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Access to the Labour Market and Labour Market Integration of Asylum-seekers in Austria

Prisca Ebner

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SUMMARY

This study examines access to the labour market and labour market integration of asylum-seekers in Austria. The background to this is the EU Directive on Reception Conditions (2013/33/EU),[1] which regulates effective labour market access for asylum-seekers. To this end, the study examines national laws, policies and measures as well as challenges and possible solutions. The Austrian contribution adds to the comparative synthesis report of the European Migration Network (EMN) "The integration of applicants for international protection in the labour market".[2] The main findings in the Austrian context are summarized below.

Access to (self-)employment

The primary purpose of asylum law is to offer refugees protection from persecution. It is not an instrument of controlled labour migration. In this sense, it is primarily a matter of integrating those foreigners into the labour market, whose asylum procedures have already been completed and who have been granted protection status.[3]

Austria has fully implemented the requirements of the Reception Conditions Directive.[4] In Austria, asylum-seekers' access to employment and self-employment is regulated differently. Potential employers can apply for a work permit for an asylum-seeker three months after he/she has been admitted to the asylum procedure. The Public Employment Service Austria (PES) will review this application within six weeks and conduct a labour market test. Until June 2021, the "Bartenstein Decree" limited the issuance of work permits to seasonal and harvest work. Since then, the issuance of an employment permit has been possible in principle in all sectors if no substitute worker is available and the legal provisions are complied with. As of June 2021, asylum-seekers are also able to start an apprenticeship again if a work permit is issued for this purpose. Access to apprenticeships in shortage occupations had been introduced in 2012/13 for asylum-seekers up to the age of 18 or 25, and was abolished in September 2018. Analysis of statistics from the PES reveals that between 2017 and 2022, almost three quarters of applications for work permits for asylum-seekers received a positive decision. During the period under review, there was a significant decline in applications for work permits in 2019. This was followed by an increase in 2022, in which the number of applications in 2018 was exceeded.

Asylum-seekers can also enter into self-employment from the fourth month after submitting their application for asylum. In so doing, they must comply with the relevant business and professional regulations. No data are available on the employment/unemployment rate or on the self-employment of asylum-seekers.

1 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, pp. 96–116.

2 The EMN synthesis report "The integration of applicants for international protection in the labour market" will soon be available on the website www.emn.at.

3 Written input: Federal Ministry of the Interior, 5 May 2023.

4 Written input: Federal Ministry of the Interior, 18 April 2023.

Labour market integration and support measures

Austria has an integration strategy for third-country nationals with permanent or long-term residence. This includes persons granted asylum and beneficiaries of subsidiary protection status, but asylum-seekers do not fall into this target group.

However, asylum-seekers who are considered very likely to be granted asylum can, under certain circumstances, participate in measures for persons granted asylum and beneficiaries of subsidiary protection status while their asylum procedures are still in progress if financial and organizational resources are available. These comprise German courses provided as part of the integration assistance programme (Art. 68 para 1 Asylum Act 2005)[5] and theoretically also certain measures to promote labour market integration that are offered as part of the integration year. Asylum-seekers from the Syrian Arab Republic have been able to participate in these initiatives since 2017, as have asylum-seekers from the Islamic Republic of Iran in 2018.

With regard to the institutions involved, labour market integration is divided into two areas: (1) labour, covered by the Federal Ministry of Labour and Economy and by the PES; and (2) integration, which is the responsibility of the Federal Chancellery and the Austrian Integration Fund. In addition, the social partners and non-governmental organizations address the labour market integration of asylum-seekers.

Between 2017 and 2022, there were major strategic changes in the area of labour market integration. Key developments were the adoption of an integration package in 2017 which opened up new possibilities for asylum-seekers who are considered very likely to be granted asylum to participate in certain integration measures. The budget for integration measures was then cut drastically in 2018/2019, as the number of asylum applicants declined. During these two years, there were also intense and polarizing debates regarding the removal of rejected asylum-seekers, including those in apprenticeships. Legal changes related to the revocation of access to apprenticeships for asylum-seekers in 2018 and the 2019 postponement of removals until apprenticeships had been completed were of key significance here. Finally, in 2021 the controversial "Bartenstein Decree", which restricted employment opportunities for asylum-seekers, was overturned by the Constitutional Court. However, this was on formal but not content grounds.

Challenges and limitations

In Austria, the focus lies on the rapid examination of the need for protection. Therefore, the labour market integration of asylum-seekers is not a priority in the National Action Plan on Integration. Whether asylum-seekers with a high likelihood of being granted international protection are able to take part in labour market integration measures depends on the financial and organizational resources available. The budget for these measures is currently very limited. Practical limitations in accessing the labour market arise from a lack of language skills or (recognized) qualifications. In addition, asylum-seekers face challenges in the transition from receiving basic care to accessing the labour market. Furthermore, the legal and planning uncertainties involved in taking on asylum-seekers as well as the efforts required to obtain a work permit for them are barriers for employers.

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

Linking the work permit to the employer also increases employee vulnerability. In particular, information deficits on rights and employment opportunities, both among asylum-seekers and employers, count as challenges. In addition, there can be negative consequences for asylum-seekers who have been irregularly employed by employers multiple times. Asylum-seekers can legally take up self-employment from the fourth month onwards, but this is subject to various business and professional regulations. These challenges and practical limitations when accessing employment can result in precarious or irregular employment relationships for asylum-seekers.

Conclusions

Five conclusions emerge from the analysis conducted as part of the study. First, although Austria meets the requirements set out in the EU directive on reception conditions for "effective access to the labour market", in practice asylum-seekers have very limited opportunities to enter the workforce and must go through complex bureaucratic processes in order, for instance, to obtain a work permit or trade registration. Overall, only a fraction of asylum-seekers in Austria are employed or self-employed. Second, employment and integration opportunities have been subject to far-reaching political and legal changes over the past five years, fluctuating between the opening of new opportunities and more restrictions. Third, the (labour market) integration of asylum-seekers is not a priority in the National Action Plan on Integration. There are very few support measures in place other than for asylum-seekers with a high likelihood of being granted international protection, which at present is only the case for asylum-seekers from the Syrian Arab Republic. Fourth, it is difficult to analyse the labour market situation of asylum-seekers because, although data on work permits are available, many other parameters are missing. And fifth, this system can have negative consequences for asylum-seekers, such as demands for repayment of the costs of basic care, irregular employment and exploitation, as well as preventing successful labour market integration in the longer term.

1 INTRODUCTION

This study focuses on labour market access and labour market integration of applicants for international protection. On the one hand, this involves the point in time and requirements for granting access to employment and self-employment. On the other hand, it relates to laws, policies and measures that ensure that access to the labour market is actually possible if it is granted. It should first be noted that international protection in Austria includes both asylum (Art. 3 Asylum Act 2005)[6] and subsidiary protection (Art. 8 Asylum Act 2005). "Applicants for international protection" are therefore persons who have made an application for international protection, but it is not possible to deduce which status is ultimately granted.[7] In this study, this group will be referred to as "asylum-seekers" in accordance with national language use.

1.1 Background and aim of the study

In the European Union (EU), access to the labour market is a shared competence that is regulated by various legal acts for different groups. For asylum-seekers, access to the labour market is regulated by the recast EU directive on reception conditions, known as the Reception Conditions Directive (2013/33/EU).[8] The aim of the Reception Conditions Directive is to promote the economic independence of applicants (ibid.: 98, subpara 23). The directive sets a time limit for granting asylum-seekers access to the labour market: this must happen no later than nine months after the application for international protection has been lodged provided that a first instance decision by the competent authority has not been taken and the delay cannot be attributed to the applicant. In addition, Member States must ensure that applicants have effective access to the labour market. When it comes to the practical implementation of the Reception Conditions Directive, EU Member States have a certain amount of leeway, for instance when defining the conditions for granting access to the labour market and priority rules for other groups of people,[9] so significant differences persist across the EU (Orav, 2022). The Austrian Supreme Administrative Court understands "effective access to the labour market" within the terms of the Reception Conditions Directive to mean that an asylum-seeker has genuine and valid access to the labour market that is not unduly restricted. It does not, however, take this to mean the unrestricted opening of all occupations.[10]

In general, research results have shown that labour market integration is one of the key elements for successful integration and participation in the host society. Building a new life is often closely linked to finding appropriate work in the host country since this is related to economic independence, health and general well-being (Ager and Strang, 2008; Dustmann et al., 2017). Consequently, long waiting times during asylum procedures combined with limited access to the labour market greatly reduce the chances of refugees later being integrated in the

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

7 The application for international protection shall be considered as an application to be granted asylum or – if asylum is not granted – as an application to be granted subsidiary protection status (Art. 2 para 1 subpara 13 Asylum Act 2005). If an asylum application is rejected, an administrative examination of subsidiary protection status is to be carried out (Filzwieser et al., 2016, Art. 8 Asylum Act, K5).

8 Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180, pp. 96–116.

9 See also results of previous EMN ad-hoc queries on this topic: EMN, 2015, 2016, 2020.

10 Supreme Administrative Court, 28 April 2020. Decision on Ro 2019/09/0011-5. Margin number 21.

labour market. Moreover, the persistent uncertainty, isolation and inactivity lead to psychological issues such as stress, depression, apathy or a lack of motivation (Hainmueller et al., 2016). The limited rights and entitlements of asylum-seekers commencing work during asylum procedures also affect the transferability of work skills from the country of origin to the country of destination (Federico and Baglioni, 2021:2). Refugees are less likely to be in the workforce and far more likely to be unemployed than other migrants. In addition, their income, occupational situation and labour market participation are also relatively weaker over the first ten years (Fasani et al., 2018). A lack of employment opportunities, poor language skills and inadequate knowledge about employment rights also contribute to the fact that asylum-seekers are more likely to be affected by precarious, exploitative or illegal working conditions (Schenner and Neergard, 2019). Across the EU, the sectors particularly susceptible to labour exploitation are agriculture, construction, hospitality, domestic work and transport (FRA, 2019; van Nierop et al., 2021:35).

The EMN study "The integration of applicants for international protection in the labour market", to which this national report contributes, aims to provide a comparative overview in the EMN Member States and EMN Observer Countries. It examines national laws, policies and measures as well as challenges and good practices with regard to access to the labour market and the labour market integration of asylum-seekers in the period from 2017 to 2022. The present study takes a closer look at the national context in Austria. The key national questions answered in this study include: What changes occur as a result of the "Bartenstein Decree" being repealed in June 2021? How does the labour market test work in practice? Can young asylum-seekers currently start an apprenticeship again? What labour market integration measures are available to asylum-seekers? How are "asylum-seekers with a high likelihood of being granted international protection" defined? What do the available statistics reveal about the employment situation of asylum-seekers? And what are the resulting challenges and possible solutions?

1.2 Asylum-seekers in Austria

Before examining laws, policies and measures below, it is first necessary to clarify how many people of working age apply for asylum in Austria and what their socio-economic and demographic characteristics are. In general, the number of applicants for international protection in Austria fell steadily after 2015/16 until 2019.[11] Due to the outbreak of the COVID-19 pandemic, and the accompanying border controls and travel restrictions, the number of asylum applications in 2020 temporarily declined sharply. However, contrary to the EU-wide trend of decreasing asylum applications in 2020 (Eurostat, 2023b), they increased overall compared to the previous year (Ebner, 2021:13). Since 2020, there has been an upward trend in the number of asylum applications in Austria, with applications rising particularly sharply in 2022 (MoI, 2023a).

In view of the subject of this study, Eurostat data on third-country nationals who have reached the minimum age for apprenticeship or employment (14 years or over; Your Europe, n.d.)[12] and who have applied for international protection in Austria are analysed below. In 2022, 100,215 persons from third countries (aged 14 years or over) filed an application for international protection in Austria. The number of asylum-seekers thus exceeded that in

11 For more information on these developments, see: Ebner, 2021:13f.; Expert Council for Integration, 2021:23f.

12 The data set also includes people aged 65 years or over. However, their share has always been below 1 per cent since 2017 (Eurostat, 2022).

2015, an exceptional year when 68,580 persons aged 14 years or over had applied for international protection (Eurostat, 2022). A significant increase was already evident in 2021. In that year, the number of asylum-seekers more than tripled over 2020, rising to 33,845. This increase continued in 2022 (see Figure 1).

Figure 1: Number of third-country nationals (aged 14 years or over) who applied for international protection in Austria (2017–2022)



Note: Numbers were rounded to the nearest five.

Data for the period from 2017 to 2021 were extracted on 29 August 2022, data for the period from January to November 2022 on 3 March 2023 and for December 2022 on 15 March 2023.

Source: Eurostat, 2022, 2023a.

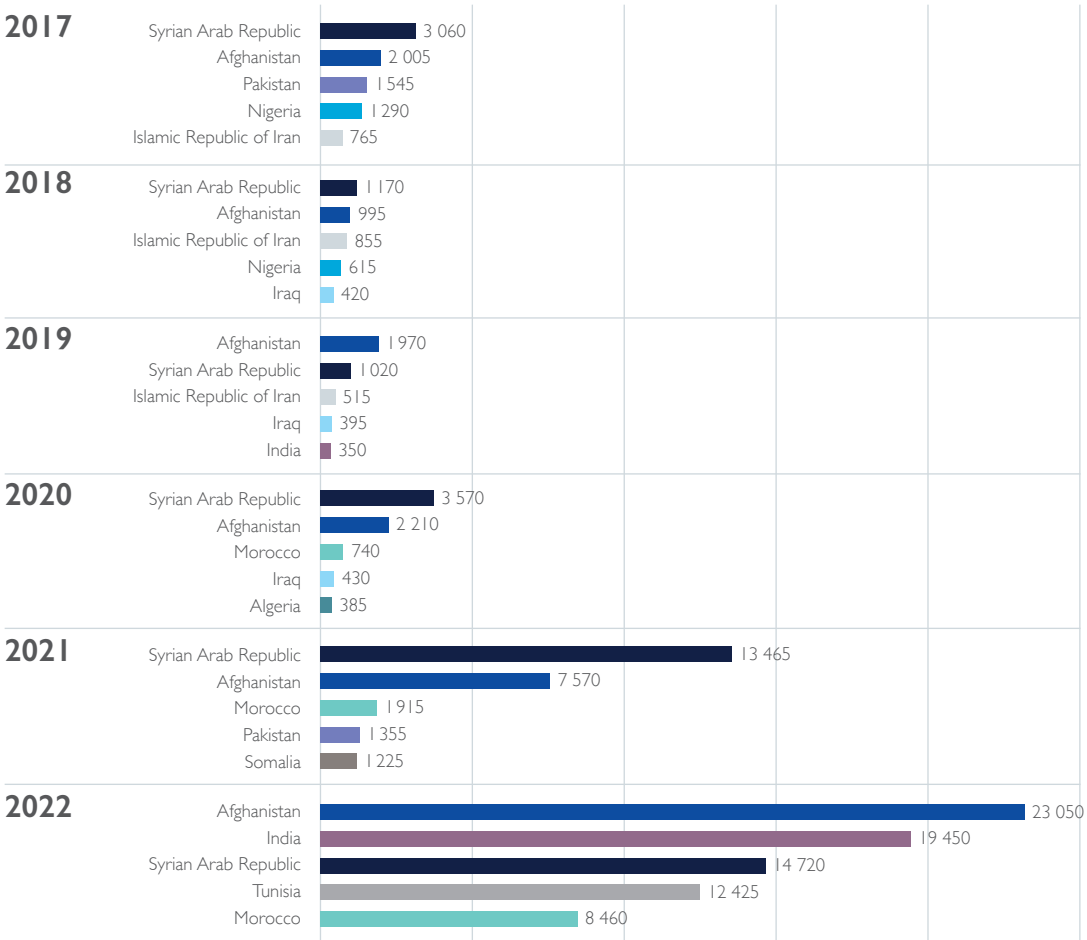
The majority of asylum-seekers from third countries aged 14 years or over are male. The proportion of male asylum-seekers has increased in recent years: while men accounted for 66 per cent of asylum-seekers in 2017, this figure rose to 75 per cent in 2019 and peaked at 94 per cent in 2022 (Eurostat, 2022, 2023a).[13] Asylum-seekers in Austria predominantly belong to younger age groups. The majority of asylum-seekers from third countries aged 14 years or over were between 18 and 34 years of age in the study period. In 2017–2019, their share accounted for 60 per cent. Since 2020, their share has increased, reaching 74 per cent in 2022 (Eurostat, 2022, 2023a).

From 2017 to 2021, persons from the Syrian Arab Republic and Afghanistan represented the largest groups of asylum-seekers aged 14 years or over (see Figure 2). Afghan nationals were also in the top two in 2022, with 23,050 persons. Their number has more than tripled, making Afghans the largest group of origin. The number of Syrian nationals (14,720 persons) remained relatively stable compared to the previous year. They were thus in

13 The data set has a few inconsistencies in the gender breakdown, but these are not significant.

third place behind India, which – as in 2019 – was again among the top five, but with an almost 56-fold increase in the number of asylum-seekers (2019: 350; 2022: 19,450). For the first time during this period, Tunisia was among the top five countries of origin, with 12,425 asylum-seekers. These developments should be seen against the backdrop that Serbia had temporarily granted visa-free travel to third-country nationals from India and Tunisia in 2022, which was also used as an opportunity to travel on to the EU (MoI, 2023c; Der Standard, 2022).[14]

Figure 2: Third-country nationals (aged 14 years or over) who applied for international protection in Austria (2017–2022), top five citizenships



Note: Numbers were rounded to the nearest five.

Data for the period from 2017 to 2021 were extracted on 29 August 2022, data for the period from January to November 2022 on 3 March 2023 and for December 2022 on 15 March 2023.

Source: Eurostat, 2022, 2023a.

Not all asylum-seekers who have applied for asylum in Austria are still in the country, as some have moved on (secondary movement; MoI, 2022b:73). An approximation of the number of asylum-seekers currently residing in Austria is the number of asylum-seekers receiving basic care. Simply put, asylum-seekers who are unable to (sufficiently) meet the necessities of life for themselves and their dependents living in the same household through their own efforts and funds are legally regarded as "in need of assistance" and are therefore entitled

14 The visa exemptions were revoked by Serbia in November 2022 and January 2023 respectively (Schengen Visa News, 2022a, 2022b).

to basic care (Art. 2 para 1 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act).[15] On the reporting date of 1 November 2022, 20,616 asylum-seekers received basic care in Austria (MoI, 2023b:10). It should be added, however, that not all asylum-seekers receive basic care and that they can opt out or lose their entitlement if they are deemed "not in need of assistance" or if their income is too high (MoI, 2022a:16–17, 2022b:73; see 4.1).

1.3 Scope and definitions

This study focuses on asylum-seekers in Austria or, more precisely, third-country nationals who have applied for international protection and benefit from access to the labour market as defined in Art. 15 of the Reception Conditions Directive (2013/33/EU), as currently in force in the EU. The labour market integration of beneficiaries of asylum and subsidiary protection or of displaced persons from Ukraine is not addressed in this study. The reporting period for this study extends from 2017 to 2022, depending on the field of analysis:

- Data: 2017–2022
- Policies, laws and measures:[16] as of December 2022

The following key terms are used in the study. The definitions are taken from the EMN Glossary Version 6.0 (EMN, 2018) unless specified otherwise in the footnotes.[17]

Apprenticeship: In Austria an apprenticeship is a vocational training programme in the dual system (ISCED 354,[18] EQR 4[19]). This dual vocational training currently includes 227 different apprenticeship occupations. It takes place at two learning venues: in the training company and in the vocational school (Federal Ministry of Labour and Economy, 2022b:8).

Asylum-seeker: In the EU context, a third-country national or stateless person who has made an application for protection under the Geneva Refugee Convention and Protocol in respect of which a final decision has not yet been taken.

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

Employment: Persons are considered to be employed if they have worked at least one hour in the reference week as employees, self-employed persons or family workers. If they have not worked during the reference week due to holidays, illness, parental leave, etc., but are otherwise engaged in work, they are also considered to be in employment (Statistics Austria, n.d.a).

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

16 Measures include systematic initiatives, projects, and also legal or structural measures that are used to implement (labour market) integration policy.

17 The interactive online EMN Asylum and Migration Glossary can be accessed at: https://home-affairs.ec.europa.eu.

18 International Standard Classification of Education (ISCED) 354 is categorized as: Upper secondary vocational education; Sufficient for level completion, with direct access to tertiary education (may also give direct access to post-secondary non-tertiary education). See http://uis.unesco.org.

19 The European Qualifications Framework (EQF) describes level 4 as "factual and theoretical knowledge in broad contexts within a field of work or study" and "a range of cognitive and practical skills required to generate solutions to specific problems in a field of work or study". See https://europa.eu.

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

Labour market test: Mechanism that aims to ensure that migrant workers are only admitted after employers have unsuccessfully searched for national workers, EU citizens (in EU Member States this also means EEA workers) or legally resident third-country nationals with access to the labour market according to national legislation.

Material reception conditions *(in Austria: basic care)*: The reception conditions that include housing, food and clothing provided in kind, or as financial allowances or in vouchers, or a combination of the three, and a daily expenses allowance.

Recognition of foreign qualifications: A formal acknowledgement by a competent authority of the validity of a foreign qualification with a view to access to educational and/or employment activities.

Third-country national: Any person who is not a citizen of the European Union within the meaning of Art. 20 para 1 Treaty on the Functioning of the European Union (TFEU)[20] and who is not a person enjoying the European Union right to free movement, as defined in Art. 2 para 5 Regulation (EU) 2016/399 (Schengen Borders Code).[21]

Work permit: In the EU context, a legal document issued by a competent authority of an EU Member State stating the right of a third-country national to work in its territory during the period of validity of the permit (European Commission, n.d.).

1.4 Methodology

The present study was conducted by the National Contact Point (NCP) Austria in the EMN within the framework of the EMN's 2021–2022 Work Programme. The study follows a common study template with a predefined set of questions developed by the EMN in order to facilitate comparability of the findings across all Member States.

Legislative texts, national and international publications, press releases, media reports and websites were used as sources. The statistical data presented here were retrieved from Eurostat and provided by Statistics Austria and appropriately structured by the International Organization for Migration (IOM) Country Office for Austria. The analysis of public and media debates was based on parliamentary correspondence, statements on government bills and media coverage. The analysis of political and legal developments is based on the EMN Austria Annual Reports on Migration and Asylum 2017–2022.[22] To supplement the information obtained from secondary research, qualitative semi-structured interviews were conducted with experts in the fields of the labour market, employment of foreign nationals and integration as well as trade union support. The expert interviews also

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

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

22 The EMN Annual Reports are available at www.emn.at.

asked about challenges and, where appropriate, practical solutions to countering these challenges. These aspects were subsequently supplemented by literature research and contributions to the public debate. The experts listed below participated in interviews:

- Natasha Ghulam, Officer, Department for Social Policy, Austrian Federal Economic Chamber;
- Philipp Kindl, Head of the Department for Employment of Foreign Nationals, EURES and Complaint Management, Public Employment Service Austria – Federal Office;
- Heinz Kutrowatz, Head of Unit B/ST – International Labour Market Law, Federal Ministry of Labour and Economy;
- Julia Moreno-Hasenöhrl, Deputy Head of the Department for Social Policy, Austrian Federal Economic Chamber;
- Johannes Peyrl, Officer, Department for Labour Market and Integration, Chamber of Labour of Vienna;
- Johanna Schlintl, Legal Counsel, UNDOK – Drop-in center for undocumented workers.

The following people, institutions and offices also provided written or oral input:

- Austrian Integration Fund;
- Austrian Trade Union Federation;
- Manuela Eichinger, Department for Labour Market Research and Occupational Information/Section of Statistics, Public Employment Service Austria – Federal Office;
- Federal Chancellery, Directorate General II (Integration, Culture and Ethnic Groups);
- Federal Ministry of the Interior, Department V/B/8 (Asylum) and Department V/B/9 (Basic Care Programme);
- Simone Gaßler, Department for Service for Workers, Public Employment Service Austria – Federal Office;
- Renate Hahn, Deputy Head of the Department for Employment of Foreigners, EURES and Complaint Management, Public Employment Service Austria – Federal Office.

The study was conducted by Prisca Ebner (Research Assistant, IOM Country Office for Austria). Martin Stiller (Legal Associate, IOM Country Office for Austria) worked on legal aspects. The sections covering statistics were compiled by Saskia Heilemann (Research Associate, IOM Country Office for Austria).

The interviewees mentioned above deserve special thanks for sharing their knowledge and experience through personal interviews and written input. Great thanks also go to Gudrun Biffl, who commented on the draft of this study. In particular, the author would also like to thank Saskia Heilemann for her valuable comments and research guidance. Many thanks also go to Florian Piringer and Sarata Diane (Research Interns, IOM Country Office for Austria) for various support services at different stages of the research work.

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

2 ACCESS TO THE LABOUR MARKET FOR ASYLUM-SEEKERS

This chapter describes access to the labour market for asylum-seekers in Austria in 2022, after the repeal of the "Bartenstein Decree" in June 2021. In Austria, a distinction is made between access to employment and access to self-employment. The Federal Basic Care Act 2005[23] regulates this for asylum-seekers.

According to Art. 7 para 1 Federal Basic Care Act 2005, asylum-seekers may take up employment in accordance with the Act Governing the Employment of Foreign Nationals.[24] This act regulates the circumstances under which most third-country nationals[25] are permitted to take up employment in Austria. Foreign nationals who do not have free access to the labour market generally need a work permit to take up employment in Austria. This also applies to asylum-seekers. In accordance with Art. 7 para 2 Federal Basic Care Act 2005, self-employment is not permitted in the first three months after filing an application for asylum.[26] After this period it is possible in principle. In addition, asylum-seekers also have the possibility to engage in voluntary work and simple domestic work. Access to employment, self-employment and other activities will be discussed in more detail below.

2.1 Access to employment

Asylum-seekers require a work permit to take up employment. The granting of a work permit is dependent on a number of preconditions, which concern the employer on the one hand and the foreign employee himself/herself on the other (PES, 2022c). Since the repeal of the "Bartenstein Decree" by the Constitutional Court in June 2021 (see Infobox 1), grant of a work permit for asylum-seekers is no longer limited to specific sectors.[27] Nevertheless, the legal requirement is still to give priority to getting national workers and foreign workers already integrated in the labour market into employment. This is done by means of a labour market test. This test checks whether suitable substitute workers for the relevant position can be found in the existing potential workforce of unemployed Austrians, citizens of the European Union (EU) and the European Economic Area (EEA) as well as integrated third-country nationals (see 2.1.2; Federal Ministry of Labour, 2021b:2). The procedure is uniform across all sectors;[28] this also applies to apprenticeships (Federal Ministry of Labour, 2021b:3). The Federal Ministry of Labour assumes that the preliminary labour market test will still keep the admission of asylum-seekers to the labour market at a very low level (Federal Ministry of Labour, 2021b:2). However, in sectors with a poor labour market situation or in the case of jobs that do not require a specific qualification, the probability of a work permit being issued is low in practice (see also 4.1).[29]

23 Federal Basic Care Act 2005, FLG No. 405/1991, in the version of federal law FLG I No. 53/2019.

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

25 Persons who are excluded from the scope of the Act Governing the Employment of Foreign Nationals include persons granted asylum and beneficiaries of subsidiary protection status, researchers, media reporters and diplomats (Art. 1 para 2 Act Governing the Employment of Foreign Nationals).

26 The point in time from which the three-month period is calculated differs for employed and self-employed activities: for self-employed activities, the date of filing the asylum application applies; in the case of employed activities, admission to the asylum procedure applies.

27 Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

28 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

29 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

Infobox 1: Repeal of the "Bartenstein Decree"

The repeal of the "Bartenstein Decree" by the Constitutional Court in June 2021 constituted a key change regarding asylum-seekers' access to employment. The development was the result of two internal decrees:

- A decree adopted on 11 May 2004 by the then Federal Minister for Labour and Economy, Martin Bartenstein, (known as the "Bartenstein Decree") restricted access to work permits for asylum-seekers to the seasonal and harvest work sectors, subject to quotas (Art. 5 Act Governing the Employment of Foreign Nationals).[30]

- A decree on 12 September 2018 by the then Federal Minister of Labour, Social Affairs, Health and Consumer Protection, Beate Hartinger-Klein, (known as the "Hartinger-Klein Decree") revoked access to apprenticeships for asylum-seekers and instructed the Public Employment Service Austria (PES) to review and process all applications for work permits in accordance with the "Bartenstein Decree".[31]

The Constitutional Court issued a ruling on 23 June 2021 revoking these two decrees on the formal grounds that they were unlawful. The justification given was that the decrees ought to be classified as regulations and should thus have been promulgated in the Federal Law Gazette, but this was not done.[32] The Federal Ministry of Labour consequently instructed the PES to perform the labour market test on all applications for work permits and to carry out the corresponding checks to see whether there would be substitute workers available on the labour market (see Section 2.1.2).[33]

The process around the work permit is described in more detail below, from the application, examination and issuance to the conditions and renewal options. This is followed by a statistical analysis of work permits for asylum-seekers in the period from 2017 to 2022.

2.1.1 Application for a work permit

In Austria, asylum-seekers may in principle be granted access to the labour market from three months after admission to the asylum procedure. In response to the initial version 2003/9/EC of the EU Directive laying down minimum standards for the reception of asylum-seekers in Member States ("Reception Conditions Directive"),[34] Austria opted for this three-month period after admission to the procedure as the minimum period before access to employment.[35] In fact, asylum-seekers first have to find their bearings and are often not yet in a position to participate in the labour market in the first three months after arrival in Austria for

30 Federal Ministry of Economy and Labour, EU Enlargement Adjustment Act: Implementing Decree, 11 May 2004, BMWA-435.006/6-II/7/04. Available at https://archiv.asyl.at.

31 Constitutional Court, 23 June 2021. V95/2021 ua (V95-96/2021-12). p. 2.

32 Ibid.

33 Federal Ministry of Labour, Decree: Admission of asylum-seekers to employment, 14 July 2021, BMA-2021-0.502.591. Available at https://archiv2022.asyl.at.

34 Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum-seekers, OJ L 31/18. Currently in the revised version: Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast), OJ L 180/96.

35 Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

various reasons.[36] The priority test (in Austria: labour market test; see Infobox 2) as a precondition for granting a work permit is also derived from the Reception Conditions Directive.[37] Art. 15 para 2 of the Directive states that Member States may give priority to EU citizens, EEA citizens and legally resident third-country nationals for reasons of labour market policy.

A work permit is required for any employment by asylum-seekers. This work permit is not issued automatically but must be applied for and is linked to specific requirements that must be checked in each individual case. Specifically, the Act Governing the Employment of Foreign Nationals (Art. 4 para 1 subpara 1) stipulates that an asylum-seeker may be granted a work permit if he/she has been admitted to the asylum procedure for at least three months and has de facto protection against removal or has a right of residence.[38] The admission procedure begins with submission of the application for asylum. The Federal Office for Immigration and Asylum checks whether Austria has responsibility for the application for asylum (MoI, 2015). If the Federal Office for Immigration and Asylum does not decide within 20 days of submission of the application for international protection that the application should be rejected, the application is deemed to be admissible, provided no exceptional grounds exist (Art. 28 para 2 Asylum Act 2005).[39]

At the end of the statutory period (three months from admission to the asylum procedure), a work permit may be issued. The employer must submit the application for a work permit to the regional office of the PES in whose area the (potential) place of employment is located (Art. 19 para 1 and 9 Act Governing the Employment of Foreign Nationals; Unternehmensservice Portal, n.d.). The application can also be submitted electronically via the PES e-account.[40] The following documents must be enclosed with the application for a work permit: passport and registration of residence, residence permit, certificates of professional qualification and practice (as a certified translation if requested by the PES), proof of previous employment in Austria (e.g. work permit), as well as, if applicable, proof of employment of a spouse or parent living in Austria and, if applicable, proof of completion of military service in the country of origin (PES, 2022a; Unternehmensservice Portal, n.d.). The application for a work permit is subject to a fee of EUR 32 (as of October 2022; PES, 2022a).

2.1.2 Examination and granting of a work permit

The locally competent regional office of the PES is the competent authority for granting work permits (Art. 20 para 1 and 2 Act Governing the Employment of Foreign Nationals). Before a work permit can be issued, the PES examines each individual case to determine whether the wide-ranging requirements specified in Art. 4 Act Governing the Employment of Foreign Nationals are met. According to the Act, a work permit can only be issued if, among other things, the labour market situation and trend permit the employment (labour market test) and there are no conflicts with significant public and macroeconomic interests. A check is therefore made to see whether another person already available on the labour market is willing and able (under the legally permissible conditions) to undertake the employment for which the application has been made.

36 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

37 Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

38 On de facto protection against removal and residence law, see Art. 12 and 13 Asylum Act 2005.

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

40 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

If the labour market test shows that other jobseekers are available for the open position, the PES offers the employer the placement of substitute workers (AMS, 2017; see Infobox 2). In doing so, the Federal Minister of Labour instructed the PES in July 2021 to exhaust all options within the decision deadline to place substitute workers in the vacant position.[41] The employer must provide evidence of the education, training or other special qualifications required to undertake the employment (Art. 4 para 2 Act Governing the Employment of Foreign Nationals).[42] The PES compares the application for a work permit with the company's requirement profile, since special skills, e.g. foreign language skills, must be necessary for the company's operation.[43]

Infobox 2: Labour market test

When considering those persons available on the labour market, certain groups are to be given preference, namely Austrians, foreign nationals entitled to unemployment insurance benefits, EEA citizens, Swiss nationals, Turkish association workers[44] and foreign nationals with unrestricted access to the labour market.[45] In the context of the labour market test, it is emphasized that priority should first be given to placing persons granted asylum and beneficiaries of subsidiary protection status.[46] Only if the vacancy cannot be filled by one of these persons is it permissible to issue a work permit for the applicant asylum-seeker (Art. 4b para 1 Act Governing the Employment of Foreign Nationals). The PES submits lists of suggested substitute workers to the company for this purpose. The employer must then check these candidates.[47] If an employer refuses the placement of substitute workers in general or refuses a particular substitute worker with insufficient reasons, the PES will reject the application for a work permit (PES, 2017, 2022a).

An apprenticeship also counts as an employment relationship within the terms of the Act Governing the Employment of Foreign Nationals; accordingly, asylum-seekers also require a work permit for an apprenticeship (Deutsch et al., 2014:153 Art. 2). The labour market test does not apply, however, in cases covered by Art. 4 para 7 Act Governing the Employment of Foreign Nationals, for example in the case of registered seasonal workers employed for a limited period of time.[48]

41 Federal Ministry of Labour, Decree: Admission of asylum-seekers to employment, 14 July 2021, BMA-2021-0.502.591. Available at https://archiv2022.asyl.at.

42 The examination will be based on the requirement profile in the application for the work permit. These requirements must be covered by the company's operational necessities. For apprenticeships, the situation on the apprenticeship market is taken into account (Art. 4 subpara 2 Act Governing the Employment of Foreign Nationals).

43 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

44 Turkish nationals and their family members are regulated by the 1980 Decision of the Association Council on the Development of the Association between the European Economic Community and Turkey. This Association Council Decision also regulates the employment and free movement of Turkish workers. In Austria, it is implemented through the Act Governing the Employment of Foreign Nationals (Austrian Federal Economic Chamber, 2022).

45 Art. 17 Act Governing the Employment of Foreign Nationals regulates unrestricted labour market access for foreigners who hold a Red-White-Red Card Plus (Art. 41a Settlement and Residence Act), a Family Member (Art. 47 Settlement and Residence Act) or Permanent Residence – EU (Art. 45 Settlement and Residence Act) residence permit or a Residence Permit Plus (Art. 54 para 1 subpara 1 Asylum Act 2005). These persons are entitled to work in the entire federal territory of Austria.

46 Federal Ministry of Labour, Decree: Admission of asylum-seekers to employment, 14 July 2021, BMA-2021-0.502.591. Available at https://archiv2022.asyl.at.

47 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

48 "Stammsaisoniers" are registered seasonal workers who were temporarily employed under quotas in the same sector of the economy from 2017 to 2021 or from 2006 to 2010 for periods specified by law. In addition, they were required to register with the regional offices of the Public Employment Service for continued employment in that industry prior to a cut-off date. For these workers, the labour market test is not required in individual cases (Art. 4 para 7 subpara 6). For further information, see Spiegelfeld and Humer, 2020.

In addition to the labour market test, Art. 4 para 1 subpara 1–11 Act Governing the Employment of Foreign Nationals contains further requirements for grant of a work permit, e.g.:

(a) that the employer complies with pay and working conditions, including social security regulations,
(b) that the foreign national has not committed repeat offences by working without a work permit during the previous 12 months, or
(c) the employer has not repeatedly employed foreign nationals in contravention of the statutory provisions during the 12 months preceding submission of the application.

On 31 October 2022, a provision was added to the Act Governing the Employment of Foreign Nationals.[49] Until then, repeated irregular employment always resulted in sanctions for both employers and employees: the company was barred from receiving work permits for one year and no work permit would be issued to the asylum-seeker during this period (Art. 4 para 1 subpara 3 Act Governing the Employment of Foreign Nationals). The newly inserted Art. 4 para 8 states that, after consultation with the Regional Advisory Council, a one-year ban on the issuance of a work permit may now be waived if there are reasons worthy of consideration, such as a low degree of culpability or a short duration of the violation. In addition, the employer must credibly demonstrate that he/she has taken measures to prevent further violations. The background to this new provision is that until now, systematic and intentional violations have been sanctioned in the same way as merely negligent behaviour, and the sanctions constitute a serious interference with the freedom of acquisition and ownership.[50]

Art. 4 para 3 Act Governing the Employment of Foreign Nationals also contains a list of requirements for grant of a work permit, which – apart from unanimous approval by the Regional Advisory Council (see below) – only includes individual special circumstances and specific groups of persons.[51] Up to now, unanimous approval by the Regional Advisory Council has also been necessary before a decision is made on granting a work permit (Art. 4 para 3 subpara 1 Act Governing the Employment of Foreign Nationals). The Regional Advisory Council, which is composed of representatives of the PES and social partners (see 3.3), meets weekly in most provinces. The PES has up to now been bound by the Regional Advisory Council's decision on grant of a work permit.[52] However, this requirement was overturned as unconstitutional by a decision of the Constitutional Court of 14 December 2021 and will cease to apply from 30 June 2023. The Constitutional Court justified its decision by stating that the Regional Advisory Council has no official authority to make decisions. In its current form, however, the decision by the competent authority (PES) is tied to approval by a body that is not a public authority (i.e. the Regional Advisory Council). According to the Constitutional Court, this regulation violates the rule of law.[53]

The PES has six weeks to review the application for a work permit (see Figure 3; Art. 20a Act Governing the Employment of Foreign Nationals). On the one hand, this deadline of six weeks is found to be challenging, as employers often cannot wait that long; on the other hand, sufficient time is also needed for the PES to review

49 Federal Act Amending the Act Governing the Employment of Foreign Nationals, FLG I No. 168/2022.

50 Government Proposal: Federal Act Amending the Act Governing the Employment of Foreign Nationals, 2720/A, XXVII Legislative Term. Available at www.parlament.gv.at.

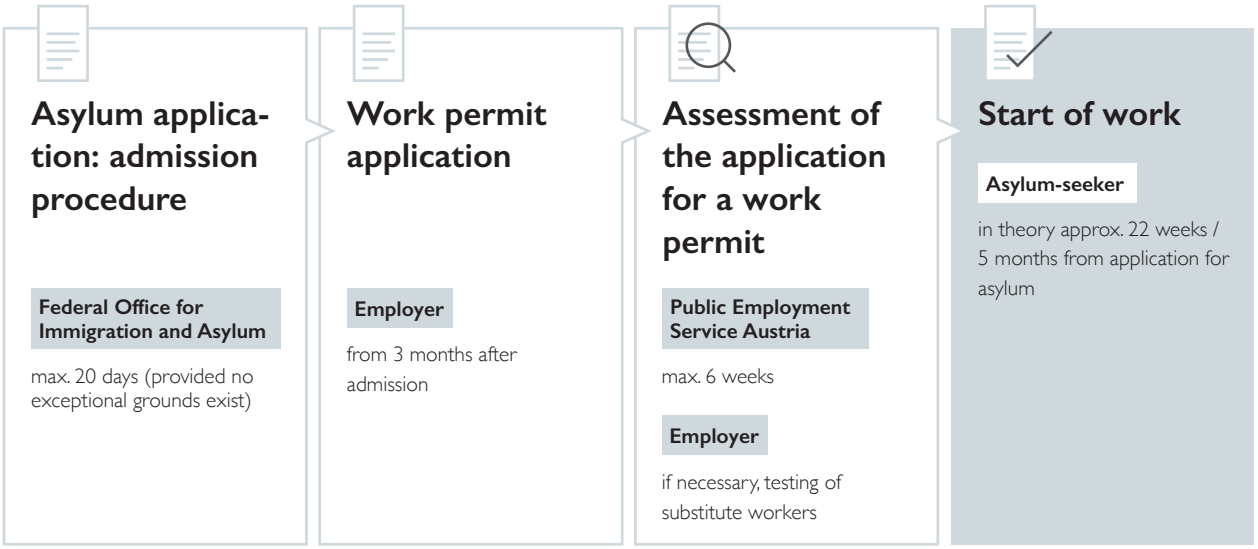
51 If none of the requirements of subpara 1 to 14 leg. cit. applies, a permit cannot be granted, even if e.g. the employment of the foreigner is necessary for public or macroeconomic interests according to the current legal framework. See Constitutional Court, 14 December 2021. G232/2021-14, margin number 23.

52 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

53 Constitutional Court, 14 December 2021. G232/2021-14. pp. 25f.

the work permit application.[54] According to the PES, the procedure takes an average of two to four weeks in practice. Depending on the complexity of the application and the workload of the regional PES offices, it may take a little longer in exceptional cases, for example if documents need to be submitted subsequently or a particularly large number of applications are made at the same time.[55] During this time, the company must consider substitute workers proposed by the PES.[56] If the work permit is approved, it is sent to the employer. Only then may the asylum-seeker start work.[57]

Figure 3: Steps for an asylum-seeker looking for employment in Austria



Provided the above-mentioned legal periods or deadlines have been exhausted or observed, the time when it is theoretically possible to start work is approximately 22 weeks from the date of the application for asylum, which corresponds to five months (see Figure 3). If the admission procedure or checking of the application for a work permit takes less time, the date for starting work could be earlier.

2.1.3 Conditions and extensions of work permits

The work permit required for employment is issued to an employer for a specific workplace. The workplace is defined by the occupational activity and employer designated in the work permit. If the employed asylum-seeker is employed at a different workplace for longer than one week, a new work permit is required (Art. 4 and 6 Act Governing the Employment of Foreign Nationals; Unternehmensservice Portal, n.d.). In addition, the work permit for taking up employment is time-limited. It may be issued for a maximum of one year at a time (Art. 7 para 1 Act Governing the Employment of Foreign Nationals), with different provisions for seasonal and harvest work. However, employment of asylum-seekers under labour law also does not have to be for a fixed term.[58]

54 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.
55 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.
56 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.
57 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.
58 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

There is a deviation in the duration of the employment permit for apprenticeships. In this case, the employment permit is issued for the entire apprenticeship period, plus the period of continued employment required by law or collective agreement (Art. 7 para 4 Act Governing the Employment of Foreign Nationals; PES, 2022c:12). For asylum-seekers who started apprenticeship training before 27 December 2019, the time limit for voluntary departure for the purpose of completing the apprenticeship training is suspended if a return decision accompanying a negative asylum decision is issued (Art. 55a para 1 Aliens Police Act 2005).[59] If a return decision is issued against an apprentice or has not been issued with legal effect, and if the apprentice's employment circumstances are communicated to the Federal Office for Immigration and Asylum, the time limit for voluntary departure starts later.[60]

In the case of temporary employment in seasonal and harvest work, the provisions are different in some respects. In the event of a temporary need for additional labour,[61] the Federal Minister for Labour may set quotas for third-country nationals by regulation (Art. 5 para 1 Act Governing the Employment of Foreign Nationals). Quotas are possible for: (a) temporary admission of foreign seasonal workers in a specific economic sector, occupational group or region; or (b) short-term admission of foreign harvest workers. In Austria, the quotas are announced annually in the Seasonal Quota Regulation.[62] These quotas are determined in consultation with the Austrian social partners (Spiegelfeld and Humer, 2020:10). If necessary, they can be increased during the year, such as in 2021 when there was additional demand (Ebner, 2022:18). Within the framework of these quotas, foreign workers are admitted for temporary seasonal employment or harvest work by granting work permits. Persons who are already entitled to reside in Austria or who have been employed at least once in the previous five years as seasonal workers or harvest workers within the framework of established quotas should be given priority (Art. 5 para 6 Act Governing the Employment of Foreign Nationals).[63] The maximum permissible duration of the work permits is governed by the specific regulation, but may not exceed six months.[64] In the case of harvest workers, they may be admitted for a maximum of six weeks within the framework of quotas (Art. 5 para 5 Act Governing the Employment of Foreign Nationals). The work permits issued or extended within the framework of these quotas bind a quota place for their period of validity. After the period of validity of the work permit has expired, a new work permit can be issued for the quota place.

The procedure for extending work permits is basically the same for all sectors and occupations except for extensions of temporary employment in seasonal and harvest work.[65] A work permit can be extended repeatedly for a maximum of one year each time. An application for extension of a work permit must be submitted before the current permit expires (Art. 19 para 5 Act Governing the Employment of Foreign Nationals). In this

59 Aliens Police Act 2005, FLG I No. 100/2005, in the version of federal law FLG I No. 206/2021.

60 Specifically, the time limit pursuant to Art. 55a para 1 Aliens Police Act 2005 shall run from the date of termination or date of premature or extraordinary dissolution of the apprenticeship relationship (subparagraph 1) or, in the case of an application for admission to the final apprenticeship examination, upon expiry of the set exam date if this date is after the date specified in subparagraph 1 (subparagraph 2), but at the latest upon expiry of four years after the start of the apprenticeship relationship, provided that the apprenticeship relationship started before 27 December 2019 and has existed without interruption since then.

61 A labour demand that cannot be met either from the labour potential available domestically or by EEA nationals, Swiss nationals or registered seasonal workers employed on a temporary basis. The general situation and development of the labour market, especially in the relevant sub-labour market, must be taken into account.

62 See for example for 2022: Seasonal Quota Regulation 2022, FLG II No. 569/2021, in the version of federal law FLG II No. 272/2022.

63 The labour market test does not apply to so-called registered seasonal workers (Stammsaisoniers) (Art. 5 para 6a and 7 Act Governing the Employment of Foreign Nationals; see also 2.1.2).

64 Within a period of 12 months, work permits may be issued or renewed for the same seasonal worker for a total period of no more than nine months (Art. 5 para 3 Act Governing the Employment of Foreign Nationals). Seasonal workers who have been employed in the past three years within the framework of quotas for the sectors of agriculture and forestry, however, may be granted or issued with renewed work permits in this sector for a total period of up to nine months (Art. 5 para 4 Act Governing the Employment of Foreign Nationals). For seasonal workers who are already employed under a quota, further work permits may be issued up to the maximum duration permitted under Art. 5 para 3 to 5 Act Governing the Employment of Foreign Nationals, irrespective of vacant quota places.

65 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022; Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

case, the asylum-seeker may continue to work until the decision on extension of the work permit has been legally concluded.[66] In practice, work permits are usually issued for one year. This means that asylum-seekers are often already entitled to benefits at the time of applying for an extension (see 3.3 and 5). This entitlement to benefits from the PES (such as unemployment benefits) applies, for example, to workers who have been covered by unemployment insurance at work for at least 52 weeks over the last two years (for persons under the age of 25 years: 26 weeks within one year; PES, 2022b). As persons with (notional) entitlement to unemployment benefits, they would be given preference in the labour market test for the issuance of a work permit (see 2.1.2).[67] Accordingly, such an extension does not require a review of possible substitute workers nor the unanimous approval of the Regional Advisory Council.[68]

2.1.4 Statistics on work permits for asylum-seekers

The PES keeps statistics on applications, grants and refusals of work permits for asylum-seekers. The data also contain more detailed information on age distribution, gender ratio, work permits for apprenticeships and sectors. The employment rate of asylum-seekers is not known.[69] The unemployment rate is also unknown since asylum-seekers are not generally registered with the PES as seeking employment (see 3.3 and 5),[70] and the Federation of Social Insurances does not report the number of employed asylum-seekers.[71]

Between 2017 and 2022, a total of 12,158 applications for work permits were made by employers for asylum-seekers. It is striking that with a share of 94 per cent (11,429 applications) of all applications in this period, most applications for work permits were submitted for male asylum-seekers and only 6 per cent (729 applications) for women. In this context, it is important to mention that the majority of asylum-seekers in Austria are male (see 1.2).

A not inconsiderable proportion of applications (an average of 19% in the period from 2017 to 2022) are withdrawn again before a decision is reached.[72] Thus, as shown in Figure 4, a decision was issued in only 9,956 cases, of which 7,249 were positive, representing an approval rate of 73 per cent. It should be added that an application will also be considered rejected if, for example, a company does not examine substitute workers or rejects them with insufficient justification (PES, 2017, 2022a; see 2.1.2). Figure 4 also shows that the approval rate of work permits has decreased since the repeal of the "Bartenstein Decree" in June 2021. Between 2017 and 2020, an average of 76 per cent of employment authorization applications were approved, while between 2021 and 2022 the figure was 68 per cent. This could be related to the fact that the approval rate in agriculture and forestry (the second strongest sector until 2021) is particularly high in comparison (up to 99%), but the share of this sector decreased significantly in 2021 and 2022 (see Table 1 below).

66 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

67 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

68 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

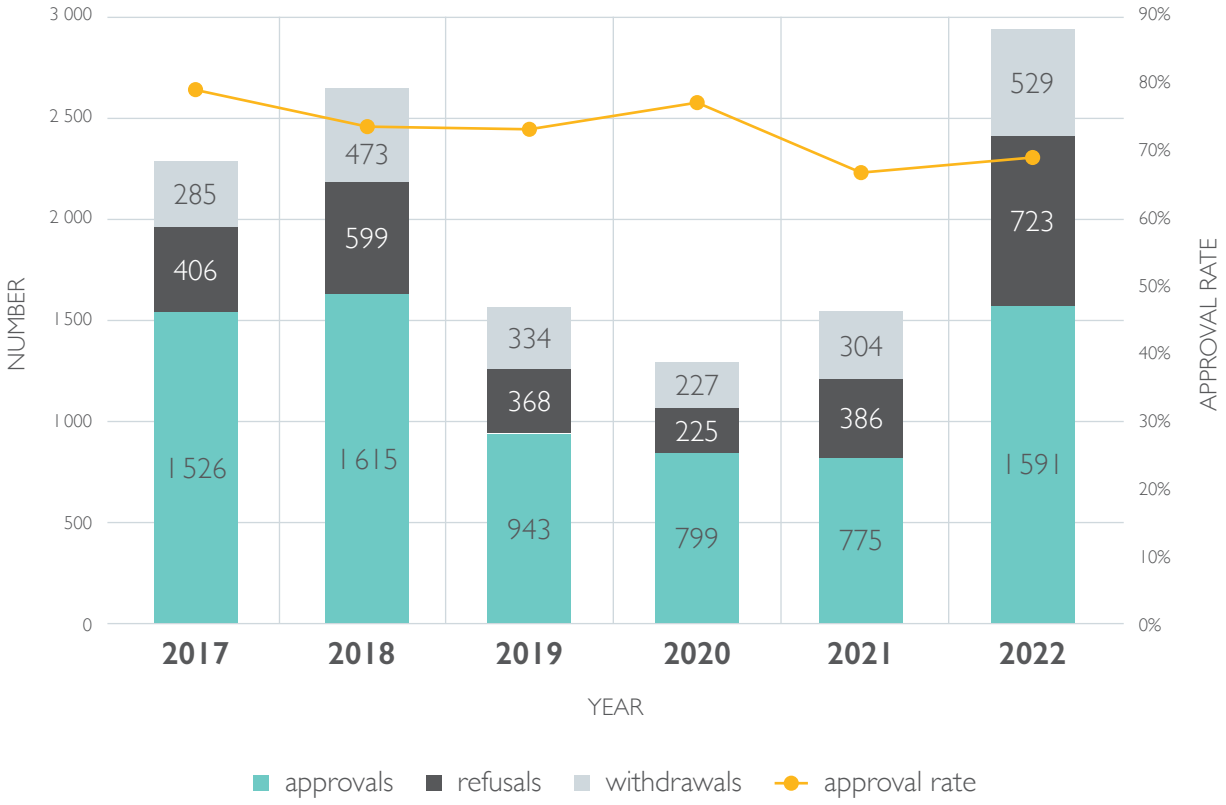
69 According to the Labour Market Information System, the labour force participation rate is calculated as follows: number of employed, self-employed and unemployed persons (based on register data; 15–64 years) as a share of the resident population (15–64 years; Federal Ministry of Labour and Economy, n.d.). Since, among other things, neither the number of self-employed nor the number of unemployed is known for asylum-seekers, the calculation is not possible.

70 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

71 Written input: Renate Hahn, Department for Employment of Foreigners, EURES and Complaint Management, Public Employment Service Austria, 15 February 2023.

72 There are various reasons for withdrawing the application, but they are not statistically recorded. Written input: Renate Hahn, Department for Employment of Foreigners, EURES and Complaint Management, Public Employment Service Austria, 18 January 2023.

Figure 4: Number of approvals, refusals and withdrawals of work permits for asylum-seekers as well as approval rate (2017–2022)



Source: Data provided by the Public Employment Service Austria, 13 January 2023.

Note: The approval rate is calculated as the ratio of approvals to the total number of applications decided (i.e. excluding withdrawals).

A sharp drop in applications for work permits was recorded in 2019 (see Figure 4), which can be partly attributed to the revocation of access to apprenticeships for asylum-seekers (see 3.2). While the number of (decided)[73] applications for apprenticeship permits as a proportion of all applications for labour market access was still on the rise and amounted to 41 per cent (917 applications) in 2018, this figure fell significantly to 2 per cent (24 applications) in 2019 and remained at a similarly low level.[74] Accordingly, the number of total decided applications fell by 41 per cent – from 2,214 applications in 2018 to 1,311 applications in 2019. The change in the overall age structure of asylum-seekers for whom there had been applications for work permits must also be viewed with this in mind. In 2017 and 2018, young people under the age of 25 formed the largest group, accounting for more than half of all decided applications for work permits. This has changed since 2019; the group of 25 to 44 year olds are now in the majority, with a consistent share of over 60 per cent.[75]

The number of decided applications for work permits rose again in 2021 (1,161 applications). In 2022, the number of applications nearly doubled (2,314 applications), thereby exceeding the 2018 figure (2,214 applications). This increase appears to be related to the fact that on 23 June 2021, the Constitutional Court overturned

73 The statistics presented below refer to decided applications only (i.e. excluding withdrawals).

74 Data provided by the Public Employment Service Austria, 13 January 2023.

75 Ibid.

two decrees that had restricted asylum-seekers' labour market access to the sectors of harvest and seasonal work (excluding apprenticeships; see 2.1).

Table 1: Number of work permits issued to asylum-seekers broken down by sector (2017–2022)

	2017	2018	2019	2020	2021	2022
A – Agriculture, Forestry and Fishing	**321**	**327**	**228**	**248**	**141**	**68**
B – Mining and Quarrying	0	0	0	0	0	0
C – Manufacturing	124	112	25	40	64	139
D – Electricity, Gas, Steam and Air Conditioning Supply	1	2	0	0	0	2
E – Water Supply; Sewerage, Waste Management and Remediation Activities	66	15	0	1	2	9
F – Construction	112	162	15	21	37	74
G – Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles	101	109	49	44	46	109
H – Transportation and Storage	17	17	25	11	23	32
I – Accommodation and Food Service Activities	**627**	**676**	**489**	**347**	**370**	**933**
J – Information and Communication	1	1	3	1	1	3
K – Financial and Insurance Activities	7	6	4	0	1	0
L – Real Estate Activities	4	3	3	2	3	2
M – Professional, Scientific and Technical Activities	6	13	5	7	4	3
N – Administrative and Support Service Activities	35	55	35	25	30	78
O – Public Administration and Defence; Compulsory Social Security	2	7	2	2	5	7
P – Education	5	10	9	2	3	3
Q – Human Health and Social Work Activities	14	16	3	6	18	10
R – Arts, Entertainment and Recreation	11	18	15	7	7	16
S – Other Service Activities	41	33	16	13	12	58
T – Activities of Households as Employers; Undifferentiated Goods- and Services-Producing Activities of Households for Own Use	0	0	0	0	0	1
U – Activities of Extraterritorial Organizations and Bodies	0	0	0	0	0	0
X – Other	31	33	17	22	8	44
Total	**1 526**	**1 615**	**943**	**799**	**775**	**1 591**

Note: The sectoral breakdown is based on the Austrian Statistical Classification of Economic Activities (ÖNACE; Statistics Austria, n.d.b).

Source: Data provided by the Public Employment Service Austria, 13 January 2023.

Broken down by sector, most work permits issued to asylum-seekers between 2017 and 2022 were for "Accommodation and food service activities" and "Agriculture, forestry and fishing" (see Table 1). Closer examination of these two sectors, in which harvest and seasonal work is frequently carried out, reveals differing trends since the restrictions were lifted in June 2021. For instance, the proportion of work permits in agriculture, forestry and fishing fell from an average of 23 per cent in the period from 2017 to 2021 to just 4 per cent in 2022. The accommodation and food service activities sector, on the other hand, grew from 45 per cent in the period from 2017 to 2021 to 59 per cent in 2022 (+14 percentage points).[76] This is partly due to the fact that there was a significant labour shortage in accommodation and food service activities in 2022 after COVID-19-related slumps in the previous years (ORF.at, 2022). However, the Department for the Employment of Foreign Nationals at the PES expected that there would be an even greater overall increase in applications for work permits from June 2021 onwards. The reason could include the labour force potential of other third-country nationals, including Ukrainians, as well as a higher number of seasonal workers due to the increased quotas for temporary employment (see 2.1.3).[77] In addition, there are challenges and limitations in practice (see 4.1).

2.2 Access to self-employment

In principle, it is possible for asylum-seekers to take up self-employment if they meet certain requirements (see below). Art. 7 para 2 Federal Basic Care Act 2005, as a lex specialis to Art. 14 Trade, Commerce and Industry Regulation Act 1994,[78] states that asylum-seekers are not permitted to engage in self-employment (only) in the first three months after filing the application for asylum. This means that asylum-seekers are eligible to engage in self-employment from the beginning of the fourth month after filing an application for asylum.[79] The minimum period of three months before taking up self-employment is possibly also based on the regulation for employment. Provided the requirements are met, there is no time limit for self-employment.

Different bodies have responsibility depending on the type of self-employment.[80] Asylum-seekers must also notify the competent authority – the Federal Office for Immigration and Asylum or the federal provincial reception centres – of the start and end of self-employment (Art. 7 para 2 Federal Basic Care Act 2005).[81] Asylum-seekers do not need a work permit (as specified in the Act Governing the Employment of Foreign Nationals) for genuine self-employment.[82] In addition to this, in order to exercise a (regulated[83] or unregulated[84]) trade, a trade registration must be filed with the relevant district administrative authority (Art. 339 para 1 Trade, Commerce and Industry Regulation Act 1994). This step is required for all persons, including Austrians. The requirement for registering a trade is full legal capacity (Art. 8 para 1 Austrian Trade, Commerce and Industry Regulation Act 1994), as well as the absence of grounds for exclusion (Art. 13 para 1 Trade, Commerce and

76 Data provided by the Public Employment Service Austria, 13 January 2023.

77 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

78 Trade, Commerce and Industry Regulation Act 1994, FLG No. 194/1994, in the version of federal law FLG I No. 204/2022.

79 Provincial Administrative Court of Lower Austria LVwG-AV-2090/001-2021; Supreme Administrative Court Ra 2018/21/0134; Stolzlechner et al., 2020: Art. 14 margin number 9.

80 The types of self-employment mentioned are: "Gewerbliche Erwerbstätigkeit", "Urproduktion", "Freiberufliche Tätigkeit" and "Neue Selbstständigkeit" (oesterreich.gv.at, 2022b).

81 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 7 November 2022.

82 Written input: Heinz Kutrowatz, Federal Ministry of Labour and Economy, 20 February 2023.

83 The exercise of regulated trades requires proof of qualification (Art. 16 para 1 Trade, Commerce and Industry Regulation Act 1994).

84 Unregulated trades do not require proof of qualification; however, regulations for the exercise of the trade must be considered (Art. 5 para 2 Trade, Commerce and Industry Regulation Act 1994; Federal Ministry of Labour and Economy, 2022a).

Industry Regulation Act 1994). Depending on the particular trade, trade law requirements, such as certificates of competence, must of course be met (Art. 16 para 1 Trade, Commerce and Industry Regulation Act). These may include requirements in terms of vocational qualifications, status or knowledge.[85] In general, formal recognition of qualifications acquired abroad is seen as a complex and lengthy process (Kirilova et al., 2016). Unregulated trades also include simple work paid on an hourly or daily basis, such as postal services, gardening, messenger services, various repairs or inspection of goods (Federal Ministry of Labour and Economy, 2022a). Media debates were mainly about newspaper distribution and prostitution (Die Presse, 2017; Kurier, 2019). On behalf of the Austrian Integration Fund, the Institute for Advanced Studies studied "Migrant Economies in Vienna" and found that unregulated trades are often carried out by persons from a migratory background. Self-employment plays an important role for third-country nationals in Vienna, whereby they rely largely on informal diaspora networks. In some cases, however, it is also associated with "false self-employment" (Frankus et al., 2022:62–64; see 4.1). It is the actual circumstances and working conditions that are decisive in this context, not the contract name.[86]

The Federal Ministry of Labour and Economy is responsible for regulating requirements under business law and some requirements under professional law.[87] The regional authorities are responsible for issuing business licences. Citizenship is among the data recorded in the Austrian Business Licence Information System and in the statistics on self-employment maintained by the Austrian Federal Economic Chamber, but asylum status is not (Federal Ministry for Digital and Economic Affairs, 2018).[88] The Federal Ministry of the Interior does not keep any record of this information either.[89]

2.3 Access to other activities

Asylum-seekers who have been admitted to the asylum procedure for three months can also receive a Household Services Voucher in lieu of payment for simple domestic work in private apartments, houses or gardens.[90] To do so, they need to fill out the Household Services Voucher form together with the employer and register online (Federal Ministry of Labour, 2022). In the case of asylum-seekers, these activities are exempt from the Act Governing the Employment of Foreign Nationals (Art. 1 para 16 Regulation on the Employment of Foreign Nationals)[91] and do not require a work permit up to a maximum income of EUR 665.55 per month. The opening up of Household Services Vouchers to asylum-seekers in 2017 was received positively by the Austrian Federal Economic Chamber, for example (Austrian Federal Economic Chamber, 2017). According to media reports, however, there was little demand for Household Services Vouchers for asylum-seekers after the vouchers had been introduced (Der Standard, 2017; Kleine Zeitung, 2017; Salzburger Nachrichten, 2017).

85 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

86 In a contract for work and services, a person makes a commitment to produce a certain result/work for the person ordering the work in return for payment (Austrian Federal Economic Chamber, n.d.), whereby he/she is personally independent of the person ordering the work. In contrast to employment relationships there are, for example, no instructions regarding the place of work, working hours or conduct at work. However, if this personal dependence exists, it is assumed that the relationship is similar to that of an employee, so that third-country nationals require a work permit (Lindmayr, 2012:11; Peyrl, 2015; Austrian Federal Economic Chamber, n.d.).

87 Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

88 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

89 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 7 November 2022.

90 At least EUR 12.86 per hour is paid for work with the Household Services Voucher. Earnings above EUR 665.55 per month with the Household Services Voucher correspond to employment subject to authorization (Federal Ministry of Labour, 2022:2).

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

Asylum-seekers who are accommodated in a federal or provincial reception centre can also perform voluntary work in return for a token payment. This work should serve the common good and be of a social nature, be event or project-specific and not replace or threaten existing jobs (MoI, n.d.c).[92] These "remunerated activities" include voluntary activities that are directly related to the accommodation[93] as well as voluntary work for the Federal State, province or municipality.[94] The "remunerated activities" do not constitute an employment relationship, no permit under legislation on the employment of foreign nationals is required and the token payment is not subject to income tax.[95] The aim is to strengthen the ability of asylum-seekers to support themselves (Federal Chancellery, n.d.c:41) and to enable them to structure their daily lives in a meaningful way.[96] The Federal Ministry of the Interior (MoI) may extend the scope of these "remunerated activities" to specified organizations by issue of a regulation (Art. 7 para 3a Federal Basic Care Act 2005). This provision was adopted in 2017 and welcomed, for example, by Caritas in its statement on the draft legislation (Caritas Austria, 2017b). The Austrian Red Cross noted that providing suitable work would involve a great deal of effort for organizations (Austrian Red Cross, 2017). However, the MoI had made no use of this authorization to issue regulations by autumn 2022,[97] meaning that in practice, these activities can still only be carried out by the Federal State, provinces and municipalities.

92 This includes activities in the areas of administration, landscape conservation, social affairs, health, environment, culture and recreational facilities. The auxiliary activities do not constitute an employment relationship and the token payment made for them is tax-free (MoI, n.d.b, n.d.c).

93 For example, cleaning, kitchen operations, transportation or maintenance activities in the care facility.

94 For example, landscape conservation and design, maintenance of parks and sports facilities or administrative support.

95 Written input: Federal Ministry of the Interior, Department V/B/9 (Basic Care Programme), 7 November 2022.

96 Ibid.

97 Ibid.

3 LABOUR MARKET INTEGRATION OF ASYLUM-SEEKERS

In Austria, the labour market integration of third-country nationals in general is a central part of the integration strategy, and employment is seen as key to a successful integration process (Bassermann, 2018:2). However, asylum-seekers are only included in this to a limited extent as they do not (yet) have long-term residency prospects. Moreover, they are only allowed to work under certain conditions during the asylum procedure (see 2). This chapter looks at how the labour market integration of asylum-seekers is currently being addressed and what developments and debates have preceded this over the past five years. In particular, it looks at laws, policies and measures designed to support asylum-seekers' access to the labour market, if this is granted.

3.1 Current strategies and policies

The labour market integration of third-country nationals who are permanently settled in Austria is part of the National Action Plan on Integration. This plan regards work as the key to a successful integration process, and the ability to earn a living as a major contributing factor to the social participation of third-country nationals in Austria (Federal Chancellery, n.d.b:20). The target group for the national integration policy consists of third-country nationals with long-term residency prospects, persons granted asylum and beneficiaries of subsidiary protection status, citizens of the European Union (EU) who have permanently settled in Austria, Austrian nationals from a migratory background, and the majority population (Federal Chancellery, 2020:2). The integration of persons granted asylum and beneficiaries of subsidiary protection status, displaced persons from Ukraine and settled third-country nationals[98] who legally reside in Austria is regulated by the Integration Act.[99] The aim of the Integration Act is to ensure swift integration by means of the systematic provision of integration measures (promoting integration) and the obligation to actively cooperate in the integration process (integration obligation; Art. 1 para 1 Integration Act). The Integration Act is supplemented by a legislative measure known as the Integration Year Act (see Infobox 5),[100] which is specifically intended to support the labour market integration of refugees (Federal Ministry for European and International Affairs, 2017).

The principle of Austrian integration policy is enshrined in the government programme with the commitment to promoting "integration through performance" in accordance with the principle of "supporting and challenging" (Austrian Federal Government, 2020:144). In this respect, the primary aim is to integrate those whose asylum procedures have already been completed and who have been granted protection status into the labour market. Although persons granted asylum and beneficiaries of subsidiary protection status have immediate and full access to the labour market,[101] 20,664 persons granted asylum and beneficiaries of subsidiary protection status were registered as job seekers with the AMS as of the end of December 2022, and a further 16,421 were undergoing AMS training.[102]

98 Pursuant to Art. 2 para 2 Settlement and Residence Act, "settlement" is understood as the actual or intended future residence in Austria for the purpose of establishing a place of residence for more than six months per year, establishing a centre of vital interests or taking up employment that is not merely temporary.

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

100 Integration Year Act, FLG I No. 75/2017.

101 Written input: Federal Ministry of the Interior, 18 April 2023.

102 Data provided by the Public Employment Service Austria, 19 April 2023.

Asylum-seekers are not a specific target group of the Austrian integration strategy, as they do not (yet) have long-term residency prospects (Art. 3 Integration Act; Federal Chancellery, n.d.b:7). As far as asylum-seekers are concerned, the focus lies on a rapid examination of the need for protection.[103] In 2022, this took an average of three and a half months in first-instance proceedings (MoI and Federal Office for Immigration and Asylum, 2023). However, this does not take into account the sometimes significantly longer duration of proceedings in the second instance, if applicable (Austrian Court of Audit, 2023:40).

Asylum-seekers with a high likelihood of being granted international protection are an exception, as they have a higher chance of being granted long-term residence (see Infobox 3).[104] This development came about as part of the legislative package on integration in 2017 ("integration package"; see 3.2).[105] The importance of making the earliest possible start to integration efforts in cases with a prospect of a positive asylum decision or subsidiary protection status was cited as the justification. Opening access to this group is intended to prevent inactivity and isolation and enable participation in social life.[106]

Infobox 3: Determination of "asylum-seekers with a high likelihood of being granted international protection"

By 31 March each year, the Federal Ministry of the Interior informs the Public Employment Service Austria (PES) and the Austrian Integration Fund of the countries of origin that are of quantitative significance and where the likelihood of being granted international protection is particularly high based on statistics on asylum from the previous year (Art. 68 para 1a Asylum Act 2005).[107] To this end, the Federal Ministry of the Interior assesses the final positive asylum decisions pursuant to Art. 3 Asylum Act 2005 (asylum status).[108] A decision becomes final when no further ordinary appeal against the decision is admissible or once the time limit for lodging a complaint has expired (oesterreich.gv.at, 2022a).[109] A high likelihood of being granted international protection is generally assumed in cases where there is an asylum acceptance rate of over 75 per cent for nationals of a given country of origin and where the minimum number of decisions for the decisions to be taken into account is over 200 decisions per country of origin. Between 2017 and 2021,[110] the Syrian Arab Republic was defined as a country of origin with a high likelihood of applicants being granted international protection. In 2018, this was also the case for the Islamic Republic of Iran.[111] The granting of subsidiary protection status pursuant to Art. 8 Asylum Act 2005 is not included in this calculation.

103 Written input: Federal Ministry of the Interior, 18 April 2023.

104 Written input: Federal Chancellery, 21 November 2022.

105 Government Proposal - Explanatory Notes: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at.

106 Government Proposal - Explanatory Notes: Integration Year Act; Labour Market Policy Financing Act, Amendment (Labour Market Integration Act), 1585 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at.

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

108 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 29 September 2022.

109 Regarding the asylum procedure in the first and second instance, legal remedies and options for appeal, see, among others: Asylkoordination, 2019; MoI, n.d.a; UNHCR Austria, n.d.

110 The communication on countries of origin with a high probability of recognition for 2022 will only take place after the full year has been evaluated at the beginning of 2023.

111 Written input: Federal Ministry of the Interior, Department V/B/8 (Asylum), 29 September 2022.

3.2 Developments and debates 2017–2022

In the period from 2017 to 2022, the topic of labour market integration of asylum-seekers gave rise to various public debates that were at times heated. These debates were often related to issues such as general integration in society, apprenticeships and labour shortages, but were also around labour market access restrictions and removal from the country. During the period under review, there were also major strategic changes relating to the labour market integration of third-country nationals. Key factors were: (1) the adoption of an integration package in 2017; and (2) cuts to the integration budget in 2018. Further key developments that particularly affected asylum-seekers were: (3) the revocation of access to apprenticeships in 2018 and the renewed access in 2021; and (4) the repeal of restrictions on seasonal and harvest work in 2021.

In 2017, an extensive integration package was adopted by the coalition government of the Social Democratic Party of Austria and the Austrian People's Party. The package included language courses, orientation and values courses, and programmes designed to support individuals entering the labour market. The phased entry into force of the Integration Act and the Integration Year Act in June/September 2017 (or 1 January 2018 for asylum-seekers) had a wide-scale impact on Austrian integration policy (Spiegelfeld, 2018:27–29). The objective of the Integration Act is to strengthen and accelerate the integration of third-country nationals; the aim of the Integration Year Act is to help them prepare to enter the labour market. The integration package was introduced against the backdrop of the influx of migrants and refugees in 2015, which highlighted the lack of cohesion in Austria's integration measures. The package aimed at achieving a legal definition of integration as a concept as well as establishing systematic and cross-institutional integration measures.[112] Opportunities were presented to asylum-seekers with a high likelihood of being granted international protection, allowing them to participate in two specific measures (see 3.4). This decision was welcomed by sections of the opposition (the Austrian Green Party and NEOS – The New Austria), although there were also calls to open up access to the labour market in general to asylum-seekers. The Austrian Freedom Party, on the other hand, feared that asylum-seekers would make false claims in order to meet the participation criteria (Parliamentary Administration, 2017). The Household Services Vouchers were also opened to asylum-seekers in 2017 (see 2.3).

In April 2018, as a result of a change of government with a coalition between the Austrian People's Party and the Austrian Freedom Party, significant cuts to the budget for integration measures were introduced as part of the 2018–2019 budget negotiations (Heilemann, 2019:36f.). Funding for the integration year was halved in 2018 (from EUR 100 million to EUR 50 million) and suspended completely in 2019 (Budget Service, 2018:100f.; Der Standard, 2018a; Yilmaz, 2020). By the end of 2018, the EUR 80 million budget allocated to integration ("Integrationstopf")[113] had run out (Budget Service, 2018:127f.). Arguments used to justify the budget cuts included the favourable economic situation and the drop in the number of refugees (Budget Service, 2018:27; News, 2018).

112 Government Proposal - Explanatory Notes: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at; Government Proposal - Preamble and impact-oriented assessment: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at.

113 To implement the integration measures, a special pot for integration ("Integrationstopf") with a budget of EUR 75 million was divided between various ministries in 2016. The integration pot included EUR 10 million for measures introduced by the then Federal Ministry of Labour, Social Affairs and Consumer Protection to promote the labour market integration of persons granted asylum and beneficiaries of subsidiary protection status, such as the expansion of competence checks, language courses, counselling services and vocational qualifications (See Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, 2016; Federal Chancellery et al., 2016).

The cuts were met with criticism from various sides, including the opposition parties and the PES (Parliamentary Administration, 2018a; Der Standard, 2018a).

Another key development came in 2018, when the incumbent Austrian Freedom Party Minister Beate Hartinger-Klein revoked access to apprenticeships for asylum-seekers. From 2012/13 to 2018, young asylum-seekers (up to 18 or 25 years of age)[114] were eligible to embark on an apprenticeship in one of the so-called "shortage occupations".[115] In terms of labour market policy, the aim of this initiative was to offer members of this group the chance to gain vocational qualifications while the asylum procedure was still ongoing. On the one hand, this would make it easier to enter the world of work in the event of being granted international protection. On the other hand, these qualifications could also be used in the event of a negative asylum decision, to help the individual progress their career in their country of origin.[116] The so-called "apprenticeship decrees", which facilitated access to apprenticeships, were revoked on 12 September 2018 when a further decree was adopted by the then Federal Minister of Labour, Social Affairs, Health and Consumer Protection ("Hartinger-Klein Decree"; see also 2.1).[117] Labour market trends and the number of young Austrians and foreign nationals with a permanent right of residence who were registered, including unemployed persons who had already been granted asylum (Parliamentary Administration, 2018c), were cited as the reasons for this decision.[118] Another motivation was the aspiration to create a more clearly defined distinction between the fields of migration and asylum (Federal Ministry for Digital and Economic Affairs and Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, 2018). This approach was heavily criticized by opposition parties and non-governmental organizations (Der Standard, 2018b; Die Presse, 2018). Non-governmental organizations and the United Nations High Commissioner for Refugees (UNHCR) in Austria pointed out the negative consequences for integration and lack of prospects for young asylum-seekers (Der Standard, 2018b; UNHCR Austria, 2018b). Finally, in June 2021 the Constitutional Court overturned the "Hartinger-Klein Decree" that had prohibited access to apprenticeships for formal reasons. The restriction on the employment of asylum-seekers to harvest or seasonal work, which had been in place since 2004, was also lifted by this Constitutional Court ruling (ORF.at, 2021; see 2.1).

In 2018 and 2019 there was also a public debate sparked by the removal of people whose application for international protection had been rejected but who were still in an ongoing apprenticeship (Rosenberger and Gruber, 2020:98, 104). The NEOS party criticized this approach, claiming that, among other things, it would cause economic damage to the training companies (Parliamentary Administration, 2018b). The removal of asylum-seekers in ongoing apprenticeships was halted on 27 December 2019, whereby in the event of a return decision the period for the obligation to leave the country begins after the apprenticeship has been completed (see 2.1.3).[119] This affected approximately 800 asylum-seekers who were in ongoing apprenticeships at the time but had not yet received a final negative asylum decision (Parliamentary Administration, 2019).

114 In 2012, access to apprenticeships became available to asylum-seekers up to the age of 18; in 2013, this was extended to the age of 25.

115 See: Federal Ministry of Labour, Social Affairs and Consumer Protection, Decree: Extension of employment opportunities for asylum-seekers, 14 June 2012, BMASK-435.006/0005-VI/AMR/7/2012. Available at https://archiv.asyl.at; Federal Ministry of Labour, Social Affairs and Consumer Protection, Decree: Extension of employment opportunities for asylum-seekers; age limit for youth asylum-seekers, 18 March 2013, BMASK-435.006/0005-VI/B/7/2013. Available at www.wko.at.

116 Constitutional Court, 23 June 2021. V95/2021 ua (V95-96/2021-12).

117 On 12 September 2018, the then Federal Minister of Labour, Social Affairs and Consumer Protection Beate Hartinger-Klein signed a decree with the reference number BMASGK-435.006/0013-VI/B/7/2018 on the "Employment of Asylum-seekers".

118 Constitutional Court, 23 June 2021. V95/2021 ua (V95-96/2021-12).

119 Federal Act Amending the Aliens Police Act 2005, FLG I No. 110/2019.

3.3 Institutional framework

Austria has an institutional framework in place to support the labour market integration of asylum-seekers (see Figure 5). This framework deviates from the national integration policy in that asylum-seekers are not considered a direct target group (see 3.1).[120] In addition, they may only work under certain conditions during the asylum procedure (see 2). Institutional responsibilities in this regard are generally separated into the fields of labour and integration:

Labour: The Federal Ministry of Labour and Economy is responsible for developing relevant strategies, policies and measures in the field of labour. Labour market policy measures for asylum-seekers also fall within the remit of the Federal Ministry of Labour and Economy (Federal Ministry of Labour, 2021a:138). The Federal Ministry of Labour and Economy further determines the quotas for seasonal employment, the exceptions to the Act Governing the Employment of Foreign Nationals,[121] and the regulations concerning labour market access for certain groups (EMN Austria, 2023). Furthermore, the Federal Ministry of Labour and Economy is responsible for a broad-based advisory service relating to the recognition and assessment of qualifications (Art. 5 Recognition and Assessment Act).[122] In Austria, this service is delivered by four dedicated drop-in centres for persons with qualifications gained abroad (AST, n.d.a). The Public Employment Service Austria (PES) is responsible for implementing the Federal State's labour market policy and is involved in issues such as the practical implementation of the Act Governing the Employment of Foreign Nationals, the labour market test, and issuing official labour market permits for purposes such as the admission of workers from third countries (Federal Ministry of Labour, 2021a:11; EMN Austria, 2023). In addition, the PES is responsible for delivering the integration year programme (see Infobox 3.4). Asylum-seekers who are entitled to benefits from the PES can register as unemployed and are eligible for support measures and job placement services (see 2.1.3). Asylum-seekers who are not yet entitled to benefits cannot register as unemployed with the PES.[123]

Integration: Responsibility for integration lies with the Federal Chancellery, specifically with the Federal Minister for Women, Families, Integration and Media (Federal Chancellery, n.d.a).[124] Integration policy is coordinated by the Directorate General II for Integration, Culture and Ethnic Groups by means of such initiatives as the National Action Plan on Integration and the implementation of the Integration Act. For asylum-seekers with a high likelihood of being granted international protection, the Federal Minister for Women, Families, Integration and Media provides language courses, including literacy courses, pursuant to Art. 68 Asylum Act 2005 (see 3.4).[125] The Federal Chancellery also manages the ongoing cooperation with the Austrian Integration Fund (EMN Austria, 2023; Federal Chancellery, n.d.a). The Austrian Integration Fund, a national fund of the Republic of Austria, is responsible for promoting integration (Austrian Integration Fund, n.d.d). Its key areas of responsibility include

120 For a description of the migration and asylum system in Austria, see EMN Austria, 2023.

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

122 Recognition and Assessment Act, FLG I No. 55/2016, in the version of federal law FLG I No. 76/2022. The Recognition and Assessment Act facilitates access to procedures for the recognition and assessment of foreign educational qualifications and professional qualifications for persons granted asylum and beneficiaries of subsidiary protection status.

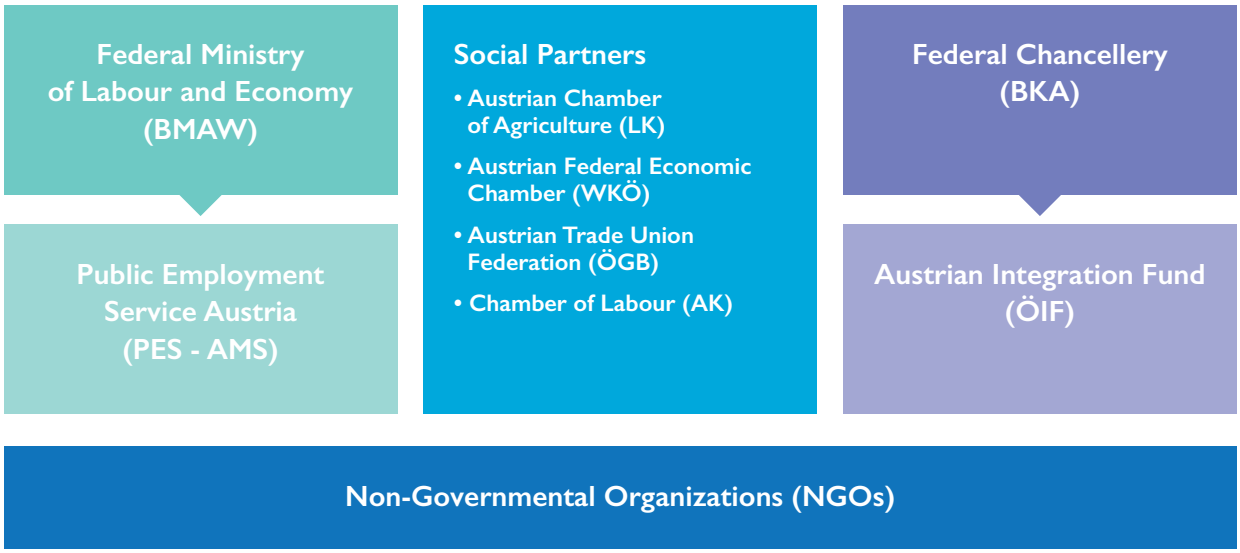
123 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

124 Since integration is considered a cross-cutting issue, each province has its own responsible authority, person, mission statement or the like (Heilemann, 2021:27).

125 Written input: Federal Chancellery, 21 November 2022.

the performance of the Integration Declaration and the delivery of orientation and values courses, German course measures, and orientation advice services (Austrian Integration Fund, n.d.a, n.d.c; EMN Austria, 2023).

Figure 5: Organigram – institutional framework to support the labour market integration of asylum-seekers in Austria, 2022



Furthermore, the economic and social partnership in Austria (generally referred to as the "social partnership" for short) plays an important role in the cooperation between the groups representing the interests of employers and employees, as well as with the government (The Austrian Social Partners, n.d.). The social partnership is comprised of the Austrian Chamber of Agriculture, the Austrian Federal Economic Chamber, the Austrian Trade Union Federation and the Federal Chamber of Workers and Salaried Employees (Chamber of Labour). The Austrian Chamber of Agriculture and the Austrian Federal Economic Chamber are responsible for representing employers in this partnership. The Austrian Trade Union Federation and the Chamber of Labour represent the interests of employees (The Austrian Social Partners, n.d.). Asylum-seekers who are in employment or who work as independent contractors ("Freie DienstnehmerInnen") are members of the Chamber of Labour. As members, they are entitled to all the services offered by the Chamber of Labour.[126] Asylum-seekers can also take advantage of the labour law advice offered by the Austrian Trade Union Federation in several languages (Austrian Trade Union Federation, n.d.).[127] Asylum-seekers may also benefit from various general (and in many cases multilingual) information and advice services provided by the Austrian Federal Economic Chamber, such as the Business Start-up Service or needs-based initiatives provided by the regional chambers (Austrian Federal Economic Chamber Business Start-up Service, n.d.).[128] The Austrian Federal Economic Chamber, the Chamber of Labour and the Austrian Trade Union Federation advocate on a sociopolitical level for asylum-seekers' access to the labour market.[129]

126 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.
127 Written input: Austrian Trade Union Federation, 20 February 2023.
128 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.
129 Ibid.; Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

Finally, there are various non-governmental organizations that offer legal and social advice services, as well as support for work and education, that asylum-seekers can access. Examples include the labour and education advice provided by Diakonie Austria and the legal and social advice offered by Caritas Austria (Caritas Austria, n.d.; Diakonie, n.d.). The four dedicated drop-in centres for people with qualifications gained abroad are based in non-governmental organizations and offer advice for anyone registered in Austria who has achieved professional qualifications outside of Austria beyond compulsory schooling (AST, n.d.b:2). Finally, Asylkoordination Österreich is an organization that provides support for organizations, initiatives and volunteers offering advice and assistance to refugees (Asylkoordination, n.d.). Furthermore, the UNDOK – Drop-in center for undocumented workers offers advice on matters relating to labour and social security issues in the context of residency law as well as support for individuals who wish to exercise their rights in this regard (UNDOK, n.d.).[130] UNDOK functions as an interface between undocumented workers, trade unions, the Chamber of Labour and civil society.[131] The Chamber of Labour views the cooperation and exchange of information between the various stakeholders as good practice, which is also connected with labour market integration in the wider sense.[132]

3.4 Support measures for asylum-seekers

In practice, the key stakeholders offer broad-based general measures that are also available to asylum-seekers under certain circumstances. These include general advice services for matters relating to self-employment, recognition of qualifications and employment rights (see 3.3). In addition, there are further measures at the level of municipalities and provinces (Skrivanek et al., 2021). However, they are not discussed in greater detail in this study. At federal level, it is only possible for asylum-seekers with a high likelihood of being granted international protection, i.e. currently asylum-seekers from the Syrian Arab Republic (see 3.1), to participate in two specific measures that are designed to support the labour market integration of persons granted asylum and beneficiaries of subsidiary protection status. These measures encompass integration assistance and theoretically also the integration year, although there are currently not enough resources for the latter.

The main target group for measures falling under integration assistance and the integration year are persons granted asylum and subsidiary protection. However, depending on financial and organizational resources, asylum-seekers with a high likelihood of being granted international protection can also participate in these two measures. Asylum-seekers, however, are not legally entitled to these services. There are also certain participation requirements to be fulfilled (see Infobox 4 & 5). The two measures are: (a) language courses to promote literacy and acquisition of A1-level German-language skills organized as part of the Austrian Integration Fund's integration assistance programme; and theoretically (b) A2-level language courses and specific labour market integration measures offered as part of the PES's integration year programme.

130 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

131 The UNDOK – Drop-in center for undocumented workers is financed by the Vienna Chamber of Labour, trade unions, and the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (UNDOK, 2019:6).

132 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

Infobox 4 & 5: Labour market integration measures for persons granted asylum and beneficiaries of subsidiary protection, in which asylum-seekers with a high likelihood of being granted international protection can participate

INTEGRATION ASSISTANCE (LANGUAGE COURSES)[133]	
Responsibility	The Austrian Integration Fund is responsible for the rollout of measures and the centralized organization of language courses. External course providers are used in the delivery of the language course component (Austrian Integration Fund, n.d.b).
Participation for asylum-seekers	Asylum-seekers with a high likelihood of being granted international protection may also participate in the Austrian Integration Fund's language courses as part of the integration assistance programme (Art. 68 Asylum Act 2005) if: • they have reached the age of 15, • they can provide proof of their identity,[134] and • they are admitted to the asylum procedure. Participation in the Austrian Integration Fund's language courses is voluntary and free of charge (Austrian Integration Fund, n.d.c). The granting and acceptance of integration assistance do not preclude the imposition and enforcement of removal measures (Art. 68 para 2 Asylum Act 2005). Between 1 September 2018 and 31 July 2022, a total of 3,750 asylum-seekers with a high likelihood of being granted international protection were supported by this programme. Syrian nationals accounted for about 93 per cent and Iranian nationals for 6.5 per cent of this total.[135]
Background and objective	As the result of an amendment to Art. 68 Asylum Act 2005, the 2017 integration package (see 3.2) provided the opportunity for asylum-seekers with a high likelihood of being granted international protection to participate in language courses as part of the integration assistance programme.[136] On 1 September 2018, the target group for German-course funding from the Austrian Integration Fund was extended to include asylum-seekers with a high likelihood of being granted international protection, both in the "German & Integration" start package as well as in individual support measures.[137] Within the framework of integration assistance, other measures are also available to persons granted asylum and beneficiaries of subsidiary protection status.[138] This measure was introduced with the aim of establishing a uniform approach to integration work and integration standards.[139] Austrian integration policy regards German-language acquisition as the key to integration (Austrian Integration Fund, n.d.c) and as central to labour market integration (Lechner et al., 2016:6; Martin et al., 2016:34–36).

133 Art. 68 Asylum Act 2005, FLG I No. 100/2005, in the version of federal law FLG I No. 221/2022.

134 For example, this is possible with a passport or passport substitute. A residence entitlement card pursuant to Art. 51 Asylum Act 2005 alone is not sufficient, as this only confirms the procedural identity. See: Government Proposal - Explanatory Notes: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at. p. 13.

135 Written input: Austrian Integration Fund, 1 September 2022.

136 Government Proposal - Explanatory Notes: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at. p. 12.

137 Written input: Austrian Integration Fund, 1 September 2022.

138 See Art. 68 subpara 2 to 6 Asylum Act 2005.

139 Government Proposal - Explanatory Notes: Integration Act, Anti-Face-Covering Act, Settlement and Residence Act, Asylum Act etc., Amendment, 1586 of the supporting documentation XXV Legislative Term. Available at www.parlament.gv.at. p. 1.

Structure	The Austrian Integration Fund facilitates German A1-level language courses and, if necessary, literacy training in Latin script.[140] The literacy course can be repeated twice, whereas the A1 course can only be repeated once. As a rule, language courses consist of 180 training units, each lasting 50 minutes. The Austrian Integration Fund may offer individual support measures in cases where no courses are held – due to a low number of participants, for instance (Skrivanek et al., 2021:71f).
Challenges for the participation of asylum-seekers	Funding is subject to the availability of resources.[141] In an official statement, UNHCR Austria stressed that cuts introduced in 2018/2019 mean that the budget no longer covers delivery of language courses for asylum-seekers with a high likelihood of being granted international protection (see 3.2; UNHCR Austria, 2018a:12).

INTEGRATION YEAR[142]

Responsibility	The Public Employment Service Austria (PES) is responsible for the implementation of this measure. For certain activities, such as the delivery of language courses, external course providers are commissioned as needs dictate. Orientation and values courses are delivered in cooperation with the Austrian Integration Fund.[143]
Participation for asylum-seekers	Asylum-seekers with a high likelihood of being granted international protection are entitled to take part if they meet certain requirements according to Art. 2 and Art. 3 para 2 and 3 Integration Year Act. The requirements are that they: • have applied for international protection after 31 March 2017, • have been admitted to the asylum procedure for at least three months, • have completed compulsory education, • can demonstrate A1-level German-language skills, and • are fit for work. Individuals who are currently in training are not entitled to participate. Asylum-seekers can contact the PES for information about this measure, and a schedule for the integration year will be created (PES, 2022d). Participation in this initiative is free and voluntary. The provision of education and training allowances or funding to enter employment or an apprenticeship is not possible.[144] Asylum-seekers receiving basic care will continue to receive this. The integration year must be terminated if the application for international protection is rejected (PES, 2022d). In practice, very few asylum-seekers with a high likelihood of being granted international protection take part in modules of the integration year. According to a parliamentary response to an enquiry, the total number of asylum-seekers participating in the initiative in 2019 was 13, and in 2020 the total was seven (Federal Ministry of Labour, Family and Youth, 2020:2). As of 10 October 2022, there were no asylum-seekers taking part in the integration year.[145]

140 Written input: Austrian Integration Fund, 1 September 2022.

141 Ibid.

142 Integration Year Act, FLG I No. 75/2017; PES, Das Integrationsjahr. Available at www.ams.at (accessed 23 September 2022).

143 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

144 Written input: Public Employment Service Austria – Federal Office, Service for Workers, 10 October 2022.

145 Ibid.

Background and objective	This measure was introduced as part of the 2017 integration package, to address the need for labour market integration (see 3.2).[146] The legal basis of this measure, the Integration Year Act, came into force on 1 September 2017 for persons granted asylum and beneficiaries of subsidiary protection status, and for asylum-seekers on 1 January 2018 (Art. 11 Integration Year Act). The aim of this measure is to accelerate the acquisition of language skills and improve the individual's chances of sustainable assimilation into the labour market (Art. 1 Integration Year Act).
Structure	The integration year is modular in structure. Depending on the individual's existing knowledge, modules run in parallel to one another or may be omitted (Art. 5 Integration Year Act). Integration year activities include: determination of competences, German courses, orientation and values courses, career guidance and job application training, work preparation measures, work training, and clarification and support for the recognition of qualifications and certificates (Art. 3 and Art. 5 para 3 Integration Year Act). The maximum duration of this measure is one year (PES, 2022d).
Challenges for the participation of asylum-seekers	The PES states that the participation requirement for A1-level German-language skills poses a major challenge for asylum-seekers. Target group limitations also mean that the number of groups taken into consideration is very low.[147] Participation in the integration year is also dependent on the financial and organizational resources available. The budget allocated to the integration year was halved in 2018 and suspended in 2019 (see 3.2). At present, there are no additional resources for delivery of the integration year.[148]

146 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

147 Written input: Public Employment Service Austria – Federal Office, Service for Workers, 10 October 2022.

148 Ibid.

4 CHALLENGES AND SOLUTIONS

Although asylum-seekers can legally access self-employment and employment if certain requirements are met, this access is hampered by various hurdles in practice. On the one hand, there are general challenges of integration, such as language acquisition. Above all, German-language skills are seen as central to labour market integration in Austria.[149] In addition, challenges in connection with asylum procedures were mentioned, such as lengthy procedures or a sluggish exchange of information between competent authorities and bodies.[150] On the other hand, there are also limitations in access to the labour market and special challenges in labour market integration specifically for asylum-seekers. Moreover, support for labour market integration is, for the most part, only available to asylum-seekers with a high likelihood of being granted international protection. These specific limitations and challenges are discussed in more detail below. In addition, possible practical solutions are also addressed.

4.1 Limitations and challenges

"Jobseeker" status

A practical limitation that has been mentioned several times is that asylum-seekers are in principle not registered as unemployed or as jobseekers with the Public Employment Service Austria (PES). They can only register as jobseekers with the PES and have access to jobseeker support services if they have already worked and are therefore entitled to benefits (see 2.1.3; Martin et al., 2016:30; Peyrl, 2015). According to the PES, this is because other groups of people have priority in the labour market and must be considered as substitute workers (see 2.1.2).[151] Nevertheless, asylum-seekers can make use of public platforms for job advertisements, such as the PES platform "Alle Jobs" (PES, 2023). However, this limitation does not make sense to the Chamber of Labour since asylum-seekers have access to the labour market if they have a work permit. By registering as jobseekers, asylum-seekers could obtain access to job advertisements from the PES portfolio, although this would not mean a legal entitlement to benefits.[152]

Transfer from receiving basic care to accessing the labour market

The issue of access to the labour market proves to be extremely complex for persons receiving basic care (on basic care, see 1.2). Narrow framework conditions apply to the transition from receiving basic care to employment (Krois, 2022). The literature regards the conditions for entitlement to basic care or the loss of this entitlement as a practical challenge for labour market integration (Ammer, 2013; Peyrl, 2015; Peyrl et al., 2017:311; Schnetzinger, 2019:31). If an asylum-seeker receiving basic care pursues employment, there is a certain allowance that is henceforth disregarded for the entitlement to basic care (a so-called "additional earnings limit").

149 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022; Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

150 Written input: Austrian Trade Union Federation, 20 February 2023.

151 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

152 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

The provinces set the amount of the allowance; in Salzburg and Vienna it is EUR 110 per month (Schnetzinger, 2019:30f).[153] This allowance is deducted from the income and the remaining amount is offset against benefits under basic care. Depending on the amount of income, this leads to repayment claims or benefit freezes under basic care (Krois, 2022). The entitlement to accommodation in organized accommodation can also lapse in the case of employment (Ammer, 2013:34; Peyrl, 2015).[154] After termination of (temporary) employment, the return to basic care can be difficult (Asylkoordination, 2018:3). One of the reasons for this is that savings or other usable assets must first be exhausted (Diakonie, 2013; Kleine Zeitung, 2022). Based on practical experience, the UNDOK – Drop-in center for undocumented workers also reports on (parts of) benefits under basic care being reclaimed in cases where asylum-seekers had been able to assert claims under labour law, such as wage payments.[155]

Employment for people with few qualifications or people without recognized qualifications

A lack of formal qualifications, or lack of recognition of these, represents a practical restriction on labour market access for asylum-seekers.[156] Practice has shown that it is easier to get a work permit issued for asylum-seekers with higher qualifications than for those who are less qualified. According to the Federal Ministry of Labour and Economy, this is due to the fact that there are many people with few qualifications available on the labour market who take precedence over asylum-seekers (see 2.1.2).[157] Issue of a business licence for self-employment is also partly linked to recognition of qualifications or certificates. Formal recognition of qualifications acquired abroad is, in turn, challenging in itself, as the procedures are considered fragmented and complex (Kirilova et al., 2016:11). At the same time, determining the qualifications and skills that asylum-seekers have brought with them as early as possible is essential for rapid integration into the labour market in employment that is commensurate with their qualifications.[158]

Self-employment in practice

Due to the high level of legal requirements, in practice it is often difficult for asylum-seekers to meet all the conditions for becoming self-employed, such as business and professional regulations (Peyrl, 2015).[159] In UNDOK's experience, however, in practice companies sometimes assist asylum-seekers to obtain a business licence so they can then employ them as subcontractors. According to UNDOK this often falls into the area of "false self-employment", i.e. the employment and structure of the employment relationship actually constitute an employment contract. This is relevant in the case of asylum-seekers in that, depending on the circumstances, self-employment in unregulated trades has fewer requirements than employment (see 2.2).[160]

153 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

154 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

155 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

156 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

157 Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

158 Written input: Austrian Trade Union Federation, 20 February 2023.

159 These include EEA citizenship, proof of qualification or professional licences. Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

160 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

Legal and planning uncertainty and effort required by employers

In general, the Organization for Economic Cooperation and Development (OECD) and the United Nations High Commissioner for Refugees (UNHCR) conclude that employers are often unaware of the legal framework, for example for asylum-seekers to take on work, or they have difficulty overcoming the administrative hurdles to hiring them (OECD and UNHCR, 2018). Challenges facing companies in Austria that have been mentioned are various legal and planning uncertainties. The PES, for example, stated that employers have partly misunderstood the repeal of the "Bartenstein Decree" and interpreted it as "free labour market access".[161] Above all, potential removal of asylum-seekers during or after their apprenticeship is regarded as a risk.[162] The risk of removal and corresponding economic damage for the training businesses were above all also widely discussed in 2018/2019 (see 3.2; Parliamentary Administration, 2018b). According to the Austrian Federal Economic Chamber, legal uncertainty about the length of stay deters business owners or leads to reticence to employ asylum-seekers.[163] UNDOK also regards the obligation for employers to check the substitute workers proposed by the PES as a practical hurdle since some of the corresponding lists are long and the process laborious (see also 2.1.2).[164] According to the PES, the amount of effort involved is one of the reasons why companies withdraw an application for a work permit. Another reason is, for example, that the application fees (see 2.1.1) are also due in the event of a negative decision.[165] In 2022, 529 applications for work permits were withdrawn (that is 19% of all applications for work permits received).[166]

Employee vulnerability by linking the work permit to the employer

Challenges arise for employees through linking of the work permit to the employer and the resulting dependency. This increases employees' vulnerability and weakens their position when negotiating better working conditions (Smith and Vukovic, 2019). When asserting claims under employment law, asylum-seekers may lose their job and therefore their work permit too. According to the Chamber of Labour, this can consequently lead to wage and social dumping – contrary to the intention of the legislator – since as a result the employees are more inclined to accept violations of employment law.[167] Various non-governmental organizations in Austria also confirm that dependence on the employer through the work permit increases the danger of labour exploitation, such as during harvest work and in private households (Klaffenböck and Schuster, 2020; LEFÖ-IBF, 2022:12). According to UNDOK, there are also cases in practice of employees being employed irregularly, without their knowledge, in the belief that the employer has a work permit (UNDOK, 2015).

161 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

162 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

163 Ibid.

164 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

165 Oral and written input: Renate Hahn, Department for Employment of Foreigners, EURES and Complaint Management, Public Employment Service Austria, 5 December 2022 and 18 January 2023.

166 Data provided by the Public Employment Service Austria, 13 January 2023.

167 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

Negative consequences of irregular employment for asylum-seekers

Repeated irregular employment, i.e. the repeated employment of asylum-seekers without a work permit, leads to a one-year ban on the issuance of work permits, both for employers and employees. People who have acquired entitlement to benefits will also have their unemployment benefit stopped.[168] This was also the case if the person was unknowingly employed irregularly. On 31 October 2022, however, a new provision was introduced to the Act Governing the Employment of Foreign Nationals.[169] Accordingly, the one-year ban may now be waived if, for example, there was a low degree of culpability or a short duration of the violation (see 2.1.2). However, it remains to be seen what impact this will have for asylum-seekers.

According to UNDOK information material and the Chamber of Labour, undocumented work does not influence the asylum procedure or grant of asylum or subsidiary protection. However, if neither asylum nor subsidiary protection is granted, it must be examined whether the return decision is permanently inadmissible on the grounds of Art. 8 of the European Convention on Human Rights (ECHR).[170] In this consideration, violations of public order, which include irregular employment, must be taken into account (UNDOK et al., 2019:36). The corresponding practice by the authorities and case law are ambiguous; in some cases, the aspect of labour market integration is regarded positively, while in others cases more emphasis is placed on the violation.[171]

Precarious and/or irregular employment relationships for asylum-seekers

Finally, studies in Austria reveal challenges that ensue from the practical hurdles facing asylum-seekers where labour market access is concerned. Analysis of system-relevant work during the COVID-19 pandemic reveals issues such as exploitative employment contracts[172] and irregular work in the case of asylum-seekers (Kohlenberger et al., 2021). It also emerges from UNDOK's consultancy practice that regulations concerning minimum wages, protective measures and working hours are frequently not observed. "False self-employment" is also widespread (see above).[173] An important aspect is that asylum-seekers often do not know (enough) about their rights and the requirements to take up employment (UNDOK, 2019). The absence of procedural knowledge on the part of employees and lack of multilingual information about their rights are regarded as significant obstacles (Klaffenböck and Schuster, 2020).[174] A central reason given for precarious and/or irregular employment relationships is also that people in ongoing asylum procedures have little opportunity to assert their employment rights (Kohlenberger et al., 2021:48).

168 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

169 Federal Act Amending the Act Governing the Employment of Foreign Nationals, FLG I No. 168/2022.

170 European Convention on Human Rights as amended by Protocols Nos. 11, 14 and 15 supplemented by Protocols Nos. 1, 4, 6, 7, 12, 13 and 16. Available at www.echr.coe.int.

171 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

172 For example, low wages, "false self-employment" or employment with subcontractors.

173 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

174 Ibid.

4.2 Possible solutions

In Austria, a legal expansion of the currently already existing labour market access for asylum-seekers is not foreseeable.[175] Various stakeholders, however, support the strengthening of effective labour market access and the fastest possible labour market integration of asylum-seekers. This has been promoted by the social partnership since 2016 (The Austrian Social Partners, 2016:19). UNDOK is also calling for labour market integration and unrestricted access to the labour market for all persons with a valid residence permit in Austria – including asylum-seekers after a maximum of three months – and for the abolition of employment permits for these groups of people.[176]

The expert interviews also proposed practical solutions to countering the challenges mentioned in chapter 4.1. These include changes to access to the labour market and transfer from receiving basic care to accessing the labour market. The proposals furthermore include increasing labour market integration measures and protection for asylum-seekers from potential consequences under residence law in the event of a negative asylum decision. Changes to prevent wage and social dumping have also been suggested.

Suggested approaches to overcome the challenges in regard to accessing the labour market and labour market integration for asylum-seekers encompass:

Access to the labour market

- Facilitate registration with the Public Employment Service Austria (PES) as a jobseeker, so that asylum-seekers can access job advertisements in the PES portfolio.[177]
- Restrict the scope and number of suggestions lists that PES transmits to the potential employer for checking as part of the labour market test.[178]
- Address the legal and planning uncertainty of companies, above all with regard to possible removal of asylum-seekers during/after the apprenticeship.[179]

Basic care

- Simplification of the transfer from receiving basic care to accessing the labour market and back to receiving basic care, as the case arises, after a temporary job ends.[180]
- Raise the additional earnings threshold so that asylum-seekers can make a living.[181]
- Savings models for deposits and furniture or transitional periods in order to be able to move out of organized accommodation without risking debt or a precarious housing situation (Krois, 2022; Diakonie, 2022).

175 Written input: Federal Ministry of the Interior, 18 April 2023.
176 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.
177 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.
178 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.
179 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.
180 Ibid.
181 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

- Cease reclaiming basic care benefits when asserting claims under labour and social law, to avoid asylum-seekers being in debt to the State.[182]

Labour market integration

- Reintroduction of targeted financial funding in order to implement the integration year.[183]
- Expansion of the labour market integration measures target group beyond asylum-seekers from countries of origin with a high likelihood of being granted international protection.[184]
- Expansion of free German courses and combination of language and subject-specific qualifications, so that this the acquisition is possible in parallel.[185]
- Opening of public training programmes to young people and young adults, including asylum-seekers, in particular the "Education until 18" and "Training Guarantee until 25" initiatives (Federal Ministry of Labour and Economy, 2022c).[186]
- Determination of the qualifications and skills that asylum-seekers have brought with them as early as possible, to ensure rapid integration into the labour market in employment that is commensurate with their qualifications.[187]
- Consideration of the situation and needs of refugee women and expansion of the corresponding programmes, such as specific integration and language courses or women's vocational centres,[188] even if women make up only a small proportion of asylum-seekers in Austria (see 1.2).

Prevention of wage and social dumping

- Transmission of procedure knowledge to asylum-seekers, such as multilingual information on the course and/or outcome of the process and employee rights in the context of the application for a work permit (Klaffenböck and Schuster, 2020).[189]
- Link issue of the work permit to the employee rather than the employer, in order to support asylum-seekers when asserting claims under labour law and therefore to prevent social and wage dumping, as well as labour exploitation (Klaffenböck and Schuster, 2020).[190]

Right of residence

- Make it easier for qualified asylum-seekers to access settlement and residence schemes, for example if they meet the requirements for obtaining a Red-White-Red Card (RWR Card) or have completed an Austrian vocational or apprenticeship training programme.[191]

182 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.
183 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.
184 Ibid.
185 Written input: Austrian Trade Union Federation, 20 February 2023.
186 Ibid.
187 Ibid.
188 Ibid.
189 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.
190 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.
191 Written input: Austrian Trade Union Federation, 20 February 2023.

- Protection from deportation for asylum-seekers in apprenticeships until completion of the apprenticeship training, with subsequent possibility to obtain a residence permit such as an RWR Card Plus.[192]
- Assured residence during labour law procedures, in other words no removal whilst proceedings to assert labour and social insurance claims are ongoing.[193]
- Establish a system that separates the powers and responsibilities of labour inspectorates from those of immigration authorities (ECRI, 2016) so that (rejected) asylum-seekers do not experience possible negative consequences under residence law during enforcement of claims under labour and social law.[194]

192 Written input: Austrian Trade Union Federation, 20 February 2023.

193 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

194 Ibid.

5 CONCLUSIONS

This study by the Austrian National Contact Point in the European Migration Network (EMN) sheds light on access to the labour market and labour market integration of asylum-seekers in Austria and identifies challenges and possible solutions. In this context, laws, policies and measures were examined and supplemented with media and public debates as well as statistics. Five key conclusions emerge from the analysis:

1. Limited employment possibilities

First, asylum-seekers have very limited employment opportunities and must go through complex bureaucratic processes for these. For example, they need a work permit in order to become employed, the issuance of which was restricted to seasonal and harvest work until June 2021. Regarding self-employment, it is often difficult for asylum-seekers to fulfil the requirements under business and professional law in practice.[195] After the asylum application has been submitted, in theory it takes three months in the case of self-employment or about five months in the case of employment before an asylum-seeker is allowed to start working. Apart from the above-mentioned prerequisites, there have been no legal restrictions on access to the labour market for asylum-seekers since June 2021. Labour law expert Peyrl concludes that Austria thus complies with the EU Reception Conditions Directive and grants "effective labour market access" in this sense.[196] Nevertheless, upon closer examination, several practical hurdles appear.

One practical limitation on labour market access for asylum-seekers (without entitlement to benefits) is that they cannot register with the Public Employment Service Austria (PES) as seeking employment or avail themselves of support when looking for a job.[197] This is possible only if they have worked previously and have a corresponding entitlement to benefits.[198] Overall, German-language skills are considered central to labour market integration. The requirements for recognition of qualifications are also challenging. At the same time, labour market access for people without (recognized) qualifications is more difficult because many unemployed nationals and integrated foreigners, who are to be prioritized, can be placed for unskilled work or simple semi-skilled work, or because they do not meet the requirements for the granting of a business licence.[199] For employers, there are legal and planning uncertainties when employing asylum-seekers and the length of time and effort required for grant of a work permit also represent a hurdle.[200] This also has consequences for asylum-seekers, as the company has to submit the work permit application. In particular, the checking of substitute workers proposed by the PES is sometimes tedious and time-consuming for business owners.[201]

195 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

196 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

197 Ibid.

198 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

199 Ibid.; Interview with Heinz Kutrowatz, Federal Ministry of Labour and Economy, 29 September 2022.

200 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022; Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

201 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

2. Far-reaching political and legal developments

Second, employment and integration opportunities have been subject to far-reaching political and legal developments over the past five years, fluctuating between the opening of new opportunities and more restrictions (see 3.2), and this has also affected the number of work permits issued (see 2.1.4). These various changes make it difficult for both companies and asylum-seekers to keep track of applicable legal requirements. This study showed that information deficits about labour rights and current employment opportunities are a challenge. Most recently, in 2021, the controversial "Bartenstein Decree" was repealed by the Constitutional Court, but on formal and not content grounds. This opened up new employment opportunities for asylum-seekers and is also reflected in the near doubling of work permit applications in 2022. The PES expected an even bigger rise and reasoned it was because of the rise in the pool of workers from third countries, above all from Ukraine, and as part of increased seasonal work quotas.[202]

Reasons for this can also be practical challenges (see 4.1). An example is business owners' concern over removal of asylum-seekers during or after their apprenticeship.[203] For apprenticeships that started after 27 December 2019, the regulation on the "suspension of the time limit for voluntary departure for the purpose of completing an initiated vocational training" (Art. 55a para 1 Aliens Police Act 2005) does not apply, so that the apprenticeship cannot be completed in the event of a return decision. Although it has been possible for asylum-seekers to take up an apprenticeship again since June 2021, there are no signs yet of a significant increase in work permits for apprentices in the asylum procedure (for comparison, 2017: 694 work permits issued for apprentices; 2022: 46).[204]

3. No priority given to (labour market) integration

Third, the (labour market) integration of asylum-seekers is not a priority in the National Action Plan on Integration. Instead, the target group of the National Action Plan on Integration are people with permanent residence or prospects of longer-term residence. Accordingly, there are also very few support measures for the labour market integration of asylum-seekers at federal level. Asylum-seekers who, taking into account existing empirical evidence, have a high likelihood of being granted international protection are an exception, as they have a higher chance of long-term residence.[205] If certain conditions are met, they can participate in certain measures for persons granted asylum and beneficiaries of subsidiary protection status while their asylum procedures are still ongoing. The restriction on persons with a high likelihood of being granted international protection is viewed rather critically, amongst other reasons as grant of international protection is a case-by-case decision and so access to these labour market integration measures is withheld from other asylum-seekers.[206] Moreover, there are groups within or independent of certain nationalities that are not included in this definition even though they have a particularly high recognition rate, such as Afghan women or unaccompanied minors (Caritas Austria, 2017a:10).

202 Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

203 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022.

204 Data provided by the Public Employment Service Austria, 13 January 2023.

205 Written input: Federal Chancellery, 21 November 2022.

206 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

Measures such as the integration year or German courses are considered central to (subsequent) labour market integration. However, the availability of measures depends on financial and organizational resources. Hence, there are also practical limitations; in the case of the integration year and integration assistance, for example, there is a lack of resources for implementation for asylum-seekers (UNHCR Austria, 2018a:12). There have been no additional resources since the 2018/2019 budget cuts.[207] In fact, the number of asylum-seekers participating in the integration year was extremely low in 2019 and 2020 (Federal Ministry of Labour, Family and Youth, 2020:2). As of 10 October 2022, no asylum-seekers participated at all.[208] In the case of integration assistance, 1,590 asylum-seekers participated between January and July 2022.[209] In addition to financing, the PES regards strict access requirements, such as basic language skills (A1), as challenges in the case of the integration year.[210]

4. Labour market situation and data gaps

Fourth, it is difficult to analyse the labour market situation of asylum-seekers, as data on work permits are available but many other parameters are missing. Data on the self-employed status of asylum-seekers are not broken down according to residence status either and are therefore unavailable.[211] How many asylum-seekers are looking for work is also unknown, as these people can only register with the PES under certain circumstances. However, the PES keeps statistics on applications, grants and refusals of work permits for asylum-seekers. The data also contain more detailed information on age distribution, gender ratio, applications for permits for apprenticeships, and sectors.

As far as employment is concerned, the majority of applications for work permits received positive decisions in the period from 2017 to 2022. With regard to the labour market test process and practical challenges, the approval rate of 73 per cent is considerable. The majority of applications for work permits (94%) were submitted by men. The sectors in which asylum-seekers most frequently received work permits in the period from 2017 to 2022 were "Accommodation and food service activities" and "Agriculture, forestry and fishing". Overall, however, with 1,591 work permits issued for asylum-seekers in 2022 and an average of 586 asylum-seekers with work permits in employment,[212] only a fraction of asylum-seekers were employed (see 1.2).

5. Negative consequences for asylum-seekers

Fifth, this system can have negative consequences for asylum-seekers, such as demands for repayment, irregular employment and exploitation. Asylum-seekers in Austria often find work in sectors that are known in the European Union (EU) for labour exploitation or poor working conditions, such as agriculture and the hospitality industry (FRA, 2019; van Nierop et al., 2021:35). In addition, there is also a challenge for asylum-seekers as a result of regulations concerning transfer from receiving basic care to accessing the labour market. If the allowance

207 Written input: Public Employment Service Austria – Federal Office, Service for Workers, 10 October 2022; Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022.

208 Written input: Public Employment Service Austria – Federal Office, Service for Workers, 10 October 2022.

209 Written input: Austrian Integration Fund, 1 September 2022.

210 Written input: Public Employment Service Austria – Federal Office, Service for Workers, 10 October 2022.

211 Interview with Natasha Ghulam and Julia Moreno-Hasenöhrl, Austrian Federal Economic Chamber, 19 September 2022; Interview with Philipp Kindl, Federal Office of the Public Employment Service Austria, 28 September 2022.

212 Data provided by the Public Employment Service Austria, 13 January 2023.

for additional income is exceeded or claims are asserted under labour law, repayment of (parts) of the basic care benefits may be ordered.[213] Furthermore, linking the work permit to the employer increases employee vulnerability and promotes wage and social dumping, according to labour law experts.[214] Dependence on the employer and lack of knowledge of the procedure and (multilingual) information about their rights in this process are also challenging for asylum-seekers.[215]

Possible consequences for asylum-seekers may include precarious or irregular employment relationships or "false self-employment" contracts. There may also be negative legal consequences for asylum-seekers who have been repeatedly irregularly employed, such as a one-year ban on a work permit and loss of entitlement to unemployment benefits as well as consequences under residence law.[216] At this point, it remains to be seen what impact the legal amendment to the Act Governing the Employment of Foreign Nationals (Art. 4 para 8)[217] of October 2022 will have. Since then, in the case of repeated irregular employment, a one-year block on the work permit can be waived if the reason was merely negligent behaviour, such as a low degree of culpability or a short duration of the violation.

In conclusion, the labour market integration of asylum-seekers is only supported at federal level for asylum-seekers with a high likelihood of being granted international protection, and very few asylum-seekers are in the workforce. Studies suggest that waiting times, inactivity and de-qualification in the asylum process negatively affect the labour market integration of refugees in the longer term too (Eggenhofer-Rehart et al., 2018; Hainmueller et al., 2016; Lechner et al., 2016:7). However, various stakeholders in Austria support the strengthening of effective labour market access and the fastest possible labour market integration of asylum-seekers. Experts' proposals include practical approaches to overcome the above-mentioned challenges (see 4.2). It remains to be seen to what extent these will be taken into account in the future and whether the labour market integration of asylum-seekers will gain priority, also in view of the shortage of workers.

213 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

214 Interview with Johannes Peyrl, Chamber of Labour of Vienna, 23 September 2022; Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

215 Interview with Johanna Schlintl, UNDOK – Drop-in center for undocumented workers, 7 October 2022.

216 Ibid.

217 Federal Act Amending the Act Governing the Employment of Foreign Nationals, FLG I No. 168/2022.

ANNEX

A.1 List of abbreviations and translations

English term	English abbreviation	German term	German abbreviation
Act Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsgesetz	AuslBG
Aliens Police Act 2005	–	Fremdenpolizeigesetz 2005	FPG
Austrian Business Licence Information System	–	Gewerbeinformationssystem Austria	GISA
Asylum Act 2005	–	Asylgesetz 2005	AsylG 2005
Austrian Federal Economic Chamber	–	Wirtschaftskammer Österreich	WKÖ
Austrian Green Party	–	Die Grünen	–
Austrian Freedom Party	–	Freiheitliche Partei Österreich	FPÖ
Austrian Integration Fund	–	Österreichischer Integrationsfonds	ÖIF
Austrian People's Party	–	Österreichische Volkspartei	ÖVP
Austrian Statistical Classification of Economic Activities	–	Österreichischen Systematik der Wirtschaftstätigkeiten	ÖNACE
Austrian Trade Union Federation	–	Österreichischer Gewerkschaftsbund	ÖGB
Chamber of Labour	–	Arbeiterkammer	AK
Constitutional Court	–	Verfassungsgerichtshof	VfGH
Contact Points for Persons with Qualifications from Foreign Countries	–	Anlaufstelle für Personen mit im Ausland erworbenen Qualifikationen	AST
Coronavirus disease 2019	COVID-19	Coronavirus-Krankheit-2019	COVID-19

English term	English abbreviation	German term	German abbreviation
UNDOK – Drop-in center for undocumented workers	UNDOK	Anlaufstelle zur gewerkschaftlichen Unterstützung UNDOKumentiert Arbeitender	UNDOK
European Convention on Human Rights	ECHR	Europäische Menschenrechtskonvention	EMRK
European Economic Area	EEA	Europäischer Wirtschaftsraum	EWR
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Union	EU	Europäische Union	EU
Federal Basic Care Act 2005	–	Grundversorgungsgesetz – Bund 2005	GVG-B 2005
Federal Chancellery	–	Bundeskanzleramt	BKA
Federal Law Gazette	FLG	Bundesgesetzblatt	BGBl.
Federal Ministry of Labour	–	Bundesministerium für Arbeit	BMA
Federal Ministry of Labour and Economy	–	Bundesministerium für Arbeit und Wirtschaft	BMAW
Federal Ministry of Labour, Social Affairs, Health and Consumer Protection	–	Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz	BMASGK
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
Integration Act	–	Integrationsgesetz	IntG

English term	English abbreviation	German term	German abbreviation
Integration Year Act	–	Integrationsjahrgesetz	IJG
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
Labour market information system	AMIS	Arbeitsmarktinformationssystem	AMIS
legislative term	–	Gesetzgebungsperiode	GP
margin number	–	Randziffer	Rz
National Action Plan on Integration	NAP.I	Nationaler Aktionsplan Integration	NAP.I
National Contact Point	NCP	Nationaler Kontaktpunkt	NKP
NEOS – The New Austria	NEOS	NEOS – Das Neue Österreich	NEOS
Official Journal of the European Union	OJ	Amtsblatt der Europäischen Union	ABl.
Organisation for Economic Co-operation and Development	OECD	Organisation für wirtschaftliche Zusammenarbeit und Entwicklung	OECD
paragraph	para	Absatz	Abs.
Public Employment Service Austria	PES	Arbeitsmarktservice	AMS
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
Social Democratic Party of Austria	–	Sozialdemokratische Partei Österreich	SPÖ
Subparagraph	Subpara	Ziffer	Z
Supreme Administrative Court	–	Verwaltungsgerichtshof	VwGH
Trade, Commerce and Industry Regulation Act 1994	–	Gewerbeordnung 1994	GewO 1994
United Nations High Commissioner for Refugees	UNHCR	Flüchtlingshochkommissariat der Vereinten Nationen	UNHCR

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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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