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ANNUAL REPORT ON MIGRATION AND ASYLUM 2022

Martin Stiller

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EXECUTIVE SUMMARY

The Annual Report on Migration and Asylum 2022 has been produced within the framework of annual reporting by the National Contact Points (NCPs) in the European Migration Network (EMN). The report outlines the most important political and legal developments in asylum and migration in Austria in 2022. These are contextualized by information about civil society initiatives and public debates. Infobox 1 shows the most significant developments in Austria in 2022.

Infobox 1: Key developments in 2022

Due to the war in Ukraine and the resulting large number of displaced persons, Austria took extensive measures to support these persons.

In order to adapt the framework conditions of the Red-White-Red Card to a modern labour market, to simplify the access of qualified workers to the labour market, to make the application process more efficient and thus to contribute to alleviating the shortage of skilled workers, the Red-White-Red Card was reformed and associated financial alleviations, simplification of procedures and changes to the allocation of points were implemented.

Austria intensified its focus on migration from India. Accordingly, there was a special campaign to support voluntary return to India, Europe's first Frontex charter operation to India was organized by Austria and negotiations were held and concluded on a comprehensive migration and mobility partnership agreement between the Austrian Federal Government and the Republic of India.

Developments in connection with the war in Ukraine

Austria adopted the Regulation on Displaced Persons, which was based on the EU Temporary Protection Directive (2001/55/EC) and granted protection in Austria to persons displaced from Ukraine. In this connection, the range of integration measures was adapted and expanded according to need in cooperation with the Austrian Integration Fund. The criteria for legal access to the labour market were defined by a decree issued by the Federal Minister for Labour. Austria granted Ukrainian nationals whose residence permit was about to expire at the end of February 2022 lawful residence even before the Regulation on Displaced Persons came into force. The decision of the Council of Ministers of 21 December 2022 laid the foundation for the extension of the temporary right of residence for displaced persons in Austria until 4 March 2024. The COVID-19 Entry Regulation 2021 was amended so that it was no longer valid for persons entering the country because of military conflict. In addition, Austria agreed to take in up to 2,000 displaced persons from the Republic of Moldova and up to 500 displaced persons from Poland.

General developments in the area of asylum and migration

In 2022, COVID-19-related special regulations in areas such as citizenship law or settlement and residence were extended and new regulations introduced, and it was suggested that some of these regulations be retained independently of the pandemic.

Regular migration

Comprehensive amendments to a number of laws, including the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, led to a reform of the Red-White-Red Card as well as a lowering of the minimum salary for applicants and the possibility for them to apply from within Austria. A new Registered Seasonal Worker Regulation extended the possibility for certain seasonal workers to obtain a work permit outside the quota system and without a labour market test. In addition, a new category of Red-White-Red Card was created for regular workers in tourism and in agriculture and forestry. The minimum amount of initial capital for start-up founders was reduced from EUR 50,000 to EUR 30,000. The list of shortage occupations was extended compared to the previous year and comprised 68 shortage occupations nationwide. Abolishing the statutory minimum salary for university graduates as part of the Red-White-Red Card reform made it easier for graduates to obtain this residence permit. Pupils at a school of health care and nursing or participants in a nursing assistant course have been given the opportunity to receive a "Temporary Residence Permit – School Pupil".

International protection

The Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act was adapted as part of a supplementary agreement, with certain maximum costs being increased. Due to an amendment to the Regulation on Countries of Origin, Ukraine was removed from the list of safe countries of origin.

Minors

A number of measures were put in place to improve the protection and legal status of child refugees. For example, the Federal Agency for Reception and Support Services developed a child protection concept; at the Federal Office for Immigration and Asylum, case workers responsible for managing procedures have been provided with a checklist to be used as a tool to facilitate the interviewing of minors; and at the Federal Administrative Court, judges have access to new guidelines on the best interests of the child in asylum and aliens law. In the school sector, measures have been introduced to improve pupils' language skills. In addition, school pupils at all levels of education and all types of school throughout Austria have been made aware of the dangers of the ideologies of inequality and their resilience to radicalization was strengthened.

Integration and inclusion

The duration of compulsory orientation and values courses was extended in 2022 and increased from one day (eight hours) to three days (24 hours). In addition, a sensitization module on antisemitism was included as a new element of the course. In partnership with the course providers, the Austrian Integration Fund significantly expanded the range of German courses and opportunities to learn German throughout Austria, also making a commitment to expand the range of German courses even further.

Citizenship and statelessness

The special right to acquire Austrian citizenship granted to victims of the Nazis and their direct descendants was extended to include, under certain circumstances, cases where people were deported abroad or murdered by organs of the Nazi party or authorities of the German Reich or because of their support for the democratic Republic of Austria.

Borders and Schengen

At ministerial level, there were calls for a robust system to protect Austria's external borders and, in this context, border security fences were also called for. The existing temporary controls at the borders to Slovenia and Hungary were continued and new temporary border controls were introduced at the border to the Slovak Republic. Austria voted against admitting Romania and Bulgaria to the Schengen Area.

Irregular migration

Austria presented an information campaign to raise awareness among migrants still in their countries of origin and transit about the potential dangers of irregular migration, misinformation spread by smuggling organizations, and realities and prospects in Europe (such as the low likelihood of being granted protection status).

Return

On Austria's initiative, a ministerial conference was held on return issues. Voluntary return to India was to be encouraged by means of a short-term special campaign to support voluntary return. In addition, Austria organized Europe's first Frontex charter operation to India. The Federal Government decided to enter into negotiations with the Republic of India on an agreement on a comprehensive migration and mobility partnership.

Migration and development

In the new Three-Year Programme on Austrian Development Policy, migration and forced displacement were stated to be one of the three global challenges set to play a pivotal role in shaping activities over the coming years.

1 INTRODUCTION

1.1 Background

The Annual Report on Migration and Asylum 2022 was produced within the framework of the European Migration Network (EMN),[1] which was established by Council Decision 2008/381/EC in May 2008.[2] The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters, with the aim of supporting policymaking at European Union (EU) and national levels as well as of disseminating this information among the general public. This is the nineteenth Annual Report on Migration and Asylum[3] compiled by EMN Austria, covering the period from 1 January to 31 December 2022. The purpose of the report is to provide an overview of the most significant political and legislative developments relating to migration and asylum in Austria. It also aims to summarize the political and public debates in this area.

In view of the fact that the year 2022 was marked by the war in Ukraine in the area of asylum and migration too, the Austrian measures taken in this context form the first area of focus of this report. In addition, the other relevant developments in the Austrian context are presented, so that the present report covers the following topics: regular migration, international protection, minors, integration and inclusion, borders and Schengen, irregular migration, return as well as migration and development.

1.2 Methodology and definitions

In preparing the Annual Report on Migration and Asylum 2022, EMN Austria followed common specifications developed by the EMN to facilitate comparability of the findings from all Member States. The terminology used within this report is (unless stated otherwise) based on the terms and definitions in the EMN Glossary 6.0 (EMN, 2018), including the following key terms:

- **Inclusion:** An approach that values diversity and aims to provide equal rights and opportunities for all by creating conditions that enable the full and active participation of all members of society (ECRI, n.d.).
- **Integration:** In the EU context, a dynamic, two-way process of mutual accommodation by all immigrants and residents of EU Member States for the most equal participation possible in the central spheres of social life.[4]
- **International protection:** In the EU context, protection that encompasses refugee status and subsidiary protection status.

1 For more information on EMN Austria, see www.emn.at (accessed 23 March 2023).

2 Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC), OJ L 131/7. Available at https://eur-lex.europa.eu (accessed 17 January 2023).

3 Previous reports from 2004 to 2021 are available at www.emn.at (accessed 23 March 2023).

4 Written input: Federal Chancellery, Department II/1 (Policy Issues Integration), 31 May 2023.

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

- **Material reception conditions (*in Austria: basic care*):** The reception conditions include, among others, housing, food, health insurance and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance.[5]

- **Red-White-Red Card:** The Red-White-Red Card entitles the holder to settle in Austria and to work for a specific employer for a limited period of time. It can be issued for up to two years and is renewable. The aim is to enable qualified workers from third countries and their family members to immigrate to Austria on a permanent basis and in accordance with personal and labour market policy criteria (migration.gv.at, n.d.; Unternehmensserviceportal, 2023).

- **Refugee:** In the EU context, either a third-country national who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail themselves of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom Art. 12 (Exclusion) of Directive 2011/95/EU[6] does not apply.

- **Schengen Agreement (Schengen area):** An agreement between some EU Member States and some neighbouring non-Member States to gradually remove controls at their common borders and introduce freedom of movement for all nationals of the signatory Member States, other EU Member States or third countries.

- **Stateless person:** Person who is not considered as a national by any State under the operation of its law.

- **Temporary protection:** A procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons and other persons requesting protection.

- **Third-country national:** Any person who is not a citizen of the European Union within the meaning of Art. 20 para 1 of the Treaty on the Functioning of the European Union[7] and who is not a person

5 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 31 May 2023.

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

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

enjoying the European Union right to free movement, as defined in Art. 2 para 5 of the Regulation (EU) 2016/399 (Schengen Borders Code).[8]

- **Trafficking in human beings:** The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

In order to allow for concise reporting and comparability, the Annual Report on Migration and Asylum 2022 only reflects significant developments and debates defined on the basis of the criteria listed in the report specifications. These include amended or new legislation, strategic developments, fundamental political changes, and developments with high political priority or a significant impact on migrants. A significant debate was defined as different opinions that were exchanged in the Austrian Parliament or between relevant ministries, political parties or civil society stakeholders, and which consequently received wide media coverage. The following sources of information were consulted: press releases and websites of relevant ministries and government agencies, journals, studies, reports, policy documents, draft and enacted legislation, court rulings, parliamentary debates, and online media articles of the main daily newspapers in Austria.

The basis for the Annual Report on Migration and Asylum 2022 is the "Annual Report 2022 on Migration and Asylum in Austria: Contribution to Commission and to EUAA Annual Reports" (EMN Austria, 2023), which was compiled by EMN Austria in cooperation with the Federal Chancellery, the Federal Ministry of the Interior, the Federal Ministry of Labour and Economy[9] and the Federal Ministry of Social Affairs, Health, Care and Consumer Protection.

The report was prepared by Martin Stiller (Legal Associate) under the supervision of Saskia Heilemann (Research Associate). Special thanks go to Sarata Diane (Research Intern) and Anna Ammann (Legal Consultant) for their support in drafting the report.

8 Consolidated text: 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 135, pp. 27–84.

9 The 2022 amendment to the Federal Ministry Law (Federal Law Gazette I No. 98/2022, issued on 17 July 2022), amended, among other things, the Federal Ministry Law 1986 and created the Federal Ministry of Labour and Economy in place of the Federal Ministry of Labour that had existed until then. Both designations can therefore be found in this report, depending on whether reference is made to the period before or after the amendment.

2 DEVELOPMENTS RELATING TO THE WAR IN UKRAINE

The Russian war of aggression in Ukraine triggered the fastest and largest displacement in Europe since the Second World War (United Nations, 2022). The EU responded to this development by activating the EU Temporary Protection Directive[10] for the first time. On 4 March 2022, the Council of the European Union adopted the implementing decision[11] to apply this directive to persons displaced from Ukraine (Federal Ministry of the Interior, 2022t). In Austria, a raft of measures was put in place to facilitate the provision of protection and care to the large number of displaced Ukrainians. The extensive measures taken by Austria will be described in more detail in the following sections.

2.1 Entry, protection and residence measures for displaced persons

Immediately after the start of the war in Ukraine on 24 February 2022, Austria took steps to support displaced persons from Ukraine. For example, the Austrian embassies in Bratislava and Ljubljana as well as the Austrian Consulate General in Munich facilitated the application for and issuance of (initial) visas for displaced persons, especially since the Austrian embassy in Kiev was only operationally active to a limited extent from February 2022 until further notice (Federal Ministry of the Interior, 2022p).

In addition, measures were taken to extend Ukrainians' stays in Austria on humanitarian grounds and to ensure they did not face any adverse consequences under aliens law if their permitted duration of stay expired. Accordingly, Ukrainian nationals whose residence permit was about to expire at the end of February 2022 were able to contact their local provincial police directorate to obtain an extension of stay on humanitarian grounds (Federal Ministry of the Interior, 2022p). A decree issued on 25 February 2022 instructed the competent authorities to refrain from instituting criminal proceedings in accordance with the Aliens Police Act 2005[12] despite the Ukrainian nationals having exceeded their permitted duration of stay, ensuring they did not have to fear any consequences under aliens law (Federal Ministry of the Interior, 2022p).

Despite the war in Ukraine, the obligation to carry out border controls generally remains in place, as does the obligation to check that Ukrainian nationals comply with entry requirements under the Schengen Borders Code (SBC).[13] Ukrainian nationals with a biometric passport can enter Austria without a visa and stay for 90 days in any 180-day period. If they do not have a biometric passport, they need to have a visa to enter Austria. Without a visa, they are generally not permitted to enter or transit the country. However, the Federal Ministry of the Interior issued a decree on 27 February 2022 creating special regulations for this category of persons. The decree provides that, on the basis of Art. 6 para 5 (c) SBC, displaced persons are exceptionally

10 Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof: OJ L 212, pp. 12–23.

11 Council Implementing Decision (EU) 2022/382 of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection, 4 March 2022: OJ L 71, pp. 1–6.

12 Aliens Police Act 2005, FLG I No. 100/2005 in the version of federal law FLG I No. 202/2022.

13 Consolidated text: 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 135, pp. 27–84.

permitted to enter or transit Austrian territory on humanitarian grounds if specific requirements are met in a case-by-case assessment carried out as part of border controls (Federal Ministry of the Interior, 2022e).

The 14th amendment to the COVID-19 Entry Regulation 2021[14] was published on 2 March 2022[15] and included another exception that made it easier for displaced persons from Ukraine to enter Austria. According to this exception, the regulation did not apply to people who were entering the country due to a military conflict (Art. 9 para 2 subpara 5 COVID-19 Entry Regulation 2021). Once the COVID-19 Entry Regulation 2022[16] had come into force, it generally became easier to enter the country (the "3-G" rule having been abolished),[17] meaning that special regulations were no longer necessary.

In order to transpose the implementing decision activating the EU Temporary Protection Directive into national law, the Regulation on Displaced Persons came into force in Austria on 12 March 2022.[18] To issue this regulation, the Federal Government had needed to reach an agreement with the Main Committee of the National Council pursuant to Art. 62 para 1 Asylum Act 2005.[19,20] The regulation was approved by the votes of the two governing parties, the Austrian People's Party and the Austrian Green Party, and two opposition parties, the Social Democratic Party of Austria and NEOS – The New Austria. The Austrian Freedom Party – which is also in opposition – rejected the regulation, however (Parliamentary Administration, 2022a). The aim of this regulation was to help all those who had to flee the war in Ukraine (Federal Ministry of the Interior, 2022t). However, the Regulation on Displaced Persons only grants protection to certain categories of people (Art. 1 Regulation on Displaced Persons). Specifically, it covers:

- Ukrainian nationals residing in Ukraine;
- Third-country nationals and stateless persons who had protection status in Ukraine before 24 February 2022; and
- Their family members (spouses, registered partners, minor children, other close relatives of the persons referred to above who were living under the same roof as these persons before the displacement and were completely or largely dependent on them).

These categories of people are granted a temporary right of residence in Austria, which arises ex lege on the basis of the Regulation on Displaced Persons if the relevant requirements are met (Filzwieser et al., 2016:§ 62 K1). The Regulation on Displaced Persons also grants a temporary right of residence to Ukrainian nationals who were already lawfully resident in Austria before 24 February 2022 and were unable to return to Ukraine because of the war. This also applies if their actual residence permit in Austria cannot be renewed or their

14 COVID-19-Entry Regulation 2021, FLG II No. 276/2021.

15 14th amendment to the COVID-19 Entry Regulation 2021, FLG II No. 85/2022.

16 COVID-19 Entry Regulation 2022, FLG II No. 186/2022.

17 The "3-G" rule meant that people had to have been vaccinated, tested or recovered. See Federal Ministry of Social Affairs, Health, Care and Consumer Protection, Regelungen in Österreich: Die 3-G-Regel. Available at www.sozialministerium.at (accessed 9 December 2022).

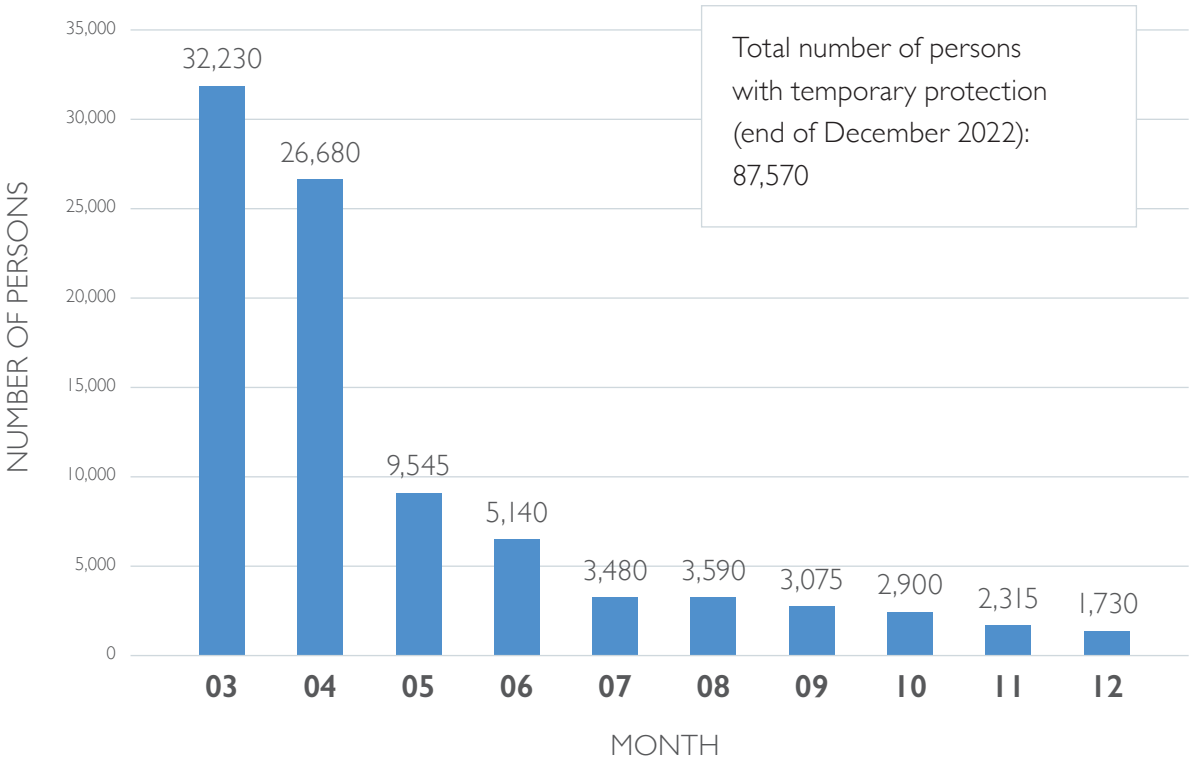
18 Regulation of the Federal Government on the Temporary Protection for Displaced Persons from Ukraine, FLG II No. 92/2022.

19 Asylum Act 2005, FLG I No. 100/2005 in the version of federal law FLG I No. 221/2022.

20 Art. 62 para 1 Asylum Act 2005 stipulates that, in times of armed conflict or other circumstances endangering the security of entire population groups, the Federal Government, in agreement with the Main Committee of the National Council, may, by regulation, grant a temporary right of residence in the territory of the Federal Republic to groups of foreigners directly affected by the conflict who cannot find protection elsewhere (displaced persons).

visa has expired. Figure 1 below shows the new arrivals of persons with temporary protection in Austria, starting in March 2022.

Figure 1: New arrivals of persons with temporary protection in Austria (March–December 2022)



Note: Data retrieved on 24 March 2023; data have been rounded to the nearest five; only extra-EU27 nationals.
Source: Eurostat, n.d.a, n.d.b.

Other persons not covered by the Regulation on Displaced Persons, such as third-country nationals or stateless persons from Ukraine who had not been granted international or comparable national protection status there, are allowed to enter Austria on humanitarian grounds pursuant to Art. 6 para 5 subpara c of the Schengen Borders Code for the purpose of transit and immediate subsequent departure (see above). However, they do not have a temporary right of residence in Austria (Federal Ministry of the Interior, n.d.). Those persons who cannot return home safely have the option of applying for international protection in Austria within the framework of an asylum procedure (Federal Ministry of the Interior, 2022t). Since the Federal Office for Immigration and Asylum recommended that Ukraine be removed from the list of safe countries of origin due to the war,[21] an amendment to the Regulation on Countries of Origin[22] was promulgated. The removal of Ukraine from the list of safe countries of origin made it possible for applicants from Ukraine to conduct a regular asylum procedure in accordance with the general procedural provisions.[23]

21 Federal Office for Immigration and Asylum, 2022a; Federal Ministry of the Interior, Vortrag an den Ministerrat. Available at www.bundeskanzleramt.gv.at.

22 Amendment of the Regulation on Countries of Origin, FLG II No. 129/2022.

23 Preamble and Impact Assessment. Available at www.bundeskanzleramt.gv.at.

Although the Regulation on Displaced Persons was approved by the Main Committee of the National Council, it nevertheless came in for criticism from the opposition parties. For instance, NEOS criticized the Federal Government for its handling of the situation, citing aspects such as the content of the Regulation on Displaced Persons. The Social Democratic Party of Austria did not believe it was appropriate for the Regulation on Displaced Persons to differentiate between displaced persons since people from Ukraine were all fleeing from the same war. The Austrian Freedom Party, which had voted against the adoption of the Regulation on Displaced Persons, criticized the fact that no limit had been set on the admission of displaced persons and that no checks were made to determine whether a person really had been displaced from Ukraine or only claimed this to be the case (Parliamentary Administration, 2022a).

On the day that the Regulation on Displaced Persons came into force, the newly established registration offices in all nine provincial police directorates also began registering those displaced persons from Ukraine who had been in Austria for more than three days (Federal Ministry of the Interior, 2022g). Registration is carried out by the police (Federal Office for Immigration and Asylum, 2022b), who use registration modules consisting of a passport reader, fingerprint scanner and laptop/PC with special software for processing the data (Federal Ministry of the Interior, 2022v). During registration, data from the passport and other documents are recorded and a photograph is taken (Federal Ministry of the Interior, 2022i). Persons aged 14 years or over go through an identification procedure, including fingerprinting (Federal Office for Immigration and Asylum, 2022b).

Those persons who fall within the target group of the Regulation on Displaced Persons receive the "ID card for displaced persons" to document the temporary right of residence (Federal Ministry of the Interior, 2022j). Due to its appearance, this card is also referred to as the "Blue Card". In order to create the relevant regulations on the ID card for displaced persons, on 12 March 2022 an amendment[24] to the Regulation on the Implementation of the Asylum Act[25] came into force. The card is protected with numerous security features and has a chip that stores biometric data (Federal Ministry of the Interior, 2022w), is recognized throughout the Schengen Area and is accepted as an identity document, travel document and document for access to the labour market (Federal Ministry of the Interior, 2022u). The issuance of the ID card is the responsibility of the Federal Office for Immigration and Asylum, which issues the cards following registration of the displaced persons (Federal Ministry of the Interior, 2022w).

In line with the requirements of Art. 4 para 1 Temporary Protection Directive, the Regulation on Displaced Persons stipulated that the temporary right of residence would initially be valid for one year and would be automatically renewed twice for a period of six months each time, unless such right was terminated beforehand by a decision of the Council on the proposal of the European Commission. The European Commission's Operational Guidelines for Implementation of the Implementing Decision,[26] published on 21 March 2022, recommended issuing residence permits to displaced persons for the full possible duration of two years in total, i.e. until March 2024. On 6 October 2022, the European Commission announced that no

24 Amendment of the Regulation on the Implementation of the Asylum Act 2005, FLG II No. 93/2022.

25 Regulation on the Implementation of the Asylum Act 2005, FLG II No. 448/2005 in the version of FLG II No. 93/2022.

26 Communication from the Commission on Operational guidelines for the implementation of Council implementing Decision 2022/382 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection: OJ C 126I, pp. 1–16.

proposal would be made to terminate the right of residence for persons displaced from Ukraine and that their temporary right of residence would thus remain in force until March 2024 (European Commission, 2022b). According to information provided by the Federal Ministry of the Interior, preparations for reissuing ID cards for displaced persons with a new expiry date had already begun at that time (Federal Ministry of the Interior, 2022a). In the Council of Ministers, an amendment to the Regulation on Displaced Persons was adopted on 21 December 2022 (Federal Ministry of the Interior, 2022k; Federal Chancellery, n.d.) that subsequently enabled the temporary right of residence for displaced persons to be extended until March 2024 (Federal Ministry of the Interior, 2022k).[27] On 22 December 2022, it was also announced that the Federal Office for Immigration and Asylum would automatically send all persons registered in Austria as displaced persons a new ID card with an extended expiry date (Federal Ministry of the Interior, 2022ab).

As the Federal Chancellor stated in May 2022, Austria saw it as a duty (Federal Chancellery, 2022e) to provide support at the humanitarian level with the goal of ensuring protection for displaced persons from Ukraine and to relieve Ukraine's neighbouring States that were under particular pressure. Against this background and in view of the developments in Ukraine, Austria agreed on 14 March 2022 to take up to 2,000 displaced persons from the Republic of Moldova and, shortly afterwards, up to 500 displaced persons from Poland (Federal Ministry of the Interior, 2022c). Austria was thus the first EU Member State to carry out transfers of displaced persons from the Republic of Moldova from 19 March 2022 under the EU Solidarity Platform and in close cooperation with the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM; IOM Austria, 2022a). By the end of 2022, Austria had taken 575 people from the Republic of Moldova and 176 people from Poland.[28] With regard to the number of transfers being lower than the number approved, it was pointed out in a parliamentary response to a question that people were – for various reasons – hesitant to take advantage of the transfer offer or withdrew the interest they had expressed at the last moment (Federal Ministry of the Interior, 2022c).

In addition, Austria worked with non-governmental organizations and volunteers to help evacuate particularly vulnerable people from Ukraine. For example, seriously injured women and children were admitted from Ukraine for medical care, as were children with cancer and their mothers (Federal Chancellery, 2022e). Treatment capacities in Ukraine were stretched to the limit by Russian attacks on hospitals and medical facilities (Federal Ministry for European and International Affairs, 2022c).

2.2 Accommodation and care for displaced persons in Austria

In Austria, displaced persons within the meaning of the Regulation on Displaced Persons are included in the target group of the Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act (Art. 2 para 1 subpara 3 Agreement between the Federal State and the Provinces on Basic Care),[29] meaning that if they are in need of aid, they have access to the relevant services under basic care.

27 The amendment to the Regulation on Displaced Persons was promulgated on 30 January 2023 in FLG II No. 27/2023.

28 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 17 January 2023.

29 Agreement between the Federal State and the Provinces according to Art. 15a Federal Constitutional Act on common measures for temporary basic care for aliens in need of assistance and protection (asylum-seekers, persons granted asylum, displaced persons and other persons who cannot be removed for legal or factual reasons) in Austria (Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act), FLG I No. 80/2004.

These include, in particular, accommodation, provision of adequate food and guaranteed health care (Federal Ministry of the Interior, 2022i). Although many of the displaced persons who come to Austria belonged to the middle class in Ukraine and have a certain amount of financial resources (or did have before the war), they are often dependent on basic care in Austria due to the war, especially in the initial period after arrival (Expert Council for Integration, 2022b). The admission of displaced persons from Ukraine was one of the reasons why the Austrian basic care system reached its capacity limits in 2022 (see Section 3.3).

As early as May and June 2022, bodies such as the Diakonie Refugee Service criticized the use of the basic care system for displaced persons from Ukraine, arguing that it would make it more difficult for them to become financially independent and that basic care places cannot be increased at will. Instead, it was proposed that displaced persons be accorded the same rights as persons granted asylum and thus also entitled to benefits such as the minimum benefit system/social assistance, family allowance or childcare allowance (Diakonie Flüchtlingsdienst, 2022; SOS Kinderdorf, 2022). The parliamentary leader of the Austrian People's Party had previously announced that displaced persons would be entitled to social assistance (Die Presse, 2022); shortly afterwards, however, this plan was dropped due to constitutional concerns (Der Standard, 2022a). Nevertheless, in the summer and autumn of 2022 a number of social benefits were made available to displaced persons from Ukraine with retrospective effect from March 2022 (see Section 2.3). In November 2022, UNHCR published a set of recommendations to support refugees from Ukraine in Austria; one of the points emphasized in these recommendations is that basic care is not designed for a prolonged stay by vulnerable people. It was therefore recommended that both displaced Ukrainians and beneficiaries of subsidiary protection status be granted unrestricted access to social assistance/the minimum benefit system after a transitional period, as has already been implemented in the majority of EU Member States. The proposed registration with the Public Employment Service could, in the view of UNHCR, also lead to displaced persons entering employment more quickly (UNHCR, 2022b).

To cope with the challenges associated with hosting the displaced persons, Austria relied on the "neighbourhood help measures" that had been in place since the beginning of the war. In addition to aid shipments to the war zone, these measures also included the preparation of accommodation. The Federal Ministry of the Interior and the provinces worked together closely in order to coordinate the necessary measures. This planning also involved the emergency services and non-governmental organizations (Federal Ministry of the Interior, 2022q). At the end of February 2022, the "Platform for Neighbourhood Accommodation" established by the Federal Agency for Reception and Support Services created a central neighbourhood point of contact for offers of accommodation from the civilian population. People who have a vacant property and want to make this available short term for people who have fled Ukraine are able to offer this via the platform (Federal Ministry of the Interior, 2022r; Federal Agency for Reception and Support Services, 2022). Accommodation offers are screened, collected and then reported to the provinces (Federal Agency for Reception and Support Services, n.db). The Platform for Neighbourhood Accommodation was intended to ensure that everyone who had fled Ukraine would be given accommodation, even if only in the short term. The willingness of the Austrian population to help was so great that by mid-March 2022, more than 6,600 people, companies, municipalities and social organizations had already made more than 29,500 offers of free housing and overnight accommodation to which the provinces could make recourse if needed (Federal Agency for Reception and Support Services, 2022).

At the same time as the Platform for Neighbourhood Accommodation was launched, the Federal Agency for Reception and Support Services provided first three, and subsequently four reception centres for displaced persons from Ukraine. There, displaced persons from Ukraine have been accommodated separately from other people accommodated in federal basic care reception centres, especially asylum-seekers (Federal Ministry of the Interior, 2022i). In mid-March 2022 these reception centres welcomed 400–500 more people daily who, in cooperation with the provinces, were transferred to provincial reception centres and longer-term accommodation. Furthermore, one week after the start of the war the City of Vienna opened the Refugee Arrival Centre. Other provinces subsequently provided similar arrival centres, from where the distribution of affected persons within the country took place.[30] Financing of the initial care services furnished in the initial reception and/or arrival centres comes from the Federal State (for details, see Section 3.3). The handover to provincial reception centres and longer-term accommodation was intended to ensure that the Federal Agency for Reception and Support Services could continue to provide its short-term accommodation capacity (Federal Agency for Reception and Support Services, 2022); on the other hand, displaced persons from Ukraine should be moved to regular housing as soon as possible (Federal Ministry of the Interior, 2022s).

2.3 Other (advisory) services for displaced persons

In order to support and advise displaced persons from Ukraine, the Federal Agency for Reception and Support Services started a Ukrainian- and Russian-language hotline for displaced persons on 27 February 2022. Federal Agency for Reception and Support Services employees use this hotline to organize accommodation, for example, help with obtaining urgently needed medicines or ensure temporary care for pets. Lawyers from the Federal Agency for Reception and Support Services' legal advice department help with clarification of legal issues. The hotline operates 24 hours per day, seven days per week (Federal Agency for Reception and Support Services, 2022).

On 28 February 2022, Austrian Federal Railways introduced the "Not-Ticket Ukraine" to provide displaced persons with a safe, fast, unbureaucratic and free journey (or journeys) within Austria. The free "Not-Tickets" were issued to displaced persons from Ukraine who had travelled into the country on Austrian Federal Railways trains or wanted to continue their journey within Austria. The costs were borne by Austrian Federal Railways. This ticket was discontinued in its previous form on 31 October 2022. Since 1 November 2022, the "Erstankunft Ukraine-Ticket" (First Arrival Ukraine Ticket) has been issued to persons with a Ukrainian passport who arrive from Ukraine via the border with Hungary, Czechia or Slovakia and are entering Austria for the first time. The ticket is valid for 24 hours from the time of issue. Holders can use the ticket for one journey to a destination in Austria or to a border station when travelling towards Germany, Switzerland or Italy and must travel in second class on an Austrian Federal Railways train (Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology, 2022; Austrian Federal Railways, 2022).

To ensure rapid and uncomplicated access to medical care for eligible persons (Parliamentary Administration, 2022a), on 12 March 2022 an amended regulation issued by the Federal Minister for Social Affairs, Health,

30 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 31 May 2023.

Care and Consumer Protection came into force[31] to also include those displaced persons from Ukraine who were not eligible for basic care and therefore did not fall under the insurance coverage provided under basic care. According to this, Ukrainian nationals and other people who have been temporarily received in Austria from 24 February 2022 because of the warlike events in Ukraine, as well as those who have already been in Austria for a while but who are unable to return to Ukraine due to the war, are included in health insurance free of charge (Austrian health insurance fund, n.d.). Compulsory insurance commences on the date of their arrival in Austria and ends when they leave the country again. The measure was provisionally limited until 31 December 2023 (Parliamentary Administration, 2022a). Inclusion is independent of a need for assistance and protection and those seeking protection are placed on an equal footing with other policyholders in their entitlement to benefits in kind according to the General Social Insurance Act,[32] especially in respect of medical and psychological care (Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2022). With regard in particular to the mental health of displaced persons, a project providing psychological and psychotherapeutic support was extended to include displaced Ukrainians and funding for the project was increased by EUR 620,000 (Federal Ministry of the Interior, 2022e).

Finally, displaced persons from Ukraine were granted access to family benefits. Specifically, the Act on the Compensation of Family Expenses[33] was amended in July 2022 granting displaced persons from Ukraine family allowance for their children from March 2022 at the earliest (retroactive). This entitlement ceases on the day that the temporary right of residence ends, but at the latest in March 2024.[34] In October 2022, an amendment to the Childcare Allowance Act[35] was promulgated, granting displaced persons from Ukraine childcare allowance, retroactive from 12 March 2022 and until 3 March 2024 at the latest (Expert Council for Integration, 2022a). Like all eligible parents, displaced persons from Ukraine can apply for and receive family allowance for their children up to the age of 24; however, they can only apply for the financial support provided by childcare allowance after the birth of a child for a specific period (no more than 851 days). Unlike family allowance, however, childcare allowance is classed as income, meaning that the receipt of childcare allowance affects the benefits received under basic care and, after a case-by-case assessment, may lead to a restriction or discontinuation of benefits or to a repayment obligation, if applicable (oesterreich.gv.at, 2023; Federal Agency for Reception and Support Services, n.d.a; Public Employment Service, 2023).[36]

2.4 Integration and language acquisition

In terms of the integration of displaced Ukrainians, the Federal Minister for Women, Family, Integration and Media stated that neighbourhood help was to take place on three levels – specifically, it would cover local help, full solidarity with Ukraine and support for displaced persons in Austria (Heute, 2022). Existing proven integration structures adapted to the new target group and expanded accordingly were used in integration work for displaced persons from Ukraine. Special attention was paid to the fact that the majority of those

31 Amendment of the implementation of health insurance for persons included in health insurance pursuant to Art. 9 General Social Insurance Act, FLG II No. 104/2022.

32 General Social Insurance Act, FLG No. 189/1955 in the version of federal law FLG I No. 236/2022.

33 Act on the Compensation of Family Expenses, FLG I No. 376/1967 in the version of federal law FLG I No. 135/2022.

34 Federal Chancellery, Familienbeihilfe für aus der Ukraine Vertriebene. Available at www.bundeskanzleramt.gv.at (accessed 8 December 2022).

35 Childcare Allowance Act, FLG I No. 103/2001 in the version of federal law FLG I No. 154/2022.

36 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 31 May 2023.

seeking protection are women with children (Expert Council for Integration, 2022b, 2022a). In addition, the expectation that these displaced persons would have a higher than average educational attainment level was taken into account (Expert Council for Integration, 2022b). Relevant numbers and developments were continuously monitored in order to be able to take any necessary measures as and when required (Federal Chancellery, 2022b).

The support and integration measures were adapted and expanded according to need in cooperation with the Austrian Integration Fund, a fund of the Republic of Austria and the federal government's partner in promoting integration (Austrian Integration Fund, n.d.b).[37] As a result, the Austrian Integration Fund has been offering a wealth of advice and information services for displaced persons from Ukraine since March 2022 (Austrian Integration Fund, 2022c, 2022d). These services include:

- Answers to questions about residence status, opportunities to learn German and entering the labour market provided by lawyers and community representatives;
- Networking and discussion meetings for persons displaced from Ukraine ("Ukraine Meeting Points") at which displaced persons, volunteers and community representatives can exchange information about support services at Austrian Integration Fund premises;
- Answers to questions about care, guidance, and support and assistance programmes concerning living and working in Austria provided by Ukrainian-speaking staff at the specially established Austrian Integration Fund hotline and referral to relevant existing support services and the responsible agencies;
- Advice on the topics of integration, German courses, the labour market and schooling provided at the newly established central service points ("Mobile Service Points") in all provinces, enabling displaced persons to deal with as many official and administrative processes as possible, in one place on the same day (Federal Chancellery, 2022d).[38]

Since mid-March 2022 the Austrian Integration Fund has offered free German lessons to displaced persons from Ukraine. The courses are offered at more than 80 sites, with accompanying childcare if needed (Austrian Integration Fund, n.d.a). In 2022, a total of 35,000 places on courses were provided for Ukrainians (Austrian Integration Fund, 2022e). From level A2 up, those who successfully complete the courses receive an Austrian Integration Fund certificate that has been enshrined in law. The Austrian Integration Fund also offers free online German lessons so that participants can improve their knowledge of German regardless of location, on their own initiative (Austrian Integration Fund, n.d.a). In partnership with Ukrainian universities and language learning centres, the Austrian Integration Fund provided new places on online courses for displaced persons from Ukraine. The first courses and learning options started in May 2022. In connection with attending the courses, all participants in these online German courses had the opportunity to complete the courses with officially recognized Austrian integration examinations (Austrian Integration Fund, 2022f). In addition, the

37 Written input: Federal Chancellery, Department II/1 (Policy Issues Integration), 31 May 2023.

38 Ibid.

voluntary "Treffpunkt Deutsch" learning groups provided by the Austrian Integration Fund have been available to all displaced persons aged 15 years or over to supplement regular German courses or as pre-course preparation. As part of this initiative, the Austrian Integration Fund brought together volunteers and German learners and provided premises for this across Austria (Austrian Integration Fund, 2022d).

With the aim of putting the integration measures already offered since the outbreak of the war into a legal framework and creating legal certainty for displaced persons from Ukraine through appropriate legal regulations (Parliamentary Administration, 2022b), on 11 June 2022 an amendment to the Integration Act[39] came into force[40] extending the target group of the Integration Act to include displaced persons with a temporary right of residence in Austria. As a result of this amendment, the Federal Minister for Women, Family, Integration and Media has made German language courses also available to displaced persons from Ukraine aged 15 years or over, pursuant to Art. 4 para 1 Integration Act. In addition, the amendment enabled integration support, such as orientation and values courses, training and further education courses or other Austrian Integration Fund services, to be offered to displaced persons and orientation sessions to be held with displaced persons.[41]

Moreover, the funding for voluntary projects provided by the Austrian Integration Fund has been realigned in order to provide fast and straightforward support of up to EUR 2,500 to volunteers who assist displaced persons. This voluntary work would benefit immigrants in particular because it would help them to expand their own social network and bring them into closer contact with the Austrian population, giving them the opportunity to improve their language skills, familiarize themselves with work processes and subsequently increase their own chances of success on the labour market (Austrian Integration Fund, 2022a).

2.5 Measures for school pupils and students

Thousands of people have arrived in Austria since the start of the war in Ukraine, especially women and their children. School-age children have been taught in mainstream classes or, if there are eight or more Ukrainian pupils at one school, in separate German support classes (Kurier, 2022b). In the first half of 2022, 11,000 Ukrainian children were taught in Austrian school classes (Wiener Zeitung, 2022c). However, the system of German support classes was criticized by some of the teachers involved and based on study results, in particular due to a lack of suitable teaching staff (Der Standard, 2022i). Up to 50,000 Ukrainian school pupils were expected to attend Austrian school classes in the autumn of 2022 (Wiener Zeitung, 2022c).

Vienna has welcomed a large proportion of the Ukrainians (of school age) who have fled to Austria. On 29 June 2022 the City of Vienna announced that in cooperation with the Vienna Board of Education, free German summer courses for more than 900 pupils had been set up for school-age children and young people from Ukraine who attended a Viennese primary, compulsory secondary or lower cycle of academic secondary school in the 2021/22 academic year.[42] This was intended to reinforce the initial experience of acquiring

39 Integration Act, FLG I No. 68/2017 in the version of federal law FLG I No. 76/2022.

40 Amendment to the Integration Act, the Recognition and Assessment Act and the Educational Documentation Act 2020, FLG I No. 76/2022.

41 Written input: Federal Chancellery, Department II/1 (Policy Issues Integration), 31 May 2023.

42 City of Vienna, Neue Sommerdeutschkurse für geflüchtete Schüler*innen aus der Ukraine. Available at https://presse.wien.gv.at (accessed 7 December 2022).

German as the language of instruction that children and young people had already gained in school during German summer courses in order to strengthen and further develop language skills.[43] In a similar direction, the Austrian Integration Fund put together German teaching materials for children, with interactive learning materials and language-learning modules, in a free "German learning pack". Amongst other things, the pack included a Ukraine special edition on interactive vocabulary development and information about learning German and life and integration in Austria. Since the Austrian Integration Fund sees learning the German language as a child as a foundation stone for a successful start in the Austrian school system, it specifically targeted early language learning for children (Austrian Integration Fund, 2022i). In addition, in autumn 2022, the Vienna Board of Education, in cooperation with the Austrian Integration Fund, set up its own bridging courses at which young people could learn German before attending the regular school system. The Austrian Integration Fund supplied the teaching materials necessary for the bridging courses for 300 young people and these were handed over on 29 September 2022 in partnership with the Vienna Board of Education. The target group included displaced young people who had completed compulsory education in another country (from the tenth year), but were unable to progress to a compulsory or higher academic secondary school in Austria due to insufficient knowledge of German (Austrian Integration Fund, 2022k).

Ukrainian students should benefit from rapid and unbureaucratic financial aid, which is why they were exempted from the obligation to pay tuition fees in the summer semester of 2022 by the amendment[44] to the Student Fees Regulation[45] of 10 March 2022. The exemption was extended by another amendment to the Student Fees Regulation for the 2022/23 winter semester.[46] The previous regulation had stipulated that Ukrainian nationals – as well as other third-country nationals – are in principle obliged to pay university fees of EUR 726.77 per semester. In addition, the Federal Ministry of Education, Science and Research supported Ukrainian students and academics with special grants. In mid-April 2022, 500 grants worth EUR 715 per person per month were available. The grants were awarded for the current 2022 summer semester and the 2022/23 winter semester, and were aimed at Ukrainian academics and students who were already studying in Austria before the war and had problems continuing their studies due to lack of financial support from Ukraine, and students who had to flee Ukraine and wanted to continue their studies at Austrian higher education institutions or universities (Federal Ministry of Education, Science and Research, 2022a).

2.6 Access to the labour market

In view of the high qualification of many displaced persons from Ukraine, it was intended to grant them access to the labour market as quickly as possible (Kurier, 2022a). Due to the "common European understanding of values" identified by the Federal Minister for Women, Family, Integration and Media, where integration of displaced Ukrainians was concerned the focus was not on communicating values, but on brokering work (Heute, 2022). The Expert Council for Integration has also regarded the fastest possible integration of displaced persons into the labour market as an important step (Expert Council for Integration, 2022a). Therefore, and in line with Art. 12 Temporary Protection Directive, the criteria for legally compliant labour market access

43 Ibid.

44 Amendment to the Tuition Fee Regulation, FLG II No. 89/2022.

45 Tuition Fee Regulation, FLG II No. 218/2019 in the version of FLG II No. 304/2022.

46 Amendment to the Tuition Fee Regulation, FLG II No. 304/2022.

were defined on 11 March 2022 by means of a decree issued by the Federal Minister for Labour. This decree stipulated the legal conditions under which individuals issued with an ID card for displaced persons ("Blue Card", see Section 2.1) should be granted access to the labour market through the Public Employment Service (Federal Ministry of Labour, 2022). According to this decree, employers can be issued with an employment permit for displaced persons without a labour market test,[47] provided the general requirements are met (Art. 4 para 1 Act Governing the Employment of Foreign Nationals; Austrian Federal Economic Chamber, n.d.a). The permit is usually issued within a few days and is free of charge. In addition, displaced persons from Ukraine receive support from the Public Employment Service (Federal Ministry of Labour, 2022). Even though there were media reports in May 2022 about delays to bureaucratic processes where employment of displaced persons from Ukraine was concerned, the Federal Ministry of the Interior and the Vienna Public Employment Service perceived neither a backlog in sending out "Blue Cards", nor problems with regard to applications for work permits (ORF.at, 2022d).

In view of the opportunity for employment and the associated income, the Federal Minister of the Interior explored the issue of increasing the earnings limit for displaced persons from Ukraine at the Conference of Provincial Refugee Case Workers on 30 March 2022. The earnings limit for all those in receipt of basic care was and is EUR 110.00 per month, plus EUR 80.00 per non-earning family member. When this limit is exceeded, basic care services are (partially) restricted or discontinued after a case-by-case assessment, if applicable, and there can be a repayment obligation (Federal Agency for Reception and Support Services, n.d.a; Austrian Federal Economic Chamber, n.d.c).[48] The Federal Minister of the Interior substantiated the need for and legality of the increase exclusively for displaced persons from Ukraine with reference to statements from experts and the Federal Chancellery (Federal Ministry of the Interior, 2022y). Initially the province of Carinthia rejected the proposal, citing the principle of equality, and demanded an increase for everyone in receipt of basic care (ORF.at, 2022c; Der Standard, 2022b). At the Conference of Provincial Refugee Case Workers on 10 May 2022, the Federal Minister of the Interior presented a specific model for increasing the earnings limit for displaced Ukrainians, which required the consent of all the provinces. This increase has been seen as a major measure to integrate displaced persons from Ukraine into the labour market (Federal Ministry of the Interior, 2022y), as the intention was to create an incentive for them to enter the workforce in order to largely defray the cost of living through their own gainful employment (Federal Ministry of Labour, 2022). The model provided that there should be a tiered reduction in payments from basic care once a proposed additional earnings limit had been exceeded (Federal Ministry of the Interior, 2022y). Even if the Federal Minister of the Interior – supported by an expert legal opinion – remained of the opinion that different basic care treatment of Ukrainians on the one hand and other asylum-seekers on the other was permissible, this opinion was not shared by constitutional lawyers or the Diakonie Refugee Service (Diakonie Flüchtlingsdienst, 2022; Der Standard, 2022b). Caritas regarded the increase in the earnings limit for displaced persons from Ukraine as an initial step. The province of Carinthia ought therefore to abandon the fight over the increase (Kurier, 2022c). In view of increasing problems on a practical level, the province of Carinthia finally agreed to the proposal despite maintaining its internal reservations (Der Standard, 2022f). This final consent enabled

47 For details, see Ebner, 2023.

48 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 31 May 2023.

the proposal to be put to the Federal State and Provinces Coordination Council[49] for a resolution in October 2022 (Federal Ministry of the Interior, 2022y).

Since displaced persons can gain quick access to the labour market once they have been issued with a "Blue Card" (Expert Council for Integration, 2022a), corresponding measures to assist with job seeking were put in place. In view of the need for the fastest possible recognition of school and vocational qualifications, an amendment to the Recognition and Assessment Act came into force on 10 June 2022.[50] In addition to persons granted asylum and beneficiaries of subsidiary protection status, displaced persons from Ukraine were also covered by the scope of this act and the special procedural provisions for recognition or assessment of foreign educational or professional qualifications were extended to displaced persons from Ukraine. The Expert Council for Integration welcomed the measure, as it should facilitate the recognition of educational qualifications and professional qualifications of displaced persons (Expert Council for Integration, 2022b). Considering that a high proportion of displaced persons from Ukraine had university degrees and many other helpful skills and accomplishments, in November 2022 UNHCR recommended that recognition of these skills should be promoted more intensely and that the procedures necessary for this should be accelerated. As a result, these displaced persons would be able to participate in working life according to their qualifications and the receiving society would be able to benefit from these abilities (UNHCR, 2022b).

In addition to training recognition, the Ukrainian Refugee Coordination Unit and/or Refugee Coordinator had assisted in various measures to bring displaced persons into employment in cooperation with representatives of various organizations, as the Federal Chancellor stated in a parliamentary answer on 18 July 2022. Mention was made, for example, of initiatives such as Austrian Jobs for Ukraine, the Ukraine Job Summit, a dialogue on the employment of displaced persons from Ukraine, the establishment of the Public Employment Service's Job Placement Platform – Job Opportunities in Austria and various social projects. In addition, there have been regular discussions between the Refugee Coordinator, stakeholders and the Public Employment Service. This measure was aimed at the rapid and long-term labour market integration of displaced persons from Ukraine (Federal Chancellery, 2022c), given that there was great interest and willingness on the part of Austrian companies to hire displaced persons from Ukraine (Expert Council for Integration, 2022b). In UNHCR's opinion, the fact that potential employers have to apply for a work permit for displaced persons from Ukraine – unlike for persons granted asylum and beneficiaries of subsidiary protection status – prevented numerous employers from offering them a job. UNHCR therefore recommended that the Act Governing the Employment of Foreign Nationals be amended and that people displaced from Ukraine be excluded from the requirement for a work permit, as is the case in the majority of EU Member States (UNHCR, 2022b). In November 2022 the Federal Minister for Women, Families, Integration and Media also stated that the potential labour pool of 45,000 resident Ukrainians (predominantly women) had not been exhausted, with merely 7,000 employed persons. This number should be increased in view of the current labour shortage. In part because surveys reporting that the positive attitude towards displaced persons had worn off around that time, the Federal Minister focused on the financial independence associated with employment and not – as

49 The Federal State and Provinces Coordination Council is composed of representatives of the Federal State and the provinces and is dedicated to solving problems in a spirit of partnership that arise from current incidents, the interpretation of the Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act, the cost allocation and its auditing, as well as due to extraordinary events (Art. 5 para 1 and 2 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act).

50 Recognition and Assessment Act, FLG I No. 55/2016 in the version of federal law FLG I No. 76/2022.

her party colleague and the parliamentary leader of the Austrian People's Party was still proposing in spring 2022 (for details, see Section 2.2.) – on accepting those concerned into the social system (ORF.at, 2022g).

2.7 Combating trafficking in human beings

Even before the outbreak of war, Ukraine was a significant country of origin for trafficked persons. Between 2017 and 2021, trafficked persons from Ukraine were identified in 40 Central, South and East European countries, and trafficked persons were also abducted to the Near East and, to a lesser extent, America and East Asia (UNODC, 2022:56). Based on statistics from 2014–2017, the trafficked persons' labour was exploited in the majority of cases (GRETA, 2018:7). Even after war broke out in February 2022, the LEFÖ-IBF (Intervention Center for Trafficked Women) was relatively soon confronted with cases in which trafficked persons living in private accommodation had been forced to perform domestic work or childcare in Austria, their promised wages had been withheld, or the trafficked person's travel documents had been taken away (Chen Isabella, 2022). In order to facilitate early identification and prevention of trafficking in human beings when, for instance, brokering private accommodation, IOM Austria, together with the police and victim protection organizations, developed various tools for aid workers (IOM Austria, n.d.). In addition, the Federal Ministry of the Interior cooperated with the Federal Ministry for European and International Affairs, as well as non-governmental organizations and child and youth welfare authorities, to implement comprehensive prevention, awareness and clarification measures in the field of combating trafficking in human beings. Posters, leaflets and stickers have been used for campaigns. Furthermore, the Federal Criminal Intelligence Service's human trafficking hotline was proactively advertised and its dissemination reinforced.[51] Immediately after the start of the Russian war of aggression against Ukraine and the resulting forced displacement, the Federal Criminal Intelligence Service and the victim protection organizations launched information campaigns at the border and in reception centres for arriving displaced persons. The "Asylum Train II" training conducted by IOM Austria together with the Federal Criminal Intelligence Service and the victim protection organizations LEFÖ-IBF, MEN VIA and Drehscheibe (MA 11) was also supplemented by workshops for staff from the registration and basic care centres for Ukrainians.[52] With regard to the situation in Ukraine, in the operational area, control measures were reinforced on the borders with Austria's eastern neighbour States and focused campaigns were conducted in "red light establishments" and to identify illegal prostitution in hotels and apartments (Federal Ministry of the Interior, 2022b). Austria also made a key contribution to international measures to combat child trafficking. As the 13,000-plus children who had already left Ukraine in April 2022 and in excess of 4,000 children who had fled unaccompanied from Ukraine were exposed to the dangers of child trafficking (Federal Ministry of the Interior, 2022z), the Task Force Ukraine against Trafficking in Human Beings (UATF) was founded on 21 April 2022. It is coordinated via the Federal Criminal Intelligence Service, by the Joint Operational Office Vienna (JOO) in close coordination with Europol. Meetings are held at regular intervals and participants included the Czechia, Europol, Germany, Hungary, the Republic of Moldova, Poland, Romania and Slovakia. The United Nations Office on Drugs and Crime (UNODC) participated on a strategic level (Federal Ministry of the Interior, 2022e). Joint Action Days to combat child trafficking in Europe were also held across Europe in June 2022, with the aim of earliest possible identification of child trafficking, identification

51 For details of the phenomenon of trafficking in human beings by third-country nationals in Austria, see Stiller, 2021a.

52 Written input: Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 24 January 2023.

of the trafficked persons and destruction of criminal organizations acting nationally and internationally (Federal Criminal Intelligence Service Austria, 2022b).

The Security Police had already started gathering information beforehand. For this, national reports and reports on the situation in Ukraine focusing on "trafficking in human beings" as well as the Austrian Police Crime Statistics 2021 with regard to trafficking in human beings and prostitution were analysed and an automated search for relevant Internet platforms carried out (Federal Ministry of the Interior, 2022e). Awareness campaigns directed at the displaced persons, public sector employees and civil society, among others, were implemented based on the information and findings obtained. These included (Federal Ministry of the Interior, 2022e):

- A workshop held on 21 April 2022 at the Federal Criminal Intelligence Service (JOO), in cooperation with UNODC, with all Ukraine's neighbouring States;
- Searches of social media and target group-specific campaigns;
- Covert patrols at railway stations by provincial criminal intelligence service officers;
- Broadcast of the "human trafficking Ukraine" warning across Austria;
- Issue of a decree to all provincial police directorates regarding ordering of intensified measures to protect displaced persons from Ukraine.

The aim of this measure was to obtain an overview of the situation in Austria with regard to displaced persons from Ukraine (Federal Ministry of the Interior, 2022e).

Finally, at the start of September 2022 measures and priorities were implemented across Austria in order to combat trafficking in human beings (Federal Ministry of the Interior, 2022a). Austria also got involved in a campaign coordinated by Europol in October 2022 to combat trafficking in human beings for the purposes of sexual exploitation, begging and the commission of crimes, with the primary focus on identification of trafficked persons from Ukraine and Nigeria (Federal Criminal Intelligence Service Austria, 2022c).

3 OTHER DEVELOPMENTS IN AUSTRIA

The following sections provide an overview of other relevant developments occurring in the asylum and migration sector in Austria in 2022 apart from the measures for displaced persons from Ukraine.

3.1 General developments in the asylum and migration sector

As in previous years, COVID-19 special rules were extended in 2022 at various agencies to help prevent the spread of COVID-19 by restricting the face-to-face interactions with authorities. One example in this regard is Art. 19 para 1a Settlement and Residence Act,[53] according to which applications for extension or amendment do not need to be submitted to the authority in person – as was the case before the pandemic – but instead are to be submitted by post or electronically while freedom of movement or interpersonal contact is restricted due to COVID19 measures. This existing regulation was gradually extended until 30 June 2023.[54] In a statement the Austrian Academic Exchange Service noted that electronic and postal applications for requests for extensions and changes of purpose had proved effective during the pandemic and opened up the opportunity for applicants to apply for an extension or change of purpose without lengthy waiting times at the supervisory authority or for an appointment. It was therefore suggested that an analogous provision be permanently retained (Austrian Academic Exchange Service, 2022b).

3.2 Regular migration

In Austria in 2022, measures in the field of regular migration were primarily taken in connection with labour migration – especially the Red-White-Red Card – and meeting the need for labour.

Labour migration

On 1 January 2022 the Settlement Regulation 2022[55] came into force that aims at ensuring the development of an orderly labour market and to distribute residence permits between the provinces in line with opportunities and requirements (Art. 13 para 2 Settlement and Residence Act). According to Art. 13 Settlement and Residence Act the Federal Government can specify by regulation the number of residence permits subject to quota requirements for each calendar year. Since the annual specification of a maximum number of seasonal permits in the Settlement Regulation hindered needs-based admission, the Federal Minister for Labour and Economy is now able to quantitatively control the admission of seasonal workers via the annual quota regulations without maximum numbers of this kind, taking into account the specific labour market situation and the labour force pool available.[56]

53 Settlement and Residence Act, FLG I No. 100/2005 in the version of federal law FLG I No. 221/2022.

54 Amendment of the Citizenship Act 1985, the Settlement and Residence Act, the Federal Office for Immigration and Asylum Procedures Act and the Asylum Act 2005, FLG I No. 221/2022.

55 Settlement Regulation 2022, FLG II No. 567/2021.

56 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, 1162 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

For 2022 the Settlement Regulation 2022 governs the total number of residence permits subject to quota requirements in Austria (6,020) and their breakdown by residence permit and province. As of 1 January 2022, the maximum number of seasonal and harvest workers is no longer governed by the Settlement Regulation (as was previously the case), but solely via quota regulations issued by the Federal Minister for Labour and Economy. This amendment also enabled the social partners represented in the provincial directorates of the Public Employment Service (Austrian Federal Economic Chamber, Federation of Austrian Industries, Austrian Federal Chamber of Labour, Austrian Trade Union Federation) and the agriculture and forestry interest groups (Austrian Chamber of Agriculture and Austrian Chamber of Agricultural Workers) to enquire about the quota utilization and number of registered seasonal workers granted employment within the area of activity of the particular Public Employment Service provincial office (Art. 5 para 10 Act Governing the Employment of Foreign Nationals).

According to the Federal Minister for Labour and Economy, many companies were looking for qualified staff and demographic changes combined with the economic upturn in the first half of 2022 further increased the need for skilled workers (Federal Ministry of Labour and Economy, 2022). In addition, the government programme included plans to simplify the application process for the Red-White-Red Card and to streamline the procedures (Austrian Federal Government, 2020). Against this backdrop and in order to bring the framework conditions of the Red-White-Red Card into line with a modern labour market, to simplify labour market access for qualified persons, to make the application process more efficient and thus to help alleviate the shortage of skilled workers (Federal Ministry of Labour and Economy, 2022), amendments to the Act Governing the Employment of Foreign Nationals,[57] the Labour Market Promotion Act,[58] the Settlement and Residence Act and the Aliens Police Act 2005 came into force on 1 October 2022.[59] The key features of the reform were as follows:

- Doubling of the amount of time that **artists can work without a work permit** from four to eight weeks (Art. 3 para 4 subpara b Act Governing the Employment of Foreign Nationals);

- Introduction of **work permits for specialists** working on projects (project staff; Art. 4a Act Governing the Employment of Foreign Nationals);

- Facilitation for "other key workers" and university graduates:
  - **reducing the minimum wage** for "other key workers" to 50 per cent of the General Social Insurance Act[60] – maximum contribution basis (Art. 12b subpara 1 Act Governing the Employment of Foreign Nationals), whereby barriers to entry[61] should be reduced, as previous practice has shown that the minimum wage previously prescribed by law for admission of "other key workers" was often too high;[62]

57 Act Governing the Employment of Foreign Nationals, FLG I No. 218/1975 in the version of federal law FLG I No. 106/2022.

58 Labour Market Promotion Act, FLG No. 31/1969 in the version of federal law FLG I No. 106/2022.

59 Amendment to the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005, FLG I No. 106/2022.

60 General Social Insurance Act, FLG No. 189/1955 in the version of federal law FLG I No. 236/2022.

61 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005, 1528 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

62 Ibid.

- facilitating access to the Red-White-Red Card for university graduates by **abolishing** the statutory **minimum wage**. However, the gross monthly salary must continue to be at least equivalent to the customary local salary for domestic university graduates in a comparable occupation and with comparable professional experience (Art. 12b subpara 1 Act Governing the Employment of Foreign Nationals);

- Creation of a **new category of Red-White-Red Card for regular workers** (Art. 12d Act Governing the Employment of Foreign Nationals) under which seasonal workers who were employed as registered seasonal workers in the same industry over two calendar years for at least seven months per calendar year receive a Red-White-Red Card, irrespective of their age and qualifications;

- **Enabling employers to apply** not just for the future employee but also (if the application is made at the same time) for his/her family members (Art. 20d para 1 Act Governing the Employment of Foreign Nationals);

- **Extending the validity of language diplomas and course certificates** demonstrating German and English proficiency extended from one to five years (Art. 20d para 6 Act Governing the Employment of Foreign Nationals);

- **Relaxation of points allocation** under the Act Governing the Employment of Foreign Nationals with regard to professional experience, vocational training in a shortage occupation and age, including by also awarding skilled workers over 40 years of age five points in the "Age" category, enabling older applicants in the future to easily attain the required minimum points. It was also decided that knowledge of English should be valued more highly and placed on an equal footing with knowledge of German as proof of language skills if English is the dominant language in the company where employment is intended; [63]

- **Expanding the Austrian Business Agency "Work in Austria" unit** into a service centre for the Red-White-Red Card and EU Blue Card (Art. 20h Act Governing the Employment of Foreign Nationals).[64] In relation to the Red-White-Red Card, the service centre helps users by:
  - Providing basic information about the key legislation applicable to acquisition of the aforementioned residence permit;
  - Providing multilingual, digitally supported information and advice on procedures relating to the aforementioned residence permit;
  - Showing applicants how to submit applications;
  - Guiding applicants through the individual steps of the procedure.

  Expanding the ABA "Work in Austria" unit into a service centre is designed to improve coordination and streamline the complex procedural steps involved in the interaction between right of residence and access to the labour market.[65] Furthermore, the current government programme stipulates that the

63 Ibid.

64 Act Governing the Employment of Foreign Nationals, FLG I No. 218/1975 in the version of federal law FLG I No. 106/2022.

65 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005, 1528 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

ABA "Work in Austria" unit is to be positioned as a central platform to recruit specialists from abroad (Austrian Federal Government, 2020);

- **Reduction of the minimum founding capital for start-up** founders from EUR 50,000 to EUR 30,000 (Art. 24 para 2 subpara 5 Act Governing the Employment of Foreign Nationals). As was previously the case, it must be proved that half of this capital is equity. Practice has shown that the requirement for start-up capital of EUR 50,000 can rarely be met by entrepreneurs wanting to found a start-up, most of whom are young. University graduates, in particular, do not generally have this amount of capital available. The reduction in the amount of company capital required is intended to reduce obstacles to the admission of start-up founders;[66]

- Possibility for non-profit organizations and commercial employment agencies that specialize in placing qualified staff to place third-country nationals with employers **without** having to obtain the prior agreement of the **Public Employment Service**. The previous restrictions, according to which brokering work was only permitted if third-country nationals already had unrestricted access to the labour market or the Public Employment Service had agreed to brokering in an individual case, should lapse and not be replaced in view of the increasing additional need for qualified and key workers, which the Public Employment Service was finding it increasingly difficult to meet from its pool of registered unemployed persons;[67]

- **Aligning the Red-White-Red Card with the EU Blue Card**, for example by making it easier for applicants to meet the requirements[68] (or bringing the period of validity for residence permits of family members of Red-White-Red Card holders into line with the period of validity for residence permits that applies to family members of holders of an EU Blue Card; Art. 46 para 1a Settlement and Residence Act);

- **Temporary Residence Permit – School Pupil** for pupils at a school of health care and nursing under the Health Care and Nursing Act[69] or participants in a nursing assistant course under Art. 96 Health Care and Nursing Act provided that they are undertaking training that lasts for longer than six months and is recognized by the Regulation on Training in Health Care and Nursing[70] or the Regulation on Training for Care Assistant Occupations[71] (Art. 63 para 1 subpara 7 Settlement and Residence Act). These are higher-level training courses in health care and nursing and for care auxiliaries and assistants. [72]

66 Ibid.

67 Ibid.

68 For the Red-White-Red Card, for example, the requirement of Art. 11 para 2 subpara 4 Settlement and Residence Act, according to which the applicant's stay could not lead to any financial burden on a territorial authority, no longer has to be met (Art. 41 para 1 and 2 Settlement and Residence Act).

69 Health Care and Nursing Act, FLG I No. 108/1997.

70 Regulation of the Federal Minister of Labour, Health and Social Affairs on Training in the Higher Service for Health Care and Nursing (Health Care and Nursing Training Regulation), FLG II No. 179/1999 in the version of FLG II No. 296/2010.

71 Regulation of the Federal Minister for Health and Women's Affairs on Training and Qualification Profiles for Nursing Assistant Professions (Nursing Assistant Professions Training Regulation), FLG II No. 301/2016.

72 Written input: Federal Ministry of the Interior, Department V/A/2 (Residence and Citizenship), 23 January 2023.

The adjustments in the Aliens Police Act predominantly related to the transposition of Directive (EU) 2021/1883 on the EU Blue Card[73] into national law; this was undertaken as part of the reform mentioned and, according to Art. 31, was to take place by no later than 18 November 2023. Implementation of this directive introduced simplifications in the field of vocational experience: for example, it is now sufficient for graduates of universities (including universities of applied sciences) to provide proof of three years of relevant professional experience for certain highly qualified posts in the information and communications technology sector (Art. 12c para 2 Act Governing the Employment of Foreign Nationals), the salary threshold was lowered (Art. 12c para 1 Act Governing the Employment of Foreign Nationals) and simplifications were implemented in relation to mobility (Art. 50a Settlement and Residence Act and Art. 15, 24 and 31 Aliens Police Act) and change of employer (Art. 20d para 2a Act Governing the Employment of Foreign Nationals). Another new development is that persons granted asylum and beneficiaries of subsidiary protection status in Austria can apply for an EU Blue Card (Art. 42 para 5 Settlement and Residence Act). Previously this category of persons was excluded from the scope of the EU Blue Card.[74]

Reform of the Act Governing the Employment of Foreign Nationals and the associated changes to the Red-White-Red Card were both welcomed and rejected. In its response, for example, the Federal Chamber of Labour criticized the fact that it had not been involved in the reform as a representative of employees' interests. The changes were rejected on the grounds that the amendment to the law was not a development in the direction of a contemporary and sustainable labour migration model – simply reducing minimum wages alone was not a sustainable model for the future, and labour migration was only one part of the solution for the need for skilled workers. The priority for the future is to cover the need for skilled workers by carrying out a training campaign associated with improvements to working conditions, which in turn will make jobs more appealing (Chamber of Labour, 2022). In its response, the Austrian Federal Economic Chamber welcomed in particular the reduction or elimination of salary limits for other key workers and graduates, but it also pointed out the major shortage of apprentices in Austria, which made creation of a separate residence permit for apprentices an urgent necessity with a view to filling vacant apprenticeships (Austrian Federal Economic Chamber, 2022). Caritas welcomed the changes which lowered the threshold for access to the Red-White-Red Card and thus facilitated migration of labour from abroad, but at the same time pointed out the absence of a complementary integration policy concept to facilitate long-term integration and equal participation for those persons who come to Austria in the course of work (Caritas, 2022a; also see Section 3.6). In the National Council debate, the oppositional Social Democratic Party of Austria described the reform as "a genuflection to business" that would not improve working conditions but would instead lead to wage dumping and other setbacks (Parliamentary Administration, 2022c:108). NEOS regarded the reform as a step in the right direction whilst suggesting, amongst other things, faster processing of applications or a less restrictive attitude to points allocation for English skills (Parliamentary Administration, 2022c:112). The Austrian Freedom Party criticized arrangements being made for third-country nationals that would not benefit Austrian citizens (Parliamentary Administration, 2022c:118).

73 Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC: OJ L 382, pp. 1–38.

74 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005, 1528 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

According to the legal situation in Austria, requirements for the employment of third-country nationals include an official work permit, which is issued to the employer and provides entitlement to employ the specifically appointed foreign worker in a clearly defined job (Art. 4 Act Governing the Employment of Foreign Nationals). On 1 November 2022, Art. 4 para 8 Act Governing the Employment of Foreign Nationals[75] came into force. According to this provision, the Public Employment Service can choose not to suspend a work permit if an individual repeatedly engages in unauthorized employment under Art. 4 para 1 subpara 3 and 5 Act Governing the Employment of Foreign Nationals. In order to do so, there must be extenuating circumstances – a low level of culpability, for example, or the violation being committed for only a short period – and employers must provide credible evidence that specific technical, organizational or personnel measures have been put in place to prevent any further violations. The Regional Advisory Council must be consulted beforehand. According to the legal scenario applicable prior to this amendment, repeated (twice) unauthorized employment of aliens led to a ban, so that the business concerned or the alien in question could not obtain another work permit for the following year.[76] This sanction was a serious encroachment on the freedom to pursue gainful employment and freedom of ownership which, when applied indiscriminately, did not take into consideration the type and duration of the transgression or the level of culpability, meaning that systematic and deliberate violations were sanctioned in the same way as merely negligent conduct.[77] This imbalance has been rectified by the new regulation and the Public Employment Service was provided with discretionary powers when suspending work permits. Consultation with the Regional Advisory Council, which is made up of social partners, is designed to also take into account the considerations of various interest groups when applying the regulation.[78] The new statutory regulation was rejected by the oppositional Social Democratic Party of Austria because, inter alia, it would give carte blanche to other unauthorized employment (Parliamentary Administration, 2022f).

Labour supply needs

At the start of 2022 the President of the Upper Austrian Economic Chamber stated that Austria needed more labour from third countries in order not to lag even further behind other European countries (ORF.at, 2022a). In order to counteract the skilled worker shortage in Austria, the Austrian Economic Chamber developed a range of measures intended, amongst other things, to entice skilled workers from third countries to work in Austria. As part of the international skilled worker campaign[79] launched in early 2022, an attempt is being made to improve migration of qualified skilled workers on the shortage occupation list in the defined focus countries.[80] The focus countries and shortage occupations[81] have been selected according to criteria

75 Act Governing the Employment of Foreign Nationals, FLG I No. 218/1975 in the version of federal law FLG I No. 168/2022.

76 Proposal by Members of Parliament Mag. Gödl, Mag. Koza and colleagues regarding a federal law which amends the Act Governing the Employment of Foreign Nationals. Available at www.parlament.gv.at.

77 Proposal regarding a federal act which amends the Act Governing the Employment of Foreign Nationals, 2720/A XXVIIth legislative term. Available at www.parlament.gv.at.

78 Ibid.

79 Written input: Austrian Federal Economic Chamber, Department of Social and Health Policy, 16 March 2023.

80 Albania, Brazil, Indonesia, Kosovo (references to Kosovo shall be understood to be in the context of United Nations Security Council resolution 1244 (1999)), Northern Macedonia and the Philippines.

81 Certified nurses, electricians and fitters, millers, turners, welders, torch cutters, IT specialists; cooks, motor vehicle mechanics, mechanical engineers, bricklayers, locksmiths, tinsmiths, carpenters, roofers. See Austrian Federal Economic Chamber, n.d.b.

that promise the best conformity to the realities of the situation that prevails in Austria (Austrian Federal Economic Chamber, n.d.b).[82]

With regard to the Austrian labour shortage, in addition to the Austrian Economic Chamber initiative some adjustments were also made at a legal level in order to facilitate migration of labour to Austria. On 1 January 2022 **amendments to the Settlement and Residence Act and the Act Governing the Employment of Foreign Nationals** (known as the "Registered Seasonal Worker Regulation")[83] came into force, aiming at simplifying the requirements for the temporary employment of seasonal and harvest workers from third countries and to better adapt these requirements to the regularly occurring need for these workers.[84] It was also intended to place "old" and "new" registered seasonal workers on an equal footing in terms of the permitted duration of their approval.[85]

Given that many registered seasonal workers were no longer in the workforce or had since found other employment opportunities in their countries of origin and were therefore no longer available for seasonal work in Austria, the "old" Registered Seasonal Worker Regulation of 2011 has been used less and less in recent years. At the same time, it was predominantly the same seasonal workers who were being admitted via the annual quota regulations because labour supply needs could not be met by the workers registered with the Public Employment Service. According to surveys at the time (November 2021), around 3,100 workers met the requirements of the new Registered Seasonal Worker Regulation.[86] Therefore, the Act Governing the Employment of Foreign Nationals stipulates that seasonal workers who had been temporarily employed under quotas for at least three months in at least three calendar years in the same industry (tourism or agriculture and forestry) in the 2017 to 2021 calendar years and who registered with the Public Employment Service by 31 December 2022 could obtain work permits in this industry outside the quota system and without a labour market test.[87] As part of the Red-White-Red Card reform (see above), the Registered Seasonal Worker Regulation was again amended so that rather than employment in the 2017 to 2021 calendar years, employment in the previous five calendar years is to be the decisive factor for registration as a registered seasonal worker.

In order to meet the additional need for seasonal workers for the calendar year, the regulation on the temporary employment of foreign nationals in tourism and in agriculture and forestry in 2022 (**Seasonal Quota Regulation**)[88] came into force on 1 January 2022. This regulation is based on Art. 5 para 1 subpara 1 and 2 Act Governing the Employment of Foreign Nationals, according to which the Federal Minister for Labour and Economy can define numerical quotas for temporary admission of foreign seasonal workers in a

82 In this context, EMN Austria extended an invitation to the Kick-Off Event: Global Skill Partnerships in Austria on 11 April 2022. For details, see EMN Austria, Kick-Off Veranstaltung: Globale Skillspartnerschaften in Österreich. Available at www.emn.at (accessed 16 March 2023).

83 Amendment to the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, FLG I No. 217/2021.

84 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, 1162 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

85 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals, the Labour Market Promotion Act, the Settlement and Residence Act and the Aliens Police Act 2005, 1528 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

86 Government Proposal - Explanatory Notes: Federal Act Amending the Act Governing the Employment of Foreign Nationals and the Settlement and Residence Act, 1162 of the supporting documentation XXVIIth legislative term. Available at www.parlament.gv.at.

87 There had already been a similar regulation for seasonal workers granted employment under seasonal quotas in the calender years 2006 to 2010 and who were registered for social insurance. These seasonal workers were able to register with the regional offices of the Public Employment Service until 30 April 2012. See Art. 5 para 7 Act Governing the Employment of Foreign Nationals.

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

specific industry, occupational group or region, or for the short-term admission of foreign harvest workers. The prerequisite is a temporary additional need for workers that cannot be met by the pool of workers available in Austria or by citizens of the European Economic Area or Switzerland or by registered seasonal workers. This regulation was amended in July 2022,[89] with the quota for tourism being increased by 1,000 quota places. It was also decreed that if quota places become available, employers who have to date employed foreign nationals who have registered as seasonal workers[90] or have obtained a Red-White-Red Card as regular workers are to be given preference when new work permits are granted.

On 1 January 2022, the **Regulation for Skilled Workers 2022**[91] came into force to secure Austria's role as a centre of business and employment. The regulation is based on Art. 13 Act Governing the Employment of Foreign Nationals, according to which the Federal Minister for Labour and Economy defines shortage occupations[92] for the following calendar year by regulation in the event of a long-term labour shortage that cannot be met by the existing supply of domestic workers. In 2022, foreign nationals who met the relevant criteria (Art. 12a Act Governing the Employment of Foreign Nationals) were able to be admitted for employment in these shortage occupations throughout Austria or in certain provinces. There were initially 66 shortage occupations nationwide, but ultimately 68 due to an amendment to the Regulation for Skilled Workers 2022 in July 2022,[93] and between two (Burgenland) and 49 (Upper Austria) further shortage occupations in the provinces. Most recently, 21 more occupations were listed throughout Austria than in the previous year.[94] This increase was due to the shortage of skilled workers, especially in technical occupations and also in the health and tourism sectors (Federal Ministry of Labour, 2021). Accordingly, the Regulation for Skilled Workers 2022 most recently included civil engineers, medical/paramedical staff and waiting staff.

The aforementioned measures implemented by the Federal Government or passed by the National Council attracted different responses during 2022. The Austrian Economic Chamber welcomed the developments, referring to the decision to top up the contingent of seasonal workers and expand the shortage occupation list as emergency measures that would have an immediate and perceptible impact (Wiener Zeitung, 2022a). On the other hand, the Federal Government's approach came in for criticism from the Social Democrats, who pointed out that very few businesses would take action independently and increase pay, make working hours more flexible or even reduce them. Instead these businesses and their representatives would recruit more employees from abroad, making them work for cheap wages. The Federal Minister for Labour was therefore advised that employment conditions should be improved instead of labour being sought abroad. There was no skilled labour shortage as far as the trade union vida was concerned either, but rather a "lack of training and payment" in the sector (Kurier, 2022d). The union argued that as long as there were still job seekers on the domestic labour market, there was no need for additional seasonal workers (Kontrast.at, 2022; Kurier, 2022d;

89 Amendment to the Seasonal Quota Regulation 2022, FLG II No. 272/2022.

90 Persons who have been lawfully employed as seasonal workers in either agriculture and forestry or tourism for at least 90 days per calendar year in at least three of the previous five calendar years may apply for registration as regular seasonal workers. These persons may be granted employment permits for the respective economic sector outside of quotas and these employment permits are not to be counted towards quotas (Art. 5 para 6a Act Governing the Employment of Foreign Nationals).

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

92 According to Art. 13 para 1 Act Governing the Employment of Foreign Nationals, shortage occupations are those occupations for which no more than 1.5 jobseekers per vacancy are registered.

93 Amendment to the Regulation for Skilled Workers 2022, FLG II No. 271/2022.

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

Wiener Zeitung, 2022a). Regardless of this criticism, in December 2022 the Upper Austrian Economic Chamber took stock and was pleased that reform of the Red-White-Red Card was already bearing fruit. It was also noted, though, that there was a need for even more steps, such as the opportunity for third-country nationals who have reached the age of majority to train in shortage occupations (Austrian Economic Chamber for Upper Austria, 2022). In connection with the labour shortage, the Archbishop of Vienna also expressed the opinion that Austria was in urgent need of migration and, in this regard, referred to the different areas of work where migration was required. He also raised the question of whether faster integration into the labour process might be possible (ORF.at, 2022l). It was also argued from an economic point of view that the labour shortage could be countered by migration, but that the existing potential of people from a migratory background was not being exhausted even now (Die Wirtschaft, 2022).

As a further measure to reduce the shortage of nurses, the **Regulation on the Employment of Foreign Nationals**[95] was amended on 29 August 2022.[96] This amendment specified two more exceptions to the applicability of the Act Governing the Employment of Foreign Nationals. On the one hand, this concerns foreign nationals who have a right of residence under the Settlement and Residence Act and who have successfully completed training in Austria in a nursing assistant profession or in higher-level health care and nursing and are entitled to practise that profession (Art. 1 para 6 Regulation on the Employment of Foreign Nationals). On the other hand, this amendment also takes into account the new Host State Law[97] and therefore exempts certain family members[98] of persons employed by international institutions or international non-governmental organizations, including quasi-international organizations (Art. 1 subpara 12 Regulation on the Employment of Foreign Nationals).

An **amendment to the Settlement and Residence Act** came into force on 21 October 2022[99] with the result that all third-country nationals can now apply for their first Red-White-Red Card in Austria after they have lawfully entered the country (with or without a visa, as appropriate) and while they are lawfully resident in the federal territory of Austria. In addition to highly qualified applicants, persons eligible to apply for their first Red-White-Red Card from within Austria are set to include skilled workers in shortage occupations, other key workers, university graduates, regular workers, start-up founders and self-employed key workers.

The potential of the eight Austrian schools abroad in Albania, Czechia, Guatemala, Hungary, Liechtenstein, Mexico and Türkiye should also be utilized (Federal Ministry of Education, Science and Research, n.d.) in connection with the need for skilled workers in Austria (Federal Ministry of Education, Science and Research, 2022b). The Federal Minister for Education, Science and Research therefore presented the future strategy of Austrian schools abroad during his working visit to Albania in early November 2022. He underlined the aims of further developing the schools, examining new locations worldwide, and offering an increased amount of education and training with relevance to the labour market in order to meet the need for skilled workers. This is seen as a sustainable measure to attract internationally qualified skilled workers to Austria and thereby

95 Regulation Governing the Employment of Foreign Nationals, FLG No. 609/1990 in the version of FLG II No. 325/2022.

96 Amendment of the Regulation Governing the Employment of Foreign Nationals, FLG II No. 325/2022.

97 Federal law to strengthen Austria as an international official seat and conference location, FLG I No. 54/2021.

98 According to Art. 1 subpara 12 Regulation Governing the Employment of Foreign Nationals, dependents are spouses, registered partners and unmarried children up to the age of 21. There is no age limit for children with disabilities.

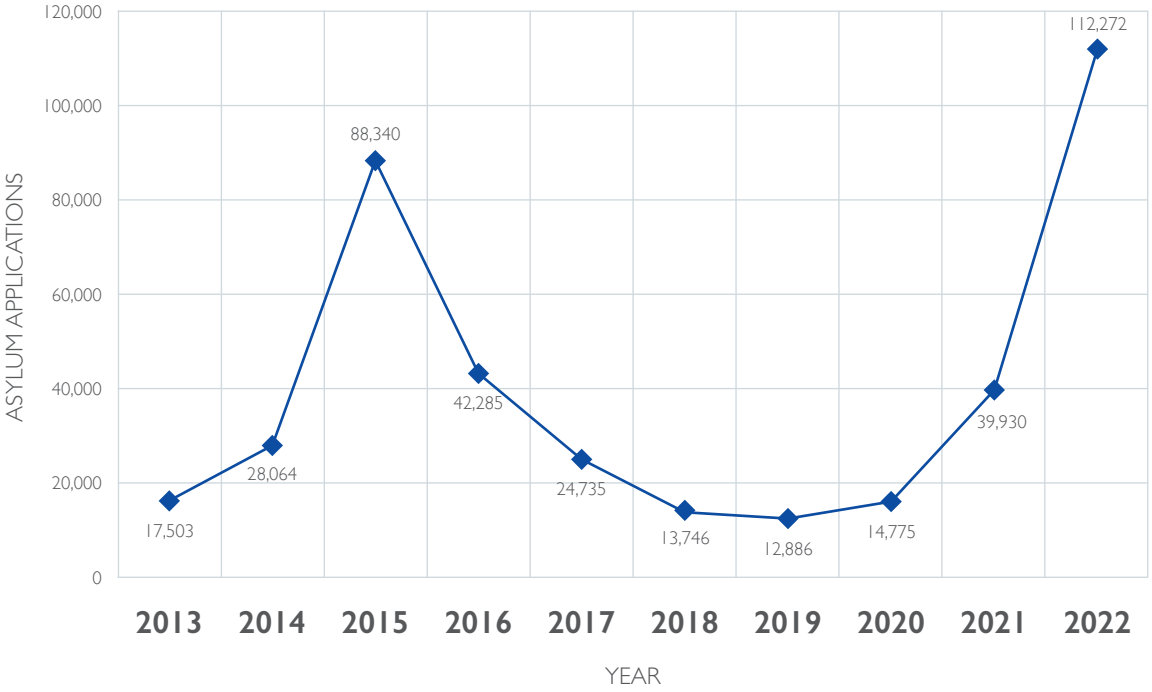
99 Amendment of the Settlement and Residence Act, FLG I No. 153/2022.

contribute to meeting the demand for skilled workers (Federal Ministry of Education, Science and Research, 2022b).

3.3 International protection

After falling for several years, the number of applications for asylum in Austria took an upward turn again from 2020, leading to a 2.7- and 2.8-fold increase in 2021 and 2022 respectively. As Figure 2 below illustrates, Austria received 112,272 applications in 2022.

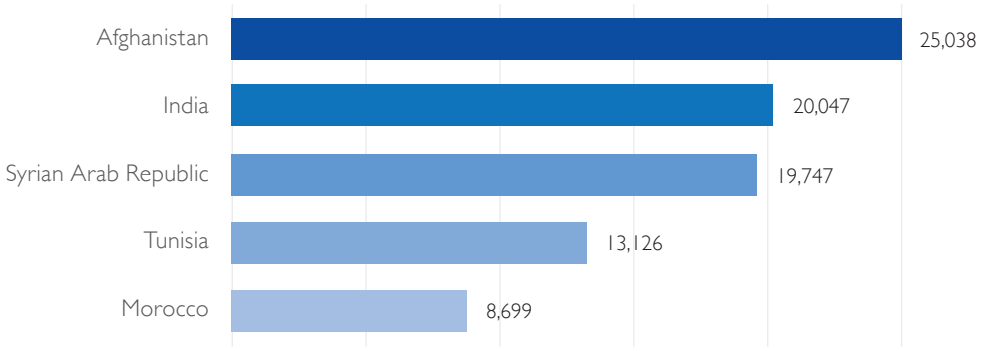
Figure 2: Applications for asylum in Austria 2013–2022



Source: Federal Ministry of the Interior, 2023a.

With a total of 25,038 applications, most of the applications for asylum were made by people from Afghanistan (see Figure 3). Indian nationals accounted for the second highest number of applicants in 2022, with 20,047 applications in total. It is likely that this high volume of Indian asylum-seekers factored into the decision to initiate negotiations on the migration agreement between Austria and India (see Section 3.9). Almost as many applications (19,747) came from nationals of the Syrian Arab Republic, followed by Tunisia (13,126) and Morocco (8,699). While Indian nationals were already on the list of the top five asylum-seekers in previous years, in 2022 they submitted a considerably higher number of applications for asylum than in the past. In 2022, Tunisian asylum-seekers were among the top five citizenships for the first time. To put the developments related to these two countries of origin into context: Serbia had opened up visa-free entry to third-country nationals from India and Tunisia until November 2022 and December 2022 respectively (Schengen Visa News, 2022b, 2022a), an invitation that was used as an opportunity to travel onward to the EU (Der Standard, 2022e).

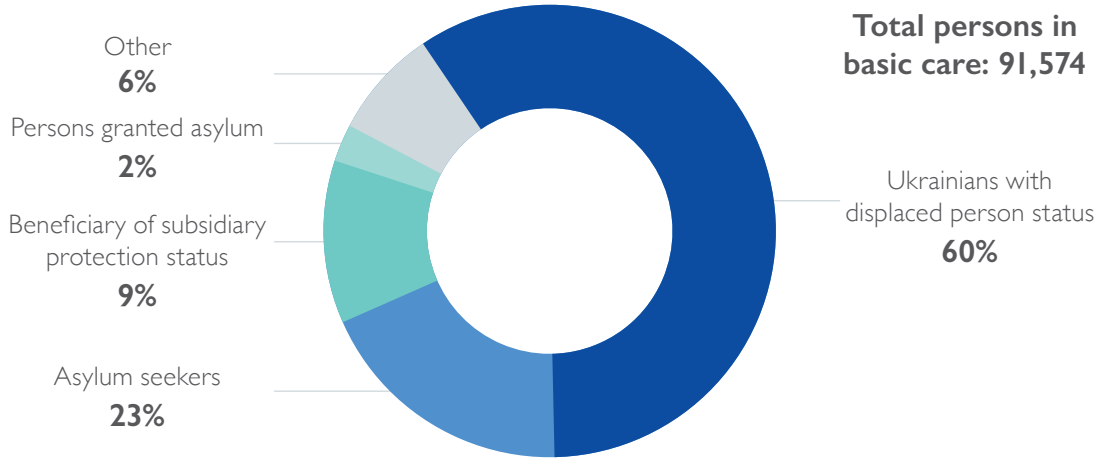
Figure 3: Applications for asylum in Austria by top five citizenships (2022)



Source: Federal Ministry of the Interior, 2023a.

On the subject of the growing numbers of applications, the Federal Chancellor explained in July 2022 that Austria was under increasing pressure from the level of migration (Kurier, 2022e). In this regard, politicians from the Austrian People's Party (Kurier, 2022e; Parliamentary Administration, 2022d; Salzburger Nachrichten, 2022a) pointed out that Austria had experienced the second highest number of applications for asylum per capita in the EU, a burden that was putting an exceptional strain on the Austrian asylum and basic care system, not least because of the additional 91,000 or so persons displaced from Ukraine (see Figure 1).[100] In 2022, Ukrainians accounted for the majority of people in basic care in Austria. The share of Ukrainians in basic care in November 2022, for instance, was 60 per cent (see Figure 4), followed by asylum-seekers (23%) and beneficiaries of subsidiary protection status (9%).

Figure 4: Number of people in basic care by group (November 2022)



Note: The data shown refer to the reporting date of 1 November 2022. Only the number of Ukrainians with displaced person status in basic care refers to 15 November 2022 specifically.
Source: Federal Ministry of the Interior, 2023b.

100 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 17 January 2023.

To this end, the Federal Minister of the Interior explained in August 2022 that the high numbers of applications for asylum gave rise to the need to create further **accommodation capacities**, adding that the provinces should be supported in expanding their capacities accordingly (ORF.at, 2022f). Finally, as had happened previously in 2015, tents were pitched to accommodate people seeking protection in mid-October 2022 (Wiener Zeitung, 2022d). This move was criticized, with some sides suggesting that the need to pitch tents was more symptomatic of a management crisis than an asylum crisis. According to this view, the numbers were not the problem but rather the failure to establish the necessary capacities (Wiener Zeitung, 2022e). Referring to the state of affairs as a "home-made accommodation crisis", Caritas described the situation as a power struggle between the Federal State and the provinces that was being played out on the backs of those seeking protection (Kleine Zeitung, 2022). UNHCR called for all asylum-seekers in Austria to be accommodated in permanent housing as quickly as possible. The fact that the utilization of the basic care capacity had only risen moderately over the previous year despite a high number of applications for asylum was also pointed out. The reason cited was that a considerable number of applicants had already left Austria and had moved on to other countries (Der Standard, 2022d; Wiener Zeitung, 2022b). This, it was noted, makes the failure to compensate for the shortfall of roughly 5,000 spaces all the more difficult to understand (UNHCR, 2022c).

In connection with the high number of applications for international protection, the parliamentary leader of the Austrian People's Party argued in November 2022 for the **European Convention on Human Rights** (ECHR) to be revised because it was no longer adequate in view of the current refugee situation (Der Standard, 2022h). In the political debate that ensued regarding whether an amendment was necessary, all the opposition parties – with the exception of the Austrian Freedom Party – and also the coalition partner came out against such amendments to the ECHR (Salzburger Nachrichten, 2022b). The Federal Minister for the EU and Constitution (Austrian People's Party) and the Federal Minister of Justice appointed by the coalition partner explained that the ECHR was not up for negotiation (ORF.at, 2022j). According to the Vice-President of the European Parliament (Austrian People's Party), calling into question the ECHR undermined one of the fundamental pillars of democracy (Der Standard, 2022j). Conversely, the Austrian Federal Chancellor (Austrian People's Party) said that the ensuing debate called for a "much broader" view. He cited the European asylum system, which he believes is broken, and the high numbers of applications for asylum in Austria as proof that external border protection is not working (ORF.at, 2022k). On 18 November 2022, the Austrian Freedom Party finally tabled a motion for a resolution on the revision of the ECHR, which was postponed in January 2023 (Parliamentary Administration, 2023).

Aiming at tackling the current challenges concerning **basic care**, particularly in relation to the provision of care for persons displaced by the war in Ukraine (see Section 2.2) and the acceptance of admitted asylum-seekers from federal reception centres,[101] a supplementary agreement[102] to the Agreement between the Federal State

101 See Art. 1 Agreement between the Federal State and the Provinces according to Art. 15a Federal Constitutional Act determining in particular the increase of specific maximum cost rates of Art. 9 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act as well as a lump sum for initial care, FLG I No. 197/2022.

102 Agreement between the Federal State and the Provinces according to Art. 15a Federal Constitutional Act determining in particular the increase of specific maximum cost rates of Art. 9 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act as well as a lump sum for initial care, FLG I No. 197/2022.

and the Provinces on Basic Care – Art. 15a Federal Constitutional Act[103] came into force on 1 December 2022. The contents of the supplementary agreement govern the increase in certain maximum costs in connection with the accommodation and boarding of foreigners in need of assistance and protection (Art. 9 subpara 1 to 3 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act). Specifically, the costs for accommodation and food for people housed in organized accommodation was increased from EUR 21 to EUR 25 for the first time since 2016. The cap for food for a single person in accommodation was set at EUR 260 for adults, EUR 145 for minors and EUR 260 for unaccompanied minors. Before the increase, the cap was set at EUR 215 for adults and unaccompanied minors, and at EUR 100 for minors. In future the maximum cost of rent for individually arranged accommodation will be EUR 165 for a single person (up from the previous EUR 150), while the support provided for families (two people or more) has now increased from EUR 300 to EUR 330.[104] The increase in maximum costs was backdated to 1 March 2022. In addition, to finance the initial care of displaced persons from Ukraine in arrival centres, a one-time lump-sum payment amounting to EUR 190 per verifiably cared-for person was determined, to be paid to the respective province (Federal Ministry of the Interior, 2022e). Finally, the supplementary agreement also regulated the extension of the scope of application of the Agreement between the Federal State and the Provinces on Basic Care to third-country nationals displaced from Ukraine who do not fall under the Regulation on Displaced Persons, but who are permitted to enter the country for the purpose of transit and immediate departure from Austria thereafter according to Art. 6 para 5 subpara c Schengen Borders Code.

Austria's treatment of applicants for international protection was a cause of concern for both the political opposition and non-governmental organizations in 2022, especially since both the Provincial Administrative Court of Styria and the Supreme Administrative Court were involved in two cases concerning **pushbacks**[105] by Austrian police at the border crossing point in Sicheldorf.

- The Provincial Administrative Court of Styria assessed the rejection at the border as unlawful in one case; as a result, NEOS appealed to the Federal Minister of the Interior with the second parliamentary follow-up question on the systematic use of pushbacks at Austria's southern border (Member of Parliament Dr. Stephanie Krisper, 2022). The minister unequivocally rejected the accusation – which was made in reference to the judgement delivered – and declared that respect for fundamental and human rights is a core aspect of police officers' daily work. It was also stated that police officers would continue to be explicitly reminded of the importance of complying with the rules as part of their education and training (Federal Ministry of the Interior, 2022d).

103 Agreement between the Federal State and the Provinces according to Art. 15a Federal Constitutional Act on common measures for temporary basic care for aliens in need of assistance and protection (asylum-seekers, persons granted asylum, displaced persons and other persons who cannot be removed for legal or factual reasons) in Austria (Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act), FLG I No. 80/2004.

104 For the maximum cost rates applicable prior to the conclusion of the supplementary agreement, see Agreement between the Federal State and the Provinces according to Art. 15a Federal Constitutional Act on common measures for temporary basic care for aliens in need of assistance and protection (asylum-seekers, persons granted asylum, displaced persons and other persons who cannot be removed for legal or factual reasons) in Austria (Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act), FLG I No. 80/2004; Agreement between the Federal State and the provinces according to Article 15a Federal Constitutional Act on an increase of specific maximum cost rates of Art. 9 of the Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act, FLG I No. 48/2016.

105 This refers to various measures taken by States that result in migrants, including asylum-seekers, being summarily returned to the country from which they attempted to cross or crossed an international border without access to international protection or asylum procedures or without an individual assessment of their protection needs, which may result in a violation of the principle of non-refoulement. See OHCHR, 2021.

- In the other case, an appeal by the provincial police directorate of Styria was rejected by the Supreme Administrative Court, thus confirming an earlier ruling by the Provincial Administrative Court of Styria in which a rejection at the border was also found to be unlawful.[106] From the perspective of non-governmental organizations, this made it clear that illegal pushbacks at the Slovenian border were systematic and in some cases used methodically (Amnesty International Austria, 2022; Asylkoordination Österreich, 2022a).

3.4 Minors

In 2022, there were several developments in Austria intended specifically to protect children in asylum procedures and in reception centres.

For example, since February 2022, case workers responsible for managing procedures at the Federal Office for Immigration and Asylum have been provided with a checklist compiled by UNHCR ("Self-Check Interrogation of Children and Adolescents") and intended for use as a tool to facilitate the interviewing of minors (Federal Ministry of the Interior, 2022h). This is intended to ensure the best interests of the child in procedures relating to asylum and the rights of foreign nationals, and that the recommendations in paras 193 and 194 (Federal Ministry of the Interior, 2022h) of the former Commission on the Best Interests of the Child are implemented.

However, in February 2022 the "Gemeinsam für Kinderrechte" (Together for Children's Rights) alliance, which is supported by members of the former Commission on the Best Interests of the Child (Gemeinsam für Kinderrechte, n.d.) stated that not one of the recommendations from the Commission on the Best Interests of the Child had been implemented. This statement was branded "false" by the Federal Ministry of the Interior and countered with the argument that more than half of the recommendations had already been put into practice (ORF.at, 2022b). The Federal Minister of the Interior also adopted various measures with regard to the decision of 14 October 2021, when the National Council called upon the Federal Government to improve the protection and legal status of refugee children.[107] Most notably, the Federal Ministry of the Interior was responsible for such measures as training initiatives geared towards raising awareness of the importance of safeguarding the best interests of the child in the conduct of proceedings and the provision of care. To this end, a new training course devised in cooperation with the Federal Administrative Court, focusing on "the best interests of the child, assessing the best interests of the child and Art. 8 ECHR", was held for case workers at the Federal Office for Immigration and Asylum for the first time in May 2022 (Federal Ministry of the Interior, 2022f). As well as covering the legal foundations of the best interests of the child and relevant case law, the course content also dealt with the interviewing of minors and the report from the former Commission on the Best Interests of the Child (Federal Ministry of the Interior, 2022h). Irrespective of these measures, in July 2022 the chair of the former Commission on the Best Interests of the Child explained that most of the recommendations issued by the Commission on the Best Interests of the Child had not been addressed but rather only certain subpoints had been implemented. In her assessment, there was still a great deal to be done to ensure the best interests of the child in Austria (Asylkoordination Österreich, 2022b).

106 Supreme Administrative Court, 5 May 2022, Ra 2021/21/0274.

107 Resolution of the National Council regarding the protection of unaccompanied minor refugees, 204/E XXVIIth legistlative term. Available at www.parlament.gv.at.

In the summer of 2022, the Federal Administrative Court published the guidelines on "Child Welfare in Asylum and Aliens Law" (Federal Ministry of Justice, n.d.) that have since been available for judges of the Federal Administrative Court to consult as a working aid, outlining the key criteria for assessing the best interests of the child based on the latest case law. The guidelines are intended to facilitate judicial work and to aid transparency and uniformity in case law, ensuring a stronger independent judiciary as a result (Federal Administrative Court, 2022). Together with an extensive training initiative and the appointment of a judge to serve as a point of contact on matters relating to the best interests of the child, the guidelines were a key part of the implementation of the Commission on the Best Interests of the Child's recommendations to the Federal Administrative Court (Federal Administrative Court, 2022).

As announced in July 2022, the Federal Agency for Reception and Support Services devised a child protection concept to support the implementation of the corresponding contractual provisions and to supplement the care concept.[108] As part of this development, child protection officers who had completed their training in April 2022 were appointed at all federal reception centres in which children were housed. As well as dealing with children's rights and protection against violence, the training also included modules on the subject of missing children and child trafficking (Federal Ministry of the Interior, 2022h). The subject of missing asylum-seeking minors was addressed in the media in 2022, not least because a total of 1,426 proceedings for asylum-seeking minors were halted in the first quarter of 2022 due to their withdrawal from proceedings (Der Standard, 2022c). In the period from January to July 2022, some 5,140 unaccompanied minors had either withdrawn from the asylum procedure or were missing (Federal Ministry of the Interior, 2022b). It is not known whether these unaccompanied refugee minors travelled onward to relatives in other countries, for instance, or if they were trafficked (Der Standard, 2022c). With respect to the high number of unaccompanied children and adolescents disappearing from State care (IOM Austria, 2022b), the passage in the government programme on improving the protection and legal status of refugee children, for instance through the swift provision of guardianship for unaccompanied refugee minors (Austrian Federal Government, 2020:141), also gained in significance. Not least because of this, the former Commission on the Best Interests of the Child also made repeated reference to the present gap in protection and argued for guardianship from the outset (Unabhängige Kommission für den Schutz der Kinderrechte und des Kindeswohls im Asyl- und Fremdenrecht, 2021:981). The "KIND ist KIND" (A CHILD is a CHILD) campaign launched in April 2022 also intends to place an emphasis on the subject of "guardianship from day one" (SOS Mitmensch, 2022b). According to IOM Austria, the swift appointment of competent legal guardians would significantly reduce the risk of child trafficking (IOM Austria, 2022b).

On 23 November 2022 the Council of Ministers decided to instruct the Federal Minister of the Interior to take the necessary steps in order to adjust – in addition to increasing certain maximum cost rates (see Section 3.3) – the maximum costs allowed for unaccompanied refugee minors housed in organized accommodation under the Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act (Art. 9 subpara 7 Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act). This involved developing a transparent real cost model to ascertain the actual costs incurred, so that the existing maximum costs of caring for unaccompanied refugee minors could be

108 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 16 January 2023.

adjusted accordingly. The aim of doing so was to close the gap between the maximum costs currently specified and the actual costs incurred in the provision of care for unaccompanied refugee minors, thus ensuring that the provision of care satisfies the needs of unaccompanied refugee minors. The intention was also to make allowance for the particular vulnerability of unaccompanied refugee minors and to ensure the provision of adequate care in the best interests of the child, even in challenging times (Federal Ministry of the Interior, 2022l). This measure was welcomed as a step in the right direction (Asylkoordination Österreich, 2022c).

3.5 Integration and inclusion

As provided for in the government programme, the **orientation and values courses** for persons granted asylum and beneficiaries of subsidiary protection status were expanded in 2022 (Austrian Federal Government, 2020:145). In addition, an evaluation by external experts confirmed, among other things, the need to expand the courses (Federal Chancellery, 2022a). Since 1 January 2022, the duration of compulsory orientation and values courses has increased to three days (24 hours) from the previous requirement of one day (8 hours). Persons granted asylum and beneficiaries of subsidiary protection status aged 15 years or over are therefore now required to complete 24 hours of this course (Federal Chancellery, 2021). The courses are also open to asylum-seekers with a high likelihood of being granted international protection. New elements introduced following the extension of the orientation and values courses include, in particular, a sensitization module on antisemitism (Austrian Integration Fund, 2022b) and a new focus on volunteer work, as well as a strong emphasis on women's equality and self-determination (Austrian Integration Fund, n.d.c). The aim of extending the orientation and values courses was to facilitate a more comprehensive, in-depth discussion of the core values of living together in Austria. The programme's new focus on volunteer work was intended to promote participation in society and contribute to labour market integration (Federal Chancellery, 2021). The inclusion of a sensitization module on antisemitism aimed to encourage engagement with various forms of antisemitism, but also to teach participants about the history of Jewish life in Austria and to address Austria's responsibility in connection with the Holocaust. Austria is ultimately committed to fighting all forms of antisemitism, hence it was also decided that steps would be taken to tackle antisemitism in the field of integration (Austrian Integration Fund, 2022b).

In addition, an initiative promoting the **prevention of extremism** in schools was launched on 4 April 2022. Aimed at school pupils at all levels of education and all types of school throughout Austria, this initiative was intended to raise awareness of the dangers of the ideologies of inequality and strengthen pupils' resilience to radicalization. The programme, provided to schools at no cost, enables school pupils to engage with questions relating to identity and living together in a pluralistic society. Issues addressed include conflict resolution and preventing violence, extremist groups and ideologies, radicalization methods, discrimination, prejudice sensitization, coexistence and values (Austrian Academic Exchange Service, 2022a).

The nationwide **programme empowering women** "KOMPASS – 100 women, 100 opportunities. Career paths for female immigrants" was launched in October 2022 and is aimed at supporting qualified female immigrants in their efforts to enter the labour market. A lack of knowledge about the Austrian labour market and the absence of professional networks make it difficult for many highly skilled women to find suitable employment in Austria. Therefore, over the course of six months, experts provided participants with support

free of charge to help them identify and make the most of their opportunities in the Austrian labour market, complete job application training and individual coaching sessions, and participate in seminars. There was a special focus on women from Ukraine (Austrian Integration Fund, 2022g).

Amid rising energy prices, which also led to the Austrian Integration Fund being increasingly inundated with questions about the economical use of electricity, water and energy, the Austrian Integration Fund introduced a new **information initiative** for migrants at the end of November 2022 **on the subject of saving energy** and sustainable energy usage. The aim was to impart basic knowledge and offer practical tips on the correct way to use heating, ventilation and electricity in everyday life, as well as to provide background knowledge on sustainability and resource efficiency. The new Austrian Integration Fund seminars were primarily targeted at migrants with little knowledge of the German language but were open to anyone interested in learning about the topic. In collaboration with regional partners such as Wien Energie, Energie Tirol, the Energy and Environment Agency of Lower Austria, Climate Alliance Salzburg and Climate Alliance Carinthia, the Austrian Integration Fund workshops were delivered throughout Austria (Austrian Integration Fund, 2022j).

Finally, in partnership with the course providers, the Austrian Integration Fund significantly expanded **the range of German language courses and opportunities to learn German** throughout Austria in order to facilitate swift entry to the labour market and to meet the growing demand for literacy skills. The local German language courses are supplemented by an extensive range of online courses and the language portal provided by the Austrian Integration Fund. On the platform, courses at the language levels A1, A2, B1, and B2 are held daily from Monday to Friday, and can be attended without registration and free of charge via a computer, tablet or smartphone. The programme also includes online German language courses specific to jobs in the restaurant and hospitality trade, tourism and the food retail sector. For literacy courses in particular, a separate framework curriculum and a further training programme were developed specifically for teachers. The high number of persons granted asylum and beneficiaries of subsidiary protection status provided the impetus for increasing the range of German language courses, as did the new influx of persons displaced from Ukraine. The education level of persons granted asylum and beneficiaries of subsidiary protection status has changed considerably in recent years, and this was a decisive factor with regard to the provision of literacy courses (Austrian Integration Fund, 2022h). On 28 December 2022, the Austrian Integration Fund announced that it would be expanding its range of German language courses even further in 2023 (Austrian Integration Fund, 2022l)

In view of the growing numbers of people moving to Austria from countries in which female genital mutilation is practised, the Austrian authorities and practitioners in various sectors are increasingly confronted with this gender-based violence against women and girls with serious long-term health consequences.[109] Therefore, an Austria-wide **FGM Coordination Office** was established in 2022, focusing on the issue of female genital mutilation/cutting (FGM/C) with the aim of being a contact point for those seeking help, experts, professionals and communities, and to network all actors with each other. [110] The FGM Coordination Office is an association of the Women's Health Centre FEM Süd, the Austrian Red Cross, the Women's Health Centres in Linz and Salzburg, and the MEN Men's Health Centre. The FGM Coordination Office offers free counselling, information

109 FGMC Coordination Office, Competence Centre Austria, Fachinformationen. Available at https://fgm-koordinationsstelle.at (accessed 31 January 2023).
110 FGMC Coordination Office, Competence Centre Austria, Wir sind für Sie da! Available at https://fgm-koordinationsstelle.at (accessed 31 January 2023).

and support on all issues relating to female genital mutilation, both via a general information hotline and in person at its advice centres in Vienna, Graz, Innsbruck, Linz and Salzburg.[111]

3.6 Citizenship and statelessness

Various aspects of citizenship and naturalization were also the subject of political debate in 2022. Whereas the Social Democratic Party of Austria in Vienna wanted to facilitate access to citizenship (Der Standard, 2022g), the Austrian People's Party rejected this proposal, arguing that citizenship is the final stage in a successful integration process (ORF.at, 2022h).[112] When commenting on the amendment to the Red-White-Red Card (see Section 3.2), Caritas highlighted the need for a complementary integration policy concept. One suggestion in this connection was to harness the prospect of naturalization for integration and to take the necessary action to facilitate access (Caritas, 2022a).

The special acquisition status for victims of National Socialism and their descendants,[113] which was created in 2019 in recognition of historical responsibility towards the victims of National Socialism and their descendants, entered into force on 1 September 2020, and was expanded as of 1 May 2022, resulted in the aforementioned group of persons accounting for almost 50 per cent of the 20,606 naturalizations that took place in 2022 (Statistics Austria, 2023). Following the introduction of the original Art. 58c Citizenship Act 1985 on 1 September 2020, there were cases in which certain victims of the Nazis and their direct descendants were ineligible for facilitated acquisition of citizenship based on the wording of the original Art. 58c Citizenship Act 1985.[114] This prompted the Austrian parliament to make the necessary legislative adjustments in April 2022[115] in order to include those not previously covered by the law, enabling such persons, where appropriate, to acquire citizenship by means of a declaration pursuant to Art. 58c Citizenship Act 1985.[116] The extended special right to acquire citizenship came into force on 1 May 2022.[117] Since then, the following persons are also classed as victims of the Nazis within the meaning of Art. 58c Citizenship Act 1985:

- Persons who were Austrian citizens and, between 30 January 1933 and 9 May 1945, did not have a main place of residence within the federal territory of Austria because they would have feared persecution if they returned to or entered Austria for the first time or because of their support for the democratic Republic of Austria ("Impeded Return"; Art. 58c para 2 subpara 1 Citizenship Act 1985);

- Persons who, as Austrian citizens, were deported abroad before 9 May 1945 by organs of the Nazi party or the authorities of the German Reich, or because of their support for the democratic Republic

111 Ibid.

112 On the Austrian model of integration prior to the granting of citizenship, see Stiller, 2019:95–98.

113 Also see Stiller, 2021b.

114 Proposal by Members of Parliament Martin Engelberg, Sabine Schatz, Hannes Amesbauer, Eva Blimlinger, Stephanie Krisper and colleagues regarding a federal law which amends the Citizenship Act 1985. Available at www.parlament.gv.at.

115 Federal Ministry for European and International Affairs, Staatsbürgerschaft für Verfolgte und deren direkte Nachkommen. Available at www.bmeia.gv.at (accessed 28 November 2022).

116 Proposal by Members of Parliament Martin Engelberg, Sabine Schatz, Hannes Amesbauer, Eva Blimlinger, Stephanie Krisper and colleagues regarding a federal law which amends the Citizenship Act 1985. Available at www.parlament.gv.at.

117 Amendment to the Citizenship Act 1985, FLG I No. 48/2022.

of Austria (Art. 58c para 2 subpara 2 Citizenship Act 1985) or who died due to persecution or because of their support for the democratic Republic of Austria (Art. 58c para 4 subpara 1 Citizenship Act 1985);

- Persons who were deported abroad as nationals of one of the successor States of the former Austro-Hungarian monarchy or as stateless persons with their main place of residence in the federal territory of Austria before 9 May 1945, or because of their support for the democratic Republic of Austria (Art. 58c para 2 subpara 3 Citizenship Act 1985), or who died due to persecution or because of their support for the democratic Republic of Austria (Art. 58c para 4 subpara 2 Citizenship Act 1985).

In order to adapt the legal situation on the Convention on the Reduction of Statelessness, which Austria ratified in 1974,[118] an amendment to the Citizenship Act 1985[119] came into force on 1 May 2022. Since then, according to Art. 14 Citizenship Act 1985, Austrian citizenship must be granted to persons who, for example, were born in Austria and have been stateless from birth (Art. 14 para 1 subpara 1 Citizenship Act 1985) and who apply to be granted citizenship after they have reached the age of 18 and no more than three years – as opposed to the two years previously stipulated – after they have reached the age of majority (Art. 14 para 1 subpara 5 Citizenship Act 1985).

This amendment was welcomed as an initial step towards combating statelessness (SOS Mitmensch, 2022a). Although there is no procedure for determining statelessness in Austria (UNHCR, 2022a), 4,491 people were considered stateless in Austria at the beginning of 2022 (Statistics Austria, n.d.). More than two thirds of those affected by statelessness or undetermined citizenship were born in Austria (SOS Mitmensch, 2022a) and would only be able to obtain citizenship after their 18th birthday. According to UNHCR, this legal loophole could be quickly closed with the corresponding political will (UNHCR, 2022a).

The Supreme Administrative Court also dealt with the issue of statelessness peripherally in 2022. This came in the context of a former Estonian national's appeal to the Supreme Administrative Court after her assurance of the right to acquire Austrian citizenship was revoked by the provincial government in Vienna. The appellant had previously renounced her Estonian citizenship – and therefore her status as a union citizen – on the strength of this assurance and had been stateless ever since. When the appellant subsequently complained to the Administrative Court of Vienna, the revocation was deemed permissible. An appeal against this decision was filed with the Supreme Administrative Court, which ruled on 25 February 2022[120] that the provision for revoking this assurance under the Citizenship Act 1985[121] was unlawful in the case at hand. The Supreme Administrative Court explained that the revocation had to be assessed from the perspective of European Union law, hence the Administrative Court of Vienna was required to ascertain whether the revocation of assured Austrian citizenship, which ultimately resulted in the loss of union citizen status, was proportional to the repercussions for the appellant. Since this proportionality test required by European Union law had not been carried out, the revocation was determined to be unlawful. The Supreme Administrative Court

118 See Stiller, 2011:179–183 as well as Convention on the Reduction of Statelessness including Declarations of the Republic of Austria, FLG I No. 538/1974.

119 Amendment to the Citizenship Act 1985, FLG I No. 49/2022.

120 Supreme Administrative Court, 25 February 2022, Ra 2018/01/0159.

121 Citizenship Act 1985, FLG No. 311/1985.

decision was preceded by a judgement by the Court of Justice of the European Union (CJEU) in preliminary ruling proceedings.[122]

3.7 Borders and Schengen

In 2022, Austrian federal ministers formulated demands addressed to the European Commission in connection with external border management on various occasions. For instance, during a conference jointly organized by Austria in January 2022, the Federal Minister of the Interior stated that the European Commission had a duty to support its Member States in matters relating to external border control, including the construction of border facilities (Federal Ministry of the Interior, 2022m). In November 2022, the Federal Minister for the EU and Constitution called for effective control of external borders to be established (Federal Chancellery, 2022g), and the Chancellor declared that the taboo of fences would finally have to be broken (Salzburger Nachrichten, 2022c). Thus in December 2022 the Federal Minister of the Interior expressed the view that border security should also include fences (Parliamentary Administration, 2022i). With the exception of the oppositional Austrian Freedom Party, which called for a "Fortress Austria" in the absence of a "Fortress Europe" (Salzburger Nachrichten, 2022c), the idea of border fences was rejected by the other opposition parties and the Green coalition partner (Salzburger Nachrichten, 2022c, 2022d). The Archbishop of Vienna also stated that the current pressure from global migration, which is associated with issues such as poverty, the climate emergency and famine, was not something that could be contained with fences (ORF.at, 2022l). He thus expressed an opinion similar to that of the EU Commission, which already in August 2021 said that border fences would not be the most efficient means of improving border protection (European Commission, 2021).

The temporary controls in force at the borders to Slovenia and Hungary since autumn 2015 also remained in place in 2022. A corresponding regulation of May 2022 initially extended the border controls until 11 November 2022[123] and subsequently until 11 May 2023.[124] The borders could/can only be crossed at designated border crossing points during these periods. The decision to extend border controls was made on the basis of a risk assessment. Decisive factors behind this development included secondary movements, the increase in irregular migratory flows, smuggling activities and potential terrorist threats (European Commission, 2022a), as well as the Russian war of aggression against Ukraine and the ensuing influx of refugees to the EU. However, it was made explicitly clear in this regard that Austria's internal security was not seriously affected by refugee movements from Ukraine per se but rather by the associated secondary potential for risks (Federal Ministry of the Interior, 2022x). The aim of the border controls was and is to guarantee peace, public order and security. According to the government programme, Austria's internal border must be protected as long as the Austrian Federal Government regards the protection of the external EU borders as unsatisfactory (Austrian Federal Government, 2020:139). The extension of border controls was criticized by the Slovenian media and doubt was cast on the statement made by the Austrian Federal Minister for European and International Affairs, who said that there was no alternative to the border controls (ORF.at, 2022e). As regards the justification for extending the temporary border controls, the oppositional Austrian Freedom Party held that the migration situation did not pose a new threat but was instead a "persistent risk". Hence, with a motion for a resolution,

122 Court of Justice of the European Union, 18 January 2022. JY v Wiener Landesregierung, C-118/20.

123 Temporary reintroduction of border controls at the internal borders with Slovenia and Hungary, FLG II No. 185/2022.

124 Temporary reintroduction of border controls at the internal borders with Slovenia and Hungary, FLG II No. 411/2022.

the party called upon the Federal Government and especially the Federal Minister of the Interior to take advantage of the revision of the Schengen Borders Code and campaign for every Member State to be granted the right to indefinite border controls.[125] This motion was postponed (Parliamentary Administration, 2022e).

Entirely new temporary border controls to guarantee peace, public order and security were established at Austria's internal border to the Slovak Republic by regulation of the Federal Minister of the Interior[126] according to which for a period of ten days from 29 September 2022, Austria's borders could only be crossed at designated border crossing points. This regulation was subsequently extended six times, most recently until 5 February 2023.[127] Reasons cited were the increase in irregular migration, secondary movements and the situation at the external EU borders (European Commission, 2022a).

In view of the high number of applications for international protection in Austria (see Section 3.3), the Federal Minister of the Interior stated on 18 November 2022 that it was not the right time to expand the Schengen Area, thus clearly objecting to an expansion of the Schengen Area due to the rate of migration and the lack of border control (Federal Ministry of the Interior, 2022aa). According to the Federal Minister, Austria – a landlocked country without any external EU borders – should not be confronted with such a high volume of applications for international protection (Der Standard, 2022k). However, in the Council of the European Union on 8 December 2022, Austria agreed to the resolution regarding the full application of the Schengen acquis in Croatia;[128] only the extension of the Schengen acquis to Romania and Bulgaria – as the Federal Chancellor had also previously explained (Federal Chancellery, 2022h) – was rejected. This move was met with regret from certain sides of Austrian officialdom (Federal President, 2022), attracted criticism from political rivals with the exception of the oppositional Austrian Freedom Party (Parliamentary Administration, 2022i) and was expected to have economic repercussions for the Austrian economy (Federal President, 2022). For the critical opposition, the connection drawn between the extension of the Schengen Area and asylum was unacceptable for various reasons, including the fact that a large proportion of irregular migration takes place via Hungary, which – unlike Romania and Bulgaria – is rarely subject to criticism from Austria (Parliamentary Administration, 2022g). Caritas also disapproved of the decision, suggesting that the veto was more of an internal policy manoeuvre than a decision motivated by considerations of European policy (Kleine Zeitung, 2022). Romania, apparently surprised by Austria's veto (Kurier, 2022f), was also very critical of the move (Der Standard, 2022l). However, the Austrian People's Party, which appoints the Minister of the Interior, was unequivocal that it would continue to block the expansion of the Schengen Area until an effective border control system is in place, until the legal basis for asylum procedures in safe third countries has been established, and until it is easier to withdraw the protection status of asylum-seekers who have been convicted of crimes (Parliamentary Administration, 2022h).

125 Motion for a resolution by Member of Parliament Mag. Amesbauer and other MPs regarding reform of the Schengen Borders Code for unlimited border controls. Available at www.parlament.gv.at.

126 Temporary reintroduction of border controls at the internal borders with the Slovak Republic, FLG II No. 364/2022.

127 Amendment to the Regulation on the temporary reintroduction of border controls at the internal borders with the Slovak Republic, FLG II No. 21/2023.

128 Council Decision (EU) 2022/2451 of 8 December 2022 on the full application of the provisions of the Schengen acquis in the Republic of Croatia, 14 December 2022: OJ L 320. Available at https://eur-lex.europa.eu.

3.8 Irregular migration

In relation to preventing irregular migration, Austria focused primarily on cooperating with third countries and working on the corresponding information campaigns in 2022.

For example, a joint trip by the Austrian Federal Minister of the Interior and the Federal Minister for European and International Affairs to Egypt and Türkiye took place from 2 to 3 July 2022. The main topics with regard to Egypt included establishment of greater cooperation in the areas of prevention of irregular migration and organized crime, protection and prospects in the countries of origin, the possible establishment of a migration partnership, and initial talks on a bilateral readmission agreement.[129] In November 2022, there was a follow-up visit to Cairo by an Austrian delegation. During the visit to Türkiye, the focus was on deepening bilateral cooperation, including in the area of combating irregular migration, with the aim of advancing the normalization and intensification of political exchange on the priority topics of security and migration.[130] In December 2022, there was a follow-up visit to Vienna by a Turkish delegation led by the Turkish Deputy Minister of the Interior with the aim of deepening further cooperation.[131]

At a press conference on 23 August 2022, the Federal Minister of the Interior commented on measures taken in the first half of the year to counter irregular migration. He reported that a large number of targeted operations had taken place, in which more than 340 traffickers had been arrested. In addition, the Federal Minister of the Interior stated that a clear distinction should be made between immigration and asylum, and that protection should be granted solely to those persons genuinely in need of protection. To this end, in 2022, further specific measures in the form of fast-track asylum procedures had been carried out and there had been more than 6,000 returns. The Federal Ministry of the Interior's online information campaign "Myths about Migration" was also presented at the press conference. This campaign aimed to inform migrants who are still in their countries of origin and transit about the dangers of irregular migration, misinformation spread by smuggling organizations, and realities and prospects in Europe (such as the low likelihood of being granted protection status; Federal Criminal Intelligence Service Austria, 2022a). In addition, two AMIF[132] information campaigns, jointly financed and implemented with the Federal Ministry of the Interior, entered the implementation phase in 2022: the ICMPD "PARIM" project in Pakistan and the IOM "WBAware" project in Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia.[133]

On 16 November 2022, the Federal Chancellor attended a meeting in Belgrade with the Prime Minister of Hungary and the President of Serbia, at which they signed a Memorandum of Understanding with the aim of strengthening cooperation between the three countries in effectively combating irregular migration. Cooperation with Serbia on the issue of return was planned, for example, by training return specialists and through information campaigns focusing on voluntary return. Support consisting of the deployment of 100 officials and technical equipment at the Serbian-North Macedonian border was also considered. The stated aim was to

129 Written input: Federal Ministry of the Interior, Department V/A/5 (Migration Affairs EU and International), 25 January 2023.

130 Ibid.

131 Ibid.

132 This abbreviation stands for Asylum, Migration and Integration Fund.

133 Written input: Federal Ministry of the Interior, Department V/A/5 (Migration Affairs EU and International), 25 January 2023.

combat irregular migration, terrorism and organized crime. The participating States wanted to send a signal to the countries of origin through deportations at the EU's external borders (Federal Chancellery, 2022f).

3.9 Return

With regard to the return of third-country nationals, Austria has been increasingly reliant on cooperation with other countries. In addition to ongoing reintegration programmes for voluntary returnees,[134] Austria launched a bilateral reintegration project in Syria together with the European Technology and Training Centre starting in 2022 in order to assist voluntary returnees to Syria more effectively with reintegration into their country of origin.[135] Voluntary returnees to Syria were provided with reintegration assistance amounting to EUR 3,000 (EUR 200 cash, EUR 2,800 in kind). As the quota of returnees had not been fully met in 2022, the project was extended until the end of December 2023 or until the available reintegration places had been exhausted.[136] Due to the high number of Indian nationals in Austria who were potentially obliged to return, a time-limited special programme for assisted voluntary return to India was launched in October 2022 as part of the mobilization plan for the increased promotion of voluntary return. In the period from 1 October 2022 to 31 December 2022, Indian nationals were offered increased return assistance amounting to EUR 1,500 (maximum amount for families EUR 3,000) in addition to initial financial assistance if they returned voluntarily to their country of origin (Federal Office for Immigration and Asylum, 2022d). This special programme was accompanied by a number of measures, including a social media campaign.[137] The aim of this special programme is to increase the attractiveness of voluntary return, as well as willingness to return, especially of Indian nationals under an obligation to return.[138] In view of the migration flows from India, and in order to effectively address these potentials and challenges – in particular, the effective management of migration and systematic prevention of irregular migration – and to be able to implement a functioning return and readmission policy, the Austrian Federal Government held negotiations with the Republic of India in 2022 on an agreement for a comprehensive migration and mobility partnership – Austria's first national comprehensive migration agreement. The intention is to strengthen cooperation under this agreement, particularly with regard to information exchange on opportunities for the regular migration of skilled workers, students and researchers as well as their family members and school pupils. Easier access to visas for *bona fide* business travellers and a working holiday programme should also be addressed along with return and readmission according to clear procedures and tackling irregular migration, smuggling and trafficking in human beings. New access routes and easier access to the Austrian labour market outside the current legal situation and legislation should explicitly not be created (Federal Ministry for European and International Affairs, 2022b). These negotiations were completed by the end of 2022.[139]

On 21 and 22 February 2022, the Austrian Federal Minister of the Interior extended an invitation to a ministerial conference on return issues in Vienna. In the end, ministers, deputy ministers, secretaries of state and their representatives from 22 countries as well as representatives of international organizations, including

134 These reintegration services include the RESTART III project implemented by IOM, the Irma Plus II project implemented by Caritas, and cooperation with the French Office for Immigration and Integration (OFII).

135 Written input: Federal Ministry of the Interior, Department V/B/10 (Return, Reintegration and Quality Development), 24 January 2023.

136 Ibid.

137 Ibid.

138 Ibid.

139 Ibid.

IOM, accepted the invitation and discussed returns from the Western Balkan States, the situation on the Eastern Mediterranean route and possible improvements in the area of return (Federal Ministry of the Interior, 2022n). At the conference, a clear commitment was made to the Joint Coordination Platform (JCP)[140] and specific measures were agreed upon, such as intensifying cooperation within the framework of the JCP (Federal Ministry of the Interior, 2022o). During the JCP Implementation Conference on Return Cooperation, an operational follow-up meeting to the Ministerial Conference, held in Ljubljana between 21 and 23 June 2022, return partnerships were formed and initial implementation steps were defined. Later in the working year, support with capacity development was given to Bosnia and Herzegovina through tailor-made pilot projects, which enabled the first successful returns. In close cooperation with Frontex and other organizations, similar projects were also initiated with other Western Balkan partners.[141] The aim of the measures is the creation of a regional return mechanism and establishment of and support for return partnerships – coordinated by the JCP – in the Western Balkan countries to effect returns that meet all applicable standards.[142]

In 2022, in addition to the ongoing implementation of individual returns, Austria continued to also focus on – and participate in – implementation of Frontex charter operations for the forced return of third-country nationals. The driver was the number of foreign nationals residing in Austria who were under an obligation to return to their country of origin.[143] More than 20 of these operations were carried out in third countries. Some of these operations were organized by Austria, including Europe's first Frontex charter operation to India in September 2022 (Federal Office for Immigration and Asylum, 2022c). In 2022, there were a total of 12,550 departures from Austria, 11.6 per cent more than in the previous year (see table 1). 2,341 departures were accounted for by displaced persons from Ukraine who left voluntarily. Of the remaining 10,209 departures, 5,738 were voluntary (56%) and 4,471 forced (44%), with forced departures including both Dublin transfers and removals.[144]

Table 1: Number of returns from Austria by category (2020–2022)

	2020	2021	2022
Voluntary departure	4,551	4,951	8,079
Forced departure	4,264	4,197	4,471
Dublin transfers	679	838	1,100
Removals	3,585	3,359	3,371
Total departures	**8,815**	**9,148**	**12,550**

Source: Ebner, 2022; Written input: Federal Ministry of the Interior, Federal Criminal Intelligence Service Austria as well as units V/B/8 (Asylum) and V/B/10 (Return, Reintegration and Quality Development), 31 May 2023.

140 For details on the Joint Coordination Platform, see Ebner, 2021:42.

141 Written input: Federal Ministry of the Interior, Joint Coordination Platform, 14 January 2023.

142 Ibid.

143 Written input: Federal Ministry of the Interior, Department V/B/10 (Return, Reintegration and Quality Development), 24 January 2023.

144 Written input: Federal Ministry of the Interior, Department V/B/10 (Return, Reintegration and Quality Development), 31 May 2023.

3.10 Migration and development

In the interests of long-term planning, a Three-Year Programme on Austrian Development Policy is to be prepared by the Federal Minister for European and International Affairs in agreement with the Federal Minister for Finance. Focal points to be addressed by this Three-Year Programme include development cooperation and requisite funding (Art. 23 Development Cooperation Act).[145] On 6 November 2022, the new Three-Year Programme on Austrian Development Policy 2022 to 2024 was adopted by the Council of Ministers. The aim of the Three-Year Programme is to open up long-term prospects to people in partner countries by creating an environment of social and political stability locally, as well as sustainable development as defined in Agenda 2030. With the new Three-Year Programme, the Federal Government continues to focus on existing priorities, such as the empowerment of women and vulnerable groups, inclusion, education, promotion of the rule of law, support for local civil society and democratization programmes (Austrian Development Agency, 2022). In addition, migration and forced displacement are stated to be one of the three global challenges set to play a pivotal role in shaping activities over the coming years (Federal Ministry for European and International Affairs, 2022a:4–5).

The budget for bilateral development aid in 2023 was increased by EUR 12 million to EUR 137 million and by EUR 20 million to EUR 77.5 million for humanitarian aid. Although the Federal Government's express aim of gradually raising development funding to 0.7 per cent of gross national income (Austrian Federal Government, 2020:134) has not yet been achieved (ORF.at, 2022i), the increased budget was welcomed by civil society (Caritas, 2022b; Globale Verantwortung, 2022).

145 Development Cooperation Act, FLG I No. 49/2002 in the version of federal law FLG I No. 37/2018.

4 ANNEX

4.1 List of translations and abbreviations

English term	English abbreviation	German term	German abbreviation
Act Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsgesetz	AuslBG
Agreement between the Federal State and the Provinces on Basic Care – Art. 15a Federal Constitutional Act	–	Grundversorgungsvereinbarung – Art. 15a B-VG	GVV
Aliens Police Act 2005	–	Fremdenpolizeigesetz 2005	FPG
Asylum Act 2005	–	Asylgesetz 2005	AsylG 2005
Austria's Agency for Education and Internationalisation	–	Agentur für Bildung und Internationalisierung	OeAD
Austrian Agricultural Workers Association	–	Landarbeiterkammertag	LAKT
Austrian Broadcasting Corporation	–	Österreichischer Rundfunk	ORF
Austrian Chamber of Agriculture	–	Landwirtschaftskammer Österreich	LKÖ
Austrian Federal Economic Chamber	–	Wirtschaftskammer Österreich	WKO
Austrian Freedom Party	–	Freiheitliche Partei Österreich	FPÖ
Austrian Integration Fund	–	Österreichischer Integrationsfonds	ÖIF
Austrian People's Party	–	Österreichische Volkspartei	ÖVP
Austrian Trade Union Federation	–	Österreichischer Gewerkschaftsbund	ÖGB
Chamber of Labour	–	Arbeiterkammer	AK
Citizenship Act 1985	–	Staatsbürgerschaftsgesetz 1985	StbG

English term	English abbreviation	German term	German abbreviation
Court of Justice of the European Union	CJEU	Gerichtshof der Europäischen Union	EuGH
COVID-19 Entry Regulation	–	COVID-19-Einreiseverordnung	COVID-19-EinreiseV
European Convention on Human Rights	ECHR	Europäische Menschenrechtskonvention	EMRK
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Union	EU	Europäische Union	EU
European Union Agency for Asylum	EUAA	Asylagentur der Europäischen Union	EUAA
Federal Administrative Court	–	Bundesverwaltungsgericht	BVwG
Federal Agency for Reception and Support Services	–	Bundesagentur für Betreuungs- und Unterstützungsleistungen	BBU GmbH
Federal Chamber of Labour	–	Bundesarbeitskammer	BAK
Federal Chancellery	–	Bundeskanzleramt	BKA
Federal Constitutional Act	–	Bundes-Verfassungsgesetz	B-VG
Federal Law Gazette	FLG	Bundesgesetzblatt	BGBl.
Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology	–	Bundesministerium für Klimaschutz, Umwelt, Energie, Mobilität, Innovation und Technologie	BMK
Federal Ministry for European and International Affairs	–	Bundesministerium für europäische und internationale Angelegenheiten	BMEIA
Federal Ministry of Education, Science and Research	–	Bundesministerium für Bildung, Wissenschaft und Forschung	BMBWF
Federal Ministry of Justice	–	Bundesministerium für Justiz	BMJ
Federal Ministry of Labour (until 18 July 2022)	–	Bundesministerium für Arbeit	BMA

English term	English abbreviation	German term	German abbreviation
Federal Ministry of Labour and Economy (as of 18 July 2022)	–	Bundesministerium für Arbeit und Wirtschaft	BMAW
Federal Ministry of Social Affairs, Health, Care and Consumer Protection	–	Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz	BMSGPK
Federal Ministry of the Interior	MoI	Bundesministerium für Inneres	BMI
Federal Office for Immigration and Asylum	–	Bundesamt für Fremdenwesen und Asyl	BFA
Federation of Austrian Industries	–	Industriellenvereinigung	IV
Female Genital Mutilation/Cutting	FGM/C	Weibliche Genitalverstümmelung/ Genitalbeschneidung	FGM/C
General Social Insurance Act	–	Allgemeines Sozialversicherungsgesetz	ASVG
Group of Experts on Action against Trafficking in Human Beings	GRETA	Expertengruppe für die Bekämpfung des Menschenhandels	–
Health Care Act	–	Gesundheits- und Krankenpflegegesetz	GuGK
Integration Act	–	Integrationsgesetz	IntG
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
Joint Coordination Platform	JCP	Joint Coordination Platform	JCP
Joint Operational Office	JOO	Joint Operational Office	JOO
Labour Market Promotion Act	–	Arbeitsmarktförderungsgesetz	AMFG
LEFÖ-IBF (Intervention Center for Trafficked Women)	LEFÖ-IBF	LEFÖ-IBF (Interventionsstelle für Betroffene von Frauenhandel)	LEFÖ-IBF
National Contact Point	NCP	Nationaler Kontaktpunkt	NKP

English term	English abbreviation	German term	German abbreviation
National Socialism	–	Nationalsozialismus	NS
National Socialist German Workers' Party	–	Nationalsozialistische Deutsche Arbeiterpartei	NSDAP
NEOS – The New Austria	NEOS	NEOS – Das Neue Österreich	NEOS
Official Journal of the European Union	OJ	Amtsblatt der Europäischen Union	ABl.
Public Employment Service	–	Arbeitsmarktservice	AMS
Recognition and Assessment Act	–	Anerkennungs- und Bewertungsgesetz	AuBG
Regulation Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsverordnung	AuslBVO
Regulation on Countries of Origin	–	Herkunftsstaaten-Verordnung	HStV
Regulation on Displaced Persons	–	Vertriebenen-Verordnung	VertriebenenVO
Regulation on the Implementation of the Asylum Act 2005	–	Asylgesetz-Durchführungsverordnung 2005	AsylG-DV 2005
Schengen Borders Code	–	Schengener Grenzkodex	SGK
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
Settlement Regulation	–	Niederlassungsverordnung	NLV
Social Democratic Party of Austria	–	Sozialdemokratische Partei Österreichs	SPÖ
Supreme Administrative Court	–	Verwaltungsgerichtshof	VwGH
Unaccompanied minor refugees	–	Unbegleitete Minderjährige Flüchtlinge	UMF
United Nations High Commissioner for Refugees	UNHCR	Hoher Flüchtlingskommissar der Vereinten Nationen	UNHCR

English term	English abbreviation	German term	German abbreviation
United Nations Office on Drugs and Crime	UNODC	Büro der Vereinten Nationen für Drogen und Verbrechensbekämpfung	UNODC
Upper Austrian Economic Chamber	–	Wirtschaftskammer Oberösterreich	WKOÖ

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EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was launched in 2003, by the European Commission and by order of the European Council, in order to satisfy the need for a regular exchange of reliable information in the field of migration and asylum at European level. Since 2008 the Council Decision 2008/381/EC has constituted the legal basis of the EMN. National Contact Points (NCPs) have been established in each EU Member State (except Denmark) and in EMN Observer Countries (Norway, Georgia, the Republic of Moldova, Ukraine, Montenegro, Armenia, and Serbia).

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

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

The main tasks of the NCPs in implementing the work programme of the EMN include drafting the annual policy reports and studies covering specific topics, responding to Ad-Hoc Queries launched by other NCPs or the European Commission, carrying out activities to increase the EMN visibility, and networking within several fora. In addition, the NCPs in each country also set up national networks of organizations, institutions and individuals working in the field of migration and asylum.

In general, the NCPs do not conduct primary research but collect and analyse existing data and information, which are supplemented where necessary through additional information collected directly. EMN studies are prepared in accordance with common study templates in order to achieve comparable results within the EU and Norway. Since comparing results frequently proves challenging, the EMN has produced a Glossary, which ensures that similar definitions and terminology are used in all national reports.

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



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The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points established in each EU Member State (except Denmark) plus EMN Observer Countries including Norway, Georgia, the Republic of Moldova, the Ukraine, Montenegro, Armenia, and Serbia.
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