



IOM International Organization for Migration



# AUSTRIA ANNUAL POLICY REPORT

# 2010

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The opinions presented in the national report are those of the authors and do not necessarily represent the position of the Austrian Federal Ministry of the Interior or the International Organization for Migration.

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## Executive Summary

This national report has been produced within the framework of the annual reporting of the National Contact Points (NCPs) in the European Migration Network (EMN). The report gives an overview of the most significant political and legislative developments in the areas of asylum and migration in Austria in the year 2010 and provides the reader with related information on policy and public debates.

Additionally, the *Annual Policy Report 2010* offers an overview of the implementation of both the European Pact on Immigration and Asylum and the Stockholm Programme in a separate Annex. This approach facilitates the production of the *European Commission Staff Working Paper* of the *Second Annual Report on Immigration and Asylum* of the European Commission. The European Commission will report to the European Council in June 2011 on the transposition of the European Pact on Immigration and Asylum and of the Stockholm Programme, referring to the situation in the EU Member States based on the Annual Policy Reports of the EMN NCPs.

In Austria the main policy developments in 2010 concerned labour market policies, the asylum procedure and integration issues. The Federal Ministry of the Interior tabled two legislative proposals: the first proposal aimed at the introduction of a so-called “compulsory attendance” for asylum seekers in the first reception centre, the second focused on the reform of the immigration policies for (highly) qualified third-country nationals. The latter also included several additional areas, such as the implementation of the Return Directive and the Blue Card Directive. These developments were accompanied by public and political debates.

The debates concerning the reform of **labour migration** policy for (highly) qualified third-country nationals under the title “Red-White-Red-Card” started in mid-2010 and continued until the end of the year. The proposed law envisioned a point based system of personal and labour market criteria that should replace the previous quota system. The proposal was based on the result of a working group consisting of the social partners<sup>1</sup> and the Federation of Austrian Industries, which was set up by the Federal Ministry of the Interior in 2009.

In terms of **integration** policies, the introduction of German language competence prior to immigration to Austria was a key development in 2010 that triggered public and political debate. It was first stipulated in the National Action Plan on Integration presented in early 2010 and was subsequently included also in the legislative proposal of the Federal Ministry of the Interior. According to the amendment, immigrants would need to prove German language knowledge on A1 level according to the Common European Framework of Reference for Languages before immigration. This suggestion was accompanied by raising the language requirement envisioned in the integration agreement for third country nationals aiming to settle in Austria.

Concerning **asylum** related policies, the Federal Ministry of the Interior suggested the introduction of a “compulsory attendance” for asylum seekers in the respective first reception centre. “Compulsory attendance” meant in this context that, for a certain period of time during the admission procedure to the actual asylum procedure, the asylum seekers would not be allowed to leave the first reception centre. This proposal triggered public and political debates; the parliamentary procedures introducing the law were postponed.

The proposal to create a Federal Office on Asylum and Migration to bundle all asylum and migration competences at first instance was the most important **institutional development**. The 113 different public authorities currently involved in different procedure should be replaced by one authority in order to achieve coherent proceedings in asylum and migration related issues. The new authority is planned to take up work by 2013.

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<sup>1</sup> The social partners consist of the Austrian Federal Economic Chamber, the Federal Chamber of Labour, the Austrian Federation of Trade Unions and the Austrian Chamber of Agriculture.

## **1. INTRODUCTION**

### **1.1 Purpose**

The *Annual Policy Report 2010* has been produced within the framework of the European Migration Network (EMN),<sup>2</sup> which was established by Council Decision 2008/381/EC in May 2008.<sup>3</sup> The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters with the aim to support policy making on the EU and national level as well as to provide this information to the general public.

This is the seventh Annual Policy Report<sup>4</sup> compiled by the NCP AT in the EMN and covers the period from 1 January to 31 December 2010. The purpose of the EMN Annual Policy Report is to provide an overview of the most significant political and legislative developments in Austria, as well as of public debates in the area of asylum and migration.

These national reports of the EMN NCPs will form the basis for a synthesis report,<sup>5</sup> which will be produced by GHK-COWI, the service provider of the European Commission for the EMN. The aim of the synthesis report is to summarise and compare the findings in the national reports in order to give an overview of policies in the EU Member States for policymakers and the general public.

The Annex to the Annual Policy Report contributes to the *European Commission Staff Working Paper* which is a factual report that summarises the main actions taken and the most significant developments planned at the EU and Member State level for each of the commitments made in the European Pact on Immigration and Asylum and the Stockholm Programme. The *European Commission Staff Working Paper* forms part of the *Second Annual Report on Immigration and Asylum* of the European Commission.<sup>6</sup> The Annual Report also includes a *Communication* highlighting the main political developments over the reporting period at both the EU and Member State level.

### **1.2 Methodology**

The national report was produced following common study specifications developed by the EMN in order to facilitate comparability between the findings from all Member States.

In order to prepare the *Second Annual Report on Immigration and Asylum* of the European Commission, the Annual Policy Reports follow the *méthode de suivi* as defined in the Communication of the European Commission (COM (2009) 266)<sup>7</sup> The tracking method stipulates which and how different sources including the EMN Annual Policy Reports are used for the preparation of the report. Hence, the format of the Annual Policy Report has been adapted to enable reporting on general EU and national developments in the Member States in the main body of the report, and specific reporting on the commitments of both the *European Pact on Immigration and Asylum*<sup>8</sup> and the *Stockholm Programme*<sup>9</sup> in a separate

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<sup>2</sup> More information on the EMN is available at <http://www.emn.europa.eu> (accessed on 10 January 2011).

<sup>3</sup> Council Decision 2008/381/EC of 14 May 2008 on establishing a European Migration Network, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:131:0007:0012:EN:PDF> (accessed on 22 December 2010)

<sup>4</sup> Previous versions ranging from 2004 onwards are available at <http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?entryTitle=1.%20Annual%20Policy%20Reports>

<sup>5</sup> The synthesis report will be available in mid 2011 at <http://www.emn.europa.eu/> in the reports section.

<sup>6</sup> Communication from the Commission to the European Parliament and the Council - Annual Report on Immigration and Asylum (2010), available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52011DC0291:EN:NOT> (accessed on 22 December 2010).

<sup>7</sup> Communication from the Commission to the Council and the European Parliament on Tracking method for monitoring the implementation of the European Pact on Immigration and Asylum, COM (2009) 266 final, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0266:FIN:EN:PDF> (accessed on 22 December 2010)

<sup>8</sup> Council of the European Union on the European Pact on Immigration and Asylum, 13440/08, available at <http://register.consilium.europa.eu/pdf/en/08/st13/st13440.en08.pdf> (accessed on 22 December 2010)

Annex. However, often national and EU policies follow the same priorities and are interrelated, thus a distinction between general EU developments and national developments was not always possible.

Various sources of information were used for the illustration of the most important national political debates and legal developments, such as legislative proposals and expert opinions of various actors towards these legislative proposals as well as articles from the most significant newspapers in Austria.<sup>10</sup> Articles dealing with migration and asylum issues were collected throughout the year in order to create an overview of the most important public debates. Information provided in the Annex is prevalently based on official sources and information provided by the Federal Ministry of the Interior in the framework of a coordination meeting in November 2010. All sources are explicitly mentioned in footnotes and the bibliography.

The present report was drafted by Katharina Benedetter (Research Assistant) and Mária Temesvári (Legal Adviser), who supervised the compiling of this report. Special thanks go to Katie Rogers, assistant to the Chief of Mission of IOM Vienna, for proofreading the report and to Marianna Dobner, Katharina Hausner and Simone Tappert, interns at IOM Vienna, who further contributed to the compiling of the information of the report.

## **2. GENERAL STRUCTURE OF POLITICAL AND LEGAL SYSTEM IN AUSTRIA**

### **2.1 General structure of the political system and institutional context**

Asylum and immigration policies generally fall into the realm of the Federal Ministry of the Interior.<sup>11</sup> The Federal Ministry for Labour, Social Affairs and Consumer Protection<sup>12</sup> is responsible for labour market policies also with respect to non-nationals, and determines the conditions for the issuance of work permits.

Austria's federal structure is reflected in its immigration policy: within the framework of the Settlement and Residence Act, the provincial governments are involved in setting the annual quotas for settlement permits to be issued in the specific year for each province. The federal provinces are further involved in the issuance of the different residence permits on behalf of the federal state and are responsible for granting Austrian citizenship.

At the same time asylum issues belong solely to the competence of the federal state. The Federal Asylum Office under the responsibility of the Federal Ministry of the Interior is the first instance in the asylum process.<sup>13</sup> The Asylum Court is an independent court, and acts as the second and last instance for asylum cases.

Previous policy reports already provided a detailed overview on the structure of the political system of Austria concerning migration and asylum, thus, despite the brief overview above, the report at hand will not further elaborate on this topic. For further information, please consult the EMN Study "Organisation of Asylum and Migration Policies in the European Union Member States".<sup>14</sup>

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<sup>9</sup> Council of the European Union on the Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens (2010/C 115/01) available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:EN:PDF> (accessed on 22 December 2010)

<sup>10</sup> Der Standard, Die Presse, Kleine Zeitung, Kronen Zeitung, Kurier, Österreich, Salzburger Nachrichten and Wiener Zeitung.

<sup>11</sup> Federal Ministry of the Interior, [www.bmi.gv.at](http://www.bmi.gv.at)

<sup>12</sup> Federal Ministry for Labour, Social Affairs and Consumer Protection, [www.bmask.gv.at](http://www.bmask.gv.at)

<sup>13</sup> Art. 58. AsylG

<sup>14</sup> International Organization for Migration (IOM) in Vienna, *Organisation of Asylum and Migration Policies in the European Member States - National Report Austria*, National EMN Report, Vienna 2009, p.26ff, available at [www.emn.at/en/studies](http://www.emn.at/en/studies) in the reports section (accessed on 11 March 2011).

## **2.2 General structure of the legal system**

The main laws in the area of migration and asylum are the Aliens' Police Act, the Settlement and Residence Act, the Aliens' Employment Act, the Citizenship Act and the Asylum Act. The Aliens' Police Act regulates the entry and termination of legal as well as illegal stay on Austrian territory; the Settlement and Residence Act codifies the rules for immigration to Austria (including family reunification). Provisions concerning access to the labour market can be found in the Aliens' Employment Act, while the Asylum Act regulates the asylum procedure in Austria.

These laws have been re-codified and amended in 2005 in the framework of the Aliens' Act Package 2005. Major changes were introduced in 2009 that encompassed a wide range of issues, such as the issuance of humanitarian residence permits, subsequent and/or serial asylum applications, treatment of delinquent recognised refugees and persons with subsidiary protection status, introduction of a reporting obligation and extension of the residence requirement for asylum applicants. Furthermore it introduced an age assessment for asylum applicants, and extended the application of detention pending deportation. The amendments entered into force on 1 April 2009 and 1 January 2010.<sup>15</sup>

Also in 2010, the Federal Ministry of the Interior tabled new legislative proposals: the first proposal was presented in September and aimed at the introduction of a so called "compulsory attendance" for asylum applicants in the first reception centres. According to the proposal, asylum seekers are not allowed to leave the first reception centre for a certain period of time at the beginning of the asylum procedure. The second amendment targeted several immigration, asylum and return issues. The key element of the proposal was the introduction of a point based immigration system on certain criteria under the title "Red-White-Red-Card". In this context, the Federal Minister for Labour, Social Affairs and Consumer Protection proposed a law to combat social and wage dumping and amendments to the Aliens' Employment Act. Other changes were triggered by the transposition of the EU directives, i.e. the Blue Card Directive,<sup>16</sup> Employers' Sanction Directive and the Return Directive.<sup>17</sup>

## **3. GENERAL DEVELOPMENTS RELEVANT TO ASYLUM AND MIGRATION**

### **3.1 General political developments**

In 2010, provincial elections were carried out in Burgenland, Styria and Vienna. In Vienna they were held jointly with communal elections. A presidential election was held on 25 April 2010.

#### ***3.1.1 Provincial elections in Burgenland, 30 May 2010<sup>18</sup>***

A new election took place in Burgenland after the premature dissolution of the Landtag (provincial parliament). Except for the Austrian Freedom Party (FPÖ) which promoted closing

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<sup>15</sup> For further details please see International Organization for Migration (IOM) in Vienna, *Annual Policy Report 2009 – Austria*, National EMN Report, Vienna, May 2010, available at <http://www.emn.at/en/policy-reports/> (accessed on 11 March 2011)

<sup>16</sup> Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF> (accessed on 17 March 2011)

<sup>17</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> (accessed on 11 March 2011)

<sup>18</sup> E-government Burgenland, *Wahlen im Burgenland*, available at <http://wahl.bgld.gv.at/wahlen/lt20100530.nsf> (accessed on 17 February 2011)

ORF, *Burgenland, Landtagswahl (Burgenland, Provincial Elections)*, 29 May 2010, available at <http://burgenland.orf.at/stories/440586/> (accessed on 17 February 2011)

the borders in order to prevent further immigration,<sup>19</sup> migration was not debated in the election campaigns.

The Social Democratic Party of Austria (SPÖ) was able to defend its position as the strongest party with 48.26% of the votes, despite their loss of -3.92%. The Austrian People's Party (ÖVP) attained 34.6%, and thus lost -1.76% of the votes. The FPÖ was able to increase the percentage of received votes to 9.0% (+3.32%), whereas the Green Party listed a slight loss of -1.06% (4.2%). The List Burgenland (LBL) made run for the Landtag for the first time and achieved 4.0%.

### **3.1.2 Provincial elections in Styria, 26 September 2010<sup>20</sup>**

The SPÖ remained the leading party in Styria with 38.26%, meaning a loss in votes of 3.41%. They were followed by the ÖVP, with 37.19% (-1.47%). With 10.66% of the vote, the FPÖ increased its results (+6.10%). The Green Party attained 5.55%, denoting a slight increase (+0.82%). During election campaigns, there were no relevant migration-related debates to be mentioned.

### **3.1.3 Provincial elections in Vienna, 10 October 2010<sup>21</sup>**

The SPÖ gained 44.34% of the vote and won the election. Compared to the last elections in 2005, the SPÖ lost -4.75%, meaning the loss of its absolute majority. The SPÖ was followed by the FPÖ registering the highest increase of votes, attaining 25.77% (+10.94%). The ÖVP attained 13.99%, registering a loss of -4.78%. The Green Party lost a small number votes, but still achieved 12.64% (-1.99%). Due to the loss of the absolute majority of the SPÖ, the formation of a coalition was required. On 12 November 2010, SPÖ and the Green Party announced their agreement on the formation of a coalition.<sup>22</sup> Among others, the coalition agreement contains the implementation of a Viennese Charta for Cohabitation establishing rights and duties of newly arriving migrants.<sup>23</sup>

During the period of the election campaigns, migration and integration was a cross-cutting issue: language, schooling, housing, religion and labour market integration of migrants were discussed. Issues raised by the SPÖ included fast access to the labour market, delinking integration from security issues and extending offers of multilingual kindergartens and schools. The ÖVP emphasised the need for German language competences prior to immigration. Furthermore, the ÖVP planned the creation of the "Team for Vienna", being an expert team for urban development focusing on integration. Another institutional development was suggested by the Green Party via the creation of an agency for migration and integration, which was suggested to be subject to the Federal Chancellery. The Green Party also demanded the reorganisation of the residence rights and the introduction of a new aliens' law including the *ius soli* principle for citizenship. The FPÖ claimed that mandatory German courses were necessary in order to prevent the emergence of parallel societies. Furthermore, they called for a general stop of immigration of third-country nationals and argued for the prohibition of the

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<sup>19</sup> DiePresse.com, *Burgenland-Wahl: FPÖ will mit Thema Heimat punkten (Elections in Burgenland: FPÖ wants score with home land topics)*, 27 April 2010, available at [http://diepresse.com/home/politik/innenpolitik/561179/BurgenlandWahl\\_FPoe-will-mit-Thema-Heimat-punkten](http://diepresse.com/home/politik/innenpolitik/561179/BurgenlandWahl_FPoe-will-mit-Thema-Heimat-punkten) (accessed on 12 May 2010)

<sup>20</sup> E-government Steiermark, *Steiermark total – endgültiges Ergebnis*, available at [https://egov.stmk.gv.at/wahlen/LT2010/LT2010\\_60000.html](https://egov.stmk.gv.at/wahlen/LT2010/LT2010_60000.html) (accessed on 17 February 2011)

<sup>21</sup> Wien.at, *Wien Gesamt, Gemeinderatswahl 2010*, available at <http://www.wien.gv.at/wahl/NET/GR101/GR101.htm> (accessed on 28 January 2011)

<sup>22</sup> Wien.at, *Rot-Grüne Koalitionsvereinbarung*, available at <https://www.wien.gv.at/politik-verwaltung/koalition.html> (accessed on 14 March 2011)

<sup>23</sup> ORF, *Große Pläne bei Integration und Verkehr (Great Plans for Integration and Traffic)*, 12 November 2010, available at <http://www.orf.at/stories/2025048/2025054/> (accessed on 28 January 2011)



## 3.2 Main policy and/or legislative debates

In 2010, the main policy debates centred on the planned legislative amendments put forward by the Federal Ministry of the Interior:<sup>32</sup> the reform of the immigration system for qualified and highly qualified third-country nationals under the title “Red-White-Red-Card”; and the introduction of the “compulsory attendance” for asylum seekers in the first reception centres. Policy debates were also triggered by the initiative to require German language knowledge prior to immigration to Austria. These debates were held throughout 2010 and continued in 2011.

In addition to the amendments of the Federal Ministry of the Interior and in the context of the “Red-White-Red-Card”, the Federal Minister for Labour, Social Affairs and Consumer Protection proposed a new law to combat social and wage dumping as well as amendments to the Aliens’ Employment Act.

Further debates focused on the provision of residence permits on humanitarian grounds and on the implementation of the UN Convention on the Rights of the Child into the Austrian Constitution.

### 3.2.1 “Red-White-Red-Card”

After the debates of 2008 and 2009,<sup>33</sup> the creation of a new immigration model in order to attract highly qualified and qualified migrants, the so-called “Red-White-Red-Card”, made headlines in the second half of 2010. A working group formed by the Federal Ministry of the Interior in 2009, consisting of the social partners<sup>34</sup> and the Federation of Austrian Industries for the development of the criteria the new immigration model, and presented their results in October 2010.<sup>35</sup>

According to the proposal, a point based system of personal and labour market criteria, i.e. education, professional experience, innovation, language, age, studies or job offer should replace the current quota system. The model targets highly qualified migrants, qualified migrants with occupations facing labour shortage, and qualified migrants who have passed a so-called “substitute employment procedure”.<sup>36</sup> Exceptionally highly qualified migrants may enter Austria for the period of six months without a job offer, in order to seek an adequate occupation. The amendment further envisioned the transposition of the Blue Card Directive.

The “Red-White-Red-Card” aims to enhance Austria as a business location by attracting (highly) qualified migrants. Additionally, the heretofore quota system was no longer perceived to fulfil the needs of the Austrian labour market precisely enough, which was intended to be ameliorated by the criteria system of the “Red-White-Red-Card” according to the Federal Minister of the Interior.<sup>37</sup>

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<sup>32</sup> Hereafter referred to as amendments of the Federal Ministry of the Interior. Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at [http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

<sup>33</sup> For further information please refer to Policy Report 2008 and 2009, available at <http://www.emn.at/en/policy-reports/> (accessed on 22 March 2011)

<sup>34</sup> The social partners consist of the Austrian Federal Economic Chamber, the Federal Chamber of Labour, the Austrian Federation of Trade Unions and the Austrian Chamber of Agriculture.

<sup>35</sup> Social Partners Austria, *Einigung der Österreichischen Sozialpartner zur Bekämpfung von Lohn- und Sozialdumping und zur Schaffung eines kriteriengeleiteten Zuwanderungsmodells (Rot-Weiß-Rot-Card)*, Bad Ischler Dialog 2010, available at

[http://www.sozialpartner.at/sozialpartner/badischl\\_2010/Sozialpartnerpraesidenteneinigungschi-l-20-zusammengefuehrt-20-285-29.pdf](http://www.sozialpartner.at/sozialpartner/badischl_2010/Sozialpartnerpraesidenteneinigungschi-l-20-zusammengefuehrt-20-285-29.pdf) (accessed on 17 March 2011)

<sup>36</sup> Substitute employment procedure means that before the person is admitted to the labour market the Public Employment Service is legally bound to try to fill the vacancy with a native or a foreign national who is already resident in Austria.

<sup>37</sup> Federal Ministry of the Interior, “Rot-Weiß-Rot Karte”: Österreichs neues Zuwanderungsmodell, 09 December 2010, available at

In addition to the new migration model, an act combating wage and social dumping was proposed in order to ensure fair economic competition and to secure the payment of taxes and fees as well as social welfare contributions.

The proposal was perceived as a good compromise meeting both the claims of the Chamber of Labour and the Trade Unions and that of the Austrian Federal Economic Chamber. While the Chamber of Labour aimed at training and integrating Austrians and already present migrants into the labour market, and thus was rather sceptical about the need of new immigration,<sup>38</sup> the Austrian Federal Economic Chamber stressed the lack of work force in certain sectors.<sup>39</sup>

Based on these proposals, the Federal Ministry of the Interior developed the “Red-White-Red-Card”, which entitles its holder to settle in Austria and be employed at one certain employer, and the “Red-White-Red-Card Plus”, which entitles to settle down and provides its holder with free access to the labour market. This proposal was under assessment from December 2010 until 28 January 2011.<sup>40</sup>

In general, the new immigration model was broadly welcomed by political and economic actors. However, concerns were raised that migrants already residing in Austria should also be regarded as potential work force.<sup>41</sup> Furthermore, the “Red-White-Red-Card” was criticised by the opposition parties. Among those, the BZÖ and the FPÖ argued that education among the Austrian population should be strengthened rather than creating new immigration. Additionally, fear of a massive influx of migrants was expressed. On the other hand, the Green Party, also being an opposition party, considered the “Red-White-Red-Card” as they perceived the demand for migrants higher.<sup>42</sup>

### 3.2.2 “Compulsory attendance” for asylum applicants

Following discussions concerning the creation of a new first reception centre for asylum seekers in Eberau,<sup>43</sup> the Federal Ministry of the Interior suggested a new law introducing a “compulsory attendance” for asylum applicants in the respective first reception centre. During 2010, two amendments were presented by the Federal Minister of the Interior: the first draft

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<http://www.bmi.gv.at/cms/bmi/news/bmi.aspx?id=303066622B5141477074593D&page=0&view=1> (accessed on 17 May 2011)

Der Standard, *Systemwechsel bei Zuwanderung (Change of System for Immigration)*, 10 December 2010, p.2.

<sup>38</sup> Chamber of Labour: *Fachkräfte: Ausbilden statt reinholen*, 28 July 2010, available at

<http://www.arbeiterkammer.at/online/fachkraefte-ausbilden-statt-reinholen-56464.html?skip=show> (accessed on 17 March 2011)

<sup>39</sup> Austrian Federal Economic Chamber: *Leitl: Entwurf zur Rot-Weiß-Rot-Card ist Weichenstellung in der österreichischen Migrationspolitik*, Press Release, 9 December 2010, available at

[http://portal.wko.at/wk/format\\_detail.wk?AngID=1&StID=587408&DstID=0&cbtyp=1&titel=Rot-Wei%C3%9F-Rot-Card](http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=587408&DstID=0&cbtyp=1&titel=Rot-Wei%C3%9F-Rot-Card) (accessed on 17 March 2011)

<sup>40</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at

[http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

<sup>41</sup> Die Presse, *Koalition will um Migranten werben (The coalition wants to promote migrants)*, 27 July 2010, p.1.

Format, *Zuwanderer verzweifelt gesucht (Immigrants desperately wanted)*, 28 October 2010, p.15-16.

Die Presse, *Frauenberger: Wir werden Zuwanderung brauchen (Frauenberger: We are going to need Immigrants)*, 31 July 2010, p.20.

<sup>42</sup> DiePresse.com, *Zuwanderung: Verzögerung bei Rot-Weiß-Rot Card droht (Immigration: the Red-White-Red-Card might be delayed)*, 30 July 2010, available at

[http://diepresse.com/home/panorama/oesterreich/584725/Zuwanderung\\_Verzoegerung-bei-RotWeissRotCard-droht](http://diepresse.com/home/panorama/oesterreich/584725/Zuwanderung_Verzoegerung-bei-RotWeissRotCard-droht) (accessed on 12 April 2011)

Die Presse, *Grüne wollen Einwanderungsgesetz statt Rot-Weiß-Rot Card (The Green Party wants immigration law instead of Red-White-Red-Card)*, 28 July 2010, p.3.

<sup>43</sup> For further details on the debates related to the creation of a new first reception centre please see Annual Policy Report 2009.

amendment was presented on 9 February 2010 to the Council of Ministers<sup>44</sup> and suggested “compulsory attendance” of five to seven days during the admission procedure<sup>45</sup> to the actual asylum procedure.<sup>46</sup> In exceptional cases, asylum applicants might be obliged to remain in the first reception centre up to six weeks until the end of the admission procedure.<sup>47</sup> Constitutional law experts expressed concerns that the suggested “compulsory attendance” might be unconstitutional and breach the European Convention of Human Rights due to its prison-like character.<sup>48</sup> Also Chancellor Werner Faymann from the SPÖ expressed his concerns and pled in favour of a case-by-case review.<sup>49</sup>

According to the Federal Ministry of the Interior it is necessary for asylum applicants to be present during the initial phase of admission procedures in order to fulfil the duty of cooperation and to be provided with health care, legal counselling and further support. Additionally, this measure aims at preventing asylum applicants from absconding.<sup>50</sup>

On 10 September 2010, the Federal Ministry of the Interior presented a modified amendment refrained from the extension of the residence requirement up to six weeks and limited the time frame to five days.<sup>51</sup> Nevertheless, constitutional experts and the UNHCR raised concerns regarding its constitutional lawfulness due to the imposed curfew at night and outside working hours.<sup>52</sup> This was shared by the Constitutional Service of the Federal Chancellery, which suggested only obliging asylum applicants to stay in the respective first reception centre during working hours. Finally, the Federal Ministry of the Interior postponed the presentation of the amendment to the Council of Ministers.<sup>53</sup>

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<sup>44</sup> Federal Chancellery, *Informationen aus Österreich*, N° 04/10, 15 February 2010, p.2, available at [http://bkacms.bka.gv.at/Docs/2010/2/18/info4\\_de.pdf](http://bkacms.bka.gv.at/Docs/2010/2/18/info4_de.pdf) (accessed on 6 May 2011)

<sup>45</sup> In Austria the asylum process is divided into two phases. Phase one is the admission procedure where the competence of Austria is clarified, phase two is the actual asylum procedure where it is decided whether the asylum seeker can receive asylum according to the Geneva Convention on Refugees or subsidiary protection status.

<sup>46</sup> Die Presse, *Darf man Asylwerber einsperren? (Is it allowed to imprison Asylum Applicants?)*, 10 February 2010, p.1.

<sup>47</sup> Der Standard, *Fekter will Asylwerber bis zu sechs Wochen kasernieren (Fekter wants to jail asylum applicants for up to six weeks)*, 09 February, p.7.

DerStandard.at, *Fekter übergab Entwurf für „Anwesenheitspflicht“ (Fekter rendered amendment for „compulsory attendance“)*, 09 February 2010, available at <http://derstandard.at/1263707035715/Asyl-Fekter-uebergab-Entwurf-fuer-Anwesenheitspflicht> (accessed on 12 May 2011)

<sup>48</sup> DiePresse.com, *Experte: Fekters Asylwerber-Pläne verfassungswidrig (Expert: Fekters' Plans for Asylum Applicants are unconstitutional)*, 27 January 2010, available at [http://diepresse.com/home/politik/innenpolitik/535835/Experte\\_Fekters-AsylwerberPlaene-verfassungswidrig](http://diepresse.com/home/politik/innenpolitik/535835/Experte_Fekters-AsylwerberPlaene-verfassungswidrig) (accessed on 23 March 2011)

<sup>49</sup> Salzburger Nachrichten, *Verpflichtete Anwesenheit: Entwurf fertig (Compulsory Attendance: Draft ready)*, 09 February 2010, p.8.

Der Standard, *Wer gegen „heiliges Recht“ verstößt, fliegt raus, (That who breaches the „holy law“ is going to be kicked out)* 10 February 2010, p.8.

Der Standard, *„Rund 10.000 Fälle von Einsperrungen jährlich“ (Approximately 10.000 cases of confinement annually)*, 10 February 2010, p.8.

<sup>50</sup> Die Presse, *Darf man Asylwerber einsperren? (Is it allowed to imprison Asylum Applicants?)*, 10 February 2010, p.1.

<sup>51</sup> Ministerial Draft of the Amendment to the Asylum Act 2005 and the Aliens' Police Act 2005, available at [http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME\\_00192/imfname\\_195358.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00192/imfname_195358.pdf) (accessed on 16 May 2011)  
DerStandard.at, *Entwurf zur Anwesenheitspflicht in Begutachtung (Amendment for compulsory attendance under assessment)*, 10 September 2010, available at <http://derstandard.at/1282979379471/Asylwerber-Entwurf-zur-Anwesenheitspflicht-in-Begutachtung?blogGroup=2> (accessed on 12 May 2011)

DiePresse.com, *Maria Fekter: harte Ministerin einmal weich (Maria Fekter: though Minister is getting soft)*, 16 October 2010, available at [http://diepresse.com/home/politik/innenpolitik/602686/Maria-Fekter\\_Harte-Ministerin-einmal-weich](http://diepresse.com/home/politik/innenpolitik/602686/Maria-Fekter_Harte-Ministerin-einmal-weich) (accessed on 23 March 2011)

<sup>52</sup> Der Standard, *Experte: Ausgehverbot ist verfassungswidrig (Expert: Curfew is unconstitutional)*, 11-12 September 2010, p.9.

Salzburger Nachrichten: *UNHCR kritisiert Aufenthaltspflicht in Österreich (UNHCR criticises compulsory attendance in Austria)*, 12 October 2010, available at <http://www.salzburg.com/online/nachrichten/innenpolitik/UNHCR-kritisiert-Aufenthaltspflicht-in-Oesterreich.html?article=eGMmOl8Vg7rGZSMOPUALirYHe1uMuJvHCI8Mio8&img=&text=&mode=&> (accessed on 23 March 2011)

<sup>53</sup> Die Presse, *Verfassungsdienst kritisiert Asyl-Anwesenheitspflicht (Constitutional Service criticised Compulsory Attendance of Asylum Applicants)*, 14 October 2010, p.4.

Die Presse, *Fekter bestätigt: Anwesenheitspflicht verschoben (Fekter confirms: Compulsory Attendance is postponed)*, 18 October 2010, p.3.

### 3.2.3 German prior to immigration

The initiative of the Federal Ministry of the Interior to set German language as a precondition for immigration to Austria was another highly debated topic in 2010. The idea was first incorporated in the National Action Plan on Integration (NAP.I)<sup>54</sup> and later also included in the amendments to the Settlement and Residence Act presented in December 2010. In the future, third-country nationals have to prove German language competences on A1 level according to the Common European Framework of Reference for Languages,<sup>55</sup> if they want to immigrate to Austria. This measure primarily targets family members of third country nationals, whose integration should be supported by obtaining German language competences before arrival to enhance education and emancipation, especially of young women who form the biggest group among immigrants due to family reunification.<sup>56</sup> The skills can be obtained via a German language course in one of the 400 Goethe Institutes worldwide or at equivalent institutions.<sup>57</sup> Asylum applicants and highly qualified persons are to be exempted from these requirements.<sup>58</sup>

The opposition parties<sup>59</sup> as well as Caritas<sup>60</sup>, Diakonie<sup>61</sup> and Kenan Güngör, a member of the National Expert Council for Integration expressed concerns about the exclusion of those potential migrants from regions where German courses are not offered. Nevertheless, Kenan Güngör considered the early involvement with the German language as positive.<sup>62</sup> The Austrian Federal Economic Chamber and the Federation of Austrian Industries, on the other hand, stated that the demanded German skills could be a knock-out criterion for key workers and their families.<sup>63</sup>

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<sup>54</sup> Federal Ministry of the Interior, *Nationaler Aktionsplan für Integration*, Vienna 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf) (accessed on 22 December 2010)

<sup>55</sup> Council of Europe, *Common European Framework of Reference for Languages*, available at [http://www.coe.int/T/DG4/Linguistic/CADRE\\_EN.asp#TopOfPage](http://www.coe.int/T/DG4/Linguistic/CADRE_EN.asp#TopOfPage) (accessed on 14 March 2011)

<sup>56</sup> Kurier, *Wer gut Deutsch kann, kommt früher* (*The ones that know German well, may come earlier*), 08 August 2010, p.2.

<sup>57</sup> Kurier, *Internes Integrationsproblem* (*Internal Integrationproblem*), 09 August 2010, p.2.

Der Standard, *Die wissen im Detail, was zu tun ist* (*They know exactly what to do*), 06 December 2010, p.8.

<sup>58</sup> Kurier, *Deutsch vor Zuwanderung* (*German prior to Immigration*), 07 August 2010, p.3.

<sup>59</sup> DerStandard.at, *Deutsch vor Zuzug, Opposition kritisiert Fekter-Pläne* (*German prior to immigration, opposition criticises Fekter's plan*), 07 August 2010, available at <http://derstandard.at/1280984206924/Deutsch-vor-Zuzug-Opinion-kritisiert-Fekter-Plaene> (accessed on 03 May 2011)

<sup>60</sup> Caritas, *Stellungnahme der Caritas Österreich zum Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, 28 January 2011, Vienna, available at [http://www.caritas.at/fileadmin/user/oesterreich/publikationen/Hilfe\\_Einrichtungen/Stellungnahme\\_Caritas\\_OEsterreich.pdf](http://www.caritas.at/fileadmin/user/oesterreich/publikationen/Hilfe_Einrichtungen/Stellungnahme_Caritas_OEsterreich.pdf) (accessed on 23 March 2011)

<sup>61</sup> Kurier, *Diakonie lobt die Rot-Weiß-Rot Card* (*The Protestant Social Welfare Organisation praises the Red-White-Red-Card*), 13 December 2010, p.2.

<sup>62</sup> Kurier, *Nachgefragt – „Nicht überall gleiche Voraussetzungen“* (*Asked – „Not everywhere are the same preconditions“*), 07 August 2010, p.3.

Kurier, *Zuckerbrot und Peitsche* (*Carrot and Stick*), 20 January 2010, p.2-3.

Kurier, *Deutsch vor Zuwanderung* (*German prior to Immigration*), 07 August 2010, p.3.

Netzwerk SprachenRechte: *Stellungnahme zum Entwurf des Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, January 2011, Vienna, available at <http://www.sprachenrechte.at/> (accessed on 14 March 2011)

<sup>63</sup> Der Standard, *Man spricht Deutsch – aber nix ist fix* (*They speak German – but nothing is for sure*), 20 January 2010, p.2.

Kurier, *Internes Integrationsproblem* (*Internal Integrationproblem*), 09 August 2010, p.2.

Federal Association of the Austrian Industries, *Industrie zum Nationalen Aktionsplan für Integration: Vom Papier zum Handeln kommen*, 19 January 2010, available at <http://www.voei.at/b2118m35> (accessed on 23 March 2011)

### **3.3 Broader developments in asylum and migration**

#### **3.4 Institutional developments**

##### ***3.4.1 Federal Office for Asylum and Migration***

In order to guarantee coherent proceedings in asylum applications and migration related issues, the SPÖ supported the creation of a Federal Office for Asylum and Migration where all competences at first instance will be bundled. Currently, 113 offices, including district commissions, municipal authorities, federal police headquarters and the Federal Asylum Offices, are in charge of administering these processes, which often leads to inconsistent practices.<sup>64</sup> The new authority is planned to take up work by 2013 and to be subordinated to the Federal Ministry of the Interior.<sup>65</sup> This was decided by the Council of Ministers held on 19 October 2010.<sup>66</sup>

The creation of the new Federal Office for Asylum and Migration was generally welcomed. Among others, the vice-governor of Upper Austria from the SPÖ, Josef Ackerl and NGOs, such as Diakonie, strongly supported the creation of a separate department for migration and asylum related issues.<sup>67</sup>

##### ***3.4.2 Administrative Reform***

In February 2010, the Federal Chancellor tabled a reform of the general administrative procedures. The administrative reform has been under discussion for more than twenty years in Austria. The current reform proposal aims to implement a double-staged system of administrative courts and envisions the creation of nine administrative courts, one in each province, and two on the federal level (the so-called '9+2 model'). The currently operating 120 special authorities and independent administrative senates on federal and provincial level should be merged into these new courts. It is expected that the new administrative system will accelerate the administrative proceedings, enhance citizens' service as well as relieve the Administrative Court as extraordinary appellate body.<sup>68</sup> The reform would not touch upon the competences of the Asylum Court.

In general, the administrative reform was broadly welcomed.<sup>69</sup> The president of the Administrative High Court and the president of the Constitutional Court urged that asylum

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<sup>64</sup> Federal Chancellery, *Informationen aus Österreich*, N°18/10, 20 September 2010, p.2, available at Chancellery [http://bkacms.bka.gv.at/Docs/2010/9/27/info18\\_de.pdf](http://bkacms.bka.gv.at/Docs/2010/9/27/info18_de.pdf) (accessed on 12 May 2011)  
SPÖ.at, *Neues Bundesamt für Asyl und Migration für besseren Asyl*, 19 October 2010, available at <http://www.spoe.at/neues-bundesamt-fuer-asyl-und-migration-fuer-besseren-asyl-vollzug.html> (accessed on 04 May 2011)

<sup>65</sup> Die Presse, *SPÖ fordert Bundesamt zur Lösung der Ausländerfragen (SPÖ claims Federal Office for solving Alien-related Questions)*, 22 July 2010, p.1.  
SPÖ Aktuell, 34/2010, p.6, available at [http://issuu.com/sozialdemokratie/docs/sp\\_aktuell\\_34\\_2010.pdf](http://issuu.com/sozialdemokratie/docs/sp_aktuell_34_2010.pdf), (accessed on 27.01.2011)

Parliamentary Correspondance Nr. 1008 from 10 December 2010, *Budgetausschuss diskutiert Zukunft der inneren Sicherheit*, available at [http://www.parlament.gv.at/PAKT/PR/JAHR\\_2010/PK1008/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2010/PK1008/index.shtml) (accessed on 10 March 2011)

<sup>66</sup> Der Standard, *Koalition schafft Bundesamt für Migration und Asyl (Coalition creates Federal Office for Migration and Asylum)*, 20 October 2010, p.9.

<sup>67</sup> Diakonie, *Bundesamt für Migration - Gute Idee, aber am falschen Platz*, 07 September 2010, available at [http://www.diakonie.at/goto/de/presse\\_service/presstexte/diakonie\\_bundesamt-fuer-migration---gute-idee\\_--aber-am-falschen-platz](http://www.diakonie.at/goto/de/presse_service/presstexte/diakonie_bundesamt-fuer-migration---gute-idee_--aber-am-falschen-platz) (accessed on 12 May 2011)

Der Standard, *Ein Bundesamt statt 110 Ämter (One Federal Office instead of 110 authorities)*, 15 October 2010, p.2.  
Kurier, *Integration: SP-Ackerl will Staatssekretariat (Integration: SP-Ackerl wants State Secretariat)*, 07 October 2010, p.2.

<sup>68</sup> Amendment to the system of administrative courts 2010, available at [https://www.ris.bka.gv.at/Dokumente/Begut/BEGUT\\_COO\\_2026\\_100\\_2\\_586235/BEGUT\\_COO\\_2026\\_100\\_2\\_586235.pdf](https://www.ris.bka.gv.at/Dokumente/Begut/BEGUT_COO_2026_100_2_586235/BEGUT_COO_2026_100_2_586235.pdf) (accessed on 22 March 2011)

<sup>69</sup> Austrian Federal Economic Chamber, *Leitl zu 90 Jahre Bundesverfassung: Staats- und Verwaltungsreform ist jetzt nötig*, 29 September 2010, available at

procedures should be re-included in the administrative jurisdiction<sup>70</sup> and expressed concerns about the fact that the number of complaints of asylum applicants to the Constitutional Court is rising, since the asylum applicants can no longer appeal to the Administrative High Court.<sup>71</sup>

#### **4. LEGAL IMMIGRATION AND INTEGRATION**

The common specifications developed for the report at hand envisage a differentiation between EU policy developments and national priorities. However, as national and EU policy developments are highly interlinked and overlap in many policy areas, such a clear distinction was not always possible.

##### **4.1 Economic migration**

As reported in Section 3.2.1, the creation of a new immigration model for attracting highly skilled and skilled migrant, the “Red-White-Red-Card”, constituted the most important political and legislative development in the field of economic migration in 2010. It is a point based system of personal and labour market criteria and will replace the quota system for certain settlement permits and some work permits from 2011 onwards. As the new model was expected to enter into force in the second half of 2011, annual quotas were set again for 2010.

For 2010, the total of all settlement permits subject to quota regulation amounted to 8,145, the same as in 2009. When examined in detail, only marginal changes could be found compared to 2009: specifically, the maximum number of work permits for temporary employed migrants was lowered from 8,000 to 7,500.<sup>72</sup>

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[http://portal.wko.at/wk/format\\_detail.wk?angid=1&stid=576288&dstid=16&titel=Leitl.zu.90.Jahre.Bundesverfassung:.Staats-und.Verwaltungsreform.ist.jetzt.n%C3%B6tig](http://portal.wko.at/wk/format_detail.wk?angid=1&stid=576288&dstid=16&titel=Leitl.zu.90.Jahre.Bundesverfassung:.Staats-und.Verwaltungsreform.ist.jetzt.n%C3%B6tig) (accessed on 22 March 2011)

Federal Association of the Austrian Industries, *Industrie begrüßt Vorschläge für mehr Wirtschaftskompetenz in der Justiz*, 20 August 2010, available at <http://www.voei.at/b2305m104> (accessed on 22 March 2010)

<sup>70</sup> Since the establishment of the Asylum Court in 2008, as second instance asylum authority, the possibility to file an extraordinary remedy to the Administrative Court was abolished.

<sup>71</sup> Wiener Zeitung, *Ins Verwaltungsgericht statt zum Senat (To the Administrative Court instead of the Senate)*, 18 February 2010, p.4.

Der Standard, *Verwaltungsgerichte: Rund 120 Behörden würden überflüssig (About 120 Public Authorities would become obsolete)*, 18 February 2010, p.7.

DiePresse.com, *Reform der Verwaltungsgerichte: Asylgericht soll bleiben (Reform of Administrative Courts: Asylum Court should remain)*, 17 February 2010, available at [http://diepresse.com/home/politik/innenpolitik/540293/Reform-der-Verwaltungsgerichte\\_Asylgericht-soll-bleiben](http://diepresse.com/home/politik/innenpolitik/540293/Reform-der-Verwaltungsgerichte_Asylgericht-soll-bleiben) (accessed on 22 March 2010)

<sup>72</sup> Parliamentary Correspondance N° 929 from 10 December 2008, *Hauptausschuss verabschiedet Niederlassungsverordnung 2009*, available at

[http://www.parlament.gv.at/PAKT/PR/JAHR\\_2008/PK0929/index.shtml](http://www.parlament.gv.at/PAKT/PR/JAHR_2008/PK0929/index.shtml) (accessed on 17 May 2011)

Parliamentary Correspondance N° 1094 from 10 December 2009, *Hauptausschuss verabschiedet Niederlassungsverordnung 2010*, available at [http://www.parlament.gv.at/PAKT/PR/JAHR\\_2009/PK1094/](http://www.parlament.gv.at/PAKT/PR/JAHR_2009/PK1094/) (accessed on 17 May 2011)

DerStandard.at, *Alles bleibt beim alten (Everything stays the same)*, 14 December 2010, available at <http://derstandard.at/1291455054748/Zuwandererquote-Alles-bleibt-beim-Alten-im-Jahr-2011> (accessed on 22 March 2011)

## 4.2 Family reunification

The new envisaged immigration system also has implications for the possibilities for family reunification.<sup>73</sup> The new provisions intend to simplify family reunification for family members of holders of the “Red-White-Red-Card”, who will be provided with the “Red-White-Red-Card Plus”.

Additionally, the Federal Ministry of the Interior pointed out that the suggested German language competence before immigration primarily aim at facilitating the integration of third-country national family members of third-country nationals immediately after their arrival in Austria.<sup>74</sup> However, this was viewed critically by several actors, as already outlined in Section 3.2.3.

## 4.4 Integration

### National Action Plan on Integration

On 19 January 2010, the National Action Plan on Integration (NAP.I) was adopted. The NAP.I defined the principles on integration policies as well as goals in the areas of language, education, profession, rule of law, values, health, social issues, intercultural dialogue, sports, leisure, housing and the regional dimension of integration and follows the principle of “integration before new immigration”.<sup>75</sup> According to the Action Plan, the continuity of the past integration policy initiatives in Austria will be ensured and enhanced via providing advanced language courses, awareness raising for both migrants and the major society as well as empowerment measures, improving so-called ‘health literacy’ of migrants and deepen mutual dialogue. A regular analysis of the integration process and the status quo of integration will be carried out based on especially developed integration indicators.<sup>76</sup> In addition to the NAP.I, a catalogue of measures<sup>77</sup> was presented, providing an overview of the measures of key stakeholders and of the Austrian integration strategy.

In order to ensure the sustainable implementation of the NAP.I, the Federal Ministry of the Interior established a National Expert Council for Integration, consisting of experts on integration policies, as well as an Integration Board involving public and private co-operation partners.<sup>78</sup>

Diverging voices were raised particularly concerning the principle of “integration before new immigration”: whereas the Federation of Austrian Industries regarded this principle as unrealistic due to the needs of the Austrian labour market, the Austrian Federation of Trade

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<sup>73</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at [http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

<sup>74</sup> DiePresse.com, *Fekter: Deutsch-Pflicht für Migranten “emanzipatorisch”* (Fekter: German-Obligation for migrants is “emancipatory”), 16 October 2010, available at [http://diepresse.com/home/panorama/oesterreich/572618/Fekter\\_DeutschPflicht-fuer-Migranten-emanzipatorisch](http://diepresse.com/home/panorama/oesterreich/572618/Fekter_DeutschPflicht-fuer-Migranten-emanzipatorisch) (accessed on 6 May 2011)

Der Standard, *Die wissen im Detail, was zu tun ist* (They know exactly what to do), 6 December 2010, p.8.

<sup>75</sup> Federal Ministry of the Interior, *Nationaler Aktionsplan für Integration*, Vienna 2009, p.20, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf) (accessed on 22 December 2010)

<sup>76</sup> Fassmann, H., *Integrationsindikatoren des Nationalen Aktionsplans für Integration*, Vienna 2009, available at [www.bmi.gv.at/cms/cs03documentsbmi/808.pdf](http://www.bmi.gv.at/cms/cs03documentsbmi/808.pdf) (accessed on 22 December 2010)

<sup>77</sup> Federal Ministry of the Interior: *Maßnahmen*, Vienna 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP\\_Massnahmenkatalog.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP_Massnahmenkatalog.pdf) (accessed on 22 December 2010)

<sup>78</sup> Press Conference of the Federal Ministry of the Interior. Maria Fekter, *Vorstellung des Expertenrates für Integration und dessen Arbeitsprogramm*, 12 January 2011, Vienna.

Unions proposed concentrating on the integration of migrants already present in Austria.<sup>79</sup> Optimism towards the new initiatives set by the NAP.I was expressed from various actors, among them the Austrian Red Cross and Caritas.<sup>80</sup>

### Integration Agreement<sup>81</sup>

The planned amendments of the Federal Ministry of the Interior envisaged changes to the existing Integration Agreement,<sup>82</sup> which entered into force in 2003 and aimed at supporting migrants in their linguistic integration into the social, economic and cultural life in Austria. According to the current law, migrants have to complete two modules within five years after immigration in Austria: module 1 is a literacy course and module 2 deepens the German language competence on the A2 level according to the Common European Framework of Reference for Languages.<sup>83</sup> The proposed amendment envisaged German language competences on the A1 level prior to immigration to Austria. The literacy module will be replaced by a German language course on the A2 level within two years; whereas module 2 would require German language competences on the B1 level.<sup>84</sup>

This new regulation should enhance the integration process. The elimination of the literacy course as well as the rise from A2 to B1 of module 2 within a shortened period of time was criticised *inter alia* by Caritas and the Austrian Federation of Industries, who regard the new regulation as a considerable obstacle for people with learning difficulties or employed people. Additionally, the one-dimensional approach of integration was seen critically for not covering aspects, such as political participation or legal integration.<sup>85</sup>

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<sup>79</sup> Federal Association of the Austrian Industries, *Industrie zum Nationalen Aktionsplan für Integration: Vom Papier zum Handeln kommen*, 19 January 2010, available at <http://www.voei.at/b2118m35> (accessed on 22 March 2011)  
Die Presse, *Kriterienkatalog für Zuwanderer: ÖGB skeptisch (Criteria Cataloge for Migrants, OEGB is sceptical)*, 15 February 2010, p.2.

Die Presse, *Ein großer Wurf sieht anders aus (A major steps looks different)*, 20 January 2010, p.30.

<sup>80</sup> Salzburger Nachrichten, *Experten sollen über Integration wachen (Experts should guard Integration)*, 11 June 2010, p.7.

<sup>81</sup> Austrian Integration Funds, *What is the Integration Agreement*, available at

[http://www.integrationsfonds.at/en/integration\\_agreement/what\\_is\\_the\\_ia/](http://www.integrationsfonds.at/en/integration_agreement/what_is_the_ia/) (accessed on 15 March 2010)

<sup>82</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at

[http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

<sup>83</sup> Art. 14-16 Settlement and Residence Act

<sup>84</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at

[http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

<sup>85</sup> Caritas, *Stellungnahme der Caritas Österreich zum Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, 28 January 2011, Vienna, available at

[http://www.caritas.at/fileadmin/user/oesterreich/publikationen/Hilfe\\_Einrichtungen/Stellungnahme\\_Caritas\\_OEsterreich.pdf](http://www.caritas.at/fileadmin/user/oesterreich/publikationen/Hilfe_Einrichtungen/Stellungnahme_Caritas_OEsterreich.pdf) (accessed on 23 March 2011)

Federal Association of the Austrian Industries: *Industrie zum Nationalen Aktionsplan für Integration: Vom Papier zum Handeln kommen*, 19 January 2010, available at <http://www.voei.at/b2118m35> (accessed on 23 March 2011)

Netzwerk SprachenRechte, *Stellungnahme zum Entwurf des Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden soll*, January 2011, Vienna, available at <http://www.sprachenrechte.at/> (accessed on 15 March 2011)

## **4.5 Citizenship and Naturalisation**

### ***4.5.1 Developments within the national perspective***

There were no political or legislative developments in 2010 in the field of citizenship and naturalisation.

In 2010, the naturalisation quota declined from 7,990 to 6,190 compared to 2009. The highest proportion was composed by nationals from Bosnia and Herzegovina, who accounted for 1,279, or 20.66%. This group was followed by Turkish migrants, accounting for 937, or 15.14%. The third biggest group consisted of migrants from Serbia, who accounted for 829, or 13.39%.

Despite a general cutback, an increase could be noted among other groups. The highest increment was observed for Kosovo, with +84 naturalisations, or 437 in total, followed by Nigeria with +21, or 57 in total; and Croatia with +16, or 456 in total.<sup>86</sup>

## **5. ILLEGAL IMMIGRATION AND RETURN**

### **5.1 Illegal Immigration**

In Austria, combating irregular migration remained a priority. In 2010, smuggling of migrants was raised several times in the media through reported apprehensions of smuggling bands.<sup>87</sup> According to the reply of the Federal Ministry of the Interior to a parliamentary inquiry in 2010, 6,664 smuggled migrants were apprehended. Most of them (2,917) were between 19 and 30 years old.<sup>88</sup>

As in the previous year, residence on humanitarian grounds<sup>89</sup> also made headlines in 2010. The granting of residence on humanitarian grounds is decided on a case-by-case basis and can be issued on the permanent inadmissibility of deportation due to Article 8 of the European Convention on Human Rights.<sup>90</sup>

In 2010, the media reported repeatedly on the (planned) removal of long-residing families whose asylum applications have been rejected and who were not entitled to residence on humanitarian grounds. Among those, the case of the Komani family, who had been residing in Austria since September 2004, was widely discussed. On 7 October 2010, the father and his 8-years old twins were returned to Kosovo, while the mother stayed in a hospital in Austria. Two weeks after the removal, the family was allowed to re-enter Austria and were granted residence on humanitarian grounds.<sup>91</sup>

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<sup>86</sup> Statistics Austria, *Eingebürgerte Personen seit 2000 nach bisheriger Staatsbürgerschaft*, available at [http://www.statistik.at/web\\_de/statistiken/bevoelkerung/einbuengerungen/index.html](http://www.statistik.at/web_de/statistiken/bevoelkerung/einbuengerungen/index.html) (accessed on 11 March 2011)

<sup>87</sup> Salzburger Nachrichten, *Schlepper werben für Österreich (Human smugglers promote Austria)*, 25 February 2010, p.7.

Salzburger Nachrichten, *Schlepper kam im Touristenbus (Human Smuggler arrived in tourist bus)*, 26 August 2010, p.8.

<sup>88</sup> Federal Ministry of the Interior, *Anfragebeantwortung*, 7155/AB XXIV. GP, 21 February 2011, available at [http://www.parlament.gv.at/PAKT/VHG/XXIV/AB/AB\\_07155/imfname\\_206718.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/AB/AB_07155/imfname_206718.pdf) (accessed on 30 March 2011)

<sup>89</sup> Please note that the Aliens' Law does not contain the term humanitarian residence permit any longer. It is used here, because it summarises a variety of different residence titles that are granted in accordance with Art. 8 ECHR or to victims of human trafficking and unaccompanied minors.

<sup>90</sup> Federal Ministry of the Interior, *Humanitärer Aufenthalt*, in: *Öffentliche Sicherheit* 5-6/09, available at [http://www.bmi.gv.at/cms/BMI\\_OeffentlicheSicherheit/2009/05\\_06/files/Fremdenrecht.pdf](http://www.bmi.gv.at/cms/BMI_OeffentlicheSicherheit/2009/05_06/files/Fremdenrecht.pdf) (accessed on 5 May 2011)

<sup>91</sup> Die Presse, *Wir gehen familiengerecht vor (We are proceeding family-friendly)*, 08 October 2010, p.4.  
Der Standard, *Abschiebung „spricht Kinderrechten Hohn“ (Deportation mocks children rights)*, 8 October 2010, p.13.  
Salzburger Nachrichten, *Fekter feuert den Chef der Fremdenpolizei (Fekter fires Head of Aliens' Police)*, 16 October 2010, p.2.

## 5.2 Return

### 5.2.1 Developments within the national perspective

In 2010, a total of 4,499 voluntary returns took place, whereas only 2,577 forced removals were carried out.<sup>92</sup> The majority of the voluntary returns were conducted by the International Organization for Migration (IOM) in Vienna; in 2010 IOM assisted 3,905 persons in Assisted Voluntary Return, translating to +3% compared to 2009. The country with the highest amount of returnees was Kosovo with 681 persons, followed by the Russian Federation with 606 persons, and the Republic of Moldova with 416 persons. Most returnees were male, between 18 and 34 years old (1,654 persons), and benefitted from the start-up aid of up to EUR 370 (3,116 persons). Different organisations offer return counselling in Austria: the Verein Menschenrechte Österreich (VMÖ)<sup>93</sup> carried out the most counselling (52% of all returnees), followed by Caritas Austria<sup>94</sup> (40% of all returnees).<sup>95</sup>

The following projects were selected and financed by the European Return Fund for Austria in the project year 2010: VMÖ carried out a project supporting measures for voluntary return from prisons according to Art. 133a of the Prison Administration Act. VMÖ and Caritas Austria also implemented projects for return preparation during detention pending deportation in police detention centres; again VMÖ and the Caritas Austria, together with European Homecare offered general counselling for voluntary return and the organisation of return. Moreover, IOM Vienna offers voluntary return and reintegration assistance for citizens of Kosovo, Nigeria and the Russian Federation / Chechen Republic. The International Centre for Migration Policy Development (ICMPD) also offered voluntary return and reintegration to Kosovo. Counselling to support voluntary return of (female) victims of human trafficking was provided by LEFÖ.<sup>96</sup>

### 5.2.2 Developments from the EU perspective

The amendment to the Aliens' Law, which was presented in 2010, also envisions the transposition of the Return Directive. The amendments were expected to enter into force on 1 July 2011.<sup>97</sup> The most relevant changes concerned the reform of the measures terminating a residence of non-nationals, the introduction of legal counselling for persons in detention pending deportation, and the re-organisation of the judicial review of detention pending deportation. Moreover, the regulation of the detention of minors was also included in the proposal. Political and public debates on the amendments started in 2011.

## 5.3 Actions against human trafficking

In 2010, Austria started a new campaign for the protection of children and youth from sexual abuse in tourism abroad. The core of the new campaign was the awareness-raising of Austrian tourists and it appealed to the public to report suspected cases of child abuse by Austrians abroad. An anonymous contact point was established in the Austrian Criminal

<sup>92</sup> Federal Ministry of the Interior, *Fremdenstatistik 2010*, available at [http://www.bmi.gv.at/cms/BMI\\_Niederlassung/statistiken/files/Fremdenstatistik\\_Jahr\\_2010.pdf](http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/Fremdenstatistik_Jahr_2010.pdf) (accessed on 24 March 2010)

<sup>93</sup> Verein Menschenrechte, <http://www.verein-menschenrechte.at/> (accessed on 24 March 2010)

<sup>94</sup> Caritas Österreich, <http://www.caritas.at/> (accessed on 24 March 2010)

<sup>95</sup> International Organization for Migration in Vienna, *Statistics on Voluntary Return from Austria*, available at [http://www.iomvienna.at/images/stories/AVR\\_2010\\_ENG.pdf](http://www.iomvienna.at/images/stories/AVR_2010_ENG.pdf) (accessed on 23 March 2010)

<sup>96</sup> LEFÖ-IBF, <http://www.lefoe.at>

<sup>97</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at [http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

Intelligence Service.<sup>98</sup> Furthermore, a contact point and a telephone hotline were established for reporting cases of trafficking in human beings and migrant smuggling.<sup>99</sup>

In 2010, there were no public or political debates on human trafficking in Austria.

## **6. BORDER CONTROL**

### **6.1 Control and surveillance at external borders**

#### ***6.1.1 Developments within the national perspective***

The prolongation of the presence of the Austrian armed forces at Austria's eastern borders made news in 2010.<sup>100</sup> In 2007, the support deployment was prolonged until the end of 2009. Whereas the previous focus had been on police control of the eastern borders to Hungary and Slovakia and to fight irregular migration, after 2009, it was shifted to combat transnational crimes. In this context, the support deployment was seen as an important security measure to strengthen "the subjective security sense of the population".<sup>101</sup>

According to a study conducted by a market research institute on behalf of the Federal Ministry of the Interior, more than 80% of the local population was in favour of the prolongation. Therefore, despite critical voices from the opposition party FPÖ because of the limited competences of the recruits and the Green Party due to high costs, the support deployment was prolonged in 2010.<sup>102</sup>

#### ***6.1.2 Developments from the EU perspective***

Austria was one of the most active Member States in EU Joint Return Operations. In 2010 (effective 18 November 2010), Austria co-ordinated 12 EU Joint Return Operations and participated in 8 additional operations. Furthermore, four flights took place in the scope of bilateral co-operation with Poland.

In order to reinforce co-operation with neighbouring countries, practical exercises were conducted in the area of pursuit and emergency investigations on the basis of the Police Co-operation Act. Likewise, mixed patrols were continuously carried out with the neighbouring countries of Hungary, Slovakia and Slovenia. A new police co-operation centre in Dolga Vas was founded by Austria, Slovenia and Croatia to intensify co-operation between these countries.

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<sup>98</sup> Federal Ministry of the Interior, *Neue Meldestelle „Kindersextourismus“ im Bundeskriminalamt: meldestelle@interpol.at*, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1) (accessed on 22 December 2011)

<sup>99</sup> Federal Ministry of the Interior, *Kampf gegen Menschenhandel, Meldestelle und Hotline im Bundeskriminalamt*, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1) (accessed on 22 December 2011)

<sup>100</sup> Die Presse, *Darabos überlegt, Assistenzeneinsatz "abzuspecken"* (Darabos considers to shrink down Support Deployment), 10 November 2010, p.5.

<sup>101</sup> Salzburger Nachrichten, *Grenzwertiger Grenzeinsatz (Marginal Support Deployment)*, 22 January 2010, p.3. Federal Ministry of the Interior, *Fekter: Assistenzeneinsatz wird bis Ende 2010 verlängert (Fekter: Support deployment prolonged until the end of 2010)*, available at <http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=48436E574A6330344F54383D&page=18&view=1> (accessed on 10 January 2011)

<sup>102</sup> Die Presse, *Lopatka kritisiert Grenzeinsatz (Lopatka criticises support deployment)*, 04 February 2010, p.2. Die Presse, *Darabos überlegt, Assistenzeneinsatz "abzuspecken"* (Darabos considers to decrease support deployment), 10 November 2010, p.5.

DerStandard.at, *Assistenzeneinsatz teuer, aber unwirksam (Support Deployment is expensive and ineffective)*, 8 March 2010, available at <http://derstandard.at/1267743465815/Bundesheer-Assistenzeneinsatz-teuer-aber-unwirksam> (accessed on 11 March 2011)

In 2010, the Federal Ministry of the Interior participated in the Twinning Project CARDS 2006 – “Implementation of the Serbian Integrated Border Management Strategy” in Serbia through project management and posting of short time experts.

On the basis of Integrated Border Management, Austrian document advisers were on duty in Bangkok, Cairo, Damascus and New Delhi, and the “Consulting Team for the Prevention of Illegal Immigration” of the City Police Unit Schwechat accompanied flights in 2010.

As already reported in the Policy Report 2009, comprehensive and regular training of executive officials, especially of the personnel operating in the scope of the compensation measures, was continued in basic areas that are relevant for the compensation measures (legislation, documents, smuggling of motor vehicles, tracing, operational tactics, migrant smuggling and prostitution related crime, addictive drugs and guns) in 2010.

## **6.2 Cooperation with respect to border control**

### ***6.2.2 Developments from the EU perspective***

#### **Co-operation with Frontex**

Austria was very active in Frontex operations. In 2010, the trainings for Rapid Border Intervention Teams (RABIT) and Frontex Joint Support Teams were newly organised and the number of personnel active in Frontex operations was raised. In 2010, eleven focal points were continuously staffed at the external borders of the EU. Austria participated in Joint Operations in the area of land and air frontiers. Thirteen Austrian police officers supported Frontex Focal Points at the Hungarian-Serbian, Hungarian-Romanian, Hungarian-Ukrainian, Slovak-Ukrainian, Romanian-Moldovan, Polish-Belarusian, Bulgarian-Turkish and Greek-Turkish borders. These focal points are established along the EU external frontier in order to provide high level security. The focal points are staffed by mixed teams of police officers from EU Member States and the respective border country. The aims are to professionally support the local border police, the exchange of experience and to serve as training for operations at the ‘Hot Spots’ at EU external frontiers.<sup>103</sup>

In order to support other EU Member States, Austria participated in eight actions and Joint Operations in 2010: the RABIT Operation Greece with 17 officials and technical equipment at the Turkish-Greek land border; the Joint Operation Attica in the area of screening; the Joint Operation Poseidon in the area of air and land borders at the external borders of the EU in Greece, Albania, FYROM and Serbia; the Joint Operation Agelaus in the area of air borders with active participation of Austrian international airports; the Joint Operation Minerva for supervision of the green and blue borders of Spain – North Africa with a focus on irregular migration and narcotic crime; the Joint Operation Jupiter in the area of border control and border surveillance in Poland, Slovakia, Finland, Estonia, Latvia, Lithuania with a focus on irregular migration and smuggling in co-operation with customs authorities; and the Joint Operation Neptune in the area of border control and border surveillance at the Greek-Albanian, Slovenian-Croatian and Hungarian-Serbian border focusing on detection of falsified documents and stolen vehicles.

#### **Regulation on establishing a Community Code on Visas**

The Regulation No. 810/2009 (EC) of 13 July 2009<sup>104</sup> of the European Parliament and the Council establishing a Community Code on Visas (Visa Code) has been applicable to the visa

<sup>103</sup> Salzburger Nachrichten, *Daten und Fakten, (Facts and Figures)*, 22 January 2010, p.8.

<sup>104</sup> Regulation (EC) 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visa, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:EN:PDF> (accessed on 11 March 2011)

procedure of Schengen Visas (categories A and C) since 5 April 2010; it newly defined the legal framework for representation agreements and forms of co-operation (e.g. co-location, common application centres, recourse to honorary consuls and co-operation with external service providers). Austria partially makes use of these forms of co-operation already. In order to ensure the harmonised application of the Visa Code within the Schengen Member States, the EU issued instructions for its practical application in the Handbook for the Processing of Visa Applications and the Modification of Issued Visas.<sup>105</sup> These instructions were updated and specified constantly within the framework of the visa committee.

### Visa Information System (VIS)

Innovations of relevant new technological means for border control were expected with the implementation of the VIS and related measures. However, an advancement of border controls including the introduction of e-passport scanners and a new user interface with extended possibilities for tracing and requesting information is planned in connection with the implementation of the VIS in 2011. For this purpose, the introduction of automated border control lines in the Skylink of Vienna International Airport is foreseen.

Although, the original date for the central deployment of the VIS has been postponed several times, on 24 June 2011, the VIS will be ready for operation according to the Federal Ministry of the Interior. The roll-out will occur through various steps in the following order: In the region of North Africa it will embrace Algeria, Egypt, Libya, Mauritania, Morocco and Tunisia; in the Middle East, Israel, Jordan, Lebanon and Syria will be determined; and the Gulf Region will include Afghanistan, Bahrain, Iran, Iraq, Yemen, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. Further regions will be determined at a later time depending on the evaluation of visa statistics.

### Co-operation with neighbouring countries

Existing areas of co-operation with Austria's neighbouring countries regarding bilateral and trilateral common patrols in internal border areas as well as the operations in the common police co-operation centres were continued and intensified in 2010.

## **7. INTERNATIONAL PROTECTION, INCLUDING ASYLUM**

### **7.1 Developments within the national perspective**

The most important policy development in the field of international protection concerned the proposal to introduce "compulsory attendance" for asylum seekers in the first reception centres, as described above in section 3.2.2. Nevertheless, further changes to the Asylum Act were included in the second proposal of the Federal Ministry of the Interior in December. The proposal encompasses the re-organisation of the legal counselling that is provided during the asylum procedure and changes concerning the expulsion of former asylum seekers who have obtained a negative decision. Public and policy debates concerning the amendments started in 2011.

### **7.2 Developments from the EU perspective**

Due to the high annual rate of asylum applications per capita, Austria has not yet participated in the Relocation Programme of the EU. As already reported in the Policy Report 2009,

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<sup>105</sup> The Handbook is set out in the Annex to the Commission Decision of 19 March 2010 on establishing a Handbook for the processing of visa applications and the modification of issued visas C(2010)1620 final, available at [http://ec.europa.eu/home-affairs/policies/borders/docs/c\\_2010\\_1620\\_en.pdf](http://ec.europa.eu/home-affairs/policies/borders/docs/c_2010_1620_en.pdf) (accessed on 14 March 2010)

comprehensive and regular training of executive officials, especially of the border personnel of the federal police at airports, continued.

Within the framework of the project "Further Developing Quality", Austrian officials from the Federal Asylum Office supported partner authorities in implementing quality management systems in co-operation with the UK and Germany. The project aimed at implementing EU-wide harmonised quality management in asylum procedures.<sup>106</sup>

Furthermore, intensive co-operation and support in the establishment of new asylum structures was offered several times to Greece by Austria, especially in the area of training and quality assurance. In this context, a bilateral meeting between representatives of the Federal Asylum Office and representatives of the Greek Ministry of Citizen Protection took place in October 2010. A Memorandum of Understanding between the Federal Ministry of the Interior and the Greek Ministry of Citizen Protection concerning the intensification of the bilateral co-operation in the area of internal security, including asylum matters, was drafted.

### Greece – Dublin II

A decision of the Constitutional Court triggered public debate concerning the transfer of asylum seekers to Greece in accordance with the Dublin II Regulation. The Constitutional Court held in its judgement that the transfer of an Afghan asylum seeker with her three under aged children was inadmissible due to violation of Art. 3 ECHR because of the scarce accommodation and health care for vulnerable groups. In order to carry out transfers to Greece, Austria demanded an individual commitment from Greek authorities that the care for the respective asylum seeker would be assured. However, according to the verdict of the Constitutional Court, this individual commitment was not sufficiently obtained, thus signifying a breach of Art. 3 ECHR.<sup>107</sup>

Amnesty International, the Red Cross, UNHCR and NGOs expressed their concerns about transfers of asylum applicants to Greece and urged a general stop of deportations to Greece.<sup>108</sup> The Federal Minister of Interior pointed out that Austria increasingly take responsibility for asylum applications that would fall under the responsibility of Greece; however, the transfers will not be stopped generally, the asylum application will be examined on a case-by-case basis.<sup>109</sup>

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<sup>106</sup> Federal Ministry of the Interior, *Bundesasylamt: Hohe Qualität im Asylverfahren*, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=676B3874536678695446303D&page=62&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=676B3874536678695446303D&page=62&view=1) (accessed on 22 December 2011)

<sup>107</sup> Constitutional Court, Case Nr. U694/10-19, 7 October 2010.

Der Standard, *NGOs pochen auf europaweite Asyl-Standards (NGOs claiming for EU-wide Asylum Standards)*, 17. September 2010, p.12.

ORF, *Afghanin bekam vom VfGH recht (Afghan woman adjudged by Constitutional Court)*, 27 October 2010, available at [www.orf.at/stories/2022233/2022231](http://www.orf.at/stories/2022233/2022231) (accessed on 27 January 2011)

Wiener Zeitung, *Asylchancen schwinden durch Dublin (Chances to asylum diminish due to Dublin)*, 21 October 2010, p.3.

<sup>108</sup> Red Cross, *Abschiebung nach Griechenland stoppen*, 19 November 2011, available at

<http://www.roteskreuz.at/berichten/aktuelles/news/datum////rotes-kreuz-abschiebungen-nach-griechenland-stopp/> (accessed on 05 May 2011)

ORF, *VfGH stoppt Abschiebung nach Griechenland. Neue Hürde eingezogen (Constitutional Court stops deportation to Greece. New obstacle introduced)*, 27 October 2010, available at

<http://news.orf.at/stories/2022233/2022228/> (accessed on 4 March 2011)

DerStandard.at, *Abschiebung aus Österreich nach Griechenland verhindert (Deportation from Austria to Greece prevented)*, 05 May 2010, available at <http://derstandard.at/1271376010499/Europaeischer-Gerichtshof-fuer-Menschenrechte-Abschiebung-aus-Oesterreich-nach-Griechenland-verhindert> (accessed on 6 May 2011)

<sup>109</sup> DerStandard.at, *Straßburgs Abschiebestopp lässt Fekter kalt (Strasbourg's Deportation Stopp does not bother Fekter)*, 21 January 2011, available at <http://derstandard.at/1295570555527/Reaktion-Strassburgs-Abschiebestopp-laesst-Fekter-kalt?seite=3> (accessed on 5 May 2011)

## **8. UNACCOMPANIED MINORS (AND OTHER VULNERABLE GROUPS)**

### **8.1 Developments within the national perspective**

A debate on the implementation of the UN Convention on the Rights of the Child into the Austrian Constitution emerged in 2010. The Convention was signed in 1990 and ratified in 1992 in Austria. The debate included criticism on the legal reservation in Art. 7 of the law, which stipulated that certain rights could be limited in the interest of “national security, public peace and order, economic wealth of the country, protection of the order and prevention of criminal act, protection of health and right and freedoms of others”. This would encompass the limitation of child rights by aliens’ and criminal procedures.<sup>110</sup> UNICEF, the Netzwerk Kinderrechte and other NGOs demanded that Art. 7 should be deleted in order to not limit basic childrens’ rights, i.e. protection of discrimination due to age or the right to protection and care. The interests and needs of the children should always be given priority. UNHCR claimed Austria to apply the rights to all children regardless of their legal status.<sup>111</sup>

At the same time, constitutional law experts Theo Öhlinger, Heinz Mayer and Bernd-Christian Funk highlighted that the law has more a signal effect than practical significance, as it is not very likely that someone would appeal to the Constitutional Court.<sup>112</sup>

The law was adopted on 3 February 2011.

## **9. IMPLEMENTATION OF EU LEGISLATION**

### **9.1 Transposition of EU legislation 2010**

#### ***9.1.1 Return Directive***<sup>113</sup>

The amendment to the Aliens’ Law, which was presented in 2010, also envisions the transposition of the Return Directive. The amendments are expected to enter into force on 1 July 2011 and on 1 December 2011.<sup>114</sup>

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<sup>110</sup> National Assembly, *Initiativantrag zu einem Bundesverfassungsgesetz über die Rechte von Kindern (935/A) Petition for a Constitutional Law of the Rights of the Child*, available at [http://www.parlament.gv.at/PAKT/VHG/XXIV/A/A\\_00935/fname\\_175177.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/A/A_00935/fname_175177.pdf) (accessed on 6 May 2011)

<sup>111</sup> Netzwerk Kinderrechte Österreich, *Grundsatzpapier des Netzwerkes Kinderrechte Österreich zur Diskussion über die Verankerung von Kinderrechten in der österreichischen Bundesverfassung*, December 2010, available at <http://www.kinderhabenrechte.at/index.php?id=112> (accessed on 6 May 2011) OTS, *Kinderrechte in Verfassung lassen weiter auf sich warten (Child’s rights in Constitution still pending)*, 21 October 2011. OTS, *UNHCR appelliert: Gleiche Rechte für alle Kinder in Österreich (UNHCR appeals: Equal Rights for all Children in Austria)*, 11 November 2011.

<sup>112</sup> ORF, *Experten sehen nur symbolische Bedeutung. Mayer: Kaum praktische Auswirkungen, (Experts only see symbolic meaning. Mayer: hardly practical impact)*, 20 January 2011, <http://orf.at/stories/2037438/2037512/> (accessed on 27 January 2011)

<sup>113</sup> Directive 2008/115/EC of the European Parliament and of the Council on 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF> (accessed on 11 March 2011).

<sup>114</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at [http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

### **9.1.2 Employer's Sanction Directive<sup>115</sup>**

The amendments proposed by the Federal Ministry of the Interior, specifically the amendments to the Aliens' Employment Act, tabled in December 2010 also include the transposition of the Employers' Sanction Directive. The amendment is expected to enter into force on 1 July 2011.

### **9.1.3 Blue Card Directive**

The amendment to the Aliens' Law, which was presented in 2010, also envisions the transposition of the Blue Card Directive. The amendments are expected to enter into force on 1 July 2011.<sup>116</sup>

Public debates concerning the implementation of the directives started in 2011. After the presentation of the proposed amendments, the public debate focused on the new point based immigration system "Red-White-Red Card".

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<sup>115</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum Standards and measures against employers of illegally residing third-country nationals, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF> (accessed on 11 March 2011).

<sup>116</sup> Federal Ministry of the Interior, *Entwurf eines Bundesgesetzes, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005 und das Staatsbürgerschaftsgesetz 1985 geändert werden*, available at [http://www.bmi.gv.at/cms/BMI\\_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz\\_2011\\_Vorblatt\\_und\\_Erlaeuterungen\\_BEGUTACHTUNG.pdf](http://www.bmi.gv.at/cms/BMI_Begutachtungen/Niederlassung/Fremdenrechtsaenderungsgesetz_2011_Vorblatt_und_Erlaeuterungen_BEGUTACHTUNG.pdf) (accessed on 15 March 2011)

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Wien.at, <http://www.wien.gv.at>

## 1.2 Terms and Definitions

### Terminology

The terminology used in the context of this report is predominantly based on the terms and definitions elaborated by the EMN in the framework of the EMN Glossary<sup>117</sup> and the terms used in the European Pact on Immigration and Asylum. In cases where national terms and definitions are used, explanatory information is provided in footnotes.

### Translation of German terms and abbreviations

<b>German term</b>	<b>German Abbreviation</b>	<b>English term</b>	<b>Engl. Abbreviation</b>
Arbeitsmarkt Service	AMS	Labour Market Service	LMS
Asylgesetz	AsylG	Asylum Act	-
Asylgesetz 2005, Fremdenpolizeigesetz 2005 u.a., Änderung	-	Asylum Act 2005, Aliens Police Act 2005 i.a., Amendment	-
Ausländerbeschäftigungsgesetz		Aliens' Employment Act	-
Bundesministerium für Arbeit, Soziales und Konsumentenschutz	BM.ASK	Federal Ministry of Labour, Social Affairs and Consumer Protection	-
Bundesministerium für Wirtschaft und Arbeit	BM.WA	Federal Ministry of Economics and Labour	-
Bundesministerium für Europäische und Internationale Angelegenheiten	BM.EIA	Federal Ministry of European and International Affairs	FMEIA
Bündnis Zukunft Österreich	BZÖ	Alliance for Austria's Future	BZÖ
Bundesverfassungsgesetz	BVG	Constitutional Act	-
Die Grünen	-	Green Party	-
Erstaufnahmezentrum	EAST	first reception centre	-
Europäisches Migrationsnetzwerk	EMN	European Migration Network	EMN
Europäische Menschenrechtskonvention	EMRK	European Convention for Human Rights	ECHR
Europäischer Wirtschaftsraum	EWR	European Economic Area	EEA
Europäisches Gerichtshof	EuGH	European Court of Justice	ECJ
Europäische Union	EU	European Union	EU
Mitgliedsstaaten der Europäischen Union	EU MS	European Union Member States	EU MS
Bundesministerium für Inneres	BM.I	Federal Ministry of the Interior	MoI
Freiheitliche Partei Österreichs	FPÖ	Austrian Freedom Party	FPÖ
Fremdenpolizeigesetz	FPG	Aliens' Police Act	-
Fremdenrechtsänderungsgesetz 2009	-	Aliens' Law Amendment 2009	-
Gleichbehandlungsgesetz	-	Law on Equal Treatment	-

<sup>117</sup> European Commission, *EMN Glossary*, Brussels 2010. Also available online at: <http://emn.sarenet.es/Downloads/download.do;jsessionid=7362D2C1DEF838C8C52D1E62780F36E4?fileID=743> (accessed on 11 January 2011)

Integrationsvereinbarung- Verordnung	IV	Integration Agreement Regulation	-
Österreichischer Integrationsfonds	ÖIF	Austrian Integration Fund	-
Internationale Organisation für Migration	IOM	International Organization for Migration	IOM
Nationaler Aktionsplan für Integration	NAP.I	National Action Plan for Integration	NAP.I
Nationaler EMN Kontaktpunkt	EMN NKP	National EMN Contact Point	EMN NCP
Niederlassungs- und Aufenthaltsgesetz	NAG	Settlement and Residence Act	-
Organisation für wirtschaftliche Zusammenarbeit und Entwicklung	OEZD	Organisation for Economic Co- operation and Development	OECD
Österreichische Volkspartei	ÖVP	Austrian People's Party	ÖVP
Österreichische Entwicklungszusammenarbei- t	ÖEZ	Austrian Development Cooperation	ADC
Austrian Development Agency	ADA	Austrian Development Agency	ADA
Rotes Kreuz Österreich	ÖRK	Austrian Red Cross	RC
Sozialdemokratische Partei Österreichs	SPÖ	Social Democratic Party of Austria	SPÖ
Staatsbürgerschaftsgesetz	StbG	Citizenship Act	-
Hoher Flüchtlingskommissar der Vereinten Nationen	UNHCR	United Nations High Commissioner for Refugees	UNHCR
Büro der Vereinten Nationen für Drogen- und Verbrechensbekämpfung	UNODC	United Nations Office on drugs and Crimes	UNODC
Verfassungsgerichtshof	VfGH	Constitutional Court	-
Verwaltungsgerichtshof	VwGH	Administrative Court	-
Zivilcourage und Anti- Rassismus Arbeit	ZARA	Civil Courage and Anti-Racism Work	ZARA

**ANNEX B**

**AUSTRIA**

**ANNEX TO NATIONAL ANNUAL POLICY REPORT 2010 ON COMMITMENTS IN THE  
EUROPEAN PACT AND STOCKHOLM PROGRAMME**

## LEGAL IMMIGRATION AND INTEGRATION

### 1. Economic migration

#### 1.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

##### ***1(a) Implement policies for labour migration***

Please describe the (planned) introduction of a new labour migration policy or changes to the existing one. Elaborate any new aspects (e.g. introduction of quota, lists of professions, agreement with specific third countries, use of private recruitment services, etc). Specify whether these address any specific groups of migrants and describe any groups which are not addressed under the subsequent commitments in this sub-section. Also consider the effect of the economic crisis on labour migration (e.g. revision of quota, reduction of professions listed, etc).

- Legislative changes were foreseen in the areas of qualified and highly qualified immigration, for further details see 1.1 I (b).
- Annual assignment of quota for settlement permits and contingents for certain work permits:  
The total of all settlement permits subject to quota regulation amounted to 8.145 and remained the same as in 2009. When examined in detail, only marginal changes could be found compared to 2009 nationwide.  
Small changes could be observed regarding the maximum number of certain work permits: compared to 2009 the maximum number of work permits for temporary employed migrants was lowered from 8.000 to 7.500. The quota for harvest hands remained the same at 7.500.<sup>118</sup>

##### ***1(b) increase the attractiveness of the EU for highly qualified workers and further facilitate the reception of students and researchers:***

Please describe any (planned) measures to facilitate access of highly qualified workers, students and researchers. Refer to the implementation of the Blue Card Directive. Describe any incentive mechanisms for highly qualified workers, students and researchers on top of the transposition and implementation of EU legislation. Also consider the effect of the economic crisis.

- Austria planned comprehensive changes for highly qualified and qualified migrants. The launch of a migration model which is based on a point system of certain criteria is foreseen ("Red-White-Red-Card"). A working group formed by the Federal Ministry of the Interior in 2009, consisting of the social partners and the Federation of Austrian Industries, developed the criteria for this new migration model. The model is based on personal and labour market criteria, i.e. education, professional experience, innovation, language, age, studies or job offer etc. Furthermore, this model is embedded into an overall concept which highly respects aspects such as integration, early information and awareness raising etc.
- The target groups of the new regulation are 1) exceptionally highly qualified migrants, 2) qualified migrants with occupations facing labour shortage, and 3) qualified migrants who pass a so called "substitute employment procedure".<sup>119</sup>
- The proposal foresees that exceptionally highly qualified migrants may enter Austria

<sup>118</sup> FMI, Niederlassungsverordnung 2010 im Ministerrat beschlossen, available at

[www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=53676A747956713052496B3D&page=109&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=53676A747956713052496B3D&page=109&view=1)

<sup>119</sup> Substitute employment procedure means that before the person is admitted to the labour market the Public Employment Service is legally bound to try to fill the vacancy with a native or a foreign national who is already resident in Austria.

for the period of six months even without a job offer, in order to seek an adequate occupation.

- In addition to the new migration model, an act combating wage and social dumping was proposed in order to ensure fair economic competition and to secure the payment of taxes and fees as well as social welfare contributions.
- The respective amendments to the Settlement and Residence Act, the Aliens' Police Act as well as the Aliens' Employment Act have been under assessment since December 2010.<sup>120</sup>

***1(c) Do not aggravate the brain drain***

Please describe any (planned) measures to favour circular or temporary migration, as well as other measures taken to avoid brain drain, for example awareness rising actions, development of data and indicators on this phenomena, prevention, list of countries and professions subject to brain drain.

No programmes exist to foster temporary or circular migration.

**1.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

***1(b) Improving skills recognition and labour matching***

Describe any (planned) measures to improve the skills recognition of third country nationals and labour matching between your Member State and third countries (including online employment, etc). Linked to this, describe whether and how your Member State analyses its labour market needs / shortages. Also consider the effect of the economic crisis.

- The recognition of a foreign university degree or any other degree of tertiary education (so-called validation) is carried out by the respective authority of the university or college. The specific conditions for the validation of a certain degree are stipulated per official notification. If certain conditions are not met, these requirements can be completed for example as an extraordinary student. Special procedures are applied for certain university degrees from Bosnia and Herzegovina, Croatia, Italy, Liechtenstein, Former Yugoslav Republic of Macedonia (FYROM), Serbia, Montenegro, Slovenia and pontifical universities.<sup>121</sup>
- Skill matching is carried out by the Public Employment Service in form of individual work permits procedures for third country nationals.
- In Austria, the demand for labour is assessed via various mechanisms, e.g. via reports from employers, inquiries conducted by the Public Employment Service esp. the so-called Qualification Barometer. (For details, please see the Austrian country report of the EMN study "Satisfying Labour Demand through Migration".)

**1.3 Key statistics**

<b><i>First residence permits, by reason</i></b>				
	Total	Education reasons	Remunerated activities reasons	Other reasons
First permits				

<b><i>All valid residence permits, by duration</i></b>				
	Total	3-5 months	6-11 months	12 months and over
All permits				

<sup>120</sup> FMI, Begutachtungen, available at: [www.bmi.gv.at/cms/bmi\\_begutachtungen](http://www.bmi.gv.at/cms/bmi_begutachtungen)

<sup>121</sup> Federal Ministry for Science and Research, Anerkennung ausländischer Hochschuldiplome, available at [http://bmwf.gv.at/startseite/studierende/academic\\_mobility/enic\\_naric\\_austria/fag/anerkennung\\_auslaendischer\\_hochschuldiplome](http://bmwf.gv.at/startseite/studierende/academic_mobility/enic_naric_austria/fag/anerkennung_auslaendischer_hochschuldiplome)

<b>Unemployment rates of Member State citizens versus third country nationals residing in the Member State</b>		
	Member State citizens	Third country nationals
Unemployment rate (%)		

## **2 Family Reunification**

### **2.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Pact for this sub-section are in particular:

#### ***1(d) To regulate family migration more effectively***

Please describe any new policies / legislation in this regard or changes to existing policies and legislation regulating family migration. Consider also your Member State's reception capacity and the extent to which the family member's capacity to integrate is being taken into account in the admission procedure, e.g. their knowledge of the country's language, level of education, professional background, other.

- There were no extensive legislative changes regarding of family reunification in 2010. (Please see Policy Report 2009 for details on current legislation.)
- It was planned to introduce language integration measures prior to migration to Austria for the A1 level of the Common European Framework of Reference for Languages. The main target group of this regulation would be third country national family members of third country nationals entitled to family reunification.<sup>122</sup>

### **2.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

#### ***2(b) The Directive on family reunification, the importance of integration measures***

Please describe any concrete (planned) measures to further promote the integration of third country nationals coming for the purpose of family reunification.

- As in previous years, the integration of family members was a priority in Austria in 2010. Numerous measures<sup>123</sup> were carried out nation-wide in order to support the integration of family members. Also see 4.1.1 (g).
- Please see Policy Report 2009 regarding the fulfilment of the integration agreement for family members.<sup>124</sup>

### **2.3 Key statistics**

<b>First residence permits for family reasons</b>	
Number of first permits	

## **3 Other legal migration**

### **3.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)**

<sup>122</sup> FMI: *Nationaler Aktionsplan für Integration*, Vienna, 2009 available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf)

<sup>123</sup> FMI: *Maßnahmen*, Vienna, 2009, available at

[www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP\\_Massnahmenkatalog.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP_Massnahmenkatalog.pdf)

<sup>124</sup> Art. 14 Settlement and Residence Act

The relevant commitments in the Pact for this sub-section are in particular:

***I(e) to strengthen mutual information on migration by improving existing instruments where necessary;***

Please describe any (planned) sharing and exchanging of information on migration with other Member States, through existing networks and other instruments. Note that the European Migration Portal is to be discussed under the commitment below.

- There was an ongoing exchange and a co-operation with several Member States took place within the framework of bilateral contacts.
- Information exchange was fostered within the framework of EMN ad-hoc queries which were answered on a regular basis.
- Regional co-operation and the development of an operational network were fostered within the framework of the Forum Salzburg, an Austrian initiative (for further information, please see 12.1 V (c)).

***I(f) Improve information on the possibilities and conditions of legal migration***

Please describe any (planned) measures to improve the provision of information on the possibilities and conditions of legal migration. These could include, for example, information campaigns, websites, specific centres, etc. Also refer to the European Migration Portal. Consider the effects of the economic crisis.

- Websites, brochures and other information concerning legal migration were updated and extended on a regular basis. For detailed information concerning websites, brochures and other information, see Policy Report 2009.
- Austria supported the European Commission in the development and review of the contents of the future EU Immigration Portal. Comments concerning the Austrian content were sent to the European Commission in September 2010.

**3.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme are similar to the Pact objective above, hence no further information required.

**4 Integration**

**4.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Pact for this sub-section are in particular:

***I(g) Promote harmonious integration in line with the common basic principles***

The common basic principles may be found in the JHA Council Conclusions of 19 November 2004, [doc. 14615/05](#), as well as the Commission Communication [COM\(2005\) 389](#).

Please describe (planned) measures for the integration of third country nationals, considering, for example, measures enabling immigrants to acquire a basic knowledge of the host society's language, history, and institutions, "efforts in education" "participation of immigrants in the democratic process and in the formulation of integration policies and measures, especially at the local level", access to employment and public and social services, policy development on integration, etc.

- In January 2010 the National Action Plan on Integration<sup>125</sup> was adopted unanimously. It defines in accordance with the Common Basic Principles adopted by the Council in 2004 the principles on integration policies and goals in the areas of language, education, work, profession, rule of law, values, health, social issues, intercultural dialogue, sports, leisure, housing and the regional dimension of integration and should ensure the continuity of the past integration policy initiatives in Austria.
- Simultaneously, a catalogue of measures<sup>126</sup> was presented to serve as an overview of the measures of key stakeholders and of the Austrian integration strategy and to allow for the target-oriented elaboration of integration policy measures through increased transparency.
- In order to ensure the sustainable and ideal implementation of the National Action Plan on Integration, the Federal Ministry of the Interior established a Council of Experts for Integration consisting of acknowledged experts from the science and with practical experience, as well as an Integration Board involving public and private co-operation partners.
- The integration process and the status quo of integration should be analysed regularly on the basis of specially developed integration indicators.<sup>127</sup> Furthermore, suggestions for improvement in all areas of integration are being developed particularly by the Council of Experts for Integration.
- The Austrian Integration Fund<sup>128</sup> further continued to assist the integration of migrants and persons entitled to asylum throughout Austria particularly in the areas of language, education and the labour market; the newly created location “Habibi – House for Education and Professional Integration” acts as a One-Stop-Shop for labour market oriented integration.

***l(h) Promote information exchange on best practices in terms of reception and integration***

Please describe any relevant activity, e.g. the development of a national website and/or forum on integration, development of information exchanges between institutions and other stakeholders within your Member State, etc. Also consider possible contributions to the European Integration Forum and the European website on Integration.

<sup>125</sup> FMI: *Nationaler Aktionsplan für Integration*, Vienna, 2009 available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf)

<sup>126</sup> FMI: *Maßnahmen*, Vienna, 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP\\_Massnahmenkatalog.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/NAP_Massnahmenkatalog.pdf)

<sup>127</sup> Fassmann, Heinz: *Integrationsindikatoren des Nationalen Aktionsplans für Integration*, Vienna 2009, available at [www.bmi.gv.at/cms/cs03documentsbmi/808.pdf](http://www.bmi.gv.at/cms/cs03documentsbmi/808.pdf)

<sup>128</sup> Austrian Integrations Fund, available at [www.integrationsfonds.at](http://www.integrationsfonds.at)

- The process leading up to the adoption of the National Action Plan on Integration<sup>129</sup> was fostered via exchange of best practices through expert discussions with national and international experts coming from the areas of science and with practical experience.
- The internet portal [www.integration.at](http://www.integration.at) was maintained and updated continuously for publications and developments in the area of integration.
- The Federal Ministry of the Interior planned to improve public relations in the area of migration and integration. In September 2010, the cornerstones of the future public relations policy were presented, which will be implemented starting in 2011. The introduction of a public relations expert for migration and integration on a federal level is foreseen. In the federal provinces, public relations staff will be merged into communication teams. Furthermore, the co-operation with migrant media should be fostered. In early 2011 this endeavour will be supported through an information event for migrant media, taking place in the Federal Ministry of the Interior.<sup>130</sup>
- The European Website for Integration<sup>131</sup> was updated continuously concerning Austrian country information.

#### **4.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

#### **3(b) to incorporate integration issues in a comprehensive way in all relevant policy areas**

Please elaborate whether and how integration issues are integrated on other national policies.

- In Austria integration is perceived as a cross-cutting topic, which concerns the whole society and affects the state at all levels.
- As already elaborated in the Policy Report 2009, the National Action Plan on Integration<sup>132</sup> structured the Austria-wide co-operation of various actors so as to successfully coordinate the implementation of integration measures in relevant areas.

#### **3(e) improved consultation with and involvement of civil society**

Please describe consultation processes with civil society and their involvement in integration policymaking and measures.

- From the beginning, civil society organisations have been integrated into the elaboration of the National Action Plan on Integration: the development of the National Action Plan was co-ordinated by a steering committee of all relevant ministries, federal provinces, municipalities, social partners and the Federation of Austrian Industries as well as from civil society organisations.
- The process of developing the National Action Plan on Integration was enriched and took on an international dimension through expert discussions with national and international experts from the areas of science and with practical experience.
- The areas of action of the National Action Plan on Integration and its implications were discussed with migrant organisations and citizens with and without migration background.<sup>133</sup>

<sup>129</sup> FMI: *Nationaler Aktionsplan für Integration*, Vienna, 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf)

<sup>130</sup> FMI, *Kommunikation mit Migranten*, available at

[www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=64453838715856465868513D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=64453838715856465868513D&page=9&view=1)

<sup>131</sup> European Website on Integration, available at <http://ec.europa.eu/ewsi/de>

<sup>132</sup> FMI: *Nationaler Aktionsplan für Integration*, Vienna, 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf)

<sup>133</sup> Idem.

**3(f) to enhance democratic values and social cohesion in relation to immigration and integration of immigrants and to promote intercultural dialogue and contacts**

Please describe any measures taken in this regard. For example, indicate whether these are included in integration courses and programmes, whether specific activities, e.g. events, have been organised, etc.

- Intercultural dialogue has a long tradition in Austria.
- The National Action Plan on Integration devotes an entire chapter to intercultural dialogue and emphasizes the importance of intercultural dialogue in all fields of action related to integration policy.<sup>134</sup>
- In 2010, the Federal Ministry of the Interior organised a round table with representatives of orthodox and oriental churches in Austria aimed at promoting intercultural dialogue.<sup>135</sup>
- In order to promote intercultural dialogue, the Federal Ministry of the Interior also initiated a series of talks called “Islam. People. Dialogue”, in the course of which national and international experts, Muslim representatives and citizens are able to discuss Islam as well as related integration issues. This process should result in a permanent and structured dialogue in the Federal Ministry of the Interior.

### 4.3 Key statistics

<b>Long-term third country national residents</b>	
Number of long-term third country national residents	

<b>Acquisition of citizenship</b>	
Number of third country national nationals (Citizens of countries other than of EU-27, EFTA and Candidate countries) taking up citizenship	

<sup>134</sup> FMI: *Nationaler Aktionsplan für Integration*, Vienna, 2009, available at [www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap\\_bericht.pdf](http://www.integrationsfonds.at/fileadmin/Integrationsfond/NAP/nap_bericht.pdf), p. 33ff.

<sup>135</sup> FMI, *Nationaler Aktionsplan für Integration: Interkultureller Dialog im Innenministerium*, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=477A58377076306F752F513D&page=58&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=477A58377076306F752F513D&page=58&view=1)

## ILLEGAL IMMIGRATION AND RETURN

### 5 Illegal Immigration

#### 5.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

##### ***II(a) only case-by-case regularisation***

Please indicate whether any regularisation took place and how in your Member State legal status was given to illegally staying third country nationals. Also provide information on trends with respect to the number of persons regularised.

There were no broad regularisations in Austria in 2010. Regularisation policy on 'humanitarian grounds' on a case-by-case basis remained Austria's priority. For specific details on this regulation, see Policy Report 2009.

##### ***II(c) ensure that risks of irregular migration are prevented***

Please describe your Member State's policy concerning preventing irregular migration. Note that information on other relevant measures, such as border control are to be provided in the later sections of this report (see Sections 9 and 10).

Combating irregular migration remained an Austrian priority. See Policy Report 2009.

##### ***II(d) to develop cooperation between Member States, using, on a voluntary basis and where necessary, common arrangements to ensure the expulsion of illegal immigrants***

Please describe cooperation with other Member States, with regard to the expulsion of persons found to be staying illegally on the territory, including biometric identification of illegal entrants, joint expulsion measures (e.g. flights), etc.

Austria is one of the most active Member States in EU Joint Return Operations. In 2010 (effective 18 November 2010) Austria coordinated 12 EU Joint Return Operations and participated in 8 additional Operations.

##### ***II(g) take rigorous actions and penalties against those who exploit illegal immigrants***

Please describe the transposition and operational execution (e.g. prosecution of employers hiring persons illegally staying in your Member State) of the "Employer Sanctions Directive," as well as other relevant actions and developments.

- The "Employer Sanctions Directive" will be implemented by the foreseen deadline.
- There were no legislative changes in this area in 2010. For current legislation, see Policy Report 2009.

***II(h) an Expulsion Decision taken by one Member State (MS) should be applicable throughout the EU and entered into the SIS obliging other MSs to prevent the person concerned from entering or residing***

Please describe any relevant developments with regard to expulsion decisions and the principle of mutual recognition of these decisions.

Legally binding and enforceable residence and return bans were registered in the SIS according to the Convention Implementing the Schengen Agreement. See Policy Report 2009.

**5.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

***4(j) more effective action against illegal immigration and trafficking in human beings and smuggling of persons by developing information on migration routes as well as aggregate and comprehensive information which improves our understanding of and response to migratory flows***

Please describe information collection activities undertaken in your Member State to identify migration routes, patterns and other relevant factors relevant to illegal immigration.

The Central Service for Combating Illegal Migration and Trafficking in Human Beings of the Austrian Criminal Intelligence Service immediately registers each time that irregular migrants are apprehended as well as each investigation made regarding migrant smuggling networks. Furthermore, special investigations take place during the first interview with asylum applicants in order to identify the routes of migrant smugglers. Contacts with informants are maintained in order to detect hidden routes. Regulated information exchange occurs with other EU Member States as well as with third countries on the level of criminal police.

***4(k) increased targeted training and equipment support***

Please describe any training measures and equipment support to combat irregular immigration which are not linked to border control (which is discussed in section 9 below).

- Comprehensive and regular training of executive officials in all areas was continued. See Policy Report 2009.
- Comprehensive and regular training of executive officials, especially of the personnel operating in the scope of the compensation measures, was continued in basic areas that are relevant for the compensation measures (legislation, documents, smuggling of motor vehicles, tracing, operational tactics, migrant smuggling and prostitution related crime, addictive drugs and guns) also in 2010. (See Policy Report 2009)
- Since 2010, stationary and mobile devices for licence plate recognition have been used in order to be able to read licence plates and compare them with the national tracing data base. Furthermore, traffic control points alongside highly frequented routes were developed and extended.

**4(l) a coordinated approach by Member States by developing the network of liaison officers in countries of origin and transit.**

Please describe recent or planned developments with regard to your Member State's liaison officers in countries of origin and transit.

- Starting in 2011, a liaison officer of the Federal Ministry of the Interior stationed in Thailand will focus on combating "child sex tourism".<sup>136</sup>
- See Policy Report 2009 for information on liaison officers nominated before 2010.

### 5.3 Key statistics

<b>Third country nationals apprehended</b>	
Third country nationals apprehended	

<b>Third country nationals regularised</b>	
Third country nationals regularised	

## 6 Return

### 6.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

#### **II(b) To conclude readmission agreements at EU or bilateral level**

Please list the number of bilateral agreements negotiated and achieved during the reference period, specifying their purpose and with which third country. Also list the EU readmission agreements in which your Member State took part during the reference period. You could use the following table:

Type of readmission agreement	Third countries involved	Main purpose of the agreement
Bilateral	Kosovo <sup>137</sup>	<ul style="list-style-type: none"> <li>- Readmission of Kosovar nationals</li> <li>- Concrete procedure for determining citizenship and of return</li> <li>- Readmission of third country nationals</li> <li>- Transit operations</li> <li>- Modalities of transfers</li> <li>- Issuance of possible travel document substitutes/laissez passer</li> </ul>
Implementation protocols to EU readmission agreements	Signed: Moldova Serbia Montenegro FYROM	<ul style="list-style-type: none"> <li>- Responsible authorities, communication channels and border crossing points,</li> <li>- Precondition for assisted removal and transit</li> <li>- Modalities of removal.<sup>138</sup></li> </ul>

<sup>136</sup> FMI, Neue Meldestelle „Kindersextourismus“ im Bundeskriminalamt: meldestelle@interpol.at, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1)

<sup>137</sup> FMI, Fekter unterzeichnet Rückübernahmeabkommen mit Kosovo, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=31786C3375384F6C584E383D&page=8&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=31786C3375384F6C584E383D&page=8&view=1)

	Negotiations:  Advanced/concluded: Russian Federation Ukraine Bosnia and Herzegovina	
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Please only provide information on readmission agreements. Information on other agreements with third countries will need to be added in other sections of the report (e.g. Sections 8 and 13).

***II(f) To devise incentive systems to assist voluntary return and to keep each other informed***

Please describe (planned) measures to promote voluntary return, assistance provided in voluntary return, provision of information to other Member States on person returned.

Voluntary return was further supported as favoured alternative to forced removal. General and target group related programmes were extended and developed.

Within the European Return Fund, the following projects for the programme year 2010 were selected and financed:

- 1 project: Supporting measures for voluntary return from prisons (according to Art. 133a Prison Administration Act)
- 2 projects: Return preparation during detention pending deportation in police detention centres
- 3 projects: Counselling for voluntary return and organisation of return
- 2 projects: Return and reintegration assistance for voluntary return to Kosovo
- 1 project: Voluntary return and reintegration assistance for citizens of Nigeria
- 1 project: Support of voluntary return and reintegration of returnees to the Russian Federation / Republic of Chechnya
- 1 project: Counselling to support the voluntary return of (female) victims of human trafficking

For information concerning the structure of the support of voluntary return and for projects in the programme year 2009 see Policy Report 2009.

**6.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

***4(c) ensuring that the objective of the EU's efforts on readmission should add value and increase the efficiency of return policies, including existing bilateral agreements and practices***

Please describe how the bilateral and EU readmission agreements are contributing to the implementation of your Member State's return policy.

Through regulations (specific reference persons, deadlines) established via bilateral and EU readmission agreements, requests concerning readmission often can be quickly replied to and necessary substitutes for travel documents can be acquired rapidly. However, the quality and speed of readmission depends on the willingness of the target countries to co-operate and varies to a great extent. Hence, the mere conclusion of readmission agreements is not enough. In order to ensure the effectiveness of readmission agreements, quick and effective implementation in the field in order to facilitate prompt readmission is essential.

<sup>138</sup> FMI, Polizeiabkommen mit Moldawien, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=78544874746C537A6F2B733D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=78544874746C537A6F2B733D&page=9&view=1)

**4(e) assistance by the Commission and Frontex and Member States on a voluntary basis, to Member States which face specific and disproportionate pressures, in order to ensure the effectiveness of their return policies towards certain third states**

Please describe whether your Member State has benefited from / has provided any return support in case of specific and disproportionate pressures in your / in another Member State. Note that joint return flights are to be discussed under the following commitment.

- From Austria's point of view, the main responsibility for supporting other Member States and co-ordinating relevant measures lies with the European Commission.
- Austria supports Greece by providing know-how in the area of asylum and return based on a Memorandum of Understanding.

**4(f) increased practical cooperation between Member States, for instance by regular chartering of joint return flights**

Please describe practical cooperation with other Member States in the area of return, such as the organisation of joint return flights, the preparation of travel documents, etc.

- Austria is one of the most active Member States in EU Joint Return Operations. In 2010 (effective 18 November 2010), Austria co-ordinated 12 EU Joint Return Operation and participated in 8 additional operations.
- Furthermore, four flights took place in the scope of a bilateral co-operation with Poland.

**6.3 Key statistics**

<b>Third country nationals ordered to leave and returned</b>				
	Ordered to leave	Returned following an order to leave	Returned as part of forced return measures	Returned through an Assisted Return Programme
Third country nationals				

**7 Actions against human trafficking**

**7.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Pact for this sub-section are in particular:

**II(e) cooperation with the countries of origin and of transit, in particular to combat human trafficking and to provide better information to communities under threat**

Please describe any (planned) actions at national level to fight human trafficking and incorporation of third countries within them, awareness raising actions in third countries addressing communities at risk, etc. Please only refer to cooperation with regard to combating human trafficking. Information on other types of cooperation will need to be provided in other sections of the report (e.g. Sections 10 and 13).

- Austria has started a new campaign for the protection of children and youth from sexual abuse in tourism. The core of the new campaign is the awareness raising of tourists and it calls on the public to report suspected cases of child abuse by Austrians abroad. An anonymous contact point has been established in the Austrian Criminal Intelligence Service ([meldestelle@interpol.at](mailto:meldestelle@interpol.at)).<sup>139</sup>

<sup>139</sup> FMI, Neue Meldestelle „Kindersextourismus“ im Bundeskriminalamt: [meldestelle@interpol.at](mailto:meldestelle@interpol.at), available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=684A6E2B6B3561686A66633D&page=9&view=1)

- Furthermore, a contact point ([menschenhandel@bmi.gv.at](mailto:menschenhandel@bmi.gv.at)) and telephone hotline (01-24836-85383) were established for reporting cases of trafficking in human beings and migrant smuggling.<sup>140</sup>
- Additionally, specially trained officials are present at the first interviews with asylum applicants at the first reception centre for asylum seekers in order to identify victims of human trafficking (e.g. women from Nigeria who were smuggled to Austria in order to work in prostitution).
- Various conferences on trafficking in human beings and migrant smuggling took place in order to foster national and international co-operation in this field:  
Conference against human and child trafficking in Traiskirchen (19 January 2010) for the exchange of experience and the establishment of a transnational network,<sup>141</sup>  
Conference on children sex tourism in Windischgarsten (19 October 2010)<sup>142</sup>
- The implementation of the second National Action Plan against Trafficking in Human Beings (2009-2011) was continued. (See Policy Report 2009)

### 7.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Stockholm are similar to the Pact commitments, hence no further description is required.

### 7.3 Key statistics

<b>Third country nationals receiving a residence permit as victims of human trafficking</b>	
Third country nationals	

<b>Traffickers arrested and convicted</b>		
	Arrested / otherwise involved in a criminal proceeding	Convicted
Traffickers		

<sup>140</sup> FMI, Kampf gegen Menschenhandel, Meldestelle und Hotline im Bundeskriminalamt, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1)

<sup>141</sup> FMI, Konferenz gegen Menschen- und Kinderhandel in Traiskirchen, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=66714673477A583838786B3D&page=95&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=66714673477A583838786B3D&page=95&view=1)

<sup>142</sup> FMI, Kampf gegen Menschenhandel, Meldestelle und Hotline im Bundeskriminalamt, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6A6F546643596F324C52673D&page=4&view=1)

## BORDER CONTROL

### **8 Control and surveillance at external borders**

#### **8.1 European Pact on Immigration and Asylum** (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

##### **III(a) more effective control of the external land, sea and air borders:**

Please describe any relevant (planned) developments to ensure more effective control, such as reinforcing border control staff, providing training, increasing overall resources. Note that technological means are to be described under the Pact commitment below.

- Comprehensive and regular training of executive officers, especially of border patrol police officers at airports, was continued in 2010. (See Policy Report 2009)
- In order to reinforce co-operation with neighbouring countries, practical exercises are conducted in the area of pursuit and emergency investigations on the basis of the Police Co-operation Act. Likewise, mixed patrols were continuously used with the neighbouring countries Hungary, Slovakia and Slovenia. A new police co-operation centre in Dolga Vas was founded by Austria, Slovenia and Croatia to intensify co-operation between these countries.
- Austria was very active in the area of Frontex operations. In 2010, the trainings for Rapid Border Intervention Teams (RABIT) and Frontex Joint Support Teams were newly organised and the number of personnel active in Frontex operations was raised. In 2010, 11 focal points were continuously staffed at the external borders of the EU. Austria participated in Joint Operations in the area of land and air frontiers.

##### **III(e) deploy modern technological means for border control:**

Please describe any new technological equipment purchased and used during the reference period, including IT systems, surveillance equipment, automated border controls and fast track lanes, etc. If possible, also make reference to any developments relevant to the EU entry / exit system, the EU Registered Traveller Programme, the Schengen Information System (SIS II) and European Border Surveillance System.

In 2010, relevant new technological means for border control were not deployed. Innovations are expected with the implementation of the VIS and related measures. (See also 8.2 7(i)).

#### **8.2 Stockholm Programme** (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

##### **7(i) invites the Member States and the Commission to explore how the different types of checks carried out at the external border can be better coordinated, integrated and rationalised with a view to the twin objective of facilitating access and improving security.**

Please describe any relevant (planned) actions taken to better coordinate different types of border checks (e.g. automated and non-automated, fast-track and non fast-track) at the external borders.

An advancement of border controls including the introduction of e-passport scanners and a new user interface with extended possibilities for tracing and requesting information was planned in connection with the implementation of the VIS in 2011. For this purpose, the introduction of automated border control lines in the Skylink of Vienna International Airport is foreseen. Corresponding projects were in progress.

### 8.3 Key statistics

<b>Third country nationals refused entry</b>				
	Total refused	Refused at the land border	Refused at the sea border	Refused at the air border
Third country nationals refused entry				

<b>Visas issued</b>			
	Total Visas	Schengen Visas	National Visas
Visas			

## 9 Cooperation with respect to border control

### 9.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

#### **III(b) generalise the issue of biometric visas, improve cooperation between MSs' consulates and set up joint consular services for visas:**

Please describe (planned) developments in relation to biometric visas, for example the share of visas issued which are biometric, regions covered, pilot measures and testing, etc, also referring to the Visa Information System (VIS).

With regard to cooperation between Member State consular services and the set up of joint consular services for visas, please describe any relevant progress in this area, for example listing the visa representation agreements signed and the Member States involved (please specify whether you Member State represents these Member States or vice versa).

Regulation No. 810/2009 (EC) of 13 July 2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code), which is applicable since 5 April 2010, newly defined the legal framework for representation agreements and forms of co-operation (e.g. co-location, common application centres, recourse to honorary consuls and co-operation with external service providers). Austria already partially makes use of these forms of co-operation.

#### **III(d) solidarity with MS subjected to disproportionate influxes of immigrants**

Please describe whether your Member State has benefited from / has provided any support with regard to border control in case of specific and disproportionate pressures in your / in another Member State. Also provide information on your Member State's relevant participation in FRONTEX, by type of activity (e.g. joint operations). Note that information on other forms of support with respect to disproportionate influxes are to be provided in other sections (e.g. section 7).

In order to support other EU MS and handle disproportionate migration flows, Austria participated in the following actions in 2010:

- RABIT Operation Greece with 17 officials and technical equipment at the Turkish-Greek land border
- Joint Operation (JO) Attica in the area of screening in order to prevent irregular migration streams
- JO Poseidon in the area of air and land borders at the external borders of the EU in Greece, Albania, FYROM and Serbia

- JO Agelaus in the area of air borders with active participation of Austrian international airports
- JO Minerva for supervision of the green and blue borders Spain – North Africa with focus on irregular migration and narcotic crime
- JO Jupiter in the area of border control and border surveillance in Poland, Slovakia, Finland, Estonia, Latvia, Lithuania with focus on irregular migration and smuggling in co-operation with customs authorities
- JO Neptune in the area of border control and border surveillance at the Greek-Albanian, Slovenian-Croatian and Hungarian-Serbian border focusing on detection of falsified documents and stolen vehicles
- Air border sector with support of the international airports in Frankfurt, Rome, Madrid and Athens
- Permanent staff at 11 focal points at the external borders of the EU

**III(f) intensify cooperation with the countries of origin and of transit in order to strengthen border control**

Please list any new or planned agreements, and other forms of bilateral and multilateral cooperation with third countries, specifying which countries, specifically in order to strengthen the control of external borders and to combat illegal immigration. This could include the provision of border equipment, training of border guards, etc. Please note that wider / more comprehensive agreements are to be described under section 13 addressing the Global Approach to Migration.

- For police cooperation agreements, see 12.1V c).
- Existing areas of co-operation with Austria's neighbouring countries regarding bilateral and trilateral common patrols in internal border areas as well as the operations in the common police co-operation centres were continued and intensified in 2010.
- On the basis of Integrated Border Management, Austrian document advisers were on duty in Bangkok, Cairo, Damascus and New Delhi and the "Consulting Team for the Prevention of Illegal Immigration" of the City Police Unit Schwechat accompanied numerous flights to certain destinations in 2010.
- In 2010, the Federal Ministry of the Interior participated in the Twinning Project CARDS 2006 – "Implementation of the Serbian Integrated Border Management Strategy" in Serbia through project management and posting of short time experts.

**9.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

**6(a) The European Council encourages the Commission and Member States to take advantage of the entry into force of the Visa Code and the gradual roll-out of the VIS**

Please describe the progress of implementation of the Visa Code and VIS, if not already provided under Pact Commitment III(b) above.

- The Community Code on Visas (Regulation (EC) No. 810/2009 establishing a Community Code on Visas (Visa Code) entered into force on 5 October 2009. Since 5 April 2010, its provisions are directly applicable to the visa procedure of Schengen Visas (categories A and C). In order to ensure the harmonised application of the Visa Code within the Schengen Member States, the EU issued instructions for its practical application (Handbook for the Processing of Visa Applications and the Modification of Issued Visas). These instructions are updated and specified constantly within the framework of the visa committee.
- The original date for the central deployment of the VIS has been postponed several times. On 24 June 2011, the VIS will be ready for operation.
- The roll-out will occur through various steps in the following order:
  - North Africa: Algeria, Egypt, Libya, Mauretania, Morocco, Tunisia

- Near East: Israel, Jordan, Lebanon, Syria
- Gulf Region: Afghanistan, Bahrain, Iran, Iraq, Yemen, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates
- Further regions will be determined at a later time (dependent on the evaluation of visa statistics)
- The necessary preparations for implementation of VIS were processed at the central and national level so that implementation will be complete by June 2011.

## ASYLUM

### 10 International Protection

#### 10.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

##### ***IV(c) solidarity with MS which are faced with specific and disproportionate pressures on their national asylum systems:***

Please provide information on support provided to Member States experiencing specific and disproportionate pressures on their national asylum systems, with regard to the processing of requests for international protection. This could include seconding staff and sending resources or equipment.

- It should be noted that Austria rates amongst the most affected Member States in the EU.
- Within the framework of the project "Further Developing Quality", Austria, in co-operation with UK and Germany, supports partner authorities in implementing quality management systems.<sup>143</sup>
- Intensive co-operation and support in the establishment of new asylum structures was offered to Greece several times by Austria, especially in the area of training and quality assurance. In this context, a bilateral meeting between representatives of the Federal Asylum Office and representatives of the Greek Ministry of Citizen Protection took place in October 2010. Additionally, a "Memorandum of Understanding" between the Federal Ministry of the Interior and the Greek Ministry of Citizen Protection concerning the intensification of the bilateral co-operation in the area of internal security, including asylum matters, is currently being drafted.
- The Federal Ministry of the Interior will also take an active role in the implementation of the EU Action Plan under co-ordination of the European Commission.

Please describe any action undertaken with regard to the reallocation from Member States experiencing specific and disproportionate pressures of beneficiaries of international protection to other Member States. This relates to intra-EU movements, for example, as part of EU projects.

For years, Austria has been amongst the mostly affected Member States concerning increasing numbers of asylum applicants. Because of the high annual rate of asylum applications, and especially due to the very high load of per capita in European comparison, Austria has not participated in the Relocation Programme of the EU as of yet.

##### ***IV(d) strengthen cooperation with the Office of the United Nations High Commissioner for Refugees to ensure better protection for people outside the territory of European Union Member States who request protection, in particular by moving, on a voluntary basis, towards the resettlement within the European Union***

Please describe resettlement activities to your Member State of people placed under the protection of the Office of the UNHCR in third countries, specifying from which countries.

Because of the high annual rate of asylum applications and the high number of pending proceedings in 2010, Austria did not participate in the resettlement activities of UNHCR.

<sup>143</sup> FMI, Bundesasylamt: Hohe Qualität im Asylverfahren, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=676B3874536678695446303D&page=62&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=676B3874536678695446303D&page=62&view=1)

**IV(e) MS are invited to provide the personnel responsible for external border controls with training in the rights and obligations pertaining to international protection**

Please describe the provision or planning of provision of such training (and in which way, number and percentage of border control staff trained)...

- Comprehensive and regular training of executive officials, especially of the border personnel of the federal police at airports was continued in the field of international protection in 2010. (See Policy Report 2009)
- In 2010, special trainings on unaccompanied minors were conducted. For further information see 11.2 5(a)

**10.2 Key statistics**

<b>Asylum applications and decisions</b>							
	Applications	First instance decisions on asylum applications					
	Total applications under consideration	Total positive	Rejected	Geneva Convention	Subsidiary protection	Temporary protection	Humanitarian status
Asylum applications							

<b>Third country nationals reallocated and resettled to your Member States</b>			
	Total	Reallocated	Resettled
Third country nationals			

<b>Training of border guards on asylum</b>	
	Total number of border guards
Border guards	Border guards who received training

## UNACCOMPANIED MINORS AND OTHER VULNERABLE GROUPS

### 11 Unaccompanied Minors (and other vulnerable groups)

#### 11.1 European Pact on Immigration and Asylum

No specific commitments are included.

#### 11.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

***5(a) develop an action plan, to be adopted by the Council, on unaccompanied minors which underpins and supplements the relevant legislative and financial instruments and combines measures directed at prevention, protection and assisted return***

Please describe any developments in relation to unaccompanied minors at national and international levels.

Significant changes and further protective mechanisms concerning unaccompanied minors were implemented through amendments to the Asylum Act, the Aliens' Police Act and the Settlement and Residence Act already in 2009:

- Unaccompanied minors can be granted a "residence permit - special protection" in accordance with the principle of the best interest of the child under simplified conditions, if the minor is either being cared by foster parents or youth welfare authorities, based on the law, on agreements with the biological parents, a formal youth welfare measure, or a court decision.<sup>144</sup>
- The application procedure for a residence permit for unaccompanied minors is facilitated: upon application the correction of certain procedural errors can be allowed for<sup>145</sup> and the unaccompanied minor can be allowed to apply for a residence permit in Austria.<sup>146</sup>
- Persons holding a "residence permit - special protection" for at least 12 months can be issued a quota free "residence permit – unrestricted" within the scope of renewal procedures if they fulfil the legal conditions.<sup>147</sup>
- Age assessment: The possibility to conduct radiological tests, especially x-ray examination within the frame of a multifactorial investigation methodology was introduced for age assessment if there are doubts as to the individual's age.<sup>148</sup>
- Definition of "unaccompanied minor" in the Settlement and Residence Act.<sup>149</sup>

Officials from the Federal Asylum Office were sensitised to the situation of unaccompanied minors, especially regarding the legal framework (national, European and international sources of law), the UNHCR Guidelines on this topic, the "best practices" of other Member States and the specific psychological components and requirements of the officials during preliminary proceedings and the decision-making process. The training project was financed by the European Refugees Fund.<sup>150</sup>

### 11.3 Key statistics

<sup>144</sup> Art. 69a para 1 (4) Settlement and Residence Act, Fremdenrechtsänderungsgesetz 2009 – Materialien, available at [www.parlament.gv.at/PAKT/VHG/XXIV/I/I\\_00330/fname\\_167909.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/I/I_00330/fname_167909.pdf)

<sup>145</sup> Art. 19 para 8 Settlement and Residence Act

<sup>146</sup> Art. 21 para 3 (1) Settlement and Residence Act

<sup>147</sup> Art. 43 para 3 Settlement and Residence Act

<sup>148</sup> Art. 15 para 1 (6) Asylum Act, Art. 12 para 4 Aliens' Police Act, Art. 29 para 4 Settlement and Residence Act, Art. 5 para 1 Citizenship Act, Fremdenrechtsänderungsgesetz 2009 – Materialien, available at [www.parlament.gv.at/PAKT/VHG/XXIV/I/I\\_00330/fname\\_167909.pdf](http://www.parlament.gv.at/PAKT/VHG/XXIV/I/I_00330/fname_167909.pdf)

<sup>149</sup> Art. 2 para 1 (17) Settlement and Residence Act

<sup>150</sup> Austrian Integration Fund, Die geförderten Projekte auf einen Blick, available at [www.integrationsfonds.at/nc/europaeische\\_fonds/gefoiderte\\_projekte/](http://www.integrationsfonds.at/nc/europaeische_fonds/gefoiderte_projekte/)

<b><i>Unaccompanied minors</i></b>	
Number of unaccompanied minors	
Number of asylum applicants considered to be unaccompanied minors	

## GLOBAL APPROACH TO MIGRATION

### 12 External cooperation / global approach to migration

#### 12.1 European Pact on Immigration and Asylum (1-2 paragraphs in the text box created for each commitment)

The relevant commitments in the Pact for this sub-section are in particular:

##### ***V(a) conclude EU-level or bilateral agreements with the countries of origin and of transit containing clause on legal and illegal migration as well as development***

Please provide information on any (planned) EU level or bilateral agreements (e.g. Mobility Partnerships), which are in addition to those mentioned under Sections 1.1, Pact commitment I(a) Implement policies for labour migration; 7.1, Pact commitment II(b) To conclude readmission agreements; and 11, Pact commitment III(f) intensify cooperation with the countries of origin and of transit in order to strengthen border control. These could include wider, more comprehensive agreements covering various elements related to legal and illegal migration, as well as return. List them, including the third countries with which they have been concluded and their content. In case of bilateral agreements, also indicate whether the Commission was informed.

An example table is presented below.

Type of agreement	Third countries involved	Main purpose of the agreement
bilateral	Georgia	Fostering co-operation in combating international and organised international crime including human trafficking and migrant smuggling as well as irregular migration.
bilateral	Moldova	Co-operation in the area of combating border crossing, organised crime, including irregular migration and human trafficking.

Albania, Bosnia and Herzegovina: In 2010 Austria concluded bilateral security agreements with Bosnia and Herzegovina and Albania. The agreements aim at supporting these countries on their way to visa liberalisation. Priorities of the co-operations are combating crime and establishing a common procedure against irregular migration, migrant smuggling and human trafficking. Common projects and operative actions are planned.<sup>151</sup>

<sup>151</sup> FMI, Fekter: Österreich verstärkt Zusammenarbeit mit Bosnien und Herzegovina und Albanien, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6770305533684E476B53453D&page=91&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6770305533684E476B53453D&page=91&view=1)

***V(b) offer the nationals of partner countries to the East and South of Europe opportunities for the legal immigration***

Please indicate whether, in relation to the labour migration policy and related developments set out in Section 1.1, whether any of these favour labour and circular migration and specify which third countries from the East and South of Europe.

In order to avoid discrimination all third country nationals are treated equally.

***V(c) cooperation with the countries of origin and of transit in order to deter or prevent illegal immigration***

Please describe any cooperation, in addition to the cooperation outlined in Pact commitment V(a) above, Sections 8, Pact commitment II(e) cooperation with the countries of origin and of transit, in particular to combat human trafficking and section 11, Pact commitment III(f) intensify cooperation with the countries of origin and of transit in order to strengthen border control, which has focused on deterring or preventing illegal immigration. This may include concrete cooperation activities, capacity building and agreements.

- The cooperation through the security partnership “Forum Salzburg”<sup>152</sup> was continued and reinforced. The goals and methods of co-operation in the coming 10 years were determined at a summit of Ministers of the Interior. These include: the strengthening of regional co-operation within the EU and the further development of the recently established “operational network” to a regional security cluster, and the active co-configuration of EU policy towards third countries, especially towards countries of the Western Balkans and the Eastern EU neighbourhood.<sup>153</sup> The priorities for the coming 18 months were also set. These address the implementation of the Stockholm Programme and the Strategy for Internal Security in the EU that was decided upon under the Spanish EU Presidency.
- Albania, Bosnia and Herzegovina: In 2010 Austria concluded bilateral Security Agreements with Albania and Bosnia and Herzegovina. The agreements aim at supporting these countries in the area of visa liberalisation. Combating crime, common action against irregular migration, migrant smuggling and combating of human trafficking are priorities of the co-operation. Common projects and operational actions are planned.<sup>154</sup>
- Furthermore the police’s co-operation with the countries of the Western Balkans (FYROM, Montenegro and Serbia) was intensified.<sup>155</sup> (See Policy Report 2009)
- The establishment of Law Enforcement Coordination Units (ILECU) in Albania and Serbia was supported in 2010. The projects aim to improve the international police co-operation in combating organised crime. The strategic and operative police co-operation has been fostered through the establishment of co-ordination units of prosecution – Austria assumed the project’s operational leadership, Romania and Slovenia are junior partners in the project.<sup>156</sup>
- In view of the visa liberalisation, Austria organised a study visit for representatives of five states of the Western Balkans (Albania, Bosnia and Herzegovina, Serbia, Montenegro and FYROM) to the Austrian Criminal Intelligence Service.

<sup>152</sup> FMI, Bisher größter mitteleuropäischer Innenministertreffen in Österreich, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6731433051566A556644633D&page=17&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6731433051566A556644633D&page=17&view=1)

<sup>153</sup> FMI, Sicherheitstreffen “Forum Salzburg” und Westbalkan in Fuschl, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=54362B4A6A7468624C68773D&page=16&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=54362B4A6A7468624C68773D&page=16&view=1)

<sup>154</sup> FMI, Fekter: Österreich verstärkt Zusammenarbeit mit Bosnien und Herzegovina und Albanien, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6770305533684E476B53453D&page=91&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=6770305533684E476B53453D&page=91&view=1)

<sup>155</sup> FMI, Innenministerin Fekter auf Westbalkanreise: Polizeiliche Zusammenarbeit noch weiter intensivieren, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=65616678305437786449303D&page=37&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=65616678305437786449303D&page=37&view=1)

<sup>156</sup> FMI, Albanien als Vorreiter bei der Bekämpfung der Organisierten Kriminalität, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=4A513046774B7773516A343D&page=38&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=4A513046774B7773516A343D&page=38&view=1) and FMI, Das österreichische Innenministerium unterstützt Serbien bei der Kriminalitätsbekämpfung, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=7450743448514C6B7942453D&page=6&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=7450743448514C6B7942453D&page=6&view=1)

- Georgia: In 2010, a police co-operation agreement between Austria and Georgia was concluded.<sup>157</sup> The aim of the police co-operation agreement is the reinforcement of co-operation in combating international and organised international crime, including migrant smuggling, human trafficking and irregular migration.
- Moldova: In 2010 a police co-operation agreement was concluded between Austria and Moldova.<sup>158</sup>

***V(d) More effective integration of migration and development policies***

Please describe any relevant activity, for example studies and development of such approach, solidarity development projects, etc.

***V(e) promote co-development actions and support instrument for transferring migrants' remittances***

Please describe any relevant developments and activities in the area of remittances, including financial support to such actions, implementation of an instrument for transferring migrants' remittances, etc.

**12.2 Stockholm Programme (1-2 paragraphs in the text box created for each commitment)**

The relevant commitments in the Stockholm Programme for this sub-section are in particular:

***11(h) how diaspora groups may be further involved in EU development initiatives, and how EU Member States may support diaspora groups in their efforts to enhance development in their countries of origin***

Please provide information on a possible national policy or actions with regard to supporting diaspora groups in enhancing development in their countries of origin.

<sup>157</sup> FMI, Polizeikooperationsvertrag zwischen Österreich und Georgien, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=316168556D356E4E4534733D&page=82&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=316168556D356E4E4534733D&page=82&view=1)

<sup>158</sup> FMI, Polizeiabkommen mit Moldawien, available at [www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=78544874746C537A6F2B733D&page=9&view=1](http://www.bmi.gv.at/cms/BMI/news/BMI.aspx?id=78544874746C537A6F2B733D&page=9&view=1)

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