

Family reunification of third- country nationals in Austria under the Asylum Act and the Settlement and Residence Act

Anna Ammann
Martin Stiller

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1. INTRODUCTION

1.1. Topic outline and objectives of the study

Family reunification has been one of the main routes of regular migration to the European Union for decades. According to Eurostat, almost 930,000 first residence permits were issued for family reasons in the European Union in 2022 (around 25 per cent of the total number of first residence permits issued in 2022), of which just over 600,000 first residence permits were issued to family members of third-country nationals (Eurostat, n.d.a, n.d.b).

Family reunification is essential in terms of ensuring family unity and the right to family life in accordance with international¹ and European Union² law. In addition, family reunification contributes to the integration of reuniting third-country nationals in the country of residence (Strik et al., 2013:102–104).

In this context, the Family Reunification Directive³ is of particular importance as the central European Union legislation. This directive recognizes the right to family reunification of lawfully resident third-country nationals and sets out the conditions for exercising this right as well as the rights of the family members concerned. The Directive was adopted on 22 September 2003 as the first central European Union legislation in the area of regular migration.

Back in 2017, the European Migration Network (EMN) published a study titled „Family Reunification of Third-Country Nationals in the EU plus Norway” (European Commission, 2017) and the European Commission published a second report on the implementation of the Family Reunification Directive in 2019 (European Commission, 2019). In 2020, the European Commission reaffirmed in its recommendation (European Commission, 2020) the importance of family reunification in the European Union as a key factor for integration in the host country and its role as a complementary pathway to international protection.

In recent years, there have been a number of developments at European and national level. For example, there have been changes to national legislation, several relevant decisions have been issued by the European Court of Justice and the European Court of Human Rights and regular migration procedures in EU Member States have become increasingly digitalized. The COVID-19 pandemic and other regional crises have also intensified the practical challenges of family reunification but have also led to the development of new procedures to meet these challenges.

This national report takes up on the national report „Family reunification of third-country nationals in Austria” (Lukits, 2016) from 2016 and provides an updated overview of the status quo in Austria. The report deals with the legal and political changes in Austria in the years 2017 until March 2025 and presents the existing

1 See Art. 8 Convention for the Protection of Human Rights and Fundamental Freedoms, FLG. No. 210/1958 in the version of the Federal Act FLG. III No. 171/2023.

2 See Art. 7 Charter of Fundamental Rights of the European Union. OJ C 326, pp. 391–407.

3 Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. OJ L 251, pp. 12–18.

challenges along with proposed solutions. It also presents best practices in the area of family reunification and relevant data.

1.2. Definitions

The study is based on the following definitions of terms, which – unless stated otherwise – are taken from the EMN Asylum and Migration Glossary (European Commission, 2024a):

Applicant for international protection: A third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken.

Beneficiary of international protection: A person who has been granted refugee status or subsidiary protection status.

Family member: In the general migration context, a person either married to, or having a relationship legally recognized as equivalent to marriage, to a migrant, as well as their dependent children or other dependents who are recognized as members of the family by applicable legislation.

Family reunification:⁴ The establishment of a family relationship by entry and residence, between:

- a) a lawfully residing third-country national (“sponsor”) and a third-country national established outside of the EU in accordance with the Family Reunification Directive,⁵ in order to preserve the family unit, regardless of whether the family relationship arose before or after the entry of the sponsor; or
- b) between a union citizen and third-country national established outside the European Union who then subsequently enters the European Union.

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

Refugee status: The recognition by an EU Member State of a third-country national or stateless person as a refugee.

Right to family life: A right enshrined in Art. 7, 9 and 33 of the Charter of Fundamental Rights of the European Union⁶ and Art. 8 of the European Convention on Human Rights.⁷

Sponsor: In the EU context of family reunification, a third-country national residing lawfully in a Member State and applying, or whose family members apply, for family reunification to be joined with them.

⁴ The definition is based on the EMN Glossary and was slightly adopted for the purpose of this study.

⁵ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. OJ L 251, pp. 12–18.

⁶ Charter of Fundamental Rights of the European Union. OJ C 326, pp. 391–407.

⁷ Convention for the Protection of Human Rights and Fundamental Freedoms, FLG. No. 210/1958 in the version of the Federal Act FLG. III No. 171/2023.

Subsidiary protection: The protection given to a third-country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to their country of origin, or in the case of a stateless person to their country of former habitual residence, would face a real risk of suffering serious harm as defined in Art. 15 of the Recast Qualification Directive,⁸ and to whom Art. 17 para. 1 and 2 of this Directive do not apply, and is unable or, owing to such risk, unwilling to avail themselves of the protection of that country.

Third-country national: Any person who is not a citizen of the European Union within the meaning of Art. 20 para. 1 of TFEU⁹ and who is not a person enjoying the European Union right to free movement, as defined in Art. 2 para. 5 of the Regulation (EU) 2016/399 (Schengen Borders Code).¹⁰

1.3. Research method and data sources

The present study was conducted by the National Contact Point (NCP) Austria in the EMN within the framework of the EMN's 2023–2025 Work Programme. The study follows a common study template with a predefined set of questions developed by the EMN, in order to facilitate comparability of the findings across all Member States.

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

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

- Daniel Bernhart, Team Leader Family Reunification, Tracing Service, Austrian Red Cross;
- Birgit Einzenberger, Head of the Legal Department, UNHCR Austria, and Lisa Sommerauer, Community-Based Protection Assistant, UNHCR Austria;
- Eva Pfleger, Head of Department V/A/2 (Residence and Citizenship) of the Federal Ministry of the Interior;
- Susanne Schaidinger, Project Manager of the advice center Start-up Support for Asylum and Subsidiary Protection Beneficiaries, Interface Wien;
- Ambassador Hannes Schreiber, Head of Department IV.2 (Visa, border, residence and asylum matters; migration; combating trafficking in persons) of the Federal Ministry for European and International Affairs;
- Maryam Singh, Project Manager of the Counseling Center for Migrants Labor Market Policy Support Facility.

⁸ Directive 2011/95/EU of the European Parliament and 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 (recast). OJ L 337, pp. 9–26.

⁹ Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. OJ C 202, pp. 1–388.

¹⁰ 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) (codification). OJ L 77, pp. 1–52.

In addition, the following institutions provided a written contribution (completed questionnaire or other information) on challenges and best practices of family reunification in Austria:

- City of Vienna – Immigration and Citizenship;
- Federal Ministry of the Interior, Department V/B/8 – Asylum;
- Provincial government of Burgenland, Department 2 – Regional Planning, Municipalities and Economic Affairs, Main Department for Municipal Affairs;
- Provincial government of Carinthia, Department 1 – Provincial Office Directorate, Sub-Department for Electoral Law, Citizenship and Residence;
- Provincial government of Lower Austria, Internal Administration Group, Police Affairs and Events Department;
- Provincial government of Salzburg, Provincial Office Directorate, Elections and Citizenship Department;
- Provincial government of Styria, Department 3 Constitution and Home Affairs, Residence and Security Department;
- Provincial government of Tyrol, Citizenship and Data Protection Department;
- Provincial government of Vorarlberg, Department of Citizenship, Aliens and Civil Status Law, Home Affairs and Security Department.

The study was conducted by Anna Ammann (Research Associate, IOM Country Office for Austria) and Martin Stiller (Legal Associate, IOM Country Office for Austria).

Special thanks are due to the above-mentioned interviewees for contributing their knowledge and experience in the form of expert interviews and written contributions. The authors would also like to thank Marian Benbow Pfisterer (Chief of Mission, IOM Country Office for Austria), Saskia Heilemann (Head of Unit for Policy Research and Migration Law, IOM Country Office for Austria) and Leila Hadj Abdou (Deputy Head of Unit for Policy Research and Migration Law, IOM Country Office for Austria) for their many valuable comments. The authors would also like to thank Ida Hamacher, Victoria Mueller and Sarah Zischka (Interns, IOM Country Office for Austria) for various support services in the different stages of the study preparation.

The study was prepared in close cooperation with the Federal Ministry of the Interior.

1.4. Family reunification in the Austrian context

European Convention on Human Rights

Article 8 – Right to respect for private and family life

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

As in other European countries, the right to a family and respect for family life is also in Austria a human right protected by binding agreements.¹¹ In the context of family reunification, the right to respect for private and family life (Art. 8 Convention for the Protection of Human Rights and Fundamental Freedoms, ECHR) must therefore always be considered and everyone has a legal right to live with their own family and not to be separated from them without due cause. State measures that result in family members not (or no longer) being able to reside in the same country are a violation of the fundamental right to family life and are only permitted if they fall within the exceptions set out in Art. 8 para. 2 ECHR (Merten et al., 2014:§ 5 margin number 43).

The regulations on family reunification in Austria differ fundamentally depending on whether family reunification takes place in the context of migration under the Settlement and Residence Act¹² or in the context of international protection under the Asylum Act 2005¹³ (hereinafter

referred to as the Asylum Act). This means that there are two systems of family reunification in Austria. Only when a case falls under the Asylum Act does family reunification have to take place in accordance with the relevant provisions of the Asylum Act (Supreme Administrative Court, 2020b) so that family members of beneficiaries of international protection in Austria can also be granted international protection status (asylum or subsidiary protection) in Austria by means of the family procedure (see [Section 4.6](#)). Despite this fundamental distinction, family reunification of persons granted asylum also takes place under the Settlement and Residence Act under certain circumstances (see [Section 4](#).) while family reunification of persons granted subsidiary protection is only possible under the Asylum Act. It should also be mentioned here that, especially in light of the legal definitions of family members (Art. 2 para. 1 subpara. 9 Settlement and Residence Act, Art. 35 para. 5 Asylum Act 2005, see [Section 4.1](#).) there is no residence permit for the purpose of family formation in Austria.

Due to a lack of statistical data for the period before 2022, it is not possible to make a reliable statement on immigration in the context of family reunification for this period. However, since 2022, a total of 45,551 persons have come to Austria within the framework of family reunification under the Asylum Act and the Settlement and Residence Act, with the majority of family reunification procedures being conducted under the Settlement and Residence Act (see [Table 1](#)). The residence of family members granted within the framework of family reunification in the years since 2022 has accounted for – in some cases significantly – less than half of the total number of the granted residence permits or protection statuses.

11 See for example Art. 8 Convention for the Protection of Human Rights and Fundamental Freedoms, FLG. No. 210/1958 in the version of the Federal Act FLG. III No. 171/2023; Art. 7 Charter of Fundamental Rights of the European Union. OJ C 326, pp. 391–407.

12 Settlement and Residence Act, FLG. I No. 100/2005 in the version of the Federal Act FLG. I No. 67/2024.

13 Asylum Act 2005, FLG. I No. 100/2005 in the version of the Federal Act FLG. I No. 67/2024.

As described in detail in the following sections, the two systems of family reunification differ significantly in some cases. The text passages that deal exclusively with family reunification under the Settlement and Residence Act or the Asylum Act are highlighted in colours (yellow for the Settlement and Residence Act, green for the Asylum Act) for easier orientation.



Text passages referring to the
Settlement and Residence Act



Text passages referring
to the Asylum Act

2. STATISTICAL OVERVIEW OF FAMILY REUNIFICATION IN AUSTRIA

In the observation period (2022–2024) there were more family reunifications under the Settlement and Residence Act than under the Asylum Act.

The availability of comparable data on family reunification in Austria is limited, so that only a limited comparison of the two types of family reunification is possible. There are no publicly available data on the total number of applications for family reunification under the Settlement and Residence Act, nor on the number of negative decisions. However, data are available on the number of **positive decisions** on

family reunification. In the case of family reunification under the Asylum Act, the number of **applications for family reunification after an entry permit was issued** that were submitted each year during the period covered by the study is publicly available. Data about positive decisions on international protection (asylum and subsidiary protection), however, are only available to a limited extent from 2022 onward and are not disaggregated by sex. The number of applications for entry permits submitted to Austrian representation authorities are not available.

Table 1 below presents the relation between the residence permits granted for family reunification under the Settlement and Residence Act and under the Asylum Act. Figures are only given for the period between 2022 and 2024, as comparable data were not available for the whole period covered by the study. However, it is clear from the table that family reunification under the Asylum Act is of secondary importance compared to family reunification under the Settlement and Residence Act in the years 2022 and 2023 – accounting for 34 per cent in 2022, 45 per cent in 2023. Only in 2024, family reunification under the Asylum Act exhibited a slightly larger share (51 %) than family reunification under the Settlement and Residence Act.

Table 1: Number of residence permits or protection statuses granted for family reunification between 2022 and 2024

	2022		2023		2024	
	absolute	relative	absolute	relative	absolute	relative
Family reunification under the Settlement and Residence Act	7 061	66%	9 070	55%	9 018	49%
Family reunification under the Asylum Act	3 597	34%	7 459	45%	9 346	51%
Total	10 658	100%	16 529	100%	18 364	100%

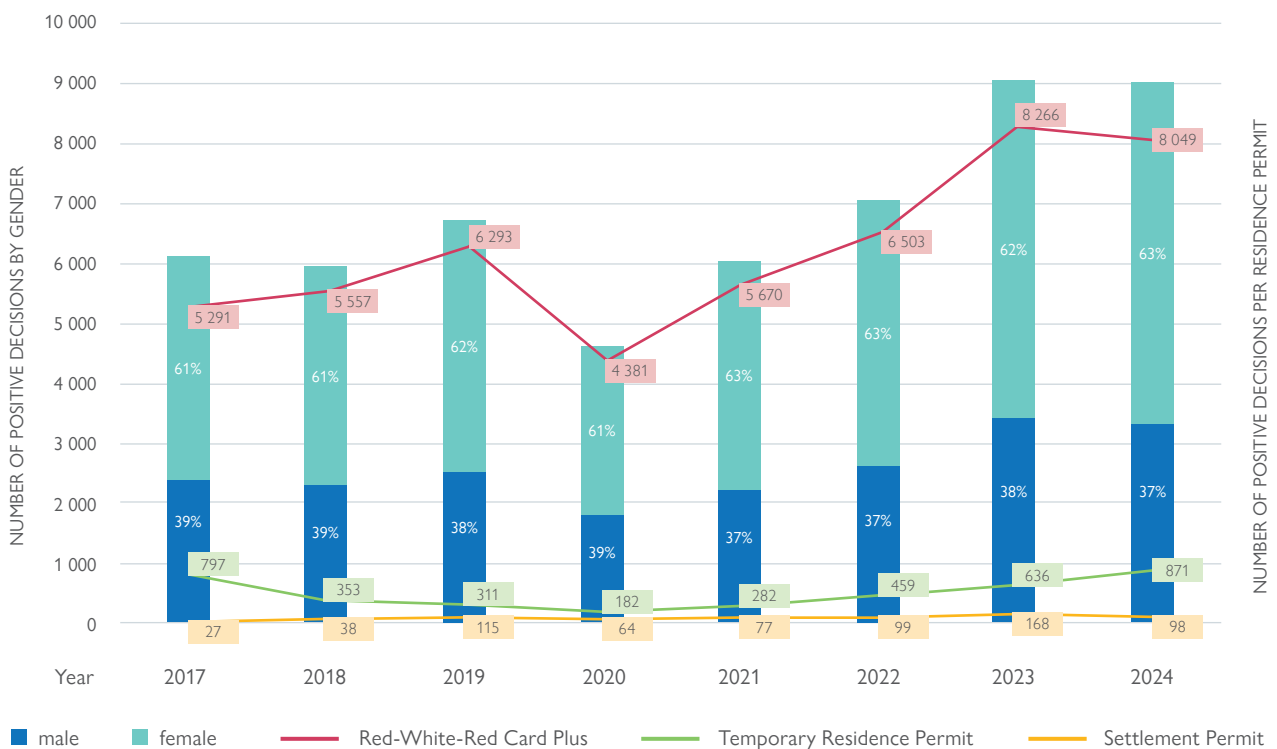
Source: Data provided by the Federal Ministry of the Interior, 29 November 2024 and 27 March 2025. Percentage figures are rounded.

2.1. Family reunification under the Settlement and Residence Act

As shown in [Figure 1](#), there were just over 6,000 positive decisions on family reunification under the Settlement and Residence Act in 2017. The number fell slightly the following year but increased significantly in 2019. In 2020, during the COVID-19 pandemic, there was a marked drop (Ebner, 2021:6). The number of positive decisions began to rise steadily again in 2021, reaching a record high of 9,070 in 2023. In 2024 the number of positive decisions decreased slightly and was lower than in 2023.

Measured against the total number of first residence permits granted, the proportion of residence permits in the context of family reunification was around 25 per cent in the 2017-2024 observation period. The only exceptions were the years 2021 (18 %) and 2023 (26 %). The residence permits issued for family reunification under the Settlement and Residence Act have primarily enabled women and girls to move to Austria. During the period covered by the study their share ranged from around 60 per cent (2020) to 63 per cent (2024). The specific residence permit (Red-White-Red Card Plus, temporary residence permit, or settlement permit) that family members receive depends on the sponsor's residence permit (see [Annex 2](#) for a detailed overview). Between 2017 and 2024, family members in Austria were predominantly issued a Red-White-Red Card Plus. The number of temporary residence permits and settlement permits issued was significantly lower (see [Figure 1](#)).

Figure 1: Number of positive decisions on family reunification under the Settlement and Residence Act between 2017 and 2024, disaggregated by sex and type of residence permit issued



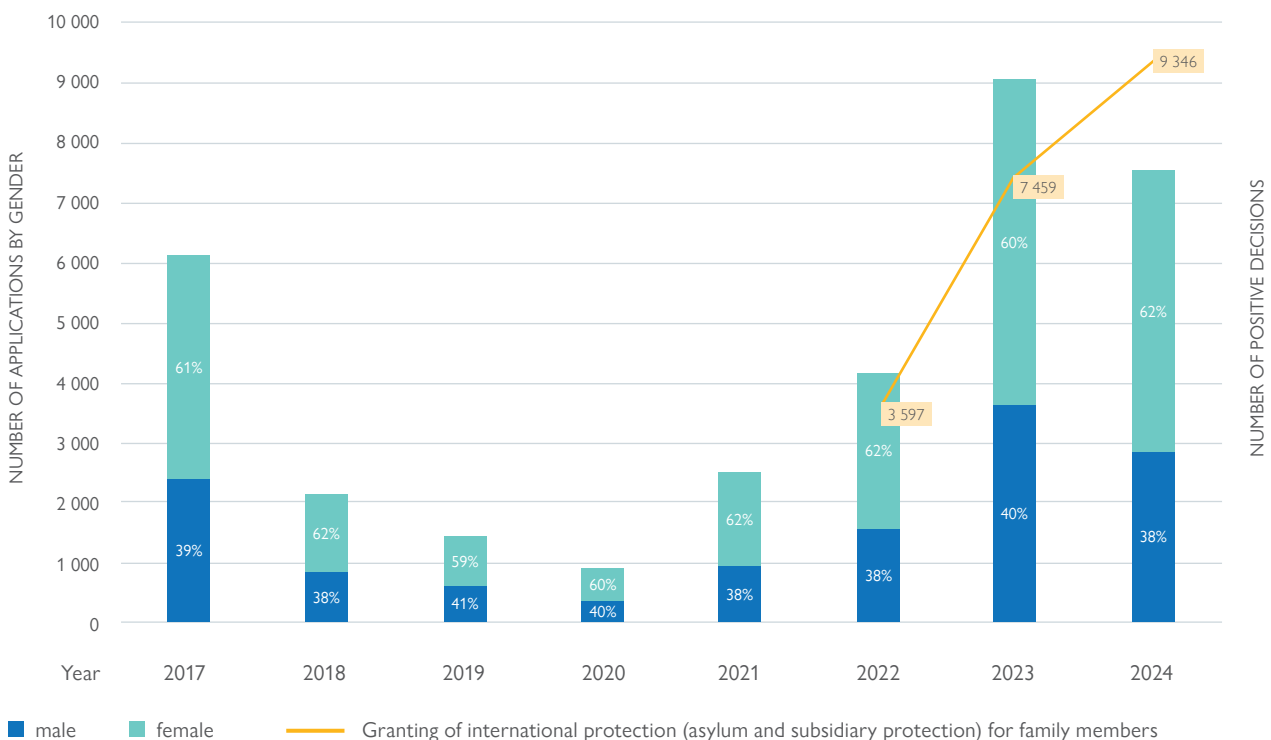
Note: The figures on residence permits issued consolidate the different legal bases for granting each category of permit. Percentage figures are rounded.
Source: Data provided by the Federal Ministry of the Interior, 29 November 2024 and 27 March 2025.

2.2. Family reunification under the Asylum Act – Asylum application after an entry permit was issued

As shown in Figure 2, there were just over 6,000 asylum applications after an entry permit was issued (Art. 35 Asylum Act) in 2017. Subsequently, the number of applications declined steadily, falling in 2020 during the COVID-19 pandemic to fewer than 1,000 (Ebner, 2021:13). There was a significant increase again from 2021 onwards, with the number of applications reaching a preliminary record high of more than 9,000 in 2023. In 2024, the number of asylum applications after an entry permit was issued declined again significantly.

The number of protection statuses granted for family reunification accounted for 18 per cent of all international protection statuses granted in 2022, 29 per cent in 2023 and 38 per cent in 2024. As in the case of family reunification under the Settlement and Residence Act, the majority of these protection statuses were granted to female family members. In the period covered by the study, the share of women and girls ranged from 59 per cent in 2019 to 62 per cent in 2018.

Figure 2: Asylum applications following permission to enter the country under Art. 35 Asylum Act 2005 between 2017 and June 2024 by gender and protection status granted



Note: No figures are available on the granting of international protection from 2017 to 2021. Percentage figures are rounded.
Source: Data provided by the Federal Ministry of the Interior, 29 November 2024 and 27 March 2025.

3. LEGAL AND POLICY DEVELOPMENTS IN RELATION TO FAMILY REUNIFICATION IN AUSTRIA

This section is dedicated to the legal and political changes to family reunification in Austria. The legal regulations on family reunification – under both the Settlement and Residence Act and the Asylum Act – were amended several times in the period covered by the study (January 2017 until March 2025). This section focuses, among other things, on developments in connection with the events in the Syrian Arab Republic in December 2024 and their impact on family reunification under the Asylum Act.

In the context of family reunification under the Settlement and Residence Act, the Act Amending the Aliens Law 2017¹⁴ is of particular relevance. It sets out quota requirements¹⁵ for family members of sponsors with specific residence permits. The annual quotas (quota places) defined in the Settlement Regulation¹⁶ limit the number of residence permits that can be issued.¹⁷ In order to make Austria more attractive to skilled workers from abroad,¹⁸ a new option was introduced in 2022, enabling employers to submit the application for a residence permit for family members at the same time as the application for the (employed) sponsor in Austria (Art. 20d para. 1 Act Governing the Employment of Foreign Nationals).¹⁹

In the case of family reunification under the Asylum Act, as of the Act Amending the Aliens Law 2017 a person residing in Austria who is a family member of a beneficiary of international protection can be granted international protection status regardless of whether family life can be continued in another country (Art. 34 para. 2 and 3 Asylum Act 2005). Furthermore, there have been changes to the costs associated with the family reunification of beneficiaries of international protection under the Asylum Act. The previous exemption from consular fees for official procedures under the Asylum Act has been changed so that applications for entry permits are no longer exempt (Art. 2 para. 1 subpara. 4 Consular Fees Act 1992).²⁰

In addition to the legislative changes, also political decisions had an impact on the practical implementation of family reunification under the Asylum Act. In May 2024, the Austrian Federal Chancellor announced that documents would be examined more closely and more DNA analysis would be carried out (Der Standard, 2024b). Both measures were subsequently implemented by decrees (Federal Ministry of the Interior, 2024e). The background to this decision was, on the one hand, the strain on kindergartens and schools, especially in Vienna, which was attributed to the increased number of children joining their families in Austria, and on the other, the objective of the Federal Minister of the Interior to tackle irregular migration and reduce the number of applications for international protection in Austria (Ammann, 2024:32; Federal Ministry of the Interior, 2024f). As a result of these new requirements, the Federal Office for Immigration and Asylum

14 Act Amending the Aliens Law 2017, FLG. I No. 84/2017.

15 The quota obligation may be waived for reasons related to the right to private and family life (Art. 46 para. 2 in conjunction with Art. 11 para. 3 Settlement and Residence Act; Abermann et al., 2019:739).

16 Regulation on the Implementation of the Settlement and Residence Act, FLG. II No. 451/2005 in the version of the regulation FLG. II No. 55/2024.

17 A certain quota of residence permits is issued per year and province. The Settlement Regulation 2024 (FLG. II No. 170/2024) provides for a total of 5,420 quota places for family reunification in Austria.

18 Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024.

19 Act Governing the Employment of Foreign Nationals, FLG. No. 218/1975 in the version of the Federal Act FLG. I No. 67/2024.

20 Budget Accompanying Act 2018–2019, FLG. I No. 30/2018.

requested 12 Austrian representation authorities²¹ to return positive probability assessments (see [Section 4.6.](#)) for which no visa D has been issued yet. In total, 1,123 proceedings were reviewed (Federal Ministry of the Interior, 2024b). In addition, since the announcement in May 2024 to increase the number of DNA analysis carried out (Federal Ministry of the Interior, 2024e),²² there was a five-fold increase²³ by summer 2024 compared to the beginning of 2024.²⁴ In addition, the authenticity and accuracy of documents submitted by applicants as proof of identity have been checked even more thoroughly since then, as the authorities have observed an increase in the use of falsified documents (Der Standard, 2024a; ORF.at, 2024a).²⁵ The rejection of 131 applications for family reunification was based on a DNA analysis in only one case. In the remaining cases, subsequent translations of documents had raised concerns (Krutzler, 2024). The new approach drew criticism from such sources as parliamentary parties and UNHCR Austria (ORF.at, 2024b). For the family members affected, it led to increased costs, procedural delays and, in some cases, the loss of flight tickets that had already been booked.²⁶

Moreover, the case law of the Court of Justice of the European Union (CJEU) on family reunification has contributed significantly to changes in Austrian case law and administrative practice. The Supreme Administrative Court changed its case law in 2020 as a result of a CJEU ruling (CJEU, 2020), establishing that the relevant date for assessing whether a person is considered a minor for the purpose of family reunification under the Settlement and Residence Act is the date on which the application is submitted (Supreme Administrative Court, 2020h). Previously, the Supreme Administrative Court held the view that the relevant date in this scenario was the date on which the decision on family reunification was taken (Bauer, 2022; Supreme Administrative Court, 2018e).

Unaccompanied minors with asylum status have the right to family reunification with their parents, even if they reach adulthood during the asylum procedure or the family reunification procedure.

Another change was made in response to a CJEU ruling (CJEU, 2018a) on the family reunification of unaccompanied minors granted asylum who reach the age of majority during ongoing asylum procedures.²⁷ In view of the CJEU case law, the Supreme Administrative Court ruled that persons granted asylum who have reached the age of majority may bring their parents to Austria under the Settlement and Residence Act within three months of

being granted asylum. Provided that the application is submitted within this three-month period, there is no need to prove that the eligibility requirements set out in the Settlement and Residence Act (legal right to accommodation, health insurance that covers all risks, and sufficient means of subsistence; see [Section 4.4.](#)) have been met (“facilitated family reunification”;²⁸ Supreme Administrative Court, 2021a,

21 Specifically, this concerned the representation authorities in Abu Dhabi, Addis Ababa, Amman, Ankara, Beirut, Cairo, Damascus, Islamabad, Istanbul, Nairobi, Riyadh and Tehran (Federal Ministry of the Interior, 2024b).

22 The aim was to carry out DNA analysis on 50 per cent of applications for family reunification (Federal Ministry of the Interior, 2024e).

23 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 15 May 2025.

24 In July and August 2024, 15 per cent of all applications for family reunification were checked with DNA analysis (Federal Ministry of the Interior, 2024f).

25 Written input: Ministry of the Interior, Department V/B/8 (Asylum), 14 November 2024.

26 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

27 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024.

28 Within the meaning of Art. 10 para. 3 of the Family Reunification Directive (Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. OJ L 251, pp. 12–18).

2024b). If there are objectively justified reasons, the application may also be submitted more than three months after asylum has been granted.²⁹ According to the Supreme Administrative Court – also in view of the case law of the CJEU – family reunification must also be facilitated if an unaccompanied minor entitled to asylum reaches the age of majority during the family reunification procedure. However, in this case, the applicant parent(s) are referred to the Settlement and Residence Act (Supreme Administrative Court, 2018c).

With a view to the future Federal Government to be formed following the National Council election in September 2024, UNHCR Austria published a series of recommendations. These included also recommendations on family reunification, such as simplifying the procedures or abolishing the three-year waiting period (see [Section 4.2.](#)) for family reunification in the case of beneficiaries of subsidiary protection status (UNHCR Austria, 2024a). The newly formed Federal Government, consisting of the Austrian People's Party, the Austrian Social Democratic Party and NEOS - The New Austria and the Liberal Forum, was appointed in March 2025. Its government programme contains several references to family reunification and provides, among other things, that family reunification (with beneficiaries of international protection) should be temporarily halted with immediate effect in accordance with Art. 8 ECHR. In addition, family reunification following marriage – as already stipulated in the Settlement and Residence Act – should only be possible from the age of 21 (and not from the age of 18 as previously) and a mandatory age assessment should be carried out for minors seeking family reunification. There are also plans to regulate the family reunification of (formerly) unaccompanied minors who have reached the age of majority in the Asylum Act and to offer German and cultural orientation programmes in the countries of origin. Finally, an amendment to the Family Reunification Directive is aspired at EU level (Austrian People's Party, the Austrian Social Democratic Party, NEOS - The New Austria and the Liberal Forum, 2025:70, 72–73). Particularly the planned temporary halt to family reunification was discussed in the media (Brickner, 2025; Die Presse, 2025; ORF.at, 2025), viewed by different actors with concern (IOM Austria, UNHCR Austria, Austrian Committee for UNICEF, 2025; UNHCR Austria, 2025; UNICEF Austria, 2025; Volkshilfe, 2025) or criticized as contradictory to human rights (Amnesty International Austria, 2025; Diakonie Flüchtlingsdienst, 2025). Nevertheless, on 12 March 2025, the Council of Ministers decided, among other things, to take all necessary steps at EU and national level, including the adaptation of national legal regulations taking into account the case law of the CJEU, to temporarily stop family reunification with immediate effect. This step was justified by the Federal Government on the grounds of system overload in the education, health and social sectors. As a basis for a future quota system for family reunification, an integration barometer is also to be developed which will map the capacities of individual systems (including internal affairs, education, health, social affairs, housing, labour market, economy, demographic parameters (Federal Chancellery n.d.; Federal Chancellery and Federal Ministry of the Interior, 2025). In view of the influx of pupils who came to Austria via family reunification as of 2023, the Council of Ministers also decided on 19 March 2025 to establish orientation classes. These are intended to teach children and adolescents about the Austrian school system, German as the language of instruction and the basic values and rules of living together in Austria before they enter regular school or German support classes (Federal Chancellery and Federal Ministry of the Interior, 2025). In implementation of

²⁹ An objectively excusable reason is, for example, if the Supreme Administrative Court has not yet ruled on the possibility of such an application at this point in time (Supreme Administrative Court, 2024b, 2024c).

this decision by the Council of Ministers on 12 March 2025, the governing parties submitted a motion to amend the Asylum Act to the National Council on 26 March 2025 (Austrian Parliament, 2025b), which was adopted by the National Council of 25 April 2025 (Austrian Parliament, 2025a) and confirmed by the Federal Council on 8 May 2025 (Austrian Parliament, 2025c). With this amendment to the law, the possibility was created to suspend the authority's obligation to make a decision in asylum proceedings (six months, Art. 73 para. 1 of the General Administrative Procedure Act 1991)³⁰ for the period of validity of the regulation by means of a regulation (so-called “deadline suspension”) in the event of a threat to public order and internal security.³¹ While it is still possible to submit an application, the period for which the regulation is valid is not included in the authority's six-month decision period. An exception exists if a decision on the application within six months is mandatory under Art. 8 ECHR. This proposed amendment was discussed both politically (Parliamentary Administration, 2025) and in the media. The debates focused in particular on the compatibility of the proposed regulation with EU law and human rights (Der Standard, 2025; Griller, 2025).

In the implementation of the European Union's Migration and Asylum Pact by June 2026 (European Commission, 2024b), especially with regard to the Qualification Regulation (2024/1347),³² changes are possible, which are currently under review according to the Federal Ministry of the Interior.³³

The day after the collapse of the Syrian regime in early December 2024, Austria announced that it would pause all asylum procedures for Syrian nationals and suspend family reunion – at the time, this involved 1,146 cases (Brickner and Tomaselli, 2024; ORF.at, 2024d). Procedures to withdraw the asylum status of Syrians granted asylum who had been beneficiaries of protection in Austria for less than five years (Peterlik, 2024) were introduced in mid-December 2024. This is likely to have an impact on family reunification since the introduction of a withdrawal procedure is contrary to family reunification.³⁴ Even if this procedure does not ultimately lead to the withdrawal of protection status, it does have disadvantages for family members. For example, the application fees must be paid again if an application for family reunification has already been submitted. If the period of three months after being granted asylum expires before the (renewed) application is submitted, the eligibility requirements must be met (see [Section 4.4.](#)) and children who have reached the age of majority in the meantime can no longer join the family (Bernhart, 2019:25). According to media reports around 40,000 Syrians with international protection status in Austria are potentially affected by the withdrawal procedures (Peterlik, 2024). From December 2024 until end of February 2025, 3,286 withdrawal procedures were initiated and family reunification was still paused (Federal Ministry of the Interior, 2025).³⁵ In the wake of these developments, concerns were expressed in public discourse about this hasty reaction during an unstable period of transition (Asylkoordination, 2025; ORF.at, 2024d; UNHCR Austria, 2024b). It should also be noted

30 General Administrative Procedures Act 1991, FLG. No. 51/1991 in the version of the Federal Act FLG. I No. 88/2023.

31 Based on the “emergency clause” pursuant to Art. 72 of the Treaty on the Functioning of the European Union (Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union. OJ C 202, pp. 1–388).

32 Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 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, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council. OJ L, 2024/1347.

33 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 15 May 2025.

34 Art. 35 para. 4 subpara. 1 Asylum Act 2005.

35 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 15 May 2025.



that Syrians were the largest group of applicants (between 79% and 90% of all applicants)³⁶ for family reunification in the area of asylum in the years 2022 to 2024 (Federal Ministry of the Interior, 2023:5; Federal Ministry of the Interior, 2024c:5; Federal Ministry of the Interior, 2025b:5). Due to the measures described above, which exclusively affect the largest group of applicants, an overall significant decline in family reunification in the area of asylum is to be expected.

³⁶ Ibid.

4. FAMILY REUNIFICATION UNDER THE SETTLEMENT AND RESIDENCE ACT AND UNDER THE ASYLUM ACT

There are two systems of family reunification in Austria, depending on whether the Settlement and Residence Act or the Asylum Act is applicable. Both systems of family reunification are described in detail in the following sections.

Infobox 1: Family reunification under the Settlement and Residence Act

Family members of a third-country national who holds an Austrian residence permit can apply in person for a residence permit for family members at their local Austrian representation authority abroad (embassy or consulate; hereinafter referred to as representation authority) provided that there are no exemptions regarding application in Austria. The applicant(s) must wait abroad for the decision to be made. The representation authority receives the application, checks that it is complete, records the applicant's biometric data and forwards the documents to the competent authority in Austria for processing and a decision. If, after verifying that the requirements have been met,³⁷ the settlement and residence authority concludes that the applicant is to be granted a residence permit, it must inform the representation authority. If the applicant requires a visa to enter the country, the representation authority will, upon request, issue a visa with a four-month validity period. The residence permit is subsequently handed over in person by the authority in Austria (Art. 3, 19, 22 and 23 Settlement and Residence Act, Art. 21 in conjunction with Art. 25 para. 1 Aliens Police Act, Federal Ministry for European and International Affairs, 2024).

Infobox 2: Family reunification under the Asylum Act

Family members of a third-country national who has been granted international protection status in Austria can apply for a visa at an Austrian representation authority abroad (embassy or consulate; hereinafter referred to as representation authority) in order to apply for international protection in Austria ("asylum application after issuance of an entry permit"). The representation authority simply verifies that the documents are complete and informs the Federal Office for Immigration and Asylum, which then checks whether the family member's application for international protection is likely to be granted (Federal Ministry for European and International Affairs, 2024:2).³⁸ The Federal Office for Immigration and Asylum informs the representation authority of the result of the assessment. If the

37 This requires first the fulfilment of the general requirements (see [Section 4.4.](#)) as well as the absence of obstacles to issuing the permit. These obstacles are (Art. 11 para. 1 Settlement and Residence Act): the existence of a valid entry ban or exclusion order (subpara. 1), a return decision (subpara. 2 and 3), a marriage, partnership or adoption of convenience (subpara. 4), an exceedance of the duration of the authorized visa-free or visa-required stay (subpara. 5), a final punishment in the last twelve months for evading border control or unlawful entry into the federal territory (subpara. 6). Second, the special requirements – in the specific case, the status of family member – must be met.

38 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

Federal Office for Immigration and Asylum comes to the conclusion that an application for international protection is likely to be granted under the family procedure after the applicant has entered Austria and the necessary additional requirements have been met, the representation authority will issue a visa for entry into Austria with a four-month validity period. The family member can then apply for international protection in Austria under the family procedure in order to obtain the same protection status as the sponsor. The Austrian family procedure is based on the principle that all family members should be granted the same protection status (see also [Section 4.6.](#); Art. 34 and Art. 35 Asylum Act 2005, Art. 26 Aliens Police Act, Federal Office for Immigration and Asylum, n.d.; Austrian Parliament, 2005:54).

4.1. Group of family members eligible to apply for family reunification and sponsors

To be able to submit an application for family reunification with a prospect of success, the status as a family member of a person lawfully residing in Austria (so-called “sponsor”) is decisive. This status is derived from the family relationship to the sponsor. Depending on the legal basis for family reunification, the following persons can qualify as sponsors in Austria and accordingly, the group of eligible family members is defined more or less broadly. For an overview of the persons eligible for family reunification see [Annex 1](#).

Possible sponsors under the Settlement and Residence Act are (Art. 2 para. 1 subpara. 9 Settlement and Residence Act):

- Parent of an unmarried minor child residing outside Austria;
- Spouse/registered partner of the person residing outside Austria, provided they are over age 21 at the time of application;
- According to case law, persons granted asylum who have reached the age of majority can also be sponsors under the “facilitated family reunification scheme” (see explanations below and [Section 3](#)).

In Austria, the provisions of the General Civil Code³⁹ are applied in order to determine whether a child is a minor. According to these provisions, a child reaches the age of majority on their 18th birthday (Art. 21 para. 2 General Civil Code). According to the recent case law of the Supreme Administrative Court, the date of application is decisive for determining minority status (Supreme Administrative Court, 2020h).

Regarding marriage or registered partnership it is essential under the Settlement and Residence Act that the marriage or registered partnership exists at the time of the authority’s decision (Supreme Administrative Court, 2018e). This means that family reunification is possible even if the marriage or registered partnership was only contracted after the sponsor had entered Austria (Asylkoordination, 2024b:1). However, applicants may not rely to gain or retain a residence permit on the basis of a marriage for the purpose of residence (also known as a marriage of convenience), or a partnership or adoption for the purpose of residence (Art. 30 Settlement and Residence Act). The existence of a marriage or partnership of convenience is determined by the absence of family life as defined in Art. 8 ECHR. Fraudulent intent does not have to

39 General Civil Code, Collection of Laws No. 946/1811 in the version of the Federal Act FLG. I No. 33/2024.

exist (Supreme Administrative Court, 2020g). An adoption of convenience is classed as an adoption for the sole or main purpose of gaining or retaining a residence permit. The existence of a marriage, partnership or adoption of convenience is a general barrier to the approval of a residence permit (Art. 11 para. 1 subpara. 4 Settlement and Residence Act). This, in turn, prevents the issuance and renewal of residence permits for family reunification purposes (Art. 25 para. 1, Art. 46 para. 1 and Art. 69 para. 1 in conjunction with Art. 11 para. 1 subpara. 4 Settlement and Residence Act; Supreme Administrative Court, 2023c). The specific residence permit held by the sponsor is thereby of secondary importance, since almost anyone⁴⁰ residing lawfully in Austria on the basis of a residence permit or temporary residence permit (Art. 8 Settlement and Residence Act) can act as a sponsor provided that they qualify as a family member (Art. 46 Settlement and Residence Act). The type of residence permit that family members receive will depend on the sponsor's residence permit (see [Annex 2](#) for a detailed overview).

Possible sponsors under the Asylum Act are (Art. 35 para. 5 Asylum Act):

- Parent of an unmarried child residing outside Austria who is a minor at the time of application;
- Spouse/registered partner of the person residing outside Austria, provided that the marriage/registered partnership was contracted before the sponsor first entered Austria (regarding the plans for determining a minimum age limit see the details on the government programme provided in [Section 3](#).);
- Minor child.

In order to determine whether a child is a minor, the provisions of the General Civil Code⁴¹ are applied in Austria. According to these provisions, a child reaches the age of majority on their 18th birthday (Art. 21 para. 2 General Civil Code). This is also in line with the Qualification Regulation, according to which anyone under age 18 is considered to be a minor.⁴² With regard to the point in time at which the child must be a minor, the Asylum Act distinguishes between two scenarios:

- If one or both parents of an unmarried minor child who is a beneficiary of international protection in Austria apply for an entry permit in order to submit an application for international protection, the child must be a minor on the **date of the decision** about the entry permit (Supreme Administrative Court, 2018d; see also [Section 3](#).).
- Conversely, if an unmarried minor child of parent(s) who are beneficiaries of international protection in Austria applies for an entry permit for family reunification, it is sufficient for the child to be a minor on the **date of application** (Art. 35 para. 5 Asylum Act 2005).

Under the Asylum Act, a marriage or registered partnership must have been contracted before the sponsor first entered Austria (Art. 35 para. 5 Asylum Act 2005, Supreme Administrative Court, 2020a). If a person granted asylum or a beneficiary of subsidiary protection status enters a marriage or registered partnership only

⁴⁰ However, this does not apply to persons with a "Family Member" residence permit.

⁴¹ General Civil Code, Collection of Laws No. 946/1811 in the version of the Federal Act FLG. I No. 33/2024.

⁴² Art. 3 subpara. 10 Qualification Regulation (Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 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, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council. OJ L, 2024/1347).

after arriving in Austria, the stricter provisions⁴³ of the Settlement and Residence Act apply (Asylkoordination, 2024a:2). Like under the Settlement and Residence Act, marriages, partnerships and adoptions of convenience are also a barrier to family reunification under the Asylum Act (Art. 34 para. 6 subpara. 3 Asylum Act 2005).

4.2. Application

Applications for family reunification are submitted to the Austrian representation authority abroad. There is no waiting period for family reunification under the Settlement and Residence Act. Family members of persons entitled to asylum must submit an application for entry no later than three months after being granted asylum status (to the sponsor), otherwise further requirements for family reunification apply. Family members of persons with subsidiary protection may apply for entry at the earliest three years after the granting of protection status (to the sponsor).

Under both the Settlement and Residence Act and the Asylum Act, family reunification is initiated when an application is submitted to the Austrian representative authority abroad (Art. 19 para. 1 Settlement and Residence Act; Art. 35 Asylum Act; Federal Office for Immigration and Asylum, n.d.). The application can be submitted by family members or by persons authorized by them. In the procedure under the Settlement and Residence Act, the representation authority abroad receives the application, checks the documents for completeness (Art. 21f Settlement and Residence Act) and takes the biometric data of the applicant (Art. 19 para. 4 Settlement and Residence Act, (Federal Ministry for European and International Affairs, 2024).⁴⁴ The documents are then sent to the competent authority in Austria, which is responsible for the content-

related processing of the application. According to the Settlement and Residence Act, the competent authorities are the provincial governors (Art. 3 para. 1 Settlement and Residence Act). The procedure for family reunification under the Asylum Act is regulated differently. The family members submit an application for an entry permit, about which the domestic authority – the Federal Office for Immigration and Asylum (Art. 3 para. 2 subpara. 1 Federal Office for Immigration and Asylum Procedures Act)⁴⁵ – is informed. In the next step, the Federal Office for Immigration and Asylum carries out the probability assessment (see [Section 4.6.](#)) and informs the representation authority of the result. The representation authority forwards the application documents electronically to the competent domestic authority.⁴⁶

The Settlement and Residence Act stipulates that applications for a residence permit – and therefore also applications under the family reunification programme – must be submitted to the authorities in person. However, also employers of the sponsor are able to submit applications for family members in certain cases.⁴⁷ Initial applications must be submitted to the local competent Austrian representation authority abroad prior

⁴³ In the case of persons granted asylum, a quota place must therefore be available ([Section 3.](#)) and the granting prerequisites ([Section 4.4.](#)) must be met. As the Settlement and Residence Act does not provide for family reunification of beneficiaries of subsidiary protection status, family reunification via the Settlement and Residence Act can only take place after the beneficiary of subsidiary protection status has acquired a “Permanent Residence – EU” permit after five years of residence (Art. 46 para. 1 subpara. 2 (a) in conjunction with Art. 45 para. 12 Settlement and Residence Act; Supreme Administrative Court, 2021d).

⁴⁴ In the case of applicants for international protection, the Federal Office for Immigration and Asylum is responsible for identification (Art. 24 para. 1 Federal Office for Immigration and Asylum Procedures Act).

⁴⁵ Federal Office for Immigration and Asylum Procedures Act, FLG. I No. 87/2012 in the version of the Federal Act FLG. I No. 134/2024.

⁴⁶ Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

⁴⁷ This applies to a simultaneous application for the employee and their family members in the admission procedure for the Red-White-Red Card, the EU Blue Card, and the Settlement Permit Artist (Art. 20d Act Governing the Employment of Foreign Nationals).

to entering Austria and the applicant must wait abroad for the decision to be made (Art. 19 para. 1 and Art. 21 para. 1 Settlement and Residence Act). The competent local authority is determined by the family members' area of residence (Art. 5 para. 1 Settlement and Residence Act). In some cases, applications can be submitted in Austria (Art. 21 para. 2 Settlement and Residence Act) and in addition, the authorities may allow applications to be filed in Austria where a justified case can be made (Art. 21 para. 3 Settlement and Residence Act).⁴⁸ As there is no waiting period, family members can apply for family reunification immediately after the sponsor received their residence permit.

Information sources for applicants

In Austria, the Federal Ministry of Labour and Economy, the Federal Ministry of the Interior and the Federal Ministry for European and International Affairs operate the website www.migration.gv.at, which also provides information on family reunification under the Settlement and Residence Act. The websites of the competent authorities at provincial level link to this central website⁴⁹ and, in some instances, offer further information (e.g. www.wien.gv.at). The authorities may also provide advice over the telephone regarding the documents required when submitting an application.⁵⁰ It can, however, be difficult for family members in the country of origin to access information, as this is often only available in German or only partially in English. The advice centres in Austria, such as the Counseling Center for Migrants in Vienna, are therefore the most important points of contact for sponsors and their family members wishing to obtain information.⁵¹

The application of family members of beneficiaries of international protection in Austria who are living abroad are to be submitted to an Austrian representation authority entrusted with consular duties. The question of whether the applicant is (lawfully) resident in the country in question is not relevant (Austrian Parliament, 2018:25). A written application can also be submitted via email and is often needed for compliance with the three-month deadline for facilitated family reunification of persons granted asylum (see below).⁵² However, applicants may then be required to attend an in-person interview at the request of the representation authority (Art. 11 para. 1 Aliens Police Act 2005; Lukits, 2016:39).

In contrast to the Settlement and Residence Act, the application is aimed at the issuance of an entry permit for the purpose of submitting an application for international protection. Since the Austrian family procedure is based on the principle that all family members receive the same protection status (Eppel and Reyhani, 2016:register 2, chapter 9.1), the family member can subsequently submit an application for international protection in Austria in the family procedure to obtain the same protection status as the sponsor.

48 This requires that no obstacle in accordance with Art. 11 para. 1 subpara. 1, 2, or 4 Settlement and Residence Act to issuing a residence permit exists, and, in the case of unaccompanied minors, in order to safeguard the child's welfare or to maintain private and family life within the meaning of Art. 8 ECHR (Art. 11 para. 3), that the foreigner's departure from Austria for the purpose of submitting the application is demonstrably impossible or unreasonable (Art. 21 para. 3 Settlement and Residence Act).

49 Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

50 Written input: Office of the Burgenland Provincial Government, 23 December 2024.

51 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

52 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024 See also [Section 6.2](#).

Three-months deadline and waiting period

While there is no waiting period in Austria for family reunification under the Settlement and Residence Act, the Asylum Act distinguishes depending on the international protection status granted:

- If the sponsor has been granted asylum in Austria, there is **no waiting period** and the application for an entry permit for the purpose of applying for international protection may be made as soon as asylum status is granted. If the application is made more than **three months** after asylum status is granted further requirements (accommodation, health insurance, sufficient income) must be met, unless the sponsor is an unaccompanied minor (Art. 35 para. 1 and 2 in conjunction with Art. 60 para. 2 subpara. 1–3 Asylum Act; see [Section 3.](#) and [Section 4.4.](#)).
- If the sponsor was granted subsidiary protection in Austria, an application for an entry permit for the purpose of applying for international protection may only be lodged a **minimum of three years** after the final granting of subsidiary protection. While the Commission on the Best Interests of the Child is of the opinion that the waiting period contravenes the United Nations Convention on the Rights of the Child (Commission on the Best Interests of the Child, 2021:224), the Constitutional Court – also in view of the case law of the European Court of Human Rights⁵³ – has no constitutional objection to this provision (Constitutional Court, 2022), arguing that the often temporary nature of the circumstances that justify subsidiary protection (e.g. poor security situation, civil war-like conditions) means that the residence of beneficiaries of subsidiary protection status is also temporary.⁵⁴ Only after the three-year period has expired is the stay no longer considered provisional (Constitutional Court, 2018b). Critics of this legal opinion view the waiting period as violation of the right to family life (Art. 8 ECHR; Czech, 2021). In 2023, the Federal Administrative Court ruled that applications made before the end of the waiting period should not be rejected outright but must be considered on a case-by-case basis in accordance with Art. 8 ECHR (Federal Administrative Court, 2023).

Information sources for applicants

Information on family reunification in accordance with the Asylum Act is available on the website www.oesterreich.gv.at as well as on the websites of the Federal Ministry of the Interior (www.bmi.gv.at) and the Federal Office for Immigration and Asylum (www.bfa.gv.at). Information leaflets and similar documents are not provided to persons granted asylum and beneficiaries of subsidiary protection when this status is granted. The most important points of contact for beneficiaries of international protection status and their family members wishing to obtain information are therefore the relevant community/diaspora and the Austrian Red Cross with its provincial offices⁵⁵ which play a central role in the family reunification of beneficiaries of international protection throughout Austria – in particular through case-by-case counselling and support for sponsors and their families (Austrian Red Cross, n.d.). According to the expert from the Austrian Red Cross interviewed for this study, most people are aware that they should contact the Austrian Red Cross

⁵³ See also European Court of Human Rights, 9 July 2021, M.A. v. Denmark, 6697/18.

⁵⁴ Beneficiaries of subsidiary protection status initially receive a residence permit for one year in accordance with Art. 8 para. 4 Asylum Act, which is subsequently extended for two additional years, provided the requirements are met.

⁵⁵ Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024; Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

as soon as possible after being granted international protection, which they do in most cases. In addition, the communities are well connected, and information is shared via Facebook groups, for example.⁵⁶ A state family reunification support programme in Austria does, however, not exist.

4.3. Required documents

Applicant family members must prove their identity. If this is not possible, they must be allowed to undergo DNA analyses. These can only be carried out by institutions certified in Austria. Since 2020⁵⁷, DNA analyses have been increasingly used for family reunification.

In connection with the application, applicant family members must prove their identity and their status as family members. Thereby, the passport is the primary document used to verify the identity of the applicant (Art. 7 Regulation on the Implementation of the Settlement and Residence Act;⁵⁷ Art. 11 para. 1 Aliens Police Act 2005 in conjunction with Art. 19 para. 1 and Art. 10 para. 3 (b) Visa Code)^{58,59} and birth certificates are also accepted (Art. 7 Regulation on the Implementation of the Settlement and Residence Act).⁶⁰ To

proof the family relationship other civil status documents, in particular the birth certificate, the certificate of marriage or partnership, or the adoption agreement certificate (Art. 7 Regulation on the Implementation of the Settlement and Residence Act) are requested.⁶¹ In addition, checks may be carried out by lawyers trusted by the representation authority.⁶²

It should be noted that there are generally no restrictions on the types of evidence acceptable under Austrian administrative law. This means that any suitable material which can be used to establish the relevant facts can be used as evidence (Art. 46 General Administrative Procedures Act 1991). Apart from the documents mentioned above, also school certificates, photographs and videos (e.g. family photos and wedding videos) as well as interviews can therefore be submitted as evidence. How the competent authority determines a person's identity and whether they qualify as a family member is therefore dependent on the circumstances of each individual case (Lukits, 2016:41) whereas interviews are particularly relevant for family reunification under the Asylum Act. The information provided by the sponsor in Austria is checked for consistency with the information provided by the family member. Under certain circumstances, the Federal Office for Immigration and Asylum and the representation authority conduct simultaneous interviews in order to prevent collusion and to enable the results of both interviews to be compared.⁶³

If there are any doubts about the family relationship the authority is obliged to inform the applicants (Supreme Administrative Court, 2018a). If the applicants are unable to prove the alleged family relationship through

⁵⁶ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

⁵⁷ Regulation on the Implementation of the Settlement and Residence Act, FLG. II No. 451/2005 in the version of the regulation FLG. II No. 55/2024.

⁵⁸ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code). OJ L 243, 15.9.2009, pp. 1–58.

⁵⁹ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024; Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

⁶⁰ Written input: Office of the Styrian Provincial Government, Residence and Security Department, 29 November 2024.

⁶¹ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024; Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

⁶² Written input: City of Vienna, 18 December 2024.

⁶³ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

other means, such as acceptable documents or equivalent forms of evidence, they must be permitted to undergo a DNA analysis (Art. 29 Settlement and Residence Act; Art. 13 para. 4 Federal Office for Immigration and Asylum Procedures Act). Such DNA analyses have been increasingly used for family reunification under the Asylum Act since early 2024 (see [Section 3](#)). DNA analyses may only be carried out by Austrian appointed medical doctors in certified facilities, for example representation authorities or approved hospitals.⁶⁴ This may lead to an increased administrative effort for applicants, as for example in the case of the Syrian Arab Republic and Lebanon, where only one certified facility currently exists in Beirut (Krutzler, 2024).

The use of falsified documents with the aim of obtaining a residence permit is punishable in Austria as falsification of documents according to Art. 223 para. 2 Criminal Code.⁶⁵ As a threat to public order, this may therefore result in the residence or entry permit being refused (see [Section 4.4](#)). Furthermore, using falsified documents or obtaining an administrative decision by fraud can lead to a reopening of the proceedings and potentially to a negative outcome (Art. 69 General Administrative Procedures Act 1991).

4.4. Requirements for granting family reunification



Health insurance, customary accommodation and sufficient income are key requirements for family reunification, although there are exceptions for family reunification under the Asylum Act.

In order for family reunification to take place in Austria, a number of requirements must be met under both the Settlement and Residence Act and the Asylum Act, which mirrors the eligibility requirements of the Settlement and Residence Act (Supreme Administrative Court, 2021e). It is of crucial importance that:

- The family member has accommodation that is considered customary for a family of a similar size in the local area (Art. 46 in conjunction with Art. 11 para. 2 subpara. 2 Settlement and Residence Act; Art. 35 para. 1 and 2 in conjunction with Art. 60 para. 2 subpara. 1 Asylum Act);
- The family member has health insurance that covers all risks and includes liability for medical expenses in Austria (Art. 46 in conjunction with Art. 11 para. 2 subpara. 3; Art. 35 para. 1 and 2 in conjunction with Art. 60 para. 2 subpara. 2);
- The family member's stay will not result in a financial burden on a local authority (Art. 46 in conjunction with Art. 11 para. 2 subpara. 4 and para. 5 Settlement and Residence Act; Art. 35 para. 1 and 2 in conjunction with Art. 60 para. 2 subpara. 3 Asylum Act).

In order to avoid delays in the procedure, the requirements must already be met at the time of application and, ultimately, at the time when the residence permit is issued.⁶⁶ Any changes that occur during the procedure must therefore be taken into account (Supreme Administrative Court, 2023e).

⁶⁴ Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

⁶⁵ Criminal Code, FLG. No. 60/1974 in the version of the Federal Act FLG. I No. 135/2023.

⁶⁶ Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024.

Before the above-mentioned requirements of accommodation, health insurance and income are explained in more detail below, it should be noted that these requirements apply to family reunification under the Settlement and Residence Act as a general rule. Among others,⁶⁷ the following exceptions apply:

- Unaccompanied beneficiaries of asylum who have reached the age of majority, insofar as the rules developed by the jurisdiction for “facilitated family reunification” the Settlement and Residence Act are applicable (see [Section 3](#)).
- Cases in which a residence permit must be issued in order to maintain the individual’s private and family life in accordance with Art. 8 ECHR (see [Section 4.5](#).)

Family reunification under the Asylum Act has a number of specific features regarding the mentioned requirements:

- The requirements do not apply if the application for an entry permit is submitted within three months – calculated from the date on which the sponsor was granted asylum status. After this three-month period has passed, the requirements must be met (Art. 35 para. 1 Asylum Act 2005).
- If the sponsor is an unaccompanied minor who has been granted asylum or subsidiary protection status in Austria and family members are to be brought to Austria, the requirements are deemed to be met regardless of whether they actually are (Art. 35 para. 2 and 2a Asylum Act 2005).

The following detailed description of the requirements applies in principle to both family reunification under the Settlement and Residence Act and to family reunification under the Asylum Act, provided that none of the exceptions to the fulfilment obligation described above apply.

Accommodation that is customary for the local area

As part of the review of the requirements, the competent authority examines the legal right to accommodation by means of relevant agreements (e.g. rental contract, right of residence) or the proof of ownership provided (Art. 7 para. 1 subpara. 4 Regulation on the Implementation of the Settlement and Residence Act).⁶⁸ If there are any discrepancies, the competent municipality may also be asked to help resolve the matter.⁶⁹

It is generally checked whether the accommodation is customary for the local area by consulting the relevant municipality to make sure that the accommodation meets the standards of habitable accommodation, such as having heating, running water and electricity. If need be, a floor plan will be requested showing the rooms available for the sole use of the sponsor and their family members.⁷⁰ With regard to the size of the apartment, one room per generation is usually required according to an expert from the Counseling Center for Migrants interviewed for this study; in practice, however, there is some leeway when assessing this requirement.⁷¹

⁶⁷ According to Art. 69 para. 1a Settlement and Residence Act also family members of mobile researchers are exempt.

⁶⁸ Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024; Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

⁶⁹ Written input: Office of the Burgenland Provincial Government, 23 December 2024.

⁷⁰ Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

⁷¹ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

In certain circumstances, therefore, a search of the population register may also be carried out in order to ascertain the number of people registered at the specific address and to check whether this number is compatible with the size of the accommodation.⁷² Checks of this kind are particularly important in the context of family reunification under the Asylum Act, since – according to one of the experts interviewed for this study – many sponsors sub-let their apartments prior to family reunification in order to reduce their rental costs.⁷³

Health insurance

Proof of health insurance that covers all risks and includes liability for medical expenses in Austria can be demonstrated through an appropriate private insurance policy, provided that the individual is not or will not be required to take out compulsory insurance (Art. 7 para. 1 subpara. 5 Regulation on the Implementation of the Settlement and Residence Act).⁷⁴

According to an expert interviewed for this study, individuals who move to Austria for family reunification under the Settlement and Residence Act usually join a person who is already working in Austria. This enables family members to be covered by their sponsor's insurance (Art. 123 General Social Insurance Act)⁷⁵ provided that they themselves are not compulsorily insured as a result of their own employment.⁷⁶

The family members of beneficiaries of international protection status can also be covered by their sponsor's insurance (Art. 123 General Social Insurance Act). Proof of this is usually provided by means of an insurance data statement.⁷⁷

Sufficient income (not a financial burden on a local authority)

Generally, a third-country national must have sufficient income to ensure that their stay does not become a financial burden on a local authority (Federal State, provinces, municipalities). Both the income⁷⁸ and savings of the sponsor and their family members are taken into account when calculating income. Proof may include wage slips, salary statements, employment contracts, pre-employment agreements, confirmations of pension, retirement or any other insurance benefits, proof of investment capital or proof that the person has sufficient assets (Art. 7 para. 1 subpara. 6 Regulation on the Implementation of the Settlement and Residence Act).⁷⁹ Proof of the source of the money (e.g. inheritance, gift, sale or rental of an apartment) must also be provided. The income must not come from illegal sources (Supreme Administrative Court, 2021c) and the individual

72 Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024.

73 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

74 Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

75 General Social Insurance Act, FLG. No. 189/1955 in the version of the Federal Act FLG. No. 18/1956 in the version of the Federal Act FLG. I No. 145/2024.

76 Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024; Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: City of Vienna, 18 December 2024.

77 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

78 Here, reference is made to the wage slips (Federal Ministry of the Interior, 2024d:31). Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

79 Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

must have access to the money.⁸⁰ In some cases, declarations of liability⁸¹ are accepted.⁸² The sponsor will also be asked to provide a bank statement so that their regular monthly expenses⁸³ can be checked, as well as a report from the credit protection association.⁸⁴

The amount of fixed and regular income required to meet the self-sufficiency criterion is based on the reference rates for the compensatory allowance⁸⁵ (Art. 11 para. 5 Settlement and Residence Act in conjunction with Art. 293 General Social Insurance Act). In 2024, these reference rates were EUR 1,217.96 for single persons and EUR 1,921.46 for spouses or registered partners living in the same household, increasing by EUR 187.93 for each minor child (Art. 293 para. 1 General Social Insurance Act). Also taken into account when calculating the income required are any regular expenses (e.g. rent, loans, debt repayments taken out of wages, maintenance payments) that reduce income and therefore increase the amount of income required (Art. 11 para. 5 Settlement and Residence Act). An allowance (known as the ‘cost of room and board’) of EUR 359.72 (for 2024) is not taken into account (Federal Ministry of the Interior, 2024d: 53 ff.). While the amounts specified in Art. 293 General Social Insurance Act are gross amounts, the amounts required to prove self-sufficiency must be stated as net amounts.⁸⁶

According to the case law of the Supreme Administrative Court, applicants’ specific situations must be taken into account for family reunification under both the Settlement and Residence Act and the Asylum Act. Therefore, instead of examining “snapshots” of an individual’s financial situation (Federal Ministry of the Interior, 2024d:17), the authority will consider applicants’ situations as part of a forward-looking assessment in which it predicts whether applicants will be able to support themselves throughout the duration of the residence permit for which they have applied (Supreme Administrative Court, 2023e). Accordingly, future income must also be taken into account if there is a reasonable prospect of employment (Supreme Administrative Court, 2020c). If their income does not quite reach the reference rate (Supreme Administrative Court, 2021e, 2024a), this will not be an issue in determining whether they have sufficient financial resources, provided it appears that they will be able to support themselves (Supreme Administrative Court, 2023b). In practice, the authorities will decide that the requirement of sufficient income is met as long as applicants are making reasonable efforts, even if the reference rate is not reached.⁸⁷

No threat of public order and security

As part of the application review it is also assessed whether there is a threat to public order or security precluding family reunification under both the Settlement and Residence Act and the Asylum Act (Art. 11 para. 2 subpara. 1 in conjunction with para. 4 subpara. 1 Settlement and Residence Act; Art. 35 para. 4 subpara. 2 Asylum Act; Lukits, 2016:36).

80 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

81 This is an authenticated statement by third parties, valid for at least five years, stating that they will cover, among other things, the requirements for accommodation and corresponding financial means for the applicant (Art. 2 para. 1 subpara. 15 Settlement and Residence Act).

82 Written input: Office of the Burgenland Provincial Government, 23 December 2024.

83 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

84 Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

85 The compensatory allowance is intended to ensure a minimum income for every person with lawful, habitual residence in Austria who receives a pension. If the total income (gross pension plus other net income plus any maintenance claims) falls below the legally fixed reference rate, the pension recipient will receive a compensation supplement to top up the total income (oesterreich.gvat, 2024).

86 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

87 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

A residence permit under the Settlement and Residence Act may not be issued if this would be contrary to public interest. This is the case if the applicant's presence would pose a threat to public order and security or if the person has a close relationship with a terrorist or extremist group (Art. 11 para. 2 subpara. 1 in conjunction with para. 4 Settlement and Residence Act). In practice, applicants are therefore required to provide a criminal record certificate from their previous country of origin or residence (Lukits, 2016:36).⁸⁸ Furthermore, a statement is requested from the provincial police directorate,⁸⁹ the Federal Office for Immigration and Asylum is involved,⁹⁰ or court rulings are taken into account.⁹¹ However, a residence permit may still be denied even if the applicant has no criminal conviction. Instead, a risk assessment must be carried out in each individual case based on the overall behaviour of the person making the application (Abermann et al., 2019:166).⁹² A threat to public order may therefore also exist, for example, if falsified documents (including language certificates) are submitted with the aim of obtaining a residence permit or in the case of unlawful employment (Abermann et al., 2019:166–167).⁹³

Under the Asylum Act, this requirement is checked as part of the probability assessment, see [Section 4.6](#).

Proficiency of the German language

Proof of knowledge of German as requirement for family reunification only applies under the Settlement and Residence Act. Accordingly, proficiency in German at level A1 of the Common European Framework of Reference for Languages ("German prior to immigration") is a prerequisite for family reunification under the Settlement and Residence Act (Art. 21a para. 1 Settlement and Residence Act in conjunction with Art. 9b para. 1 Regulation on the Implementation of the Settlement and Residence Act; Abermann et al., 2019:370). This also applies to illiterate persons, for whom immigration to Austria is considerably more difficult (Abermann et al., 2019:372). Proof of German language proficiency is deemed as provided if the applicant has a school-leaving certificate that corresponds to the Austrian school-leaving qualification or a qualification from a vocational secondary school.⁹⁴ Persons who do not hold one of the above qualifications must provide proof of their knowledge of German by means of a language diploma or German certificate (Art. 9b para. 2 Regulation on the Implementation of the Settlement and Residence Act).⁹⁵ The German certificate must have been completed no more than one year before the date of submission (Art. 21a para. 1 Settlement and Residence Act) and must be submitted when the application is lodged (Art. 22 para. 2 Settlement and Residence Act) or at the latest when the first-instance decision is made (Abermann et al., 2019:371). Family members are generally free to choose how they learn German. Attending a language course is not mandatory⁹⁶ and they can also attend online courses or use online learning programmes, such as the Austrian Integration Fund Language Portal (Ammann, 2024:26).

88 Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

89 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: City of Vienna, 18 December 2024.

90 Written input: Office of the Styrian Provincial Government, Residence and Security Department, 29 November 2024.

91 Written input: Office of the Burgenland Provincial Government, 23 December 2024.

92 Written input: Office of the Styrian Provincial Government, Residence and Security Department, 29 November 2024.

93 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

94 Art. 21a para. 3 subpara. 1 Settlement and Residence Act and Art. 9 and 10 Integration Act.

95 Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024.

96 Ibid.

Persons exempt from providing proof of German language proficiency prior to entering the country (Art. 21a para. 4 Settlement and Residence Act) include the following:

- Applicants who are underage minors (persons under age 14);
- Family members of holders of certain residence permits;⁹⁷
- Family members of persons granted asylum;
- Family members with a Temporary Residence Permit – Family Community (Abermann et al., 2019:942).

Furthermore, the authorities may waive the requirement to provide proof of German language proficiency in order to protect the right to private and family life (Art. 8 ECHR), for example, or, in the case of unaccompanied minors, to safeguard the best interests of the child (Art. 21a para. 5 Settlement and Residence Act).

For family reunification under the Asylum Act, on the other hand, no knowledge of the German language is required before entering Austria.

4.5. Non-fulfillment of the requirements for family reunification

If a residence or entry permit is required to safeguard the right to private and family life, it must be issued.

Under both the Settlement and Residence Act and the Asylum Act, failure to meet the requirements does not automatically result in the rejection of an application for family reunification; the application is instead assessed in accordance with Art. 8 ECHR (Art. 11 para. 3 Settlement

and Residence Act; Art. 35 para. 4 subpara. 3 Asylum Act; Constitutional Court, 2019b, 2023b), in which the individual circumstances of the case (Abermann et al., 2019:186) and the best interests of the child are taken into account (Constitutional Court, 2018b, 2023a).⁹⁸ In particular, such aspects as the actual existence of a family life or the absence of criminal convictions, as specified in the act, must be taken into account (Art. 11 para. 3 Settlement and Residence Act; Art. 35 para. 4 subpara. 3 Asylum Act in conjunction with Art. 9 para. 2 Federal Office for Immigration and Asylum Procedures Act).⁹⁹ A residence or entry permit must be issued if this is deemed necessary to ensure the protection of the right to private and family life (Abermann et al., 2019:186). The reasons for the failure to meet the requirements are irrelevant to the assessment of the situation under Art. 8 ECHR (Supreme Administrative Court, 2021d).

In the case of family reunification under the Settlement and Residence Act, “supplementary applications” can be submitted.¹⁰⁰ An application can be made to waive the requirement for proof of German language proficiency (see [Section 4.4.](#)), in order that a residence permit may be issued to safeguard the best interests of the child in the case of unaccompanied minors or for reasons specified in Art. 8 ECHR (Art. 21a para. 5

⁹⁷ Red-White-Red Card, EU Blue Card, Settlement Permit for Researchers, and Permanent Residence EU (Art. 21a para. 4 subpara. 3 Settlement and Residence Act).

⁹⁸ Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

⁹⁹ Federal Office for Immigration and Asylum Procedures Act, FLG. I No. 87/2012 in the version of the Federal Act FLG. I No. 134/2024.

¹⁰⁰ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

Settlement and Residence Act). According to an expert interviewed for this study, this is particularly relevant for women from Afghanistan, who have been denied access to education since the Taliban came to power. For these women, attending German courses or taking the language exam would mean travelling to Pakistan, something which poses a significant challenge, not least due to more restrictive immigration regulations.¹⁰¹

In the area of asylum – according to the case law of the Austrian supreme courts (Supreme Administrative Court, 2019a; Constitutional Court, 2019a) and in line with the case law of the European Court of Justice (CJEU, 2018b) – if an application is submitted more than three months after asylum has been granted, it must first be examined whether the delayed application is objectively excusable due to special circumstances. If the late application is found to be justified, an entry permit may be issued even if the requirements have not been met (see [Section 4.4.](#); Supreme Administrative Court, 2020d). If, however, no objectively justifiable reason can be identified, then an assessment weighing the interests of all parties must be carried out in line with Art. 8 ECHR if the requirements have not been met (Art. 35 para. 4 subpara. 3 Asylum Act 2005). This weighing of interests must also be carried out if the requirements have not been met in family reunification cases involving beneficiaries of subsidiary protection status (Supreme Administrative Court, 2021d). In this case, decisive factors include whether it is possible to continue family life outside Austria, taking into account the connection to the country in question as well as the reasonable expectation and possibility of obtaining a residence permit (Supreme Administrative Court, 2021d, 2021e). For persons granted asylum or beneficiaries of subsidiary protection status, the continuation of family life in the shared country of origin is considered out of the question (Supreme Administrative Court, 2019b, 2021d).

4.6. Procedure and decision

In this section, different aspects of family reunification procedures are presented and the special features of procedures under the Settlement and Residence Act and the Asylum Act are discussed in more detail.

Procedure before the domestic authorities

In the case of family reunification under the Settlement and Residence Act, the settlement and residence authorities (provincial governors) are responsible for examining the application. In the case of family reunification under the Asylum Act, the Federal Office for Immigration and Asylum is the competent domestic authority.

Although the application for family reunification is submitted to the representation authority abroad, the procedure is conducted by the competent authorities in Austria.

In the family reunification procedure under the Settlement and Residence Act, the application is examined by the competent settlement and residence authority in Austria. Required is, on the one hand, the fulfilment of the general requirements (see [Section 4.4.](#)) as well as the absence of obstacles to issuing the permit. These obstacles are (Art. 11 para. 1 Settlement and Residence Act): the

existence of a valid entry ban or exclusion order (subpara. 1), a return decision (subpara. 2 and 3), a marriage, partnership or adoption of convenience (subpara. 4), an exceedance of the duration of the authorized

¹⁰¹ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

visa-free or visa-required stay (subpara. 5), a final punishment in the last twelve months for evading border control or unlawful entry into the federal territory (subpara. 6). On the other hand, the special requirements – in the specific case, the status of family member – must be met.

For family reunification under the Asylum Act the Federal Office for Immigration and Asylum is the competent domestic authority. A positive probability assessment by the Federal Office for Immigration and Asylum is required before an entry permit for family reunification in accordance with the Asylum Act can be issued (Art. 26 Aliens Police Act 2005, Art. 35 para. 4 Asylum Act 2005). The Federal Office for Immigration and Asylum examines whether the applicants are family members as defined in Art. 35 para. 5 Asylum Act. Furthermore, it is assessed whether the requirements according to Art. 35 para. 4 subpara. 1–3 Asylum Act¹⁰² are met and the Federal Ministry of the Interior is involved with regard to the threat to public interests (Austrian Parliament, 2005). Also, it is assessed whether it is probable that international protection will be granted in the family procedure in accordance with Art. 34 Asylum Act. According to this provision, family members are to be granted asylum or subsidiary protection status if the sponsor is entitled to international protection, no procedure is pending for the withdrawal of this protection status and the family members have not committed a criminal offence (Pascher and Utz-Ferner, 2021). Questions on this subject can be found in the interview form (Appendix A Regulation on the Implementation of the Asylum Act 2005),¹⁰³ which must be completed by applicants when submitting their application for entry into Austria (Art. 35 para. 3 Asylum Act 2005). A criminal offence committed by the sponsor is irrelevant, however, if withdrawal proceedings have not been initiated (Federal Administrative Court, 2019). In addition to being a family member, the international protection status – asylum or subsidiary protection – is therefore also decisive, as the applicant family member is generally granted the same protection status as the sponsor.

Special rules for unaccompanied minors with asylum status

The following special provisions apply to unaccompanied minors granted asylum who reach the age of majority either (1) during the asylum procedure or (2) during the family reunification procedure under Art. 35 Asylum Act. These provisions are based on the case law of the Supreme Administrative Court, which is derived from the relevant rulings of the CJEU (CJEU, 2018a, 2024).

- (1) In the case of unaccompanied minors who reach the age of majority during the asylum procedure, case law provides for the possibility of facilitated family reunification (see [Section 3.](#); Supreme Administrative Court, 2021a, 2024b).
- (2) If the person granted asylum only reaches the age of majority during the family reunification procedure, the family procedure is no longer available to their parent(s) under Art. 34 Asylum Act. In these circumstances, the special case of “facilitated family reunification” under the Settlement and Residence Act developed by case law applies (Supreme Administrative Court, 2017, 2018c; see also [Section 3.](#)). In practice, this

¹⁰² These are: no procedure for the withdrawal of the status of the sponsor pending (subpara. 1), notification from the Federal Ministry of the Interior that entry does not contradict public interests in accordance with Art. 8 para. 2 ECHR (subpara. 2), and fulfillment of the requirements (secured livelihood, accommodation in line with local standards, health insurance coverage) where applicable, unless granting the application is necessary to uphold the right to private and family life according to Art. 8 ECHR (subpara. 3).

¹⁰³ Regulation on the Implementation of the Asylum Act 2005, FLG. II No. 448/2005 in the version of the regulation FLG. II No. 230/2017.

means that when unaccompanied minors who have been granted asylum seek family reunification, their parents must first submit an application under the Asylum Act and – if the child later reaches the age of majority – another application under the Settlement and Residence Act (“two-stage application process”).

Decision period and duration of family reunification procedures

The duration of the procedure varies depending on the type of family reunification and also between the federal provinces (depending on the number of applications). Criteria such as the availability of a quota place in the case of procedures subject to quotas (in accordance with the Settlement and Residence Act) lead to longer procedures.

In Austria, the authorities are generally required to make a decision on all applications without undue delay and within a maximum of six months, unless a more specific provision exists (see [Annex 2.](#); Art. 73 para. 1 General Administrative Procedures Act 1991). This time limit also applies in principle to family reunifications, although certain periods of time are not counted (deadline suspension).¹⁰⁴ If the authority does not reach a decision within the statutory time limit, a default appeal may be lodged (Art. 8 Proceedings of Administrative Courts Act).¹⁰⁵

In practice, the duration of the family reunification procedure under the Settlement and Residence Act is different in each province due to a variety of factors, for example the quota requirement:

- In Burgenland, family reunification procedures under the Settlement and Residence Act for applications not subject to quota requirements take around two to four weeks. In the case of applications subject to quota requirements, the duration of the procedure is dependent on the promulgation of the Settlement Regulation (see [Section 3.](#)).¹⁰⁶
- In Lower Austria, the procedures for applications subject to quota requirements currently take around two years due to the long waiting time for a quota place, while the waiting time for applications not subject to quota requirements is six months. This cannot be reduced due to the high volume of applications at the present time.¹⁰⁷
- The Styrian provincial government states that, in practice, it is not possible to disclose the precise average duration of the procedure, as a number of different factors (such as country of origin, documentation, application in Austria or via the representation authority) can lead to significant fluctuations.¹⁰⁸
- In Carinthia, no statistical records are kept on the duration of the procedure, but it was noted that this depends on a variety of criteria.¹⁰⁹

¹⁰⁴ This concerns for example investigations due to suspicion of a marriage, partnership, or adoption of convenience (Art. 37 para. 4 Settlement and Residence Act) or the ranking for quota places (Art. 12 para. 5 Settlement and Residence Act). It also concerns the period from the submission of the application to the Federal Office for Immigration and Asylum until its notification to the representation authority (probability assessment; Supreme Administrative Court, 2023a).

¹⁰⁵ Proceedings of Administrative Courts Act, FLG. I No. 33/2013 in the version of the Federal Act FLG. I No. 147/2024.

¹⁰⁶ Written input: Office of the Burgenland Provincial Government, 23 December 2024.

¹⁰⁷ Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

¹⁰⁸ Written input: Office of the Styrian Provincial Government, 29 November 2024.

¹⁰⁹ Written input: Office of the Carinthian Provincial Government, 5 December 2024.

For family reunification under the Asylum Act the time limit for procedures for issuing entry permits for the purpose of applying for international protection is the same as the general time limit for decision-making as specified in Art. 73 General Administrative Procedures Act 1991 (Supreme Administrative Court, 2023a). According to an expert from the Federal Ministry for European and International Affairs, the duration of the procedure is longer than under the Settlement and Residence Act.¹¹⁰ According to an expert from the Austrian Red Cross, the current procedures take between 12 and 18 months from application to entry, a significant increase from a few years ago. This increase is also linked to the increase in the number of applications (see [Section 2.2.](#)).¹¹¹

According to an expert from the Federal Ministry for European and International Affairs, the granting of visas for entry into Austria (see [Section 4.6.](#)) after the review by the domestic authority is focused on identity verification and various other quickly verifiable questions.¹¹²

Decision

According to the Settlement and Residence Act, family members are issued a visa to enter the country after a positive decision, and the residence permit is then issued in Austria.

In the case of family reunification under the Asylum Act, a positive probability assessment from the Federal Office for Immigration and Asylum is required that the family member's application for international protection is likely to be granted, after which an entry visa is issued. The family member then applies for international protection in Austria.

If, after verifying that the requirements have been met,¹¹³ the settlement and residence authority concludes that the applicant is to be granted a residence permit, it must inform the representation authority. The representation authority informs the applicant. If they are subject to the visa requirement, they must be issued a visa valid for a period of four months upon application (Art. 23 para. 2 Settlement and Residence Act; Art. 21 in conjunction with Art. 25 para. 1 Aliens Police Act 2005). Applicants must apply for a visa within three months of notification by the representation authority (Art. 23 para. 2 Settlement and Residence Act; Federal Ministry for European and International Affairs, n.d.b). The decision to issue the

visa must be made without undue delay and within a maximum of six months (Art. 73 para. 1 General Administrative Procedures Act 1991). After entering Austria, the residence permit is issued in person by the authorities in Austria (Art. 19. para. 7 Settlement and Residence Act).

110 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

111 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

112 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

113 This requires first the fulfilment of the general requirements (see [Section 4.4.](#)) as well as the absence of obstacles to issuing the permit. These obstacles are (Art. 11 para. 1 Settlement and Residence Act): the existence of a valid entry ban or exclusion order (subpara. 1), a return decision (subpara. 2 and 3), a marriage, partnership or adoption of convenience (subpara. 4), an exceedance of the duration of the authorized visa-free or visa-required stay (subpara. 5), a final punishment in the last twelve months for evading border control or unlawful entry into the federal territory (subpara. 6). Second, the special requirements – in the specific case, the status of family member – must be met.

As described in [Section 4.6.](#), the Federal Office for Immigration and Asylum examines, among other things, whether an application for international protection of the family member is likely to be granted (“probability assessment”; Federal Ministry for European and International Affairs, 2024:2).¹¹⁴ The Federal Office then informs the representation authority of the result of the assessment. A positive probability assessment by the Federal Office for Immigration and Asylum is required before an entry permit for family reunification in accordance with the Asylum Act can be issued (Art. 26 Aliens Police Act 2005, Art. 35 para. 4 Asylum Act 2005). The Austrian representation authorities are bound by the decision of the Federal Office for Immigration and Asylum (Supreme Administrative Court, 2016), as a result of which the approval of visa applications is contingent on a positive probability assessment, while a negative probability assessment means that the visa application will be rejected. If the Federal Office for Immigration and Asylum has issued a positive probability assessment (see above), the representation authority issues the family members “without further ado” – i.e. without the existence of further requirements (Filzwieser et al., 2016:§ 35 AsylG 2005, K12) – an entry visa valid for a period of four months (Visa D) to enter Austria (Art. 35 Asylum Act, Art. 26 Aliens Police Act 2005). The family member can then apply for international protection in Austria under the family procedure in order to obtain the same protection status as the sponsor. Family members of persons granted asylum or beneficiaries of subsidiary protection status are also granted asylum or subsidiary protection status in the context of the family procedure under Art. 34 Asylum Act. The granting of asylum status takes precedence over subsidiary protection status here (Art. 34 para. 4 Asylum Act 2005). In the family procedure, any separate reasons for flight for each family member are identified. If no separate reasons for flight are identified, the protection already granted to the sponsor will also be granted to that family member. For family members of beneficiaries of subsidiary protection status, the priority attached to asylum status means that checks must be carried out to ascertain whether asylum status is to be granted in cases where there are separate reasons for flight (Supreme Administrative Court, 2018b).

4.7. Consideration of the best interest of the child

In the context of family reunification, the best interests of the child are taken into account as part of the considerations under Art. 8 ECHR if not all requirements are met (see [Section 4.5.](#)). In addition, the experts interviewed for this study reported on the following aspects of family reunification where the best interests of the child are taken into consideration.

In the context of family reunification under the Settlement and Residence Act, the best interests of the child are taken into account in connection with proof of German language skills prior to entering Austria (see [Section 4.4.](#)) and when submitting the application in Austria (see [Section 4.2.](#)).

In the context of family reunification under the Asylum Act, the best interests of the child are particularly important when considering the issue of child marriage,¹¹⁵ the question being whether child marriages can

¹¹⁴ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

¹¹⁵ Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

be considered legally valid marriages.¹¹⁶ Although the existing minimum age for marriage acts as a safeguard for the prevention of forced marriages (Supreme Administrative Court, 2020e), the United Nations High Commissioner for Refugees points out that married children are often excluded from family reunification with their parents or other close relatives due to the marriage. On the other hand, the marriage is not recognized in order to enable family reunification with the spouse. This can put unaccompanied minors in particular in a vulnerable situation, which is why the best interests of the child must be prioritized in such cases (UNHCR, 2024:32f). In accordance with the case law of the Supreme Administrative Court (Supreme Administrative Court, 2020e, 2021b), it is important when assessing a child marriage to ascertain whether the decision to marry was made of the child's own free will, without coercion and without conditions attached. Furthermore, according to an expert from the Austrian Red Cross interviewed for this study, the best interests of the child are given little consideration in cases of family reunification in the context of asylum. This is emphasized by the three-year waiting period for family reunification for unaccompanied minors with subsidiary protection status (see [Section 4.2.](#)). As long as this period has not elapsed, it is hardly ever considered whether the parents' entry is in the best interests of the child.¹¹⁷

In connection with the amendment to the Asylum Act proposed by the governing parties at the end of March 2025 regarding the pausing of family reunification by means of a regulation (see [Section 3.](#)), the best interests of the child should be taken into account when assessing whether a decision should nevertheless be made within six months on the grounds of Art. 8 ECHR. An example of such grounds is that a person who has remained in the country of origin or a third country is the sole caretaker of a child entitled to international protection in Austria. Furthermore, the proposed regulation stipulates that the assessment of the minority status of the person entitled to international protection in Austria should be based on the time of the application for entry by their parents, so that reaching the age of majority at a later stage does not have a negative effect (Austrian Parliament, 2025b:5). In practice, a "two-stage application procedure" (see [Section 3.](#) and [Section 4.6.](#)) would no longer be necessary in such cases.

However, it does not appear that there is a general assessment of the best interests of the child that goes beyond these specific aspects in family reunification procedures. Also, the authorities in the country of origin or residence are not involved in the determination of the best interests of the child.¹¹⁸ As stated by an expert from the Federal Ministry of the Interior interviewed as part of this study, there is no coordination due to the lack of opportunities for contacting them.¹¹⁹

116 The validity of a marriage is to be assessed in accordance with Art. 6 of the Private International Law Act. If one or both spouses were minors at the time of marriage, this provision may classify the marriage as a void child marriage, meaning that a family relationship within the meaning of Art. 35 Asylum Act does not exist, see for example Supreme Administrative Court, 16 February 2021b, Ra 2020/19/0153. Vienna.

117 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

118 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

119 Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024.

4.8. Costs

Costs incurred in the family reunification procedure include fees and, under certain circumstances, travel costs to Austrian representation authorities, translation costs or costs for a DNA analysis. The latter are reimbursed in the case of family reunification in accordance with the Asylum Act if the analysis confirms the family relationship.

The application for family reunification is associated with different costs and fees in both systems – the Settlement and Residence Act and under the Asylum Act.

The following fees apply for applications for family reunification under the Settlement and Residence Act under the current regulations:

- Initial fee of EUR 120 per person or EUR 75 for children under age 6 (Fee Item 6 para. 3 (a) Fees Act 1957);¹²⁰
- Issuance fee of EUR 20 per person or EUR 50 for children under age 6 (Fee Item 8 para. 4 subpara. 1 (a) Fees Act 1957);
- Personalization fee of EUR 20 per person for photograph, fingerprint and signature processing (Fee Item 8 para. 4b Fees Act 1957).

In addition, costs may be incurred for travel to the Austrian representation authority, translation of documents, DNA analyses (see [Section 3.](#)) or German courses (see [Section 4.4.](#)). The cost of the DNA analysis will not be reimbursed (Art. 29 para. 2 Settlement and Residence Act). In practice, DNA analyses are rarely carried out in family reunification cases under the Settlement and Residence Act.¹²¹

Applications for an entry permit for the purpose of applying for international protection for family reunification under the Asylum Act are subject to a fee of EUR 200 per person for persons over age six and EUR 100 per person for persons under age 6 (Fee Item 7 para. 1 subpara. 3 and 4 Consular Fees Act 1992). Further costs may be incurred, for example for (repeated) travel to an Austrian representation authority (as there does not exit one in every country of residence) or for the procurement of documents.¹²² The cost of a DNA analysis to prove the family relationship – around EUR 270 per test (Federal Ministry of the Interior, 2024e) – must initially be paid by the applicants themselves. Reimbursement of costs is possible upon application after entry into Austria and if the DNA analysis has confirmed the family relationship (Art. 13 para. 4 Federal Office for Immigration and Asylum Procedures Act).¹²³

¹²⁰ Fees Act 1957, FLG. No. 267/1957 in the version of the Federal Act FLG. I No. 7/2025.

¹²¹ Written input: Office of the Lower Austrian Provincial Government, 28 November 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024.

¹²² Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

¹²³ Federal Office for Immigration and Asylum Procedures Act, FLG. I No. 87/2012 in the version of the Federal Act FLG. I No. 134/2024.

4.9. Integration measures

Family reunification also includes integration measures after the residence permit or international protection status has been granted, which vary depending on the type of family reunification (e.g. compulsory completion of German courses, values and orientation courses).

The Settlement and Residence Act and the Asylum Act stipulate different integration measures for family reunification at different times. Thereby, no integration exams must be taken in Austria before a residence permit for family reunification is issued or before asylum or subsidiary protection status is granted (for the requirement to proof German language skills see [Section 4.4.](#)).

Under the Settlement and Residence Act, family members who are third-country nationals are also required to complete Module 1 of the Integration Agreement in accordance with Art. 9 Integration Act¹²⁴ when certain residence permits¹²⁵ are issued for the first time. A period of two years from the initial date of issue of the residence permit is allocated for this purpose (Art. 9 para. 1 and 2 Integration Act). In cases where family members do not have a secondary education qualification equivalent to the Austrian school-leaving examination or qualification from a vocational secondary school,¹²⁶ the integration exam must be taken in order to complete Module 1 of the Integration Agreement, which includes topics such as language and values. As part of the course, the applicant must prove they have a detailed basic knowledge of the German language at level A2 of the Common European Framework of Reference for Languages for communication and for reading and writing everyday texts, as well as knowledge of the basic values of the legal and social order of the Republic of Austria (Art. 11 Integration Act). Applicants wishing to prepare for the integration exam can attend integration courses offered by certified course providers (Art. 13 and 16b Integration Act, Austrian Integration Fund, n.d.c). Participants are usually required to pay any costs associated with the integration course themselves, but under certain conditions up to half of the costs may be covered by the Federal State ("Blue Federal Voucher"; Art. 14 Integration Act).¹²⁷ Reimbursement of costs is limited to EUR 750 per person for 300 course units (Art. 10 Regulation on the Integration Agreement).¹²⁸

The Integration Act does not include any exceptions to the requirement to complete Modules 1 and 2. It only allows for alternatives to the integration exam as required for the successful completion of Module 1 of the Integration Agreement (Art. 9 para. 4 Integration Act).

In Austria, there are a number of consequences in place for third-country nationals who are unable to complete Module 1 of the Integration Agreement within two years of receiving their residence permit for reasons deemed to be within their control. This is classed as an administrative offence punishable by a fine of up to EUR 500 or, in the event of default thereon, a prison sentence of up to two weeks (Art. 23 para. 1 Integration Act). In such instances, the Federal Office for Immigration and Asylum is also required to issue a return decision (Art. 52 para. 4 subpara. 5 Aliens Police Act 2005). A 2018 study (Mourão Permoser, 2018:192)

124 Integration Act, FLG. I No. 68/2017 in the version of the Federal Act FLG. I No. 76/2022.

125 These include, among others, Red-White-Red Card Plus, Settlement Permit, and Settlement Permit Gainful Employment Excepted, which can also be issued to family members (Art. 9 para. 1 Integration Act, Art. 46 Settlement and Residence Act).

126 Module 1 of the Integration Agreement is also considered fulfilled if third-country nationals hold a residence permit "Red-White-Red Card" in accordance with Art. 41 para. 1 or 2 Settlement and Residence Act, or as the holder of a residence permit "Settlement Permit – Artist" in accordance with Art. 43a Settlement and Residence Act, engage in an artistic activity in one of the art sectors listed under Art. 2 para. 1 subpara. 1 to 3 of the Art Promotion Act (Art. 9 para. 4 subpara. 4 and 5 Integration Act).

127 This requires an attendance rate of 75 per cent as well as the fulfillment of Module 1 of the Integration Agreement within 18 months.

128 Regulation on the Integration Agreement, FLG. II No. 449/2005 in the version of the regulation FLG. II No. 205/2011.

noted that, in practice, expulsion as a consequence of non-compliance with the Integration Agreement was extremely rare.

In cases of family reunification under the Asylum Act, family members who have been granted international protection status must complete German courses as well as values and orientation courses. The aim of these courses is, where necessary, to teach literacy in Latin script and language proficiency to level B1 or above according to the Common European Framework of Reference for Languages. Values and orientation are also a mandatory component of the German courses (Art. 4 and 5 Integration Act). Beneficiaries of international protection status are legally obliged to fully participate in, contribute to and complete the appropriate course programmes available (Art. 6 para. 1 Integration Act). The above-mentioned courses are to be offered to beneficiaries of international protection status over age 15 by the Federal Minister responsible for integration matters (Art. 4 and 5 Integration Act). The financial costs incurred shall be covered by the federal budget.

It should be pointed out that third-country nationals who receive social assistance and culpably fail to fulfil their obligations under the Integration Act will be subject to a reduction in benefits of at least 25 per cent for at least three months (Art. 9 para. 3 General Social Assistance Act in conjunction with Art. 16c Integration Act). This also applies in the case of family reunification under both the Settlement and Residence Act and the Asylum Act.

On the integration of reunited beneficiaries of subsidiary protection, especially women and children, a study commissioned by the Austrian Integration Fund was published in March 2025, which, among other things identifies factors that promote or hinder labour market participation and language acquisition (Baumgartner et al., 2025).

4.10. Renewal of the residence permit respectively international protection status

If family reunification has been granted, it may be necessary to extend the residence permit under the Settlement and Residence Act or the international protection status under the Asylum Act at a later date.

Residence permits under the Settlement and Residence Act are generally issued for a specific time (see [Annex 2](#)). According to the Settlement and Residence Act, the general requirements must be met both at the time of issue and at the time of renewal (Art. 24 para. 3 Settlement and Residence Act; see [Section 4.4](#)). If these requirements are no longer met, the authority will examine whether the residence permit must be renewed in order to protect private and family life as defined in Art. 8 ECHR (Art. 25 para. 1 Settlement and Residence Act). In practice, the Federal Office for Immigration and Asylum is regularly involved in the process to check whether a termination of residence that interferes with the right to private and family life is nevertheless permissible (Art. 25 para. 1 Settlement and Residence Act in conjunction with Art. 9 Federal Office for Immigration and Asylum Procedures Act).¹²⁹

¹²⁹ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

With asylum or subsidiary protection status, a temporary residence permit is (initially) issued in Austria (see [Annex 2.](#)). In the context of asylum, the requirements (assured self-sufficiency, accommodation that is customary for the local area and health insurance; see [Section 4.4.](#)) are relevant for the granting of an entry permit if there is no option for facilitated family reunification. Although other circumstances play a role in the granting or extension of international protection status (Art. 3 and 8 Asylum Act 2005), these requirements do not.

4.11. Ending of family status

When children reach the age of majority or when spouses and registered partners separate, family status ceases to apply. Depending on the type of residence permit, this can have different consequences.

The family relationship is an important prerequisite for family reunification under the Settlement and Residence Act and must therefore already exist when the authorities make a decision regarding the application. If the family relationship is terminated at a later date, any renewal applications are to be rejected (Art. 25 para. 3 Settlement and Residence Act) and the residence permit must be revoked (Art. 28 para. 5

Settlement and Residence Act). However, a distinction must be made as to whether the family members have:

- An autonomous right of settlement;
- A derived temporary residence permit.

(See [Annex 2.](#) for categories of autonomous/derived rights).

In the context of family reunification under the Settlement and Residence Act, family members are not, in the majority of cases, simply granted a derived right of residence but rather an autonomous right of settlement “of their own” (Art. 27 Settlement and Residence Act; Supreme Administrative Court, 2023d). Consequently, the family member does not lose their right of residence if the family relationship is terminated; provided that there is no obstacle to issuing a residence permit pursuant to Art. 11 para. 1 Settlement and Residence Act and the requirements for issuing a residence permit pursuant to Art. 11 para. 2 are met (Art. 27 Settlement and Residence Act). Termination of the family relationship is to be communicated to the authorities within one month (Art. 27 para. 4 Settlement and Residence Act). Failure to communicate this is an administrative offence punishable by a fine of between EUR 50 and 250 or, in the event of default thereon, a prison sentence of up to one week (Art. 77 para. 1 Settlement and Residence Act). The autonomous right of settlement is not tied to any minimum duration of residence on the part of the family member in Austria.

Family members with a Temporary Residence Permit – Family Community (see [Annex 2.](#)) are only granted a derived right of residence, which is dependent on the sponsor’s temporary residence permit (Abermann et al., 2019:941). Therefore, a non-renewal or withdrawal of the residence permit may be considered if the sponsor leaves Austria and their residence permit is not renewed or is withdrawn (Abermann et al., 2019:941). For children with a Temporary Residence Permit – Family Community who reach the age of majority, an extension is out of the question in the absence of a family relationship (Abermann et al., 2019:941). It is generally possible to change the purpose of a Temporary Residence Permit – Family Community to another

residence permit. In order to do so, however, the requirements for the other purpose of residence must be met (Art. 26 Settlement and Residence Act).

Given the autonomous nature of the right of settlement for most family members, in the event of death, divorce or dissolution of the registered partnership due to the predominant culpability of the other spouse or registered partner or for particularly exceptional reasons, the family member must be issued with a residence permit with at least the same purpose of residence as was previously the case (Art. 27 para. 2 Settlement and Residence Act). This applies even if there are certain grounds for refusal¹³⁰ and if one of the requirements according to Art. 11 para. 2 is not met (see [Section 4.4](#)). This regulation does not apply in the event of an amicable divorce, as the subject of culpability is not relevant and therefore not determined (Supreme Administrative Court, 2020f). The family member must therefore meet the general requirements in order to be issued with a residence permit.¹³¹ Exceptional circumstances exist, in particular, if the family member is a victim of a forced marriage or a forced partnership (Art. 30a Settlement and Residence Act), has been subjected to violence and an interim injunction has been issued against the sponsor, or if the sponsor has had their residence permit revoked because they have been convicted of a willfully committed judicially punishable act (Art. 27 para. 3 Settlement and Residence Act).

According to one of the experts interviewed, in practice, family members do not experience any problems in terms of being granted a residence permit if the family relationship ceases to exist due to death. Since corresponding proof is required in the event of a separation due to violence in the family, family members are advised to accept support from the police and other relevant organizations (e.g. women's shelters). The expert consulted further noted that the competent authority in Vienna (MA 35) is aware of such cases and is on hand to offer support.¹³²

There is no provision for derived asylum or subsidiary protection status in the Austrian legal system (Strasser, 2018). All family members receive their own administrative decision regarding their international protection status (Art. 34 para. 4 Asylum Act 2005; see [Section 4.6](#)).

One of the experts interviewed for this study explained that in the context of family reunification under the Asylum Act, termination of the family relationship – for example, as a result of death or divorce – does, in practice, generally not have an impact on the protection status granted to family members and does not lead to withdrawal procedures being initiated.¹³³

130 The relevant obstacles here are those set out in Art. 11 para. 1 subpara. 4–6 Settlement and Residence Act.

131 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

132 Ibid.

133 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

5. SELECTED RIGHTS OF FAMILY MEMBERS

This section describes access to selected rights by family members. The focus here is on any differences in access to these rights between the family members and the sponsor. In the context of family reunification under the Settlement and Residence Act, family members have the same rights as the sponsor when their residence permit is issued. In cases of family reunification under the Asylum Act, family members file an application for international protection after they have arrived in Austria (see [Section 4.6.](#)) and are therefore initially granted the status of asylum-seekers, meaning that they do not have the same rights as the sponsor – either a person granted asylum or a beneficiary of subsidiary protection status – until this status has been granted.

5.1. Access to education and recognition of qualifications

There is a right to education in Austria. All persons, including those who have come to Austria via family reunification, can attend school.

Everyone has the right to education and access to vocational training and further education.¹³⁴ In principle, family members have the same access to the Austrian education system as the sponsor; the category of residence permit they hold is not generally relevant here (Lukits, 2016:49).¹³⁵

Since the 2018/19 academic year, German support classes and courses have been offered for children who are unable to follow lessons because they are not proficient in German. The aim of the German support scheme is to promote the acquisition of German as the language of instruction so that school pupils can be taught in the classroom as quickly as possible (Federal Ministry of Education, Science and Research, n.d.). This model has frequently been criticized in the scientific discourse due to a lack of evidence on whether it is fit for purpose.¹³⁶

Family members of migrants (like the sponsor) are covered by the Integration Act and are therefore required to complete Module 1 of the Integration Agreement within the first two years of their stay (see [Section 4.9.](#)). The Integration Service for Professionals, which was established in 2023 at the Austrian Integration Fund, provides advice and support on various matters for skilled workers and their families, including opportunities to learn German and opportunities for professional recognition (Austrian Integration Fund, n.d.b).

In terms of access to language courses and education or training courses, there are significant differences for sponsors who are entitled to protection and family members who are seeking international protection. Free German courses within the meaning of Art. 4 Integration Act – from literacy to C1 level – are provided for persons granted asylum and beneficiaries of subsidiary protection status as part of the “German and Integration Starter Package” support programme and through individual funding from the Austrian Integration Fund (Austrian Integration Fund, n.d.a, 2024). For the purposes of the obligatory integration declaration,

¹³⁴ Art. 14 Abs. 1 Charter of Fundamental Rights of the European Union. OJ C 326, pp. 391–407.

¹³⁵ See for example Art. 17 Compulsory Schooling Act 1985 and Art. 63 Universities Act 2002.

¹³⁶ For further discussion see Schwab and Woltran, 2024.

persons granted asylum and beneficiaries of subsidiary protection status are obliged to participate in (minimum attendance 80%), contribute to and complete the appropriate German course programmes available (Art. 6 para. 1 Integration Act). Furthermore, persons granted asylum and beneficiaries of subsidiary protection status may be granted integration assistance that includes, for instance, language courses and education or training courses. Depending on the available State financial and organizational resources, integration assistance may also be granted to asylum-seekers who are very likely to be granted international protection considering available empirical data (Art. 68 Asylum Act 2005). In accordance with Art. 68 para. 1a Asylum Act, each year the Federal Minister of the Interior informs the Public Employment Service and the Austrian Integration Fund of the countries of origin where the likelihood of being granted international protection is particularly high. A simplified access to integration assistance for family members is not foreseen. Since family members in the family procedure are to be granted the status of the person granted asylum or subsidiary protection status under the requirements of Art. 34 para. 2 and 3 Asylum Act, it can be assumed that the likelihood of international protection being granted will be high; depending on the resources available, therefore, they too should receive integration assistance.

The recognition and assessment of professional and educational qualifications gained abroad is a very complex matter in Austria (Kirilova et al., 2016:47–48). Since January 2013, four drop-in centres throughout Austria (in Vienna, Linz, Graz and Innsbruck) have been offering free, multilingual advice on the recognition and assessment of qualifications acquired abroad (Anlaufstelle für Personen mit im Ausland erworbenen Qualifikationen, n.d.).

For persons granted asylum and beneficiaries of subsidiary protection certain simplification apply for the recognition and assessment of their foreign professional and educational qualifications (Art. 8 Recognition and Assessment Act).¹³⁷ If these persons are unable to provide the necessary documents due to their refugee status, the competent authorities must employ suitable means (e.g. practical or theoretical examinations, random tests, work samples, expert opinions) to determine their qualifications. There is no comparable provision for applicants for international protection.

5.2. Labour market access and vocational training

Whether family members who have come to Austria via family reunification under the Settlement and Residence Act are allowed to work depends on the specific residence permit. In the case of family reunification under the Asylum Act, there is unrestricted access to the labour market only after the protection status has been granted.

In Austria, access to the labour market for third-country nationals is regulated by the Act Governing the Employment of Foreign Nationals.¹³⁸ The right to pursue an occupation in a self-employed or non-self-employed capacity depends largely on the residence permit issued and generally corresponds to the labour market access granted to the sponsor (Lukits, 2016:51). Labour market access may be unrestricted or restricted depending on the residence permit

issued. If access is restricted, the individual will require a work permit, for which a labour market test will

¹³⁷ Recognition and Assessment Act, FLG. I No. 55/2016 in the version of the Federal Act FLG. I No. 76/2022.

¹³⁸ Exceptions include for example persons granted asylum or subsidiary protection status, researchers, media reporters, and diplomats (Art. 1 para. 2 Act Governing the Employment of Foreign Nationals).

be carried out.¹³⁹ In some cases, family members have no labour market access. See [Annex 2](#) for a detailed breakdown by residence permit.

As with labour market access, the Act Governing the Employment of Foreign Nationals also applies with regard to access to apprenticeships, meaning that the category of the residence permit issued is key. A work permit may need to be issued depending on the residence permit held by the applicant (Art. 4 para. 2 Act Governing the Employment of Foreign Nationals).

While sponsors have unrestricted access to the labour market due to their asylum or subsidiary protection status, applicants for international protection have no access to the labour market within the first three months of filing their application for international protection. After this, family members require a work permit including a labour market test during the ongoing family procedure (Art. 4 para. 1 subpara. 1 Act Governing the Employment of Foreign Nationals). In practice, the likelihood of applicants for international protection being admitted to the labour market is low (Ebner, 2023:13). Generally, it is possible for applicants for international protection to undertake self-employment from the start of the fourth month after they have filed an application for international protection (Art. 7 para. 2 Federal Basic Care Act).¹⁴⁰ As with labour market access, family members who are applicants for international protection also require a work permit for apprenticeships (Ebner, 2023:13). There are no restrictions for persons granted asylum and beneficiaries of subsidiary protection status.

5.3. Social assistance

Access to social benefits for family members depends on the type of immigration and, under certain circumstances, the duration of the stay.

Family members – like third-country nationals in general – are entitled to social assistance and the minimum benefit system if they have lawfully lived in Austria for more than five years (Art. 4 para. 1 General Social Assistance Act).¹⁴¹

Social support for family members of beneficiaries of international protection status varies depending on their status. As asylum-seekers, family members are excluded from social assistance and covered by basic care during the asylum procedure (Art. 4 para. 2 subpara. 2 General Social Assistance Act; Art. 2 para. 1 subpara. 1 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act).¹⁴² Basic care is designed to cover basic daily needs, such as food, housing, medical care, assistance with clothing and school supplies (Federal Ministry of the Interior, n.d.). Family members who have been granted asylum status are entitled to social assistance and the minimum benefit system (Art. 4 para. 1 General Social Assistance Act). Those who are beneficiaries of subsidiary protection, however, only receive core social assistance benefits within the limits of basic care (Art. 4 para. 1 General Social Assistance Act).

¹³⁹ Für Details zu Arbeitsmarktpfprüfung siehe Ebner, 2023:16.

¹⁴⁰ Grundversorgungsgesetz – Bund 2005, BGBl. Nr. 405/1991 in der Fassung des Bundesgesetzes BGBl. I Nr. 53/2019.

¹⁴¹ General Social Assistance Act, FLG. I No. 41/2019 in the version of the Federal Act FLG. I No. 144/2024.

¹⁴² Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act, FLG. I No. 80/2004 in the version of the Federal Act FLG. I No. 197/2022.

6. CHALLENGES, GOOD PRACTICES AND PROPOSED SOLUTIONS

6.1. Challenges

The current system of family reunification poses various challenges for sponsors and family members as well as the competent authorities. In general, it can be said that **proving one's status as a family member** (particularly the case of same-sex partnerships) can pose an obstacle to family reunification if the corresponding documents are not available (UNHCR Austria, 2016:21).¹⁴³ It can also be difficult for family members to access the relevant information, which is not usually available in their native language.¹⁴⁴

In terms of how the procedure is carried out, another challenge that family members face is **making contact with the representation authority and arranging appointments**. Family members without an Austrian representation authority in their country of origin or residence may have to travel to representation authorities in neighbouring countries.¹⁴⁵ Applicants from sub-Saharan Africa, for example, regularly have to travel distances of several thousands of kilometres to reach the Austrian representation office.¹⁴⁶ In addition to the long journey and the travel expenses, which they must personally bear (Asylkoordination, 2024a:2), and despite the intermediary efforts of the Austrian representation authorities,¹⁴⁷ it can be very difficult for family members to obtain a visa to enter certain countries to visit the Austrian representation authorities in person.¹⁴⁸ In many cases, this results in procedural delays and missed appointments with the representation authority because the family member does not hold a visa.¹⁴⁹ Furthermore, it makes the family member more vulnerable. One of the experts interviewed explained that this vulnerability is exploited by smugglers – for instance, on the border of Afghanistan and Pakistan.¹⁵⁰

From the viewpoint of the authorities, challenges arose, among other things, from a significantly higher **number of applications** for family reunification recently (especially from the Syrian Arab Republic) which the authorities faced.¹⁵¹ Moreover, **communication** with applicants can be difficult because interpreters are not available for every (regional) language. This can also make routine measures, such as taking fingerprints, particularly from children, a very time-consuming process.¹⁵² The partly lack of cooperation from applicants has also been identified as a challenge.¹⁵³

¹⁴³ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

¹⁴⁴ Ibid.

¹⁴⁵ Ibid.

¹⁴⁶ Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

¹⁴⁷ Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

¹⁴⁸ Ibid.

¹⁴⁹ Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

¹⁵⁰ Ibid.

¹⁵¹ Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

¹⁵² Ibid.

¹⁵³ Written input: Office of the Styrian Provincial Government, 29 November 2024.

For domestic authorities, **limited administrative capacities** to deal with the growing numbers of applications,¹⁵⁴ combined with staff shortages and absences, were a major challenge.¹⁵⁵ In terms of the **documents required** for the procedure, it was also mentioned that applications are often incomplete or disorderly¹⁵⁶ or that deficient¹⁵⁷ and falsified documents are submitted. The provincial government of Salzburg pointed out that there are difficulties associated with checking foreign civil status documents (especially marriage certificates), meaning that the representation authorities¹⁵⁸ or document verifiers¹⁵⁹ often have to be called upon for their expertise. In addition, the Austrian practices of verification or “apostille” (authentication) do not apply to cases involving countries where there is a high level of document insecurity; these processes are suspended here due to the lack of satisfactory document security.^{160,161}

The authorities identified several challenges relating to the **assessment of contracted marriages**. In terms of the applicable law, for instance, assessing whether a marriage has been contracted legally and, consequently, whether the family relationship exists can be a very complex task.¹⁶² Under Art. 6 International Private Law Act,¹⁶³ a marriage that has been contracted may be deemed invalid. This is especially the case where religious marriages are concerned. According to the Constitutional Court, however, it cannot be assumed that a marriage contracted under Islamic law, for example, is not to be recognized without giving due consideration to the specific circumstances of the individual case (Constitutional Court, 2018a). The Supreme Administrative Court has also repeatedly stated in its case law that a marriage contracted by traditional means may be retroactively recognized through subsequent registration if such recognition is provided for under the applicable civil law (Supreme Administrative Court, 2020i). An expert from the Federal Ministry of the Interior interviewed for this study also noted that one of the recurring challenges was that of assessing whether a marriage has been contracted solely for the purpose of residence, which rules out family reunification (Art. 30 para. 1 Settlement and Residence Act, see [Section 4.1.](#)). Although such marriages are not commonplace, carrying out this assessment can be complex in individual cases. Evidence such as wedding photographs or videos are required as proof of the marriage ceremony,¹⁶⁴ while regular online contact and visits are cited as proof of a “genuine” marriage (Supreme Administrative Court, 2023f). The persons involved are also questioned either simultaneously or within a narrow time frame to ascertain details of the marriage ceremony and married life, and this information is taken into account. However, this can be a challenge if the persons involved do not both reside in Austria.¹⁶⁵ It can also be difficult in practice to determine whether a

154 Written input: Office of the Carinthian Provincial Government, 5 December 2024; Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

155 Written input: Office of the Styrian Provincial Government, 29 November 2024.

156 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024; Written input: Office of the Burgenland Provincial Government, 23 December 2024.

157 Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

158 Written input: Office of the Salzburg Provincial Government, 28 November 2024.

159 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

160 Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024.

161 The verification of documents from certain States may be suspended by the Federal Ministry for European and International Affairs if a reliable verification of the authenticity or accuracy of the content of these documents cannot be ensured. In such cases, the respective Austrian representation authority is not permitted to authenticate documents from such a State (Federal Ministry for European and International Affairs, n.d.a).

162 Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024; Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

163 Private International Law Act, FLG. No. 304/1978 in the version of the Federal Act FLG. I No. 147/2022.

164 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

165 Interview with Eva-Caroline Pflieger, Ministry of the Interior, 12 November 2024.

marriage is a forced marriage, especially if it is customary in the country of origin for parents to decide who their offspring will marry.¹⁶⁶

Finally, the provincial governments consulted for the study identified challenges associated specifically with the family reunification of persons granted asylum under the Settlement and Residence Act. The fact that circumstances which may, in principle, establish a basis for international protection cannot be taken into account in the procedure under the Settlement and Residence Act is a cause of confusion for applicants.¹⁶⁷ The **quota requirements**¹⁶⁸ and the Settlement Regulation as a whole¹⁶⁹ were also identified as challenges, and the Styrian provincial government pointed out that the quota places in Styria were exhausted for the first time in 2023 and 2024, leading to delays.¹⁷⁰

An expert interviewed as part of this study stated that the requirement to provide **proof of German language proficiency before entering the country and of sufficient income** (see [Section 4.4.](#)) presents the greatest obstacle to family reunification under the Settlement and Residence Act.¹⁷¹ If appropriate language courses are unavailable in the country of origin or residence or inaccessible due to a lack of infrastructure, learning German may prove impossible for family members (in practice, predominantly women; Abermann et al., 2019:387). With regard to the issue of sufficient income, many people find it difficult to reach the reference rates stipulated in the General Social Insurance Act (see [Section 4.4.](#)), especially families with children. Furthermore, the expert interviewed explained that access to accommodation that is customary for the local area has become more difficult in recent years due to rising rents.¹⁷² Providing evidence of health insurance coverage may also be a challenge in cases where co-insurance is not a viable option. The cost of private health insurance is generally relatively high, and it can be difficult to find private health insurance providers, especially for older people.¹⁷³

According to an expert from the Counseling Center for Migrants, the **costs** that can arise in connection with family reunification (see [Section 4.8.](#)) mean that in some cases, sponsors are not prepared to cover the additional costs of training or education or for German courses after their family members have arrived in Austria. Women who have followed their family to Austria are particularly affected by this. For many people, therefore, improving their German skills – a requirement of the Integration Act and essential for labour market integration – and accessing the most cost-effective courses can be a challenge.¹⁷⁴

Despite having an autonomous right of settlement family members (see [Section 4.11.](#)) often become **financially dependent on the sponsor** according to one of the experts interviewed – particularly in the first five years, or until the family members are able to be granted permanent residence status. This dependency arises from

166 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

167 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

168 Written input: City of Vienna, 18 December 2024.

169 Written input: Office of the Burgenland Provincial Government, 23 December 2024.

170 Written input: Office of the Styrian Provincial Government, 29 November 2024.

171 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

172 Ibid.

173 Ibid.

174 Ibid.

the fact that family members must themselves have assured self-sufficiency, housing and health insurance in order to be issued with an autonomous residence permit. In most cases, the people this affects are women; if they do not meet these requirements independently, the possibility of separating from the sponsor is out of question.¹⁷⁵ Meeting the income requirements for the next extension period is another challenge, particularly when savings that initially served as proof of assured self-sufficiency are exhausted.¹⁷⁶

For the authorities, challenges may arise in relation to the **verification of the documents** submitted as part of the application process, for example documents which were not submitted or not submitted on time,¹⁷⁷ the often poor quality of foreign-language documents¹⁷⁸ and the generally difficult situation regarding documentation.¹⁷⁹ Difficulties may also arise as a result of changes during the ongoing procedure, for example if the sponsor ends their employment or changes accommodation. In this case, it may be necessary to re-evaluate the accommodation to ensure it is customary for the local area, or to transfer responsibility to a different local authority if the sponsor has moved.¹⁸⁰ Finally, the **assessment of the accommodation** as customary for the local area and the **complex calculation of income** to determine adequate self-sufficiency were cited as a challenge for the authorities.¹⁸¹

In the context of family reunification under the Asylum Act, the **existing deadlines** and **proof of sufficient income** are perceived as a challenge:

- On one hand, the three-month deadline for family members of persons granted asylum in Austria to apply for family reunification under the Asylum Act is perceived as a challenge.¹⁸² In this context, difficulties in establishing contact with family members should be considered, for example in cases where contact has been lost as a result of war or armed conflict, or where persecution makes it impossible to reach family members in the country of origin or residence. It can often take several months to find separated family members (UNHCR Austria, 2016:16). In cases where the three-month deadline has been missed and the additional requirements (see [Section 4.4.](#)) must be met, providing evidence of assured self-sufficiency is a significant hurdle for many applicants in the first few years (UNHCR Austria, 2016:17). On average, the families looked after by the Austrian Red Cross have more than four family members, which means that the reference rate they need to reach is correspondingly high.¹⁸³
- On the other hand, it concerns the three-year waiting period for family members of beneficiaries of subsidiary protection in Austria, which, together with the flight, the procedure for international protection and the family reunification procedure, can regularly lead to more than four or five years of separation from the family.¹⁸⁴ Furthermore, family reunification is no longer possible for children

175 Ibid.

176 Ibid.

177 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

178 Written input: Office of the Carinthian Provincial Government, 5 December 2024.

179 Written input: Office of the Styrian Provincial Government, 29 November 2024; Written input: City of Vienna, 18 December 2024.

180 Written input: Office of the Lower Austrian Provincial Government, 28 November 2024.

181 Written input: City of Vienna, 18 December 2024.

182 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

183 Ibid.

184 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

who reach the age of majority in the interim period,¹⁸⁵ for example in the case of unaccompanied minors who are already 15 years old when subsidiary protection status is granted. As they have already reached the age of majority by the end of the three-year waiting period, their parents are no longer able to join them (Asylkoordination, 2024a; Commission on the Best Interests of the Child, 2021:79). Reversely, the waiting period also means that children of adult beneficiaries of subsidiary protection status who have reached the age of majority are not able to join their parents. Delays and difficulties in family reunification procedures also increase the **vulnerability of unaccompanied minors** (Forin and Healy, 2018:80), who may, as a result, travel independently and at great personal risk to another country where they hope for a better chance of family reunification (Ammann, 2021:61–64). In cases such as these, the whereabouts of the unaccompanied minors are usually not known and they are exposed to an increased risk of dependence on smugglers as well as exploitation and child trafficking by criminal groups (Europol, 2018; Commission on the Best Interests of the Child, 2021). In Austria, cases of “absconding” are recorded statistically as withdrawals from proceedings. While 4,946 unaccompanied minors applied for asylum in 2023, there were 4,715 withdrawals of unaccompanied minors in the same period (Ammann, 2024:22; Federal Ministry of the Interior, 2024a:21, 2024c:24).

Moreover, family reunification can be an **expensive process**, particularly when there are several family members concerned, and this can pose an obstacle for refugees due to the limited financial resources available (UNHCR Austria, 2016:28). Examples include the costs of the application itself, procuring documents,¹⁸⁶ travelling (to the representation authority and to Austria) and DNA analyses. The cost of family reunification for the average family is in the region of at least EUR 5,000, often higher.¹⁸⁷ Although the costs of DNA analyses may be reimbursed under certain circumstances, this is only the case when the applicant has already entered Austria.

Obtaining the necessary travel documents or proof of the family relationship can be difficult in certain countries of origin; for some applicants, it can even be impossible (UNHCR Austria, 2016:21, 24). In this context specifically, there are cases in which, for reasons relevant to asylum, applicants cannot turn to the authorities in their country of origin for help – for example, due to persecution in that country.¹⁸⁸ Given that a valid travel document is required in order to enter Austria (Art. 15 Aliens Police Act 2005) and to leave the country of origin or residence,¹⁸⁹ obtaining this document can pose an insurmountable obstacle for family members in some situations.¹⁹⁰ Two interviewed experts noted in this context that in some countries a travel document can be issued by UNHCR or the International Committee of the Red Cross,¹⁹¹ but these documents must be recognized by both the country of departure and the country of entry, which is not always guaranteed.¹⁹² A lack of regular pathways can lead to people deciding to enter the country irregularly in

185 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

186 It was mentioned that, for instance, Syrian passports are currently considered the most expensive passports in the world, costing up to USD 1,500 per passport.

187 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

188 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

189 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

190 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

191 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

192 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

order to join the sponsor.¹⁹³ According to an expert from the Federal Ministry for European and International Affairs, however, it is very uncommon for applicants not to hold a passport; out of the 10,000 procedures under the Asylum Act in 2023, issues with missing passports were only in the low double-figure range.¹⁹⁴

The prospect of a **two-stage application** can be challenging for unaccompanied minors. The requirement for unaccompanied minors granted asylum to submit a further application under the Settlement and Residence Act if they reach the age of majority during the family reunification procedure under the Asylum Act (see [Section 3.](#) and [Section 4.6.](#)) results in double the costs and a greater administrative burden for applicants. Furthermore, family members are not granted international protection status, but only a Red-White-Red Card Plus valid for one year (Bauer, 2022). This has an impact on the social support they receive (see [Section 5.3.](#)) and their obligations under the Integration Act (see [Section 4.9.](#)). Additionally, the eligibility requirements must be met in order to extend the residence permit (see [Section 4.4.](#) and [Section 4.10.](#)). Once the family is reunified, a number of challenges can arise particularly in the first weeks and months (“stabilization phase”) depending on individual needs and vulnerabilities:¹⁹⁵

- The **initial orientation** and **bureaucratic steps** that must be carried out after arrival (residence registration, applying for asylum, enrolling children in kindergartens and schools, etc.) are a challenge for many people. Family members without German language proficiency find these tasks particularly difficult.¹⁹⁶ Sponsors who are in the initial stage of their own integration process can only offer limited support in the integration process for family members joining them (Expert Council for Integration, 2019:84); if sponsors are mainly engaged in looking after their family members due to a lack of other avenues of support, their own integration process will also be hindered (for example, in terms of German course attendance or labour market integration). The requirement for bureaucratic steps to be carried out in the correct sequence is also a challenge. For example, it must already be determined whether the family members can live with the sponsor before the application for international protection is filed; in this case, registration is required prior to the application for international protection.¹⁹⁷
- Several experts interviewed for this study reported that **accommodation** can be an extremely challenging matter.¹⁹⁸ The accommodation available is too small for many families and the costs of a larger apartment are prohibitive. Furthermore, the sponsor and their family members receive different social services (social assistance and basic care;¹⁹⁹ see also [Section 5.3.](#)) based on their differing statuses – the sponsor as beneficiary of asylum or subsidiary protection and the family member as applicant for international protection. Covering the costs of an apartment for the whole family is often a major challenge. There is no entitlement to care in a specific reception centre or in a specific province

193 Ibid.

194 Interview with Hannes Schreiber, Federal Ministry for European and International Affairs, 13 November 2024.

195 Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

196 Ibid.

197 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

198 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024; Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024; Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

199 The amount of basic care services is regulated in the Agreement between the Federal State and the Provinces on Basic Care in the form of maximum cost rates. The maximum cost rate for rent in individual accommodation is EUR 165 per month for individuals and EUR 330 per month for families. For meals in individual accommodation, the monthly maximum cost rate is EUR 260 for adults and EUR 145 for children; Art. 9 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act, FLG. I No. 80/2004 in the version of the Federal Act FLG. I No. 197/2022.

(Art. 2 para. 1a Federal Basic Care Act). In many cases, family members are housed in a basic care centre, which may be located in another province.²⁰⁰ As applicants for international protection, family members are also subject to the assigned area of residence set out in Art. 15c Asylum Act, according to which they are obliged to reside in the province in which they receive basic care. Visits to any other province are limited to a maximum of three days (Diakonie Flüchtlingsdienst, n.d.). This situation of vulnerability leads to the risk of persons granted protection status living in dilapidated apartments (Ebenführer, 2024). In practice, it can also take several weeks for basic care benefits to be paid. Families in Vienna, for example, are dependent on the food vouchers handed out by the Interface advice centre in order to meet their subsistence needs during this phase.²⁰¹

- Several experts interviewed for this study also cited **family life** as one of the challenges faced.²⁰² Roles within the family may change during the separation period – for instance, when children get older and end up taking on more responsibility, or when women have been on their own and have had to manage and support the family alone. At the same time, there is an expectation for the cohabitation that existed prior to the separation to resume smoothly following family reunification. This can lead to conflicts or disappointments, partly because the new living situation may have been presented in an overly positive light.²⁰³

6.2. Good practices

In addition to challenges, the experts interviewed for this study also identified good practices. It was emphasized that Austrian representation authorities no longer send applications to the competent domestic authorities by post but instead **electronically**, which the experts interviewed for this study identified as a good practice.²⁰⁴ The **digital application process** for family reunification under the Settlement and Residence Act was also identified as a positive example. At present, however, applications for family reunification under the Asylum Act must still be completed manually, which results in an additional effort for the authorities.²⁰⁵

One of the good practices identified in connection with the accessibility of the representation authorities was the option for applicants to send **passports** to the representation authorities **by courier** in order to be issued with a visa. This possibility is offered by the Austrian representation authorities in Lebanon, for example.²⁰⁶

A good practice identified for the assessment of missing or questionable marriage certificates was the use of a **standardized questionnaire**. This allows the representation authority to query the details of the marriage and to then reconcile this information with the answers given by the spouse in Austria.²⁰⁷

200 Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

201 Ibid.

202 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024; Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

203 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

204 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

205 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

206 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

207 Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024.

The possibility for the authorities to use **DNA analyses** to obtain unequivocal proof was cited as a good practice – despite attracting criticism in terms of efficacy, high costs and procedural delays (see [Section 3.](#)). Another practice that has proved effective is obtaining the file from the procedure under the Asylum Act before the Federal Office for Immigration and Asylum in order to cross-reference information about family relationships.²⁰⁸

Particularly in the context of family reunification under the Settlement and Residence Act, it was mentioned in regard to health insurance that a **list of insurance providers** has been compiled whose insurance cover has been checked and deemed adequate.²⁰⁹ While it is possible to choose alternative insurance, this necessitates a review of the documentation (policy, insurance conditions) by the authorities in order to assess whether all risks are covered.²¹⁰ Furthermore, allowing the relevant authorities to liaise with the Federal Ministry of the Interior in cases of uncertainty has proved to be a good practice.²¹¹

In addition, an expert interviewed for this study emphasized **projects designed to support, guide and provide advice for family members**, recommending that such projects be further developed. For example, the StartWien project – a free programme supporting new immigrants arriving in the city of Vienna – and the Austrian Business Agency’s advice programmes for family members were considered good practices. The provision of financial support for German courses (through Federal State vouchers, for instance) was also highlighted as a positive example.²¹²

In connection with family reunification under the Asylum Act, the Austrian Red Cross adapted its procedure for supporting family reunification in order to comply with the three-month deadline for facilitated family reunification in asylum cases (Art. 35 para. 1 Asylum Act 2005). This means that an in-person interview is no longer necessary in every case. Instead, the required documents are submitted via email, a power of attorney is issued, and the Austrian Red Cross then submits the written application for an entry permit for the purpose of applying for international protection to the representation authority abroad. The three-month deadline is deemed to have been met with the submission of this **written application**.²¹³

With regard to support for family members after their arrival in Austria, the project “Start-up support for persons entitled to asylum and subsidiary protection”²¹⁴ and the StartWien Hub pilot project initiated in the City of Vienna in 2024 to **support family members of beneficiaries of protection** should be emphasized (City of Vienna, 2024; ORF.at, 2024c). In this project participants are supported by various educational and advisory services over a period of six months with the objective of helping them to settle in the country in a purposeful and resource-efficient manner. Focal points include literacy and German courses, childcare and

208 Written input: City of Vienna, 18 December 2024.

209 Regarding the list see City of Vienna, n.d.

210 Interview with Eva-Caroline Pfleger, Ministry of the Interior, 12 November 2024.

211 Ibid.

212 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

213 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

214 The project “Startbegleitung für Asyl- und subsidiär Schutzberechtigte” has been providing intensive support and assistance to family members for 17 years. Since this project is the only counseling center that can provide counseling and support to both applicants for international protection and beneficiaries of protection, it is possible to provide continuous and uninterrupted support to families in all issues related to integration. Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

social worker support (Interface, n.d.). The StartWien Hub has links to other organizations, to which family members are referred in areas that the hub itself is unable to cover.²¹⁵

6.3. Proposed solutions

The Federal Government aims a temporary pause family reunification of beneficiaries of international protection with immediate effect and in accordance with Art. 8 ECHR. Once the temporary pause has expired, the solutions proposed here by authorities and institutions in the field of family reunification could contribute to adapting the existing system of family reunification.

Taking into account existing good practices, the interviewed experts proposed some solutions to address the challenges faced by sponsors and family members as well as the competent authorities.

Reducing the overload of Austrian representation authorities

- Support from other representative authorities or actors (e.g. international organizations), for example in the context of the application process (e.g. when conducting interviews or identity checks; UNHCR Austria, 2024a),²¹⁶
- Allowing the sponsor in Austria to submit an application on their behalf (as a result, the representation authorities would only be responsible for establishing identity and issuing the visa).²¹⁷

Increasing the administrative capacity of domestic authorities

- Better staffing situation at the authorities;²¹⁸
- Further digitization of the administrative processes;²¹⁹
- Reduction in the workload associated with income calculations and verifications of whether accommodation is customary for the local area (by assuming fixed asset amounts without taking into account costs or expenses and by removing the criterion of accommodation as customary for the local area).²²⁰

Reduction of barriers when applying to the representation authorities

- If required, issuance of travel documents by the Austrian state for entry into Austria for the purpose of family reunification (UNHCR Austria, 2024a).

215 Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

216 Interview with Birgit Einzenberger and Lisa Sommerauer, UNHCR Austria, 14 November 2024.

217 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

218 Written input: Office of the Carinthian Provincial Government, 5 December 2024.

219 Written input: Office of the Burgenland Provincial Government, 23 December 2024; Written input: Office of the Carinthian Provincial Government, 5 December 2024.

220 Written input: City of Vienna, 18 December 2024.

Simplifications for the sponsor

- Abolition of the quota system²²¹ and the timely promulgation of the Settlement Regulation²²² – which would also simplify administrative procedures at the domestic authorities;
- Abolition or significant extension of the three-month period (e.g. to two years). This would enable persons entitled to asylum to gain a foothold in the labour market before family reunification and to establish a livelihood in Austria. This would also enable them to better support their family members;²²³
- Abolition of the three-year waiting period for persons entitled to subsidiary protection and harmonization with the regulations for family reunification of persons entitled to asylum (UNHCR Austria, 2024a).

Support in the integration in Austria

- Provision of start-up support for family members to explain and assist with the various processes (school, kindergarten, social welfare, housing, etc.),²²⁴ which goes beyond the isolated services that currently exist (e.g. women's cafés, family meetings, organizations/associations that offer support);²²⁵
- Active involvement of family members who have joined the family (mostly women) in the counselling and support services in order to support an equal start in Austria;²²⁶
- Increased exchange of relevant information and statistical data between the responsible authorities for better planning regarding housing, school places and German course provision (UNHCR Austria, 2024a).

221 Written input: City of Vienna, 18 December 2024.

222 Written input: Office of the Burgenland Provincial Government, 23 December 2024.

223 Interview with Daniel Bernhart, Austrian Red Cross, 12 November 2024.

224 Ibid.

225 Interview with Maryam Singh, Counseling Center for Migrants, 13 November 2024.

226 Interview with Susanne Schaidinger, Interface Wien, 11 November 2024.

7. CONCLUSIONS

Family reunification is based on two distinct legal bases depending on whether reunification takes place under the Settlement and Residence Act or in the context of international protection. As this study shows, this division results in extremely complex regulations concerning the requirements for family reunification, the procedural provisions (e.g. competent authorities, costs) and the category of residence permit or protection status (Federal Agency for Reception and Support Services, 2022:30; Abermann et al., 2019:§ 46 margin number 1). Furthermore, there are also different regulations within these two systems. The Asylum Act differs significantly between family reunification of beneficiaries of subsidiary protection and of persons granted asylum. For example, there is a waiting period of three years for beneficiaries of subsidiary protection status because persons in this category are only initially granted temporary residence, which is only consolidated once the three-year period has passed (Constitutional Court, 2018b). However, the three-year period can lead to the loss of the possibility of family reunification if the person has reached the age of majority in the meantime. Given the importance of family (particularly in the best interests of the child), which is also laid down in international agreements and the European Union's guidelines, abolishing or reducing the waiting time for sponsors granted subsidiary protection status (see [Section 4.2.](#) and [Section 4.6.](#)) would, however, appear to be an effective way of preventing applicants missing out on the opportunity for family reunification if a member reaches the age of majority while the process is ongoing.

The implementation of European Union's Pact on Migration and Asylum, which was adopted by the European Parliament in 2024, can be viewed as an opportunity to review the existing national regulations and to harmonize the two distinct systems of family reunification. One point worth considering would be whether the three-month application deadline for family reunification with sponsors granted asylum (see [Section 4.2.](#)) is appropriate or if this period should be extended or cancelled. This would give sponsors more time to consolidate their living situation and finances in Austria, for example, allowing them to better support their family members as a result. The current three-month period is relatively short, which would explain why the sponsor's living situation and finances tend to be (even more) unclear. This in turn has a negative impact on the integration process as the findings of this study suggest. Furthermore, since family members are classed as applicants for international protection after arriving in Austria and therefore receive different social support services to the sponsor (as a person granted protection status), this has a negative impact on their financial situation and makes living arrangements in particular a challenge (see [Section 5.3.](#) and [Section 6.1.](#))

Additionally, with regard to the eligibility requirements for family reunification (specifically, proof of assured self-sufficiency and German language proficiency), lower-earning families, large families and families with a low level of education seem to be at a disadvantage compared to families with better financial resources and a higher level of education. The results of this study also indicate that enabling the sponsor in Austria to file the application (instead of the family members abroad) may have a positive impact. This may help to ease the burden on the authorities, as applications would be filed by people who already know how the Austrian authorities work, which would make the submission of the application and all the necessary documents more efficient. If the principle of filing applications abroad is upheld, it would be advisable according to the experts interviewed for this study to allow also applications for family reunification under the Settlement

and Residence Act to be filed with any Austrian representation authority, regardless of the applicant's place of residence. The results of this study also suggest that cooperation with other European Union Member States for the purposes of representation is worth considering if there are no Austrian representation authorities in a given country. This could eliminate the need for costly and potentially dangerous journeys to the Austrian representation authority. Another option worth considering to ease the burden on the Austrian (representation) authorities would be to involve international organizations in the procedure, for instance for the purpose of carrying out interviews or identity checks.

Given that this study identifies the fact that at present, predominantly women and girls join men already residing in Austria, it is also important to view family reunification from a gender-specific angle. Language acquisition, labour market integration and autonomous participation in social life are important factors when it comes to preventing situations of dependency. A drop-in center that supports and accompanies families throughout the family reunification process and beyond while also taking into account gender-specific aspects would be – as suggested by the experts consulted for this study – an opportunity to promote gender-equitable family reunification and integration.

The legal regulations on family reunification were amended several times during the study period (January 2017 until March 2025). There were also changes in practice, particularly with regard to family reunification under the Asylum Act. In 2024, there were a number of changes in practice aimed at limiting family reunification by carrying out stricter document checks and more DNA analyses to determine family relationships. As a result of the collapse of the Syrian regime in December 2024, ongoing family reunification procedures for Syrians in Austria were paused and procedures to withdraw the asylum status of Syrians already granted protection in Austria were initiated, contrary to family reunification (see [Section 3.](#) and [Section 4.6.](#)). With the inauguration of the new Federal Government in March 2025, the government programme and the resolution passed in the Council of Ministers on 12 March 2025 (see [Section 3.](#)), the topic of family reunification – in particular the temporary suspension of family reunification planned by the Federal Government – also came increasingly into focus. With the motion to amend the Asylum Act submitted on 26 March 2025, it seems clear that the existing system of family reunification in the area of asylum will not be changed for the time being, but that the intended suspension is to be achieved by means of a regulation that suspends the decision period. At the time of drafting this national report, there are differing views on whether this can be legally implemented.

ANNEX

A.1. Overview of persons entitled to family reunification

	Settlement and Residence Act	Asylum Act
Parents	Under certain circumstances; see “Other family members” below.	Yes, parent of a minor child (Art. 35 para. 5 Asylum Act 2005).
Adult children	Under certain circumstances; see “Other family members” below.	
Non-married partners	Yes, for registered partners, provided they are over age 21 at the time of application (Art. 2 para. 1 subpara. 9 Settlement and Residence Act)	Yes, for registered partners, provided the registered partnership already existed before the reunifying person entered the country for the first time.
	Neither the Settlement and Residence Act nor the Asylum Act provides for unregistered partners (“life partners”) to be granted residence or international protection status. According to the case law of the Constitutional Court, however, the entry of unmarried partners with whom the sponsor has minor children may be required under Art. 8 ECHR, and therefore an appropriate examination must be conducted (Constitutional Court, 2017).	
Same-sex partners who are registered	Yes – see the information above on registered partnerships.	
Dependent persons, i.e. persons receiving legal, financial, emotional or material support by the sponsor or by spouse/partner	Under certain circumstances; see “Other family members” below.	
Other family members	Neither the Settlement and Residence Act nor the Asylum Act provides for other family members to be granted residence or international protection status. According to the case law of the Supreme Administrative Court, however, exceptions may be made in individual cases in order to avoid violating the Austrian constitution or European Union law. ²²⁷	

227 It may therefore be necessary to “decouple” the concept of family from the legal definition in Art. 2 para. 1 subpara. 9 of the Settlement and Residence Act to avoid an unconstitutional outcome or to achieve an interpretation of the national legal situation that is in conformity with EU law (Bauer, 2022). This applies, for instance, to cases in which a right to family reunification can be derived from Art. 8 ECHR, so that, for constitutional reasons, Art. 46 Settlement and Residence Act includes as “family members” those family members—not residing within the federal territory—who are entitled under Art. 8 ECHR (Supreme Administrative Court, 2018c). Thus, under certain circumstances, the parents of persons granted asylum who reached the age of majority, dependent siblings, or dependent adult children may also need to be included in family reunification (Supreme Administrative Court, 2022).

A.2. Overview of residence permits for third-country nationals in the context of family reunification in Austria

Settlement and Residence Act

Residence permit/temporary residence permit or protection status of the sponsor	residence permit to be granted to family members	Quota place required	Period of validity of the residence permit for family members	Deadline for making a decision: without delay, but at the latest	Independent or derived residence permit	Access to the labour market
Red-White-Red Card (Art. 41 Settlement and Residence Act) for: • very highly qualified workers • skilled workers • key workers • regular workers in tourism, agriculture and forestry • self-employed key workers • start-up founders	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	according to the period of validity of the sponsor's residence permit (Art. 46 para. 1a Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Permanent Residence – EU (Art. 45 Settlement and Residence Act) provided that one of the above-mentioned residence permits was originally held	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1a Settlement and Residence Act)	no	two years (Art. 46 para. 6 Settlement and Residence Act)	eight weeks (Art. 46 para. 6 Settlement and Residence Act)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Red-White-Red Card Plus (Art. 41a para. 1 or 7a Settlement and Residence Act) for: • Extension/change of purpose of the Red-White-Red Card if the legal requirements are met	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	two years (Art. 46 para. 1a Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)

Red-White-Red Card Plus (Art. 41a para. 4 or 7b Settlement and Residence Act) for: • Extension/change of purpose after at least two years of settlement permit • Displaced persons from Ukraine	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	one year or, under certain conditions, three years (Art. 20 Settlement and Residence Act) ²²⁸	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Red-White-Red Card Plus (Art. 41a para. 2, 3, 5, 6 or 7 Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 2 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act), under certain circumstances two years (Art. 46 para. 6 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991), under certain circumstances eight weeks (Art. 46 para. 6 Settlement and Residence Act)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
EU Blue Card (Art. 42 Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 3 Settlement and Residence Act)	no	according to the period of validity of the sponsor's residence permit (Art. 46 para. 6 Settlement and Residence Act)	eight weeks (Art. 46 para. 6 Settlement and Residence Act)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Settlement Permit (Art. 43 para. 1 Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)

²²⁸ The requirements are the fulfillment of Module 1 of the Integration Agreement (Art. 9 Integration Act) and continuous lawful settlement in the federal territory for the past two years.

Settlement Permit (Art. 43 para. 2 Settlement and Residence Act)	Settlement Permit – Gainful Employment Excepted (Art. 46 para. 5 Settlement and Residence Act)	no	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	no access (Art. 8 para. 1 subpara. 5 Settlement and Residence Act)
Settlement Permit – Researcher (Art. 43c Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	according to the period of validity of the sponsor's residence permit (Art. 46 para. 6 Settlement and Residence Act)	eight weeks (Art. 46 para. 6 Settlement and Residence Act)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Settlement Permit – Gainful Employment Excepted (Art. 44 Settlement and Residence Act)	Settlement Permit – Gainful Employment Excepted (Art. 46 para. 5 Settlement and Residence Act)	yes	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	no access (Art. 8 para. 1 subpara. 5 Settlement and Residence Act)
Settlement Permit – Special Cases of Gainful Employment (Art. 43b Settlement and Residence Act), provided that this settlement permit is based on an activity as a special manager and in research and teaching, in the development of the arts and in the teaching of the arts (Art. 1 para. 2 subpara. f and i Act Governing the Employment of Foreign Nationals)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 1 Settlement and Residence Act)	no	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)

Permanent Residence – EU (Art. 45 Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 2 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Asylum status (Art. 3 Asylum Act 2005) if Art. 34 para. 2 Asylum Act 2005 does not apply	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 2 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Third-country nationals entitled to reside under EU law with a residence card (Art. 54 Settlement and Residence Act) or permanent residence card (Art. 54a Settlement and Residence Act)	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 2 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Residence permit "Article 50 TEU"	Red-White-Red Card Plus (Art. 46 para. 1 subpara. 2 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)

Residence Permit, provided that the EU Blue Card (Art. 42 Settlement and Residence Act) was originally held	Red-White-Red Card Plus (Art. 46 para. 3 Settlement and Residence Act)	no	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	unlimited (Art. 17 para. 1 Act Governing the Employment of Foreign Nationals)
Settlement Permit (Art. 43 par. 3 and 4 Settlement and Residence Act)	Settlement Permit (Art. 46 para. 4 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	Exercise of self-employment (Art. 8 para. 1 subpara. 4 Settlement and Residence Act)
Settlement Permit – Artist (Art. 43a Settlement and Residence Act)	Settlement Permit (Art. 46 para. 4 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	Exercise of self-employment (Art. 8 para. 1 subpara. 4 Settlement and Residence Act)
Settlement Permit – Special Cases of Gainful Employment (Art. 43b Settlement and Residence Act), provided that this settlement permit is not based on an activity pursuant to Art. 1 para. 2 subpara. f and i Act Governing the Employment of Foreign Nationals (see above; Art. 46 para. 4 Settlement and Residence Act)	Settlement Permit (Art. 46 para. 4 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	Exercise of self-employment (Art. 8 para. 1 subpara. 4 Settlement and Residence Act)

Settlement Permit – Dependent (Art. 47 para. 3 Settlement and Residence Act)	Settlement Permit (Art. 46 para. 4 Settlement and Residence Act)	yes (exception according to Art. 11 para. 3 Settlement and Residence Act)	one year or, under certain conditions, three years ²²⁸ (Art. 20 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	independent	Exercise of self-employment (Art. 8 para. 1 subpara. 4 Settlement and Residence Act)
Temporary Residence Permit (Mobile) Intra-corporate Transferees („ICT“, Art. 58 Settlement and Residence Act)	Temporary Residence Permit – Family Community (derived)	no	according to the period of validity of the sponsor's residence permit (Art. 69 para. 1 Settlement and Residence Act)	eight weeks (Art. 69 para. 3 Settlement and Residence Act)	derived	limited (Art. 3 para. 1 Act Governing the Employment of Foreign Nationals)
Residence Permit Mobile Researcher (Art. 61 Settlement and Residence Act)	Temporary Residence Permit – Family Community (derived)	no	according to the period of validity of the sponsor's residence permit (Art. 69 para. 1 Settlement and Residence Act)	eight weeks (Art. 69 para. 3 Settlement and Residence Act)	derived	no access (Art. 3 para. 1 Act Governing the Employment of Foreign Nationals)
Temporary Residence Permit for Special Cases of Gainful Employment	Temporary Residence Permit – Family Community (derived)	no	according to the period of validity of the sponsor's residence permit (Art. 69 para. 1 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	derived	no access (Art. 3 para. 1 Act Governing the Employment of Foreign Nationals)
Temporary Residence Permit Student	Temporary Residence Permit – Family Community (derived)	no	according to the period of validity of the sponsor's residence permit (Art. 69 para. 1 Settlement and Residence Act)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991)	derived	no access (Art. 3 para. 1 Act Governing the Employment of Foreign Nationals)

Asylum Act

Protection status of the sponsor	Protection status to be granted to family members	Quota place required	Period of validity of the residence permit for family members	Deadline for making a decision: without delay, but at the latest	Independent or derived protection status	Access to the labour market
Asylum status (Art. 3 Asylum Act 2005)	Asylum status	no	initially temporary right of residence (depending on the period of validity of the sponsor's right of residence), after extension unlimited (Art. 3 Asylum Act 2005)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991) or three months if the family member seeking asylum is in detention pending removal (Art. 22 para. 6 Asylum Act 2005)	independent	unlimited (Art. 1 para. 2 subpara. a Act Governing the Employment of Foreign Nationals)
Subsidiary protection status (Art. 8 Asylum Act 2005)	Subsidiary protection status or asylum status (see Section 4.6.)	no	Right of residence ends at the same time as that of the sponsor (Art. 8 para. 5 Asylum Act 2005)	six months (Art. 73 para. 1 General Administrative Procedures Act 1991) or three months if the family member seeking asylum is in detention pending removal (Art. 22 para. 6 Asylum Act 2005)	independent	unlimited (Art. 1 para. 2 subpara. a Act Governing the Employment of Foreign Nationals)

A.3 List of abbreviations

Term	Abbreviation
Coronavirus disease 2019	COVID-19
Court of Justice of the European Union	CJEU
European Convention on Human Rights	ECHR
European Migration Network	EMN
Federal Law Gazette	FLG
International Organization for Migration	IOM
NEOS – The New Austria and Liberal Forum	NEOS
Official Journal of the European Union	OJ
United Nations High Commissioner for Refugees	UNHCR

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EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was established in 2003 by the European Commission on behalf of the European Council, to respond to the need for a regular exchange of reliable information in the field of migration and asylum at European level. Since 2008, Council Decision 2008/381/EC has provided the legal basis for the EMN.

The EMN consists of National Contact Points in the EMN Member Countries (EU Member States except Denmark) and in Observer Countries and is coordinated by the European Commission's Directorate-General for Migration and Home Affairs.

Based on an agreement with the Austrian Federal Ministry of the Interior, the National Contact Point Austria is located in the Policy Research and Migration Law Unit of the Country Office for Austria of the International Organization for Migration (IOM). Since 1952, when Austria joined IOM as one of its first Member States, the IOM Country Office for Austria has worked to assist migrants and to analyze national migration issues and emerging trends to develop and implement projects and programmes.

The objective of the EMN is to provide European Union institutions and the authorities of Member States with up-to-date, objective, reliable and comparable information on migration and asylum in order to support evidence-based policymaking. The EMN also serves to provide the general public with relevant information.

The main tasks of the National Contact Points in implementing the work programme of the EMN include preparing reports, studies and other publications, providing information through so-called Ad-hoc Queries, and facilitating the exchange between research, policy and practice by organizing events and establishing national networks of relevant stakeholders.

All publications of the EMN are available on the website of the European Commission's Directorate-General for Migration and Home Affairs and on the website of EMN Austria (www.emn.at).

