous suspected cases of trafficked males were reported to MEN VIA, particularly by the federal agency's care service for detainees pending removal.[108] Other training and networking measures also contributed to the identification of trafficked persons, with trade union-related agencies and social workers referring cases of severely exploited workers from various sectors to MEN VIA.[109] In the area of labour inspection, further awareness-raising activities are planned, including in basic training.[110]

Apart from this, targeted support of trafficked persons in their voluntary and safe return was expanded in 2021. In April 2021, the LEFÖ-IBF (Intervention Centre for Trafficked Women) launched a project entitled "Safe Return through Risk Assessment for Trafficked Persons", which will run until the end of 2022. The risk assessment should be viewed as complementary to the return counselling and the organization of the return by the Federal Agency for Reception and Support Services company with limited liability (see 10.1) and is designed to ensure safe return.[111] The objective is to support trafficked third-country nationals in their voluntary and safe return by means of risk assessment and ongoing victim protection before their return. This should subsequently help prevent possible renewed trafficking and other potential human rights violations.[112]

107 Written input: IOM Austria, Counter-Trafficking Unit, 25 April 2022.

108 Written input: Federal Ministry of Social Affairs, Health, Care and Consumer Protection, Department V/A/1 (General Issues and Coordination in EU Affairs), 26 January 2022.

109 Ibid.

110 Written input: Federal Ministry of Labour, 25 January 2022.

111 Written input: Federal Ministry of the Interior, Unit I/4/c (Bilateral and Multilateral Affairs) and Department V/7 (Aliens Police), 25 January 2022.

112 Ibid.

# 10 RETURN

In 2021, the issue of return was significantly affected by the consequences of the COVID-19 pandemic as well as by international developments. In Austria, there were new developments, particularly with regard to return counselling: firstly, the area of responsibility of the Federal Agency for Reception and Support Services company with limited liability was expanded. Secondly, there were legislative changes regarding the timing of mandatory return counselling interviews. Thirdly, the programmes for assisted voluntary return and reintegration were further developed and dissemination of information was emphasized. Finally, the main focus in 2021 with regard to removals and detention pending removal was on changes in the security situation in Afghanistan.

## 10.1 General developments on return and return counselling

There was a slight increase in departures from Austria in 2021 compared to the previous year, despite COVID-19 travel restrictions being in place. There was a total of 9,148 departures, an increase of almost 3.8 per cent compared to 2020, but still significantly lower than the numbers in 2019 before the outbreak of the COVID-19 pandemic (12,432). These 9,148 departures in 2021 are made up of 4,951 voluntary departures and 4,197 forced departures, which include Dublin transfers as well as removals. While there was an increase in voluntary departures in 2021 compared to the previous year, the number of forced departures decreased. Although there were more Dublin transfers, there was a decrease in removals (see Table 1). Forced departures of minors were a particular focus of media attention in 2021 (see 5.1 and 5.2).

**Table 1: Number of returns from Austria by category (2019–2021)**

| | 2019 | 2020 | 2021 |
|---|---|---|---|
| **Voluntary returns** | 5 728 | 4 551 | 4 951 |
| **Forced returns** | 6 704 | 4 264 | 4 197 |
| Dublin transfers | 1 347 | 679 | 838 |
| Removals | 5 357 | 3 585 | 3 359 |
| **Total returns** | 12 432 | 8 815 | 9 148 |

*Note:* The figures include third-country nationals and EU citizens.
*Source:* Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 21 June 2022.

A key development in the area of return counselling was that the tasks of return counselling and return assistance were taken over by the Federal Agency for Reception and Support Services company with limited liability from 1 January 2021 (2 and 4.3; Art. 2 para 3 Federal Act Establishing the Federal Agency for Reception

and Support Services Company with Limited Liability).[113] The tasks include: (1) clarification during return counselling of the individual's prospects, in particular with regard to the option of voluntary return and the support services available within this context; and (2) in the event of a decision to return voluntarily, return assistance, which is understood to refer to the measures and necessary organizational steps in the course of a voluntary return.[114]

A further important development was a legislative adjustment of timing of the obligatory return counselling interviews, which was considered necessary from the points of view of efficiency and practicality. Due to an amendment of the Federal Office for Immigration and Asylum Procedures Act,[115] the practice since 1 January 2021 has been to schedule mandatory return counselling interviews at a later stage in the procedures. Previously, return counselling was mandatory in the first instance upon issue of a return decision or upon notification of the intended rejection or dismissal of the application for international protection or cancellation of de facto protection against removal. Since 1 January 2021, return counselling is mandatory when the return decision against the asylum seeker or lawfully resident third-country national becomes final or enforceable or practicable. There are exceptions here, e.g. in the case of illegally resident third-country nationals or accelerated procedures.[116] The possibility of receiving voluntary return counselling at any stage of the procedure has been retained.[117] The reason for the legislative amendment was that, up until now, mandatory return counselling was carried out at an earlier stage and often before the appeal procedure. Due to the temporal context, it was necessary in certain cases for reasons of efficiency and practicality to wait for the appeal proceedings and change the timing of the mandatory return counselling (EMN Austria, 2021:66).

Finally, the Austrian Federal Government was working on a legislative amendment of the regulations on coercive detention for application in aliens law and other areas in 2021. In its decision of 7 October 2020,[118] the Constitutional Court annulled the provisions of the Administrative Enforcement Act 1991[119] concerning detention as a means of coercion (coercive detention) as unconstitutional, which therefore ceased to apply at the end of 31 December 2021. The Federal Government then proposed an amendment to the Administrative Enforcement Act regarding a replacement regulation for coercive detention,[120] which was promulgated on 28 February 2022.[121] The amendment adapts coercive detention, specifies a maximum permissible total duration of coercive detention and creates a new, extended set of legal protection instruments.[122] Detention should be threatened and imposed only where and to the extent that this is proportionate with regard to its intended purpose. A relevant example from aliens law is the obligation to cooperate in the procurement of

113 Federal Act Establishing the Federal Agency for Reception and Support Services company with limited liability, FLG I No. 53/2019.

114 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

115 Federal Act Amending the Settlement and Residence Act, the Asylum Act 2005 und the Federal Office for Immigration and Asylum Procedures Act, FLG I No. 145/2020.

116 Government Proposal - Explanatory Notes: Federal Act Amending the Settlement and Residence Act, the Asylum Act 2005, and the Federal Office for Immigration and the Asylum Procedures Act, 2020, 349 of the supporting documentation XXVII Legislative Term. Available at www.parlament.gv.at.

117 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

118 Constitutional Court Austria, G164/2020 ua, 7 October 2020.

119 Administrative Enforcement Act 1991, FLG No. 53/1991 in the version of federal law FLG I No. 118/2020.

120 Brief information on the amendment of the Administrative Enforcement Act 1991, 2021, 147/ME XXVII Legislative Term. Available at www.parlament.gv.at; Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

121 Amendment of the Administrative Enforcement Act 1991, FLG I No. 14/2022.

122 Government Proposal: Federal Act Amending the Administrative Enforcement Act 1991, 2021. Available at www.parlament.gv.at.

a travel document.[123] The purpose is to ensure enforceability in those cases where the imposition of a fine would not be effective as a means of achieving compliance.[124]

## 10.2 Assisted voluntary return and reintegration

Voluntary return is a high priority in Austria and has been promoted and developed over the past years, as it is assumed that this is more sustainable and less intervention-intensive for returnees and also supports the structures in the countries of origin.[125] To this end, opportunities are to be created for returnees so that they have prospects locally in their home country (Austrian Federal Government, 2020:140). Within the framework of return assistance, the Federal Agency for Reception and Support Services company with limited liability offers support for voluntary returnees since 1 January 2022 (see 10.1). In 2021, 2,605 persons made use of this support offer. For implementation the federal agency relies on partners such as the International Organization for Migration (IOM).[126] Thus, the IOM Country Office for Austria, assisted 1,358 persons in voluntarily returning to their countries of origin in 2021. The most frequent countries of return were Iraq, China and Georgia (IOM Austria, 2021a).

In order to make potential returnees aware of the issue of voluntary return, two information dissemination measures were initiated in 2021. A campaign was launched in November 2021 on social media, which will continue until mid-2022. The campaign is aimed at specifically defined groups of people and includes various text and image material in different languages to encourage successful voluntary return.[127] The campaign is intended to generate interest in assisted voluntary return and, via direct links, to increase the number of hits on the website www.returnfromaustria.at, as well as to contribute to a significant increase in unprompted contact with the return counselling service run by the Federal Agency for Reception and Support Services company with limited liability. In the context of (assisted) voluntary return, a "direct mailing" measure (pilot project) for priority countries was also among the external mobilization measures in 2021. Persons still residing in Austria despite being obliged to leave the country were contacted again and obliged to participate in further return counselling. The mailing was accompanied by information material in the respective national language from the Federal Agency for Reception and Support Services company with limited liability on available support and reintegration services.[128]

Reintegration programmes in the context of assisted voluntary return were further expanded in 2021. The driving factor is the stronger emphasis given in the government programme to voluntary return and reintegration. To this end, opportunities are to be created for returnees so that they have prospects locally in their home country (Austrian Federal Government, 2020:140). The fundamental goal is to be able to offer reintegration support in all return-relevant countries. The additional services in the area of reintegration

123 The return travel certificate (laissez-passer) is a replacement travel document required for deportation; Government Proposal - Explanatory Notes: Amendment of the Administrative Enforcement Act 1991, 2021, 147/ME XXVII Legislative Term. Available at www.parlament.gv.at.

124 Brief information on the amendment of the Administrative Enforcement Act 1991, 2021, 147/ME XXVII Legislative Term. Available at www.parlament.gv.at.

125 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

126 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 21 June 2022.

127 Languages are: Arabic, Farsi, French, Hindi and Russian.

128 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

should above all support the sustainability of the return and reintegration process, particularly for vulnerable persons.[129]

In 2021, reintegration support was offered in up to 30 countries of origin within the framework of four reintegration programmes.[130] In 2021, three more destinations were included in the reintegration initiative, and in one destination the support services were expanded for new groups of people.[131] There was also a pilot project of the European Return and Reintegration Network (ERRIN) in 2021, which offered reintegration support in the Syrian Arab Republic for the first time (pilot project).[132] In addition to classic reintegration support, additional programmes in the field of reintegration were again made available in 2021 within the framework of ERRIN projects, for example for special medical needs and business training.[133]

Furthermore, on 3 November 2021, a time-limited special initiative entitled "Plus €1,000" was launched in the area of assisted voluntary return. An increased level of return assistance, in addition to the existing financial start-up assistance, was available until 28 February 2022 to foreign nationals who meet the relevant criteria (Federal Agency for Reception and Support Services, 2021; Federal Office for Immigration and Asylum, 2021i). The objective of the special initiative was to create more awareness of the possibility and offer of assisted voluntary return, to increase the attractiveness of voluntary return and to help foreign nationals to get off to a fresh start in their country of origin by giving increased financial support.[134]

In 2021, Austria also participated in discussions with the European Border and Coast Guard Agency (Frontex) on the future design of the reintegration programme. The new Frontex mandate[135] specifies the reorganization of reintegration activities from ERRIN to Frontex. In addition, a pilot Frontex project on Joint Reintegration Services started in May 2021 with the aim of gaining operational experience for the takeover of ERRIN.[136] Austria participated in the project with Armenia as the target destination and was able to support 10 returnees in their return.[137] The background here is that the ERRIN programme will come to an end in July 2022. The comprehensive reintegration services will in future be taken over by the EU agency in accordance with the new Frontex mandate. The aim is to ensure the seamless transition of the reintegration programme from ERRIN to Frontex.[138]

129 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

130 The reintegration programmes comprise: European Return and Reintegration Network (ERRIN), Office de l'Immigration et de l'Intégration (OFII), RESTART III by the Country Office for Austria of the International Organization for Migration (IOM), IRMA plus II by Caritas Austria. Due to the political developments in Afghanistan, the reintegration programme in Afghanistan within the framework of the project RESTART III by IOM Austria was discontinued in summer 2021 until further notice.

131 The new countries include: Islamic Republic of Iran since February 2021, Egypt since May 2021, and Somalia since September 2021. In Armenia, project requirements have been changed so that non-vulnerable returnees can also receive assistance.

132 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

133 Since February 2021, cases with special medical needs in all ERRIN countries can be supported with up to EUR 1,800 additional benefit in kind under the MEDRA project. In order to expand the offer for Iraqi returnees, the Sustainable Reintegration Iraq (SRI) project, launched by the Finnish Migration Service, was included in the MoI support programme. The aim is to provide targeted support for returnees in a two-stage business training programme; Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

134 Written input: IOM Austria, Assisted Voluntary Return and Reintegration Unit, 29 November 2021.

135 Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624, OJ L 295 pp. 1–131.

136 The project period is 1 May 2021 to 31 March 2022. The project will be implemented in Armenia, Brazil, Ethiopia and Ukraine.

137 Written input: Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 26 January 2022.

138 Ibid.

## 10.3 Forced return and detention

Despite the COVID-19 pandemic and associated travel restrictions, there was no fundamental suspension of removals in Austria in 2021. This was in line with the practice of other EU Member States. The authorities liaised closely with partners at EU and international level and made use of synergies in removals from the country (Federal Office for Immigration and Asylum, 2021f). In 2021, Austria was involved in a total of 43 charter operations, the majority of which were organized through Frontex in cooperation with other EU Member States (MoI, 2022c:25). In the case of all removals from the country, in order to contain the COVID-19 pandemic, the security and preventive measures for returnees and escort personnel were adapted to the regulations that were applicable at the time (Federal Office for Immigration and Asylum, 2021g, 2021h). In addition, the security and migration authorities are constantly evaluating the situation and adapting it to current circumstances (Federal Office for Immigration and Asylum, 2021a).

There were changes during 2021 regarding removals to Afghanistan. In the first half of 2021, removals from Austria to Afghanistan continued to take place, the last one on 15 June 2021 (Federal Office for Immigration and Asylum, 2021b, 2021c, 2021d, 2021e). Various civic organizations protested repeatedly against the removals because of the precarious security situation in Afghanistan. Specific criticisms included the situation of minorities and the intended withdrawal of international troops from Afghanistan (Asylkoordination Österreich, 2021e; Der Standard, 2021n), as well as the situation of returnees with regard to persecution, risk of violence and lack of prospects (Stahlmann, 2021). The Agency for Fundamental Rights (FRA) had concerns relating to fundamental rights and reported that nine complaints had been received by the Austrian Ombudsman Board in this regard as of June 2021 (FRA, 2021a:31). On 18 June, the Federal Minister for Justice called for an assessment of removals to Afghanistan (Der Standard, 2021r; ORF.at, 2021h). Ultimately, the Afghan Ministry of Refugees and Repatriation informed EU states that it would not accept any further removals in the period from 8 July to 8 October 2021.[139]

On 5 August, the Austrian Federal Government stated that Austria was sticking to the repatriation agreement with Afghanistan (MoI, 2021s). However, for legal and practical reasons, no further removals took place (Der Standard, 2021s; ORF.at, 2021k; Salzburger Nachrichten, 2021a). FRA viewed a decision of the Constitutional Court in August 2021 as seminal for the change in practice (FRA, 2021b:35): this decision concerned the continued detention of an Afghan national pending his planned removal to Afghanistan. The complainant had previously brought the matter to the European Court of Human Rights (ECtHR). The ECtHR issued a provisional measure against Austria in a letter dated 2 August, suspending the complainant's removal to Afghanistan until 31 August 2021. The ECtHR requested, among other things, a review of the security situation in Afghanistan and the actual feasibility of the planned removal (Deserteurs- und Flüchtlingsberatung, 2021).[140] In its decision of 4 August 2021, the Federal Administrative Court was still of the opinion that the continuation of the detention pending removal was proportionate. An appeal against this decision was filed with the Constitutional Court (Constitutional Court Austria, 2021). On 18 August 2021, the Constitutional Court allowed an application by an Afghan national for suspensive effect regarding the (continuation of)

139 ECHR, 2 August 2021. Application no 38335/21: R.A. v. Austria, ECHR-LE2.2bR VKO/KWE7jl.
140 Ibid.

detention pending removal. Against the background of current information about the situation in Afghanistan, the Constitutional Court did not feel that the timely removal of the applicant to his country of origin would be possible. The imposition and maintenance of detention pending removal was therefore not considered proportionate (ibid.).

There was criticism on the part of civil society that release of all persons held in custody pending removal to Afghanistan was not ordered immediately (Asylkoordination Österreich, 2021h). In a decision of 30 September 2021, the Constitutional Court eventually overturned, among other things, the issuance of a return decision and the ruling on the permissibility of removal to Afghanistan. The reason given for this decision was the violation of the constitutionally guaranteed right to life as well the right not to be subjected to torture or inhuman or degrading punishment or treatment (Art. 2 and 3 European Convention on Human Rights – ECHR).[141]

141 Constitutional Court Austria, 30 September 2021, E 3445/2021-8.

# 11 ANNEX

## List of translations and abbreviations

| English term | English abbreviation | German term | German abbreviation |
|---|---|---|---|
| Act Governing the Employment of Foreign Nationals | - | Ausländerbeschäftigungsgesetz | AuslBG |
| Administrative Enforcement Act | - | Verwaltungsvollstreckungsgesetz 1991 | VVG |
| Asylum Act 2005 | - | Asylgesetz 2005 | AsylG 2005 |
| Asylum Procedures Act | - | BFA-Verfahrensgesetz | BFA-VG |
| Asylum, Migration and Integration Fund | AMIF | Asyl, Migrations- und Integrationsfonds | AMIF |
| Austrian Broadcasting Corporation | ORF | Österreichischer Rundfunk | ORF |
| Austrian Green Party | - | Die Grünen | - |
| Austrian Integration Fund | - | Österreichischer Integrationsfonds | ÖIF |
| Austrian People's Party | - | Österreichische Volkspartei (auch Neue Volkspartei) | ÖVP |
| Brexit Implementing Regulation | - | Brexit-Durchführungsverordnung | Brexit-DV |
| Citizenship Act 1985 | - | Staatsbürgerschaftsgesetz 1985 | StbG |
| Constitutional Court | - | Verfassungsgerichtshof | VfGH |
| Criminal Code | - | Strafgesetzbuch | StGB |
| Criminal Intelligence Service Austria | - | Bundeskriminalamt | BK |
| European Asylum Support Office | EASO | Europäisches Unterstützungsbüro für Asylfragen | EASO |
| European Border and Coast Guard Agency | Frontex | Europäische Agentur für die Grenz- und Küstenwache | Frontex |

| English term | English abbreviation | German term | German abbreviation |
|---|---|---|---|
| European Commission against Racism and Intolerance | ECRI | Europäische Kommission gegen Rassismus und Intoleranz | ECRI |
| European Convention on Human Rights | ECHR | Europäische Menschenrechtskonvention | EMRK |
| European Council on Refugees and Exiles | ECRE | Europäischer Rat für Flüchtlinge und im Exil lebende Personen | ECRE |
| European Court of Human Rights | ECtHR | Europäischer Gerichtshof für Menschenrechte | EGMR |
| European Economic Area | EEA | Europäischer Wirtschaftsraum | EWR |
| European Migration Network | EMN | Europäisches Migrationsnetzwerk | EMN |
| European Return and Reintegration Network | ERRIN | Gemeinsames europäisches Rückkehr- und Reintegrationsprogramm | ERRIN |
| European Union | EU | Europäische Union | EU |
| European Union Agency for Asylum | EUAA | Europäische Asylagentur | EUAA |
| European Union Agency for Fundamental Rights | FRA | Europäische Grundrechteagentur | FRA |
| Exit/Entry System | EES | Einreise- und Ausreisesystem | EES |
| Federal Act to Combat Pandemic-Related Poverty Impacts | COVID-19 Act on Poverty | Bundesgesetz zur Bekämpfung pandemiebedingter Armutsfolgen | COVID-19 – Gesetz-Armut |
| Federal Agency for Reception and Support Services company with limited liability | - | Bundesagentur für Betreuungs- und Unterstützungsleistungen Gesellschaft mit beschränkter Haftung | BBU GmbH |
| Federal Chancellery | - | Bundeskanzleramt | BKA |
| Federal Law Gazette | FLG | Bundesgesetzblatt | BGBl |
| Federal Ministry for Europe, Integration and Foreign Affairs | - | Bundesministerium für Europa, Integration und Äußeres | BMEIA |

| English term | English abbreviation | German term | German abbreviation |
|---|---|---|---|
| Federal Ministry of Agriculture, Regions and Tourism | - | Bundesministerium für Landwirtschaft, Regionen und Tourismus | BMLRT |
| Federal Ministry of Education, Science and Research | - | Bundesministerium für Bildung, Wissenschaft und Forschung | BMBWF |
| Federal Ministry of Justice | - | Bundesministerium für Justiz | BMJ |
| Federal Ministry of Labour | - | Bundesministerium für Arbeit | BMA |
| Federal Ministry of Social Affairs, Health, Care and Consumer Protection | - | Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz | BMSGPK |
| Federal Ministry of the Interior | MoI | Bundesministerium für Inneres | BMI |
| Federal Office for Immigration and Asylum | - | Bundesamt für Fremdwesen und Asyl | BFA |
| Integrated Border Management | IBM | Integriertes Grenzmanagement | IBM |
| International Centre for Migration Policy Development | ICMPD | Internationales Zentrum für die Entwicklung von Migrationspolitik | ICMPD |
| International Organization for Migration | IOM | Internationale Organisation für Migration | IOM |
| Intervention Centre for Trafficked Women | LEFÖ-IBF | Interventionsstelle für Betroffene von Frauenhandel | LEFÖ-IBF |
| Jewish Community | - | Israelitische Kultusgemeinde | IKG |
| Joint Coordination Platform | JCP | Joint Coordination Platform | JCP |
| National Contact Point | NCP | Nationaler Kontaktpunkt | NKP |
| Office of the High Commissioner for Human Rights | OHCHR | Büro des Hohen Kommissars der Vereinten Nationen für Menschenrechte | OHCHR |
| Official Journal of the European Union | OJ | Amtsblatt der Europäischen Union | ABl. |

| English term | English abbreviation | German term | German abbreviation |
|---|---|---|---|
| Ombudsmen for Children and Youth | KIJA | Kinder- und Jugendanwaltschaft | KIJA |
| Organisation for Economic Co-operation and Development | OECD | Organisation für wirtschaftliche Zusammenarbeit und Entwicklung | OECD |
| point of contact for union support for undocumented workers | UNDOK | Anlaufstelle zur gewerkschaftlichen Unterstützung undokumentiert Arbeitender | UNDOK |
| Public Employment Service | - | Arbeitsmarktservice | AMS |
| Red-White-Red Card | RWR Card | Rot-Weiß-Rot – Karte | RWR-Karte |
| Schengen Information System | SIS | Schengener Informationssystem | SIS |
| Settlement and Residence Act | - | Niederlassungs- und Aufenthaltsgesetz | NAG |
| Social Democratic Party of Austria | - | Sozialdemokratische Partei Österreichs | SPÖ |
| The Constitutional Court of Austria | - | Österreichischer Verfassungsgerichtshof | VfGH |
| The Construction Workers' Annual Leave and Severance Pay Fund | BUAK | Bauarbeiter-Urlaubs- und Abfertigungskasse | BUAK |
| The New Austria and Liberal Forum | NEOS | Das Neue Österreich und Liberales Forum | NEOS |
| The Treaty on European Union | TEU | Vertrag über die Europäische Union | EUV |
| Treaty on the Functioning of the European Union | TFEU | Vertrag über die Arbeitsweise der Europäischen Union | AEUV |
| United Nation's High Commissioner for Refugees | UNHCR | Hoher Flüchtlingskommissar der Vereinten Nationen | UNHCR |
| Vienna Economic Chamber | - | Wirtschaftskammer Wien | WKW |
| ZARA - Civil Courage & Anti-Racism Work | ZARA | Verein ZARA – Zivilcourage & Anti-Rassismus-Arbeit | ZARA |

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# 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 the Council Decision 2008/381/EC has constituted the legal basis of the EMN. National Contact Points (NCPs) have been established in each EU Member State (except Denmark) and in EMN Observer Countries (Norway, Georgia, the Republic of Moldova, Ukraine, Montenegro, Armenia, and Serbia).

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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EMN European Migration Network AUSTRIA

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The National Contact Point Austria is financed by the European Commission and the Austrian Federal Ministry of the Interior.