



IOM International Organization for Migration
IOM Internationale Organisation für Migration

POLICY REPORT

IMMIGRATION AND INTEGRATION IN AUSTRIA

REFERENCE PERIOD 1 JANUARY TO 31 DECEMBER 2007

The opinions presented in this document are those of the NCP Austria and do not represent the position of the Austrian Ministry of Interior.

Project co-funded by the European Commission and the Austrian Ministry of Interior



REPUBLIK ÖSTERREICH
BUNDEMINISTERIUM FÜR INNERES
www.bmi.gv.at

FOREWORD

This report, which covers the reference period from 1 January to 31 January 2007, is the fourth Policy Report compiled by the National Contact Point (NCP) for Austria within the European Migration Network (EMN). It is one of the core tasks of the National Contact Points (NCPs) to produce annual Policy Reports, small-scale studies and research studies in the field of migration and asylum. These reports aim at providing a concise overview on the legal situation, policy developments and policy debates in the participating countries. The target groups of the Policy Reports are policy makers as well as researchers in EU Member States. Based on a common template developed by the EMN members and the European Commission, the Policy Reports facilitate comparison and information exchange with other EU member states.

The present report was compiled by the staff of the NCP Austria within their specific areas of expertise. Brigitte Schütz, Senior Researcher at the NCP coordinated and edited the Policy Report and prepared the statistical Annex. The legal sections were written by Alma Zadic, Junior Researcher at the NCP Austria in coordination with David Reizenzein, Coordinator of the NCP Austria. Katharina Benedetter, intern at the NCP in 2008, assisted in the research process and drafted the chapters on policy debates and policy implementation issues. We trust that this report proves to be useful to readers and thank all contributors for their input and efforts to compile a well-balanced and comprehensive report on Austria's recent immigration policy.

David Reizenzein, IOM Vienna
Head of Development, Policy and Media Unit
Coordinator of the NCP Austria
IOM Vienna

CONTENTS

FOREWORD.....	2
CONTENTS	3
LIST OF ABBREVIATIONS	5
EXECUTIVE SUMMARY	8
1. POLITICAL DEVELOPMENT IN AUSTRIA	10
1.1. GENERAL STRUCTURE OF THE POLITICAL SYSTEM AND INSTITUTIONAL CONTEXT:	10
Overview of the institutional structure and the administrative procedure.....	10
1.2. GENERAL POLITICAL DEVELOPMENTS:.....	11
1.2.1. The establishment of the Integration Platform	11
1.3. INSTITUTIONAL DEVELOPMENT:	13
New Structure of the Ministry of the Interior – Implementing the European Program “Solidarity and Management of Migration Flows”	13
2. POLICY AND LEGISLATIVE DEVELOPMENT IN THE AREA OF MIGRATION AND ASYLUM	14
2.1. GENERAL STRUCTURE OF THE LEGAL SYSTEM IN THE AREA OF MIGRATION AND ASYLUM	14
2.2. A GENERAL OVERVIEW OF THE MAIN POLICY AND/OR LEGISLATION DEBATE	14
Migration Management.....	14
2.3. DETAILS OF POLICY AND LEGISLATIVE DEBATE.....	16
2.3.1. Refugee Protection and Asylum	16
2.3.1.1. Debate on Detention	16
2.3.1.2. Asylum Applications	18
2.3.1.3. Labour Market and Employment of Asylum Seekers	19
2.3.1.4. Debate on Humanitarian Right of Residence (Bleiberecht).....	21
2.3.1.5. Legal Aspects of the Humanitarian Right to Residence	22
2.3.1.6. Asylum Court	23
2.3.2.7. Prison Relief Package (Haftentlastungspaket)	24
2.3.2. Unaccompanied Minors (and other vulnerable groups)	25
2.3.3. Economic Migration.....	26
2.3.3.1. Home Care Debate	26

2.3.4.	Family Reunification	26
2.3.4.1.	Admission of dependants of Austrian nationals	26
2.3.5.	Other legal migration	28
2.3.6.	Citizenship and Naturalisation	28
2.3.7.	Integration	29
2.3.7.1.	General Development	29
2.3.7.2.	Education	31
2.3.7.3.	Migrants in the Police	32
2.3.7.4.	Debates about mosques and minarets in Austria	33
2.3.8.	Illegal Immigration	33
2.3.9.	Return Migration.....	35
2.3.10.	Other policy areas/topics.....	36
2.3.10.1.	Discrimination and Anti-Discrimination	36
3.	IMPLEMENTATION OF EU LEGISLATION.....	37
4.	REFERENCES.....	38
	ANNEX: STATISTICS	46

LIST OF ABBREVIATIONS

AGEZ	Arbeitsgemeinschaft Entwicklungszusammenarbeit	Consortium for Development Cooperation
AK	Arbeiterkammer	Chamber of Labour
ASVG	Allgemeines Sozialversicherungsgesetz	Law on General Social Insurance
AsylG	Asylgesetz	Asylum Act
AuslBG	Ausländerbeschäftigungsgesetz	Aliens' Employment Act
AVG	Allgemeines Verwaltungsverfahrensgesetz	General Administrative Act
AVR	Unterstützte Freiwillige Rückkehr	Assisted Voluntary Return
BGBI	Bundesgesetzblatt	Federal Law Gazette
BKA	Bundeskanzleramt	Federal Chancellery of Austria
BmeiA	Bundesministerium für europäische und internationale Angelegenheiten	Ministry for European and International Affairs
BZOE	Bündnis Zukunft Österreich	Alliance for Austria's Future
B-VG	Bundesverfassungsgesetz	Federal Constitutional Law
EC	Europäische Kommission	European Commission
EEA	Europäischer Wirtschaftsraum	European Economic Area
ECHR	Europäische Menschenrechtskonvention	European Convention on Human Rights
EMN	Europäisches Migrationsnetzwerk	European Migration Network
FPOE	Freiheitliche Partei Österreichs	Austrian Freedom Party
FPG	Fremdenpolizeigesetz	Aliens' Police Act

GRUENE	Die Grünen	Green Party
IOM	Internationale Organisation für Migration	International Organization for Migration
IV	Industriellenvereinigung	Federation of Austrian Industry
KRONE	Neue Kronen Zeitung	Neue Kronen Zeitung (daily newspaper)
MA 17	Magistratsabteilung 17	Municipal Department 17
MIPEX		Migrant Integration Policy Index
Moi	Bundesministerium für Inneres	Ministry of Interior
NAG	Niederlassungs- und Aufenthaltsgesetz	Settlement and Residence Act
NCP	Nationaler Kontaktpunkt	National Contact Point
NLV	Niederlassungsverordnung	Settlement Decree
OEGB	Österreichischer Gewerkschaftsbund	Austrian Federation of Trade Unions
OEVP	Österreichische Volkspartei	Austrian People's Party
ÖIF	Österreichischer Integrationsfonds	Austrian Integration Fund
OOE Nachrichten	Oberösterreichische Nachrichten	Upper Austrian News (daily newspaper)
PIRLS		Progress in International Reading Literacy Study
PISA		Programme for International Student Assessment
PRESSE	Die Presse	Die Presse (daily newspaper)
RK	Rotes Kreuz Österreich	Austrian Red Cross
SPOE	Sozialdemokratische Partei Österreichs	Social Democratic Party of Austria
STANDARD	Der Standard	Der Standard (daily newspaper)

StbG	Staatsbürgerschaftsgesetz	Citizenship Act
StVG	Strafvollzugsgesetz	Prison Administration Act
UBAS	Unabhängiger Bundesasylsenat	Independent Federal Asylum Review Board
UNHCR	Flüchtlingshochkommissär	United Nations High Commissioner for Refugees
VfGH	Verfassungsgerichtshof	Federal Constitutional Court
VwGH	Verwaltungsgerichtshof	Federal Administration Court
WKOE	Wirtschaftskammer Österreich	Austrian Federal Economic Chamber
ZARA	Zivilcourage und Anti-Rassismus Arbeit	Civil Courage and Anti-Racism Work

EXECUTIVE SUMMARY

The following report gives an overview about recent developments in the Austrian immigration, asylum and integration policy over the period from 1 January 2007 to 31 December 2007. However, as is always the case for policy developments and debates, this report constitutes the outline of an ongoing process that is rooted in the past while seeking to address future challenges. Therefore, the above-mentioned period is a rough indication, which builds on past results and while projecting into the future.

The most significant political development was the formation of the new government and the launching of the Government Programme in the beginning of 2007. Though migration and asylum issues comprise of an important part of the Government Programme, there are no significant changes in the policy in comparison to previous years. To a large extent the Government Programme perpetuates the policies of past governments, thus the focus is on integration rather than on new immigration.

On the other hand, there have been important institutional developments: the establishment of the Integration Platform and the Asylum Court. The main task of the Integration Platform is to gather ideas and suggestions from different actors in order to develop a new migration strategy. The Asylum Court, on the other hand, aims at accelerating the asylum procedure and will replace the Unabhängiger Bundesasylsenat (Independent Federal Asylum Review Board UBAS). Another novelty is the institutional structure of the Ministry of Interior, which is due to the implementation of the European Program "Solidarity and Management of Migration Flows".

Policy debates about migration and asylum during the year 2007 dealt with a range of topics, such as the field of managed immigration, integration, humanitarian right to residence, home care, etc. Different economic actors called for a reform of the migration system in order to open the labour market for highly skilled workers and to facilitate the application procedure.

In the field of legislative developments, a number of new laws were adopted in 2007. Among the most significant is the Prison Relief Package (Haftentlastungspaket) concerning prison release of sentenced foreign nationals under specific conditionalities, and the new laws concerning the asylum procedure in the context of the establishment of the Asylum Court. Regarding case law of the Federal Administrative Court (Verwaltungsgerichtshof, VfGH) and the Federal Constitutional Court (Verfassungsgerichtshof, VfGH) the report discusses the decision of the Federal Constitutional Court regarding the implementation of the Council Directive 2003/86 facilitating the family reunification for family members of EEA nationals as

well as a procedure at the Federal Constitutional Court concerning the humanitarian right to residence.

1. POLITICAL DEVELOPMENT IN AUSTRIA

1.1. General Structure of the political system and institutional context:

For details on the general structure of the political system and institutional context consult the previous Policy Reports of the Austrian NCP of 2004, 2005 and 2006.

Overview of the institutional structure and the administrative procedure

The responsible authority for granting a residence permit is, according to the Residence and Settlement Act (Niederlassungs- und Aufenthaltsgesetz, NAG) the Governor of the Province (§ 3 NAG)¹. The Governor can delegate the subordinate District Commissions (Bezirkshauptmannschaften) as the competent authority for residence and settlement permits, as per the usual practice. Consequently, the legal acts are issued by the District Commission, in the name of the Governor. Thus, the administrative decision is attributed to the Governor. According to the General Administrative Act (Allgemeines Verwaltungsverfahrensgesetz, AVG), the Minister of Interior is the responsible appeal instance.

The first application for a residence or settlement permit has to be submitted to the competent local authority in the country of origin, such as the embassy or the consulate (which is a subordinate office of the Austrian Ministry for European and International Affairs (Bundesministerium für europäische und internationale Angelegenheiten, BMeiA) § 21 par 1 NAG). Exempt from the obligation to apply from abroad are aliens who have been granted permission to reside in Austria (§ 21 par. 2 lit 1, 2 NAG), aliens who were Austrian or EU citizens who lost their citizenship (§ 21 par 2 lit 3 NAG), third country nationals who are exempt from visa obligations (§ 21 par 2 lit 5 NAG) as well as newborn children (in Austria) of legally residing third country nationals (within a period of six months after their birth, § 21 par 2 lit 4 NAG). In general, an exception is granted to foreigners who thus far did not need a settlement permit, or who seek to alter the type of settlement permit. The representation abroad must secure the validity of the given information and its integrity (§ 22 par 1 NAG). If the representation abroad (where the motion is to be filed) declares itself as not competent due to

¹ Austria is a Federal Republic, divided into nine provinces.

lack of local jurisdiction, and the applicant is not willing to correct the application within a certain period of time, the representation must dismiss the application. In all other cases, the representation will forward the application to the competent authority in Austria (Kutscher/Poschalko/Schmalzl 2006: 26), which is, as mentioned above, the respective District Commission.

As already stated in the previous Policy Reports, there is a yearly quota (§ 12 NAG) for settlement permits². The yearly quota is published in the Settlement Decree (§ 13 NAG), issued by the Federal Government based on the proposal of the Ministry of Interior.

1.2. General Political Developments:

After the parliamentary elections on 1 October 2006, Alfred Gusenbauer, head of the Social Democratic Party of Austria (SPOE), was assigned the formation of a new government. After a negotiation period which lasted until the beginning of 2007, SPOE and the Austrian People's Party (OeVP) agreed upon a government program; the formation of the new government (a "grand coalition") was announced on 8 January 2007. The Government Programme 2007-2010 (Bundeskanzleramt 2007)³ addresses migration and asylum related topics, such as illegal immigration, admission and integration. The Government Programme emphasises once again the guiding principle of Austria's immigration policy since the 1990s: "integration before new immigration".⁴

In spite of the formation of a coalition, the two big parties experienced difficulties to find a common political denominator in several fields. One example in the area of migration and asylum is the discussion about the Humanitarian Right to Residence (Humanitäres Bleiberecht), which is described in more detail below.

1.2.1. The establishment of the Integration Platform

The Government Programme 2007-2010 laid the foundations for the establishment of the so-called Integration Platform (Integrationsplattform), which was launched by the Austrian

² For employed and self-employed key professionals and their dependants, family reunification, "private" settlement not granting access to the labour market, settlement of persons who are long-term residents in another EU MS as well as changes of the purpose of residence permits.

³ <http://www.bundeskanzleramt.at/DocView.axd?CobId=19542>

⁴ More information concerning the election and the Government Programme 2007-2010 is mentioned in the EMN Policy Report 2006 (NCP 2008), available at: www.emn.at

Government on 15 October 2007.⁵ The platform is coordinated by the Ministry of Interior under the supervision of Minister Günther Platter (OeVP). The aim of the platform is to gather suggestions and reports from experts, respective associations and organisations as well as views of the Austrian population in order to develop new integration policies and strategies (PRESSE 20.9.2007 Startschuss für Integrationsplattform). As a result of numerous discussions and suggestions, the Integration Report “Gemeinsam kommen wir zusammen” (“Together, we will find our way”) was published and presented on 22 January 2008. It includes articles on education, work, housing, communal engagement, security aspects, and others. The Minister of Interior intends to present a concrete package of measures concerning integration policies to the Council of Ministers until the summer of 2008 (PRESSE 12.11.2007 Erster Bericht der Integrationsplattform im Jänner). Along with the platform, an “Austrian Charter” (Österreich Charta) based on public opinion should be developed, which contains the rules of living together in Austria. A website was launched to provide the public with a facility for posting comments on integration and migration issues, expressing views about what is considered typical for Austria, and defining factors which could promote social cohesion etc⁶ (PRESSE 15.10.2007 Integration: Schwammiges Konzept; PRESSE 15.10.2007 Plattform für Integration starten). As another measure to promote integration, Platter proposes extended German classes to double the current 300 hours (PRESSE 16.10.2007 Platter: Längere Deutschkurse nötig). Barbara Prammer, president of the National Council of the Austrian Parliament, recommended establishing a State Secretary on migration and integration issues.

However, the public discussion also included critical voices about the Integration Platform. To give an example, Alev Korun, Green Party spokeswoman for human rights, claimed that the Integration Report (which was a result of the Integration Platform) accounts for migrants without having involved them sufficiently in the production of the Report. Additionally, she claimed that the report does not cover the admission of new immigrants, which is an important topic for the Green Party. Kenan Güngör, consultant for integration in Austria, Germany and Switzerland and member of the expert group of the Integration Platform, noted that the schedule of the group was too tight and sometimes there was insufficient communication within the expert group. He acknowledged, however, the aims and the efforts of the Integration

⁵ For further information see Government Programm 2007-2010 (Bundeskanzleramt 2007: 139ff) available at: <http://www.bundeskanzleramt.at/DocView.axd?CobId=19542> (accessed in May 2008) as well as the website of the Integration Platform: <http://www.integration.at>

⁶ For further information consult <http://www.integration.at/forum/viewforum.php?f=4> (accessed in May 2008)

Platform and the integration report. (STANDARD 24.1.2008 Kenan Güngör: "Ich kann die grundsätzliche Skepsis verstehen").⁷

1.3. Institutional Development:

New Structure of the Ministry of the Interior – Implementing the European Program “Solidarity and Management of Migration Flows”

Austria implemented the European Program “Solidarity and Management of Migration Flows” and the the Ministry of Interior (Mol) was designated as the executive authority for the four financial instruments for the period 2008 to 2013, the *External Border Fund*, the *Integration Fund*, the *Return Fund* and the *European Refugee Fund*. The main objective of the framework programme is to address the issue of a fair share of responsibilities between Member States in the introduction of integrated management of the external borders of the Member States of the European Union and the implementation of common policies on asylum and immigration. The responsibilities for the implementation of the funds in Austria were assigned to the departments II/3/d (External Borders Fund, Return Fund) and III/5/b (Refugee Fund, Integration Fund) in the Mol. Both departments are supported by the Austrian Integration Fund (Österreichischer Integrationsfonds, OEIF)⁸, which has been addressing the integration of refugees in Austria since 1960. Since 2002, the objectives and duties of the ÖIF were continuously expanded.

⁷ For further information see <http://www.derstandard.at/integration>

⁸ For more information see <http://www.integrationsfonds.at>

2. POLICY AND LEGISLATIVE DEVELOPMENT IN THE AREA OF MIGRATION AND ASYLUM

2.1. General Structure of the legal system in the area of migration and asylum

For details of the legal system in the area of migration and asylum, please consult the three previous Policy Reports of the Austrian NCP of 2004, 2005 and 2006.

2.2. A General Overview of the Main Policy and/or Legislation Debate

Migration Management

As already described in previous Policy Reports by the NCP Austria, the immigration system is based on quotas in Austria. Thus, settlement is restricted to key professionals and their dependants, family reunification of resident third country nationals, and settlement for “private” purposes (without access to the labour market). In addition, third country nationals can be admitted for (short-term) residence, but this gate of entry does not allow for permanent settlement.

During 2007, the Austrian Federation of Industries (Industriellenvereinigung, IV) in particular and the Austrian Federal Economic Chamber (Wirtschaftskammer Österreich, WKÖ) voiced concerns that Austria’s immigration system was too restrictive and not demand-driven. According to these institutions, the Austrian labour market is in need of foreign labour force, particularly highly skilled immigrants, due to labour shortages and the demographic development of the Austrian population. Moreover, legally residing migrants face difficulties in accessing the labour market due to a system which is considered too bureaucratic, as it accounts for considerable delays while relevant authorisations are issued. At a conference on Migration and Integration in Salzburg on 14 May 2007, experts highlighted that due to the restrictive regulations concerning the admission of immigrants, Austria had already missed many opportunities to attract skilled workers (PRESSE 15.5.2007 Experten: Ausländerfeindlichkeit schadet Wirtschaft).

Reinhold Mitterlehner, Deputy Secretary General of the Austrian Federal Economic Chamber, and Christine Marek, State Secretary in the Ministry of Economics and spokeswoman on integration of the OEVP, claimed that Austria is an immigration country and should perceive itself accordingly.⁹ This statement is seldomly pronounced in Austrian politics and can thus be considered exceptional.

A further proposal of the IV is the abolishment of the transition arrangements, which restrict the access to the Austrian labour market for citizens of the new EU Member States, which joined the EU in 2004 and 2007. The IV argues that with an earlier opening of the labour market, the positive effects would outweigh the negative effects for the Austrian economy. In addition, the IV's president Veit Sorger claims that the annual quota for key professionals should be abolished.¹⁰ Highly skilled people should be allowed to enter Austria without any quota restrictions and get full access to the labour market.¹¹ Indeed, a general focus should be put on a highly qualified immigration.

In line with the positions of the IV, the WKOE appealed to the responsible authorities to rethink migration management and to revise it in order to create a transparent, qualitatively selective policy comparable to the Canadian point-based system. Mitterlehner stressed the fact that every fourth Austrian business company lacks skilled workers, who are not available in Austria. The WKOE called for the lowering of the minimum wage level for key professionals, and for enlargement, if not abolishment, of the quota for key professionals. Furthermore, family members of these key professionals should be granted free and full access to the labour market as well.¹²

⁹ WKÖ: Mitterlehner: Österreich ist ein Zuwanderungsland. Vienna: 6 November 2007

¹⁰ IV Positionen (June 2007): Willkommen im Industrieland Österreich!

¹¹ IV (May 2007): Gemeinsam Lebensräume schaffen.

¹² WKÖ: Mitterlehner: Transparentes Punktesystem für qualifizierte Einwanderung. Vienna: 6 November 2007

2.3. Details of Policy and Legislative Debate

2.3.1. Refugee Protection and Asylum

2.3.1.1. Debate on Detention

According to the Annual Report 2007 of the Human Rights Advisory Board (Menschenrechtsbeirat) (Menschenrechtsbeirat 2007)¹³ and the Report of the Commissioner for Human Rights of the Council of Europe, Thomas Hammarberg (21 – 25 May 2007) (Council of Europe 2007)¹⁴, the Aliens Police Act 2005 has resulted in an increase of the number of asylum seekers in detention-pending-deportation. While in 2005, under the previous law, 662 asylum seekers were subject to detention–pending-deportation; this number rose to 2,700 in 2006, even though the number of asylum applications declined during that year.

According to the Aliens Police Act, asylum seekers can be held in detention-pending-deportation on the decision of the police authorities (§ 76 FPG par 2), if an enforceable expulsion order has been issued, if an expulsion procedure has been initiated, if an enforceable expulsion order or an enforceable residence ban has been imposed prior to filing an application for international protection, or if it can be assumed on the basis of the outcome of the interrogation, search and photographing, and fingerprinting procedures, that the alien's application for international protection will be rejected owing to the absence of responsibility of Austria for examining the application.

About half of the detention-pending-deportation orders in 2006 (1,330) were issued due to the latter reason (§ 76 par 2 lit 4), which normally applies to asylum seekers falling under the Dublin II regulation. The Constitutional Service of the Federal Chancellery expressed doubts about the conformity of this provision with Article 5 of the European Convention on Human Rights (ECHR). The Federal Administrative Court subsequently referred the issue to the Federal Constitutional Court and the Constitutional Court confirmed the constitutionality of the provision on 14 June 2007 (Decision G14/07ua VfGH 14 June 2007).

Instead of detention-pending-deportation, more lenient measures can be applied in certain cases. Such measures are, for example, accommodation in premises specified by the authorities and regular reporting to a police station. These more lenient measures are normally

¹³ See http://www.menschenrechtsbeirat.at/cms/mrb_pdf/JB%202007%20.pdf;

¹⁴ https://wcd.coe.int/ViewDoc.jsp?id=1225283&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P242_66169

applied to minors instead of detention-pending–deportation cases. However, civil society representatives have observed that the simultaneous application of pre-deportation detention and more lenient measures often results in the separation of families who are seeking asylum in Austria: While men are usually detained, children with their mothers are assigned to accommodation which may be situated at a distance from the detention facilities (Council of Europe 2007).

The Commissioner is also concerned about the effects of delayed procedures on asylum seekers in Austria. In cases where families with children have been well integrated into their local communities over the years, their deportation after a final negative decision can be considered as particularly severe and could potentially breach Article 8 ECHR (the right to respect for private and family life). The asylum procedure can sometimes last up to ten years (see also Chapter on Humanitarian Right to Residence), therefore the Commissioner seeks to keep people in detention only in absolutely indispensable cases and to maintain that the stay is as short as possible. It was claimed that detainees would have limited access to legal counselling in certain facilities for detention-pending-deportation, which could seriously restrict the detainees' ability to challenge their detention effectively in courts.

The Human Rights Advisory Board advised to organise further accommodations for detainees and to raise the support and mentoring of asylum seekers as well as to provide free legal assistance (Menschenrechtsbeirat 2007).

Forum Asyl,¹⁵ a cooperation between Amnesty International Austria¹⁶, Asylkoordination Austria¹⁷, Caritas¹⁸, Diakonie¹⁹, Integrationshaus²⁰, Austrian Red Cross²¹ and Volkshilfe²², called for abolishing the detention-pending-deportation. They argued that detention-pending-deportation is not only degrading but also very expensive. The daily costs for a detainee are four times higher than the costs for an asylum applicant in normal accommodation. Furthermore, Forum Asyl recommended the provision of legal assistance as well as immediate information about the reason for detention for any detainee within 24 hours. A central data

¹⁵ More information available at: <http://www.fluchtistkeinverbrechen.at/>

¹⁶ <http://www.amnesty.at/>

¹⁷ <http://www.asyl.at/>

¹⁸ <http://www.caritas.at/>

¹⁹ <http://fluechtlingsdienst.diakonie.at/>

²⁰ <http://www.integrationshaus.at/cgi-bin/page.pl?id=7;lang=de>

²¹ <http://www.roteskreuz.at/migration/>

²² <http://www.volkshilfe.at/>

collection on detainees should be provided (PRESSE 11.6.2007 Asyl: Abschaffung der Schubhaft gefordert).

In a position paper on detention-pending-deportation²³ the Austrian Red Cross (Österreichisches Rotes Kreuz, RK) called for respect and protection for detainees especially regarding the conditions and the circumstances of detainees in facilities for detention-pending-deportation and their access to legal assistance.²⁴ The RK called for an evaluation of detention-pending-deportation as already announced in the Government Programme 2007-2010²⁵, in cooperation with independent humanitarian organisations. Furthermore, they propose to develop best practice models and to establish half-open centres for detention. However, the Mol insisted on detention-pending-deportation as an important measure to prevent the respective persons from being pushed into criminality and illegality (PRESSE 11.6.2007 Hilfs-Organisationen für Abschaffung der Schubhaft).

2.3.1.2 *Asylum Applications*

In 2007, the number of asylum applications declined by 11% compared to the previous year, amounting to 11,921. After a peak in 2002 with 39,354 applications, the number of asylum applications has continuously declined since 2003. The reasons for this development are diverse, ranging from policy and legislative developments at the EU level (e.g. the implementation of the Dublin II Regulation and the establishment of the Eurodac system), the EU enlargement (Austria is no longer a country at the external border of the EU) as well as national policy and legislative developments (Asylum Act 2005 within the Aliens' Law Package as well as previous amendments of the old Asylum Act 1997).²⁶

The largest number of applicants originates from the Russian Federation (22%). This group also has the highest recognition rate (72%²⁷), due to the high amount of refugees coming from Chechnya. Other nationalities with high rates of recognition are Afghan (62%) and Somali nationals (63%). The second largest group is people from Serbia (15 %). However, their recognition rate is considerably lower than in previous years (9%). Other countries of origin

²³ See: http://www.roteskreuz.at/fileadmin/user_upload/PDF/Migration/Schubhaft.pdf

²⁴ See also positions and papers of the Red Cross on migration and integration: <http://www.roteskreuz.at/migration/position/>

²⁵ See Government Programme, <http://www.austria.gv.at/DocView.axd?CobId=19542>

²⁶ For further information on the new Aliens' Law Package 2005 as well as on the legal situation before 2006, please consult the Policy Reports of the Austrian NCP for 2005 (NCP 2004) and 2005 (NCP 2006), available at www.emn.at.

²⁷ This calculation of recognition rates also takes non-status decisions into account.

with low recognition rates are Moldova (2%) and Nigeria (2%). Since applicants from these countries mainly leave their countries for economic reasons and consequently do not meet the conditions as stated by the Geneva Refugee Convention nor those of the Austrian Asylum Act, their applications are usually rejected.²⁸

2.3.1.3 Labour Market and Employment of Asylum Seekers

Following a decree of 25 May 2004 by the Minister of Economy and Labour, Martin Bartenstein, the so called “Bartenstein Decree”, asylum seekers are mostly excluded from the labour market. They are restricted to seasonal work or as harvest labourers. As this kind of work is not very well paid, the asylum applicant remains financially dependent on the Austrian welfare services. Although the social partners²⁹ are in favour of the employment of asylum seekers due to the need for labour in the Austrian economy, the access to the Austrian labour market is restricted.

According to § 4 par 3 lit 7 of the Aliens’ Employment Act (Ausländerbeschäftigungsgesetz, AuslBG), asylum applicants are allowed to work in any profession after the first three months of their legal procedure, provided that the Austrian labour market requires this specific labour force, according to § 4b, and the asylum applicants receive the required employment permit (which would be the normal procedure for granting access to foreigners to the Austrian labour market).

However, as a consequence to this decree, many asylum seekers who were previously employed lost their job and then had no right to claim unemployment compensation as they no longer held a working permit and were therefore not registered as unemployed. As a result, the Upper Austrian Labour Market Service submitted an appeal before the Austrian High Constitutional Court. However, before any decision was taken by the Court, the minister amended the decree: If a person is entitled to unemployment compensation, a work permit for that person can be considered (OOE NACHRICHTEN 30.4.2007 Bartenstein-Erlass verhindert).

Some individuals continue to call for easier access by asylum seekers to the Austrian labour market, such as Viennese City Counsellor on Integration Sandra Frauenberger, and the City

²⁸ Data Source: Ministry of the Interior, statistical publications available online at <http://www.bmi.gv.at/publikationen>

²⁹ The Austrian Social Partners are the Austrian Federal Economic Chamber, the Austrian Federal Agricultural Chamber, the Federation of Austrian Trade Unions and the Austrian Chamber of Labour.

Counsellor on Social Welfare Sonja Wehsely, as well as the Austrian Federation of Industries (IV) (NEWS 21.5.2007 Vorrang für Asylwerber). In their opinion, it would be very useful not to differentiate between a residence permit and a work permit. The head of the IV Committee for Social Policy, Georg Kapsch, argues that the discussion about migration issues should not focus exclusively on security aspects (PRESSE 9.5.2007 Industrie will qualifizierte Ausländer; PRESSE 9.5.2007 IV-Generalsekretär...; IV-Positionen). The Austrian Federal Economic Chamber, the Austrian Federation of Trade Unions³⁰ as well as the NGO Asylkoordination³¹ also support the idea of opening the labour market to asylum applicants (STANDARD 6.-7.6.2007 Wirtschaft will Asylwerber...; HEUTE 6.6.2007 Asylwerber sollen...; KLEINE ZEITUNG 6.6.2007 Öffnung für Asylbewerber; KURIER 6.6.2007 Asylwerber sollen arbeiten dürfen; NEUES VOLKSBLATT 6.6.2007 Asylanten Jobs). Autarq2³², a union of different organisations (FluEqual³³, First Aid in Integration³⁴, InPower³⁵, EPIMA 2³⁶, wip³⁷) and a network for asylum applicants in the framework of the EQUAL Programme³⁸, proposed to open the labour market and promote the integration of asylum seekers through different projects. In a similar vein, the UN High Commissioner for Refugees (UNHCR) suggested that in order to promote better integration of asylum applicants they should be granted legal access to the labour market six months after they file an asylum application (PRESSE 25.5.2007 Zuwanderung: Arbeitsrecht für Flüchtlinge?).

However, the Minister of Economy and Labour, Martin Bartenstein, as well as Minister of Interior Günther Platter (both OeVP) both oppose the idea of opening the labour market to asylum seekers. They fear that the Austrian labour market will not be able to cope with an estimated 35,000 additional workers. Currently 35,000 applicants are still waiting for the finalisation of their asylum procedure. Both ministers argue that if Austria opened the labour market completely after a three to six month waiting period, as demanded by the Minister of Justice Maria Berger (SPOE), Austria might become the most attractive country for Asylum

³⁰ Österreichischer Gewerkschaftsbund – ÖGB

³¹ <http://www.asyl.at>

³² http://www.epima.at/epima_4_1.htm

³³ <http://www.fluequal.at/>

³⁴ <http://www.first-aid-in-integration.at/>

³⁵ <http://www.inpower.at/>

³⁶ <http://www.epima.at/>

³⁷ <http://work-in-process.at/html/dummy-3.8.1/index.php>

³⁸ <http://www.equal-esf.at/new/de/index.html>

seekers within in the EU (PRESSE 9.6.2007 Berger will Flüchtlingen Arbeitszugang erleichtern; PRESSE 12.6.2007 Bartenstein klar gegen Arbeitsmarkt-Öffnung für Asylwerber).

The Austrian Federal Economic Chamber estimates that there are 500-700 qualified asylum applicants who possessed a work permit before 2004 and had it repealed following the "Bartenstein Decree". Due to the fact that the Austrian Labour Market still lacks qualified immigrants, the government agreed to admit a contingent of 800 skilled workers from the new EU Member States despite of the transition arrangements (PRESSE 7.3.2007 Selektive Migrationspolitik in Österreich). Reinhold Mitterlehner, Deputy Secretary General of the Economic Chamber (WKOE) submitted the criticism that while Austria is trying to attract and recruit qualified workers, qualified asylum seekers are simultaneously being deported (PRESSE 18.7.2007 Wirtschaft warnt vor Abschiebung).

2.3.1.4. Debate on Humanitarian Right of Residence (Bleiberecht)

One important policy debate focused on the humanitarian right to residence. This debate was steered by the case of a 15-year-old girl originating from Kosovo, which was extensively discussed in the Austrian Media and gave impetus to this debate.

The Kosovo family had entered Austria illegally in 2002, and had applied for asylum. Their asylum application was later rejected and there was no option of appeal against the expulsion order in 2004. By 2007 the girl and her siblings had been in Austria for five years and were considered integrated into Austrian society (the children spoke the local dialect, had friends at school, etc). However at this time the family was informed that the final asylum decision was negative and was ordered to leave the country immediately. While her father and siblings were deported, the girl decided to hide from the police for two weeks and threatened to commit suicide in the event that the deportation order would be executed. This case caused extensive public discussions and a wave of sympathy for the girl and her family, partly due to the intensive press coverage and public support by the newspapers "Österreich" and "News". The debate soon focused on the more general discussion on whether well integrated asylum seekers, who have stayed in Austria for a considerable amount of time and whose asylum applications were rejected, should have the opportunity to be granted a residence or settlement permit for humanitarian reasons. In general, §§ 72, 73 NAG (Residence and Settlement Act) stipulates the option of granting permits for humanitarian reasons. The Minister of Interior, Günther Platter, who is empowered by law to decide on such permits, granted one to the girl. However, it was decided that the deportation would still be executed, and the girl and her mother would be allowed to stay in Austria only until the end of the academic year of 2008

(PRESSE 14.12.2007: Reaktionen: Von "Akt der Menschlichkeit zu "Auftrag für Bleiberecht"; PRESSE 14.12.2007: Gnade).

While this case received considerable attention from the Austrian media, it was not the only example of families being considered for deportation at the finalisation of lengthy asylum procedures despite being well integrated into society by then (PRESSE 14.11.2007 Familie Zeqaj: Grüne fordern humanitäres Bleiberecht), (Ö24 14.11.2007 Kosovarische Familie nach Flucht wieder aufgetaucht). These cases fuel ongoing debates even, at the publishing of this report, on whether and under what specific circumstances (e.g. long asylum proceedings which lead to a stay of several years in Austria) a humanitarian residence permit should be granted if persons are already well integrated.

2.3.1.5. Legal Aspects of the Humanitarian Right to Residence

In general, asylum applications are rejected if the responsible authorities conclude that applicants are not exposed to danger or risk of prosecution according to the Geneva Refugee Convention, or do not meet the requirement of subsidiary protection (non-refoulement) according to § 8 par 1 AsylG (Asylum Act). As the above-mentioned cases show, deportations of rejected asylum seekers are a particular focus of criticism if the length of the asylum proceeding leads to a considerable degree of integration in Austria, such as when asylum seekers have learned the German language and when their children in particular have closer links to Austria than to their country of origin. In such a case, according to Art 8 ECHR, the state and the respective administrative authority have the duty to balance Austria's public interest in rejecting the application and expelling the applicant, and the applicant's personal interest, as well as that of his/her family, to remain in Austria (this provision is implemented in § 10 par 2 AsylG). If there is a risk that Art 8 ECHR might be violated, the authorities must not deport the applicant. In 2007, the Federal Constitutional Court elaborated the following criteria for balancing the interests, resulting from the ECHR jurisdiction, in order to give more precise guidelines to be followed (Decision B 328/07, VfGH, 29.9.2007): the duration of residence in the host country, the level of integration, the criminal record of the person concerned, the links to the country of origin, public order, as well as the point in time when private or family life started to exist.

However, it is difficult to legalise the residence of persons in the above-mentioned situations in Austria. To apply for a residence permit or settlement permit, the applicant needs to travel abroad in order to fulfil the requirement for filing the application at the responsible

representation in the country of origin (§ 19 NAG). In addition, legal immigration for the purpose of settlement is subject to a quota system. The only possible remedy for the legalisation of the stay of these persons is to grant a humanitarian residence title (§§ 72, 73 NAG). The residence or settlement permit for humanitarian reasons can be granted in specific cases, taking into account humanitarian reasons. Yet, the motion can only be filed ex officio by the responsible authorities (who are not obliged to do so), meaning that there is no possibility for the individual persons to file a motion themselves. As a consequence, there is no legal right to be granted a humanitarian residence title (Muzak: Migralex 3/2007). In addition, the applicant does not have the right of disposition, which means that the applicant does not have a legal remedy against a negative administrative decision (Mayer: Migralex 1/2008). According to § 75 NAG, the Minister of Interior has to consent to the grant of a humanitarian residence title.

The VfGH (Federal Constitutional Court) stated during a proceeding, which commenced in 2007, that the ex officio requirement in § 72 par 1 and § 73 par 2 NAG is unconstitutional. (Decision, G 246/07, VfGH, 27.06.2008). This signifies that an individual should have the right to file an application for humanitarian residence permit.

2.3.1.6. Asylum Court

The new Asylum Court (adopted by the parliament on 5 December 2007) was introduced into the Austrian institutional system. The new institution aims at accelerating the procedure of asylum applications while granting legal protection to asylum seekers (PRESSE 28.11.2007 Asylgericht wie geplant von der Koalition beschlossen).

It is composed of one president, one vice-president and other required members. They are appointed by the President of Austria, following a proposal of the Austrian Government. (§ 2 AsylGHG). The decisions at the Asylum Court are taken by a single judge or a panel of two judges in order to provide fairness and equality to each case. The appointed judges are required to hold a law degree and have five years work experience. (Wiederin: Migralex 1/2008). They do not have to have the same education as judges working in other courts, such as those in the High Administration Court or the High Constitutional Court. This fact was pointed out by opponents to the Asylum Court.

Regarding the new Asylum Court, the deficient legal protection was particularly subject to criticism (Jabloner: Migralex: 1/2008). Until the creation of the Asylum Court, the asylum seeker could appeal to the UBAS (Unabhängiger Bundesasylsenat – Independent Federal

Asylum Review Board) and to the Federal Administrative Court (VwGH). With the establishment of the Asylum Court, legal remedy to the VwGH is no longer possible, only to the High Constitutional Court (VfGH). The competence of VfGH on the one hand is restricted to the revision of the violation of fundamental rights, while on the other hand the VwGH is responsible for deciding on merits regarding administrative rules. Since the Asylum Court does not have the same quality standards as the VwGH (especially regarding the judges and their appointment), it is questioned whether the new regulation provides the same legal protection to asylum applicants. Furthermore, Clemens Jabloner, President of the VwGH also underlined the fact that until 2007, 13-22 % of negative asylum administrative decisions were repealed to the VwGH.

The Minister of Justice, Maria Berger, criticised the provisions regarding questions of fundamental issues, which are supposed to be ruled by an extended senate of the Asylum Court. Every decision on fundamental issues (these involve cases where the case law of the VwGH is inconsistent or no case-law exists) has to be submitted to the Federal Administration Court (VwGH) which has to decide on merits within six months. If the VwGH does not decide upon the issue, the decision taken by the Asylum Court is treated as being approved. However, fundamental issues can be decided only if the deciding body of the Asylum Court or the Ministry of Interior request a decision upon the relevant question (Art 129e B-VG). Nonetheless, only the Mol can request a decision regarding abstract legal questions. Experts are criticising the fact that only the Mol, and in some cases the deciding body of the Asylum Court, has the right to request a decision of fundamental issues, whereas the applicant has no possibility to appeal to the VwGH. (Wiederin: Migrallex 1/2008)

2.3.2.7 Prison Relief Package (Haftentlastungspaket)

On 28 December 2007, the Prison Administration Act (Strafvollzugsgesetz, StVG) was reformed. Within this reform, § 133a StVG entered into force. This new regulation allows a sentenced foreign national, who has served half of his prison term, to be released earlier if the respective person immediately returns to the country of origin. The further execution of the sentence will be abandoned if the person leaves Austria.

In order to perform this regulation, certain preconditions must be fulfilled: The authorities need to impose a residence ban, the person has to declare that s/he will return voluntary to his/her

country of origin, and it can be expected that this person will do so and there are no legal or actual obstacles.³⁹

Other preconditions for the application of § 133a regard the nature of the committed crime: Application is not possible if the accused person has committed a crime against sexual integrity and self determination, or a crime against life and limb punishable by more than three years, or has been sentenced for more than five years in prison .

One of the most important preconditions is that a residence ban is imposed upon the person. Usually this requirement is met, as according to § 63 FPG (Aliens' Police Act), a residence ban has to be imposed upon a person who is accused of a crime, sentenced to three months unconditionally or six months conditionally in prison, or a person who is accused of the same crime for another time. If a residence ban is imposed, the obligation to depart is to be postponed until the end of detention (§ 67 FPG). Due to the new rule, the detained person can be urged to leave the country after having served half of the sentence; in any case, the detainee has to serve at least three months of the sentence.

The actual return to the country of origin is of voluntary nature. However, the departure has to be supervised in order to ensure that the person has actually left the country. The head of prison has to report the departure to the Aliens' Police. If s/he should return to Austria during the period when the residence ban is still valid, the execution of the sentence must be continued and the person has to be detained again.⁴⁰ According to Grafl⁴¹, third country nationals with a residence ban have to leave the country in any case after the end of imprisonment. This regulation aims to relieve the national penal system.

By the beginning of August 2007, 8,945 persons were detained in prisons according to official statistics, while approx. 1,900-2,000⁴² of them were third country nationals. There are no exact figures on the amount of persons to whom the new rule would apply; however it is assumed that their number is considerable.

2.3.2. Unaccompanied Minors (and other vulnerable groups)

No specific changes on this topic.

³⁹ Strafrechtsänderungsgesetz 2008: BGBl. I 144/1969 amended version BGBl. I 109/2007

⁴⁰ http://www.parlament.gv.at/PG/DE/XXIII/I/I_00302/fnameorig_090437.html.

⁴¹ Grafl, Kriminalpolitische Initiative: Mehr Sicherheit durch weniger Haft! (juridikum 2005, 66).

⁴² http://www.parlament.gv.at/PG/DE/XXIII/I/I_00302/fnameorig_090437.html

2.3.3. Economic Migration

2.3.3.1. Home Care Debate

Elderly or handicapped people can hardly afford to employ home care personnel according to Austrian social security and labour law standards, therefore many people resort to nurses from neighbouring Eastern European countries, who then work illegally in Austria.

During the parliamentary election campaign of 2006, the so-called “Pflegenotstand” (State of emergency concerning care of the elderly)⁴³ was a major issue. In order to address this much-discussed problem, the Minister of Social Affairs, Erwin Buchinger, and the Minister of Economy and Labour, Martin Bartenstein, designed a new model for the 24-hours-care to offer a legal basis for illegal employment. However, the Green Party objected to this model claiming that it would require much administrative effort, increase regional inequalities and would not reduce the cost of legal home care although financial assistance is offered by the federation and the provinces. The Austrian Chamber of Labour (Arbeiterkammer, AK) added that according to the new model, foreign workers have to accept lower salaries and worse working conditions than Austrians (ORF 17.4.2007 Arbeiterkammer: Kritik am Entwurf zur 24-Stunden-Betreuung).

2.3.4. Family Reunification

2.3.4.1. Admission of dependants of Austrian nationals

The implementation of the Council Directive 2003/86 facilitated family reunification for family members of EEA nationals and Austrians who made use of their freedom of movement in the EU. In order to apply for settlement in Austria, dependants of third country nationals need to submit a valid passport and an official documentation of their family connections (§ 54 NAG). However, family dependants of Austrian citizens, who have not made use of their freedom of movement, have to submit their application for a settlement permit at the competent representation abroad. In addition, they are obliged to fulfil the general requirements for

⁴³ The discussion about non-Austrian care takers was already described in EMN Policy Reports of 2005 and 2006.

granting a settlement/residence permit to third country nationals and are not allowed to enter Austria before the decision is taken (§ 47 NAG). Among other requirements, applicants have to provide proof of appropriate accommodation in Austria as well as sickness insurance according to Austrian standards and proof of sufficient financial means (§ 11 par 2 lit 2, 3 NAG). The same applies to stable and regular resources: The law explicitly states that the residence of a foreign national shall not result in any financial burden for the respective local authorities (§ 11 par 5 NAG).⁴⁴

The less favourable conditions for dependants of Austrian nationals were criticised as discrimination against Austrian nationals by the opposition as well as by civil society organisations who are in a less favourable position than EU nationals. In this respect the law does not specify when an Austrian national is considered to have fulfilled the condition of using his/her freedom of movement in the EU. Indeed, for most of the Austrian nationals who wish to take their (third country national) dependants to Austria, it is sometimes not possible. Before the NAG was adopted, family reunification for Austrian nationals was not as strictly regulated; consequently, the number of dependants of Austrian nationals who were granted a (quota-free) settlement permit was considerably high. In 2004 (2005), 23.308 (23.444) first settlement permits were issued to dependants of Austrian nationals, while only 575 (668) first settlement permits were issued to dependants of EEA and Swiss nationals. For further details, please consult Annual Report 2004 and 2005.

However, on 13 October 2007, the VfGH ruled that § 47 NAG does not contradict the principle of equality because the EU Regulation aims to facilitate the movement and settlement of EU nationals (Decision B 1462/06, VfGH, 13.10.2007). Stricter regulations for those who are not making use of the European freedom of movement shall maintain the well-regulated Aliens' System and impede possible abuse.

In a relevant case, the complainant is a Turkish citizen, who was adopted by an Austrian citizen. His application for a settlement permit was rejected because the sponsor could not provide sufficient resources to cover the complainant's maintenance expenses. After the negative decision at the last instance, the complainant appealed to the Federal Constitutional Court (VfGH) and stated that the administrative decision was unconstitutional according to the principle of equality (Art 18 B-VG – Federal Constitutional Law). As the family dependant of an Austrian sponsor who made use of his freedom of movement (e.g. an Austrian who lived

⁴⁴ The sponsor and his/her family shall dispose of stable and regular resources, which allow them to maintain themselves without depending on social aid. The required amount of resources is calculated according to the standard rates laid down in the Law on General Social Insurance (Allgemeines Sozialversicherungsgesetz (ASVG)) (§ 11 Abs. 5 NAG).

abroad in another EU Member State and moves back to Austria), the case does not have to meet the general requirements (§ 52 – 54 NAG). However the family members of an Austrian sponsor who does not make use of his freedom of movement will have to meet all these requirements.

2.3.5. Other legal migration

In 2007, there have been no specific changes in this field; for further details, please consult Policy Report 2005 and 2006.

2.3.6. Citizenship and Naturalisation

As mentioned in the Policy Report of the Austrian NCP 2006, an amendment of the Citizenship Act was adopted by the former Government of OeVP and BZÖ, which entered into force on 26 March 2006. The most important changes concern the minimum duration of residence prior to naturalization and other conditions such as knowledge of the German language and a naturalisation exam on history and applied geography. As a consequence, the number of naturalisations declined considerably in 2007, to 14,010 in total. This is a decline of 46% compared to the figure of 2006 (25,746). 7,600 of the naturalised persons were women, 6,410 were men. Most naturalisations took place in Vienna (5,200), followed by Upper Austria (2,025).⁴⁵

The tightening of the Citizenship Act provoked criticism by migration experts such as Rainer Bauböck, who stated that high barriers for naturalisation aggravate social integration (STANDARD 14 September 2007 Hohe Barrieren bei Einbürgerung...).

⁴⁵ Figures were taken from Statistik Austria, and are available online at: www.statistik.at

2.3.7. Integration

2.3.7.1. General Development

In September 2007, one month prior to the launch of the Integration Platform, the Migrant Integration Policy Index (MIPEX)⁴⁶ was published by the British Council and the Migration Policy Group in cooperation with the European Community. It evaluates policies that integrate migrants in 25 EU Member States as well as three third countries.⁴⁷ MIPEX covers six policy areas, namely labour market access, family reunion, long-term residence, political participation, access to nationality and anti-discrimination. In the general ranking, Austria stands at number 26.

According to MIPEX, Austria halfway follows best practice policies with regard to security of employment and rights associated with labour market access. However, other key findings were not that positive. The following policies were regarded as unfavourable: eligibility for labour market access, naturalisation policy, anti-discrimination law, opportunities for political participation and conditions for family reunification. In the field of voting rights and measures for labour market integration Austria was ranked among the critically unfavourable.

As far as public perception is concerned, MIPEX states that the attitude towards migrants is not very welcoming in Austria; e.g. 45.3% of polled Austrians would like to see illegally residing migrants deported. Yet only a third believes that too little is done to fight discrimination.⁴⁸

For 2007, the Austrian Integration Fund (Österreichischer Integrationsfonds – ÖIF) plans to involve the public community, NGOs and federal states and communities, more actively in integration matters. The aim is to raise public awareness in migration matters via DVDs, brochures, exhibitions or visits to schools. However, the focus should remain on the sustainability of the work with migrants and on the improvement of labour market access or the faster recognition of qualifications as well as the provision of language skills.⁴⁹

Furthermore, the ÖIF created a project on mobile assistance⁵⁰ for refugees. This project aims to facilitate the integration process by providing refugees with apartments where they can stay for the following five years on their own and in this way get in contact with their neighbourhood.

⁴⁶ For further information, please consult <http://www.integrationindex.eu/>

⁴⁷ These three non-EU-countries were Canada, Norway and Switzerland, with the intention to encourage greater exchange on integration policies beyond EU borders.

⁴⁸ MIPEX 2007:25

⁴⁹ ÖIF: Integration im Fokus. Integration 2007 - Ziele und Maßnahmen des ÖIF. No.1/2007

⁵⁰ ÖIF: Integration im Fokus. 1/2007:9

The daily routine in a normal Austrian environment should help the refugee to integrate more easily. During the first three years, the ÖIF provides assistance to the refugee helping him/her in difficult situations. The general idea is, however, that s/he develops an independent way of life.⁵¹

For promoting professional training in the field of migration, a Master's course on Migration Management was initiated in Salzburg in 2007. The curriculum was designed by the University of Salzburg in cooperation with the Austrian Integration Fund, the Adult Education Centre St. Virgil and the International Organization for Migration (IOM) Vienna in order to gain more skilled professionals in migration and integration matters.

As the topic of integration is becoming increasingly delicate and public, some organisations and associations developed position papers and expressed their concerns in this regard. The Austrian Federation of Industries (IV) particularly called for integration in the area of labour market. It argues that integration should be regarded as a process relevant to the society as a whole. Austrians should be made aware of the benefits arising from well-integrated migrants.⁵²

Also the Consortium for Development Cooperation (Arbeitsgemeinschaft Entwicklungszusammenarbeit – AGEZ), which is the umbrella organisation for NGOs working in the field of development policies, formulated a position paper in cooperation with 22 other NGOs.⁵³ They advocate equal rights and opportunities for migrants, as well as participation in social processes, and call for social security and proper education for migrants. Additionally, they want to abolish the quota of family reunification and to ease the conditions for naturalisation. Their position paper, too, perceives integration as a policy demanding a holistic perspective.⁵⁴

Due to the demographic change in Austria, the Red Cross states the importance and relatedness of migration and integration in a position paper. The organisation points out that they are ready to intervene if necessary and to assist migrants in need, e.g. those who are in detention or risk being deported although they are already well integrated etc, via its right of

⁵¹ For further information consult: <http://www.integrationsfonds.org/cms/>

⁵² IV: Gemeinsam Lebensräume schaffen. Die Zukunft von Migration und Integration. Available online at: http://www.iv-mitgliederservice.at/iv-all/publikationen/file_394.pdf

⁵³ ARGE MigrantInnenberatung Österreich, asylkoordination österreich, Ausländerberatung Tirol, Ausländerberatungsstelle Klagenfurt, Beratungszentrum für Migranten und Migrantinnen, Caritas Österreich, Deserteurs- und Flüchtlingsberatung, Diakonie Österreich, FEMAIL Fraueninformationszentrum Vorarlber e.V., Frauensolidarität, helping hands, Internationales Zentrum für Kulturen und Sprachen, Lateinamerikanische Emigrierte Frauen in Österreich, Orient Express, peregrina-Bildungs-, Beratungs- und Therapiezentrum für Immigrantinnen, SOS Mitmensch, Verein Ausländer/inneninitiative NÖ-Süd, Verein zur Betreuung der Ausländer/innen in Oberösterreich, Volkshilfe Österreich, Wiener Integrationsfonds, Werkstätten- und Kulturhaus (WUK), ZEBRA

⁵⁴ AGEZ Positionspapier: Integration bedeutet: Gleiche Rechte und Chancen unabhängig von der Staatsbürgerschaft

access to all people in need regardless of their legal status. Furthermore, the Red Cross calls for the development of a coordinated model for immigration. In integration issues, the Red Cross wants to focus on education. Bringing together Austrians and immigrants helps reducing stereotypes, which should lead to increased awareness of Austrians that Austria is an immigration country.⁵⁵

The Austrian Economic Chamber (WKOE), too, has its share of integration policies and developed the project 'Mentoring for Migrants'.⁵⁶ This project, launched in cooperation with the Labour Market Service and the Austrian Integration Fund, offers migrants specific occupations matching their qualifications. With this project, Austria benefits from the migrants' qualifications rather than neglecting this human capital. Furthermore, the project focuses on language education of migrants' children.

The Municipality Department¹⁷ ⁵⁷ (MA17) of Vienna is responsible for integration and diversity. MA17 acts as an interface between migrants' organisations, NGOs and the municipality of Vienna. It provides services and guidebooks such as a multilingual glossary with phrases used by public authorities, or an intercultural calendar with all relevant dates of the most prominent religious and ethnic groups in Vienna. On 26 November 2007, MA17 organised a plenary discussion dealing with the topic "Make Integration Measurable" with the aim to develop a monitoring system to integration.

2.3.7.2. *Education*

The results of the PISA study (Programme for International Student Assessment) conducted in 2006 were published in the beginning of 2007. The general outcome was that successful learning is often correlated with the educational background of the parents. In Austria, 13% of the polled pupils had a migratory background. The reading performance, for instance, of pupils with migratory background is significantly lower than that of those without such a background. Contrary to the expectations and the international trend, the performance of the second generation, born and raised in Austria, was even worse. Experts claim that this is a result of the limited success of integration efforts.⁵⁸

⁵⁵ Österreichisches Rotes Kreuz: Migration & Integration. Positionen

⁵⁶ For further information consult: http://portal.wko.at/wk/format_detail.wk?StID=375107&AngID=1

⁵⁷ For further information consult: <http://www.wien.gv.at/integration/>

⁵⁸ For more detailed information about PISA consult: <http://www.pisa-austria.at/>

The same results were presented by the PIRLS (Progress in International Reading Literacy Study), another study assessing the pupils' reading skills.⁵⁹

Experts argue that these bad results are due to the fact that many children of migrants do speak neither German nor their mother tongue fluently. The Minister of Education, Art and Culture, Johannes Hahn, therefore suggested introducing a compulsory year in kindergarten for children with language deficiencies. The Green Party opposed this approach because of a perceived lack of strategy for the financing of such a compulsory kindergarten year. According to Dieter Brosz, the Green Party's spokesman for education issues, the social tilt will remain if the parents must continue to pay for the kindergarten as they still do in several provinces.,

Despite these discussions the Austrian Federal Economic Chamber developed the project "Schlaumäuse" ("smart mice") in cooperation with Microsoft Austria. "Schlaumäuse" is a computer programme which trains children in kindergarten in a playful way in order to improve their German language skills. It is planned to expand this project to more kindergartens in Austria.⁶⁰

2.3.7.3. *Migrants in the Police*

The Austrian Police aims to raise its percentage of police officers who have a migration background. Since there are a growing number of official acts involving migrants, the executive is seeking to increase its competences in different languages and diversify its cultural backgrounds (PRESSE 21.11.2007 Polizei "fahndet" nach Zuwanderern).

In November 2007, the police instigated a campaign in cooperation with the Viennese Municipality to attract people with migratory backgrounds to join the police. The usual conditions for entering the civil service (Austrian citizenship, Principle of Equality) will remain in place (PRESSE 20.3.2007 Wiener Polizei will mehr Beamte mit Migrations-Hintergrund).

Political reactions were diverse. The Green Party supported this idea, whereas the Austrian Freedom Party (FPÖ) claimed this project could produce discrimination against Austrians (PRESSE 20.3.2007 Wiener Polizei will mehr Beamte mit Migrations-Hintergrund).

⁵⁹ For more detailed information about PIRLS consult: <http://www.iea-austria.at/pirls/index.html>

⁶⁰ WKÖ: WKÖ-Mitterlehener: "Spielerischer frühkindlicher Spracherwerb stärkt Integration von Migrantenkindern". Vienna: 11 December 2007

2.3.7.4. *Debates about mosques and minarets in Austria*

In August 2007, the governor of Carinthia, Jörg Haider, declared mosques and minarets as an interference with public view of local places (Ortsbild). He intends to inhibit the construction of new sacral buildings via a special declaration (Sonderwidmung).⁶¹ In September 2007, the BZOE failed to pass a new law on a building ban for mosques and minarets in parliament.

In order not breach the freedom of religion, which is guaranteed by the Austrian constitution, a special commission for care of local places (Ortsbildpflege-Sonderkommission) was established. That team must prove whether or not the construction of a mosque or a minaret is disturbing the public appearance of localities and if it is in accordance with the "Austrian culture".⁶²

The Austrian cardinal Christoph Schönborn opposed this development; in his view, building a mosque is part of the freedom of religion, which grants the freedom to worship in private as well as in public.⁶³ On the other hand, the Vorarlberg bishop Elmar Fischer perceives mosques and minarets as provocation and therefore supports the construction ban. According to Bishop Fischer, immigrants need to integrate better before Austria should accept the construction of their sacral buildings.⁶⁴

2.3.8. **Illegal Immigration**

The policy report of 2006 of the NCP Austria mentioned the Government Programme (2007-2010) which contains efforts to fight against illegal migration, human trafficking and smuggling of human beings. According to the Smuggler Report 2007 (Schlepperbericht 2007) of the Mol the number of cases and people who have entered Austria illegally has decreased significantly in comparison to previous years. The main reason for such a development is that Romanian nationals can enter the country more easily due to the EU

⁶¹ <http://kaernten.orf.at/stories/217207/> Leitkultur schützen. Haider: Bauverbot für Moscheen und Minarette, 26 August 2007 (accessed in April 2008)

⁶² <http://kaernten.orf.at/stories/255969/> Regierungssitzung. Landesregierung beschließt Minarett-Verbot. 11 Februar 2008 (accessed in April 2008)

⁶³ <http://oesterreich.orf.at/wien/stories/263979/> Schönborn versteht Schleierverbot im Prozess. 16 März 2008 (accessed in April 2008)

⁶⁴ <http://vorarlberg.orf.at/stories/264428/> Bischof: „Minarett gefährdet sozialen Frieden“. 18 März 2008 (accessed in April 2008)

enlargement 2007. Until 2007 Romanian nationals constituted the biggest group of persons who were detained for illegal entry or illegal residence. Furthermore, due to the effects of the Aliens' Law Package 2005 (Fremdenrechtspaket 2005)⁶⁵ and the better cooperation between Austria and its neighbouring countries as well as other transit countries, the number of persons who were smuggled has decreased by 21%.⁶⁶ Drehscheibe, an NGO helping trafficked children, reported that the number of under-aged victims is continuously decreasing. The main reason for this is the identification of the children and the improved cooperation both with the police and the crisis centres in the country of origin, mainly in Romania and Bulgaria (STANDARD 11.1.2008 Weiblich, wehrlos, jung, gesucht...). In this context, the OeVP introduced a public debate about the prohibition of begging in the public. However, different NGOs such as Drehscheibe, and even the police were opposing the initiative due to a lack of efficiency and because it would drive the affected persons into illegality (PRESSE 25.3.2007 Polizei gegen Bettelverbot).

Regarding anti-trafficking policies, the most important development was the adoption of the National Action Plan against Trafficking in Human Beings (National Aktionsplan gegen Menschenhandel) by the Council of Ministers in March 2007.⁶⁷ In accordance with the Action Plan, the First Austrian Report on Combating Human Trafficking⁶⁸ was prepared. The Report offers an overview of current activities and measures that Austria has launched and is planning to take with respect to human trafficking such as raising public awareness through different events, discussions, etc; sensitizing the police and the systems of border control; and the establishment of new intervention centres for victims of trafficking in the provinces.

Additionally, the MoI, in cooperation with the International Organisation for Migration (IOM), launched a project on "Development of Guidelines for the Collection of Data on Trafficking in Human Beings, including Comparable Indicators". The first results of the project will be presented at beginning of 2009.

⁶⁵ For further information on the new Aliens' Law Package 2005 please consult the Policy Reports of the Austrian NCP for 2005 (NCP 2004) and 2005 (NCP 2006) available at www.emn.at.

⁶⁶ http://www.bmi.gv.at/downloadarea/schlepperberichte/Jahresbericht_2007.pdf

⁶⁷ <http://www.bmeia.gv.at/en/foreign-ministry/foreign-policy/human-rights/main-human-rights-issues/combating-human-trafficking.html>

⁶⁸ http://www.bmeia.gv.at/fileadmin/user_upload/bmeia/First_Austrian_Report_in_THB_080730.pdf

2.3.9. Return Migration

The following official acts by the Aliens' Police in 2007, were registered: According to § 41 FPG, 7,280 Refusals (Zurückweisungen) were executed. Among these cases, illegal entry was the main reason (5,065). Additionally, 1,673 expulsions were carried out in accordance with § 53 FPG. The main cause for expulsions was illegal residence. 4,188 residence bans were imposed (§ 60 FPG), among which 1,596 affected persons who were lawfully convicted. Another 587 re-entry bans were imposed (§ 62 FPG). Moreover, 6,600 persons were sent to detention for deportation according to § 76 FPG. 1,581 rejections at the border were executed in accordance with § 45 FPG. Finally, 2,831 deportations (§ 46 FPG) were carried out.⁶⁹

The Annual Report 2007 of the Human Rights Advisory Board mentioned the so-called 'problematic deportations' as a critical point. In 2007, it was possible for the first time for the Commissions of the Human Rights Advisory Board to monitor those so-called 'problematic deportations'. Before, this was only possible in case of deportation by air. It is positively assessed by the Commission that, if necessary, the deportation can be discontinued.

In 2007, 7,536 assisted voluntary departures were registered by the statistics of the Mol. According to § 67 AsylG, the asylum applicant has at any stage of an asylum process the possibility to receive return counselling: If s/he decides to return voluntarily, s/he can be provided with financial assistance. Several institutions carry out assisted voluntary return programmes: Mol⁷⁰, IOM⁷¹, Caritas Austria⁷², Red Cross⁷³, European Homecare⁷⁴, Association for Human Rights Austria⁷⁵, Diakonic Refugee Service⁷⁶ and ten other NGOs around the country, providing counselling and referring cases to IOM for the implementation of return. Assisted Voluntary Return (AVR) is financed by the Mol and the European Refugee Fund. Types of assistance are pre-departure assistance and transport assistance. According to IOM statistics 2,069 persons returned to their country of origin within the AVR programme in 2007.

⁶⁹ Figures were taken from the Mol's Aliens' Statistics, December 2007. Available online at: www.bmi.gv.at

⁷⁰ <http://www.bmi.gv.at/>

⁷¹ <http://www.iomvienna.at/>

⁷² <http://www.caritas.at/>

⁷³ <http://www.rotekreuz.at/migration/>

⁷⁴ <http://www.eu-homecare.com/>

⁷⁵ <http://verein-menschenrechte.at/>

⁷⁶ <http://www.diakonie.at/goto/de/taetigkeitsbereiche/migrantinnen-und-fluechtlinge>

2.3.10. Other policy areas/topics

2.3.10.1. Discrimination and Anti-Discrimination

The “Rassismus-Report”⁷⁷ (Report on Racism), published by the NGO ZARA (Zivilcourage und Anti-Rassismus-Arbeit) focuses on racist assaults in Austria. In 2007, 831 assaults were reported to ZARA, less than in 2006. ZARA argues, however, that this decline is not due to a decrease in racist actions, but rather to a decrease in sensitivity in the civil society. There were less reports about public besmirches, which can be ascribed to a smaller number of awareness raising campaigns in 2007. However, there were more notifications about virtual racism in the Internet. The majority of the reported incidents took place in public (58%).

It is, however, difficult to quantify and compare racism internationally as there are different factors influencing how and if a case is handled as racially motivated (Who is recording the case? How high is the public awareness regarding racism? How easy is it to report a racist assault?). Although two EU Directives on anti-discrimination⁷⁸ were implemented, there are still differences in data collection and therefore international comparisons need to be considered with caution.

The report of the Commissioner for Human Rights alludes to discrimination and xenophobia in Austria. Groups that are at a very high risk of discrimination are Africans, Muslims and Roma, according to the European Commission against Racism and Intolerance (ECRI).⁷⁹ This can happen via public besmirch but also in the media, when the ethnic origin is mentioned though it may be irrelevant to the reporting. Racism and intolerance can also be found in election campaigns, where political parties wedge for voters via slogans that foment anxiety in relation to aliens. The Commissioner encourages Austria to implement a national plan of action to fight racism and xenophobia in the framework of the plan of action of Durban.⁸⁰ The focus of the national plan of action should be on public awareness raising and also on a holistic data collection.

⁷⁷ Available online at: <http://www.zara.or.at/materialien/rassismus-report/Rassismus-Report%202007.pdf>

⁷⁸ More information about these two EU Directives can be found in the EMN Policy Report 2006.

⁷⁹ More information about ECRI is here available: <http://www.coe.int/t/e/human%5Frights/ecri/1%2DECRI/>

⁸⁰ The plan of action of Durban was decided by the UN General Assembly on 20 December 2004 to fight racism, discrimination due to race and xenophobia and all intolerance linked to that.

3. IMPLEMENTATION OF EU LEGISLATION

The Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status forms, *inter alia*, the legal basis for the Asylum Court Act (Asylgerichtshofsgesetz, AsylGHG); however, the Asylum Court Act was only adopted in December 2007 and entered into force in July 2008.⁸¹ In 2007, there were no other new developments of implementation of EU legislation in the thematic areas covered by this policy report.

⁸¹<http://www.asylgh.gv.at/site/6319/default.aspx>

4. REFERENCES

Books

Kutscher N., Poschalko N., Schmalzl C.: Niederlassungs- und Aufenthaltsrecht. Vienna, 2006.

Reports

AGEZ-Positionspapier: Integration bedeutet: Gleiche Rechte und Chancen unabhängig von der Staatsangehörigkeit.

Austrian Federal Chancellery: Regierungsprogramm für die XXIII. Gesetzgebungsperiode 2007-2010. 9 January 2007. Available at: <http://www.bundeskanzleramt.at/DocView.axd?CobId=19542> (accessed in March 2008).

Austrian Ministry of European and International Affairs: First Austrian Report on Combatting Human Trafficking. 2008 Available at: <http://www.bmeia.gv.at/en/foreign-ministry/foreign-policy/human-rights/main-human-rights-issues/combating-human-trafficking.html> (accessed in September 2008).

Austrian Ministry of Interior: Asylum Statistics. December 2007. Available online at: http://www.bmi.gv.at/downloadarea/asyl_fremdenwesen_statistik/2007/12/Asylstatistik_12_07.pdf (accessed in March 2008).

Austrian Ministry of Interior: Schlepperbericht 2007. Available at http://www.bmi.gv.at/downloadarea/schlepperberichte/Jahresbericht_2007.pdf (accessed in September 2008).

Autarq2 Positionspapier zu Gemeinnützigler Beschäftigung von Asylwerbern. 1 March 2007. Available at: http://www.epima.at/documentation/autarq2_pp_gemn_beschaeftigung.pdf (accessed in March 2008).

British Council, Migration Policy Group: Migrant Integration Policy Index 2007 (MIPEX).

Council of Europe: Bericht des Menschenrechtskommissars Thomas Hammarberg über seinen Besuch in Österreich 21.-25. Mai 2007. 12 December 2007. Available at: https://wcd.coe.int/ViewDoc.jsp?id=1225283&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679#P242_66169 (accessed in March 2008).

Digruber, Daniela: Positionen des Österreichischen Roten Kreuzes zur Schubhaft. June 2007. Available at: http://www.ropeskreuz.at/fileadmin/user_upload/PDF/Migration/Schubhaft.pdf (accessed in March 2008).

International Organisation for Migration (IOM)/National Contact Point Austria to the European Migration Network (EMN): Policy Report on Immigration and Integration in Austria 2006. Vienna 2007, available at: www.emn.at (accessed in March 2008).

International Organisation for Migration (IOM)/National Contact Point Austria to the European Migration Network (EMN): Policy Report on Immigration and Integration in Austria 2005. Vienna 2007, available at: www.emn.at (accessed in March 2008).

Industriellen Vereinigung Positionen: Migration braucht Innovation. Das IV Strategiepaket für Migration, Integration und Asyl. December 2007/January 2008. Available at: http://www.iv-mitgliederservice.at/iv-all/dokumente/doc_2529.pdf (accessed in March 2008).

Industriellen Vereinigung: Gemeinsam Lebensräume schaffen. Die Zukunft von Migration und Integration. May 2007. Available at: http://www.iv-mitgliederservice.at/iv-all/publikationen/file_394.pdf (accessed in March 2008).

Industriellenvereinigung Positionen: Willkommen im Industrieland Österreich. June 2007, available at: http://www.iv-mitgliederservice.at/iv-all/dokumente/doc_2410.pdf (accessed in March 2008).

Menschenrechtsbeirat: Bericht des Menschenrechtsbeirates über seine Tätigkeit im Jahre 2007. Available at: http://www.menschenrechtsbeirat.at/cms/index.php?option=com_content&task=view&id=320&Itemid=77, (accessed in March 2008).

Österreichischer Integrationsfonds: Integration im Fokus. Integration 2007 – Ziele und Maßnahmen des ÖIF. No. 1/2007.

Österreichisches Rotes Kreuz: Positionen zu Migration & Integration. Available at: <http://www.rotekreuz.at/migration/position/> (accessed in March 2008).

Österreichisches Rotes Kreuz: Position des Österreichischen Roten Kreuzes zur Schubhaft. Available at: http://www.rotekreuz.at/fileadmin/user_upload/PDF/Migration/Schubhaft.pdf, (accessed in March 2008).

Verein ZARA – Zivilcourage und Anti-Rassismus-Arbeit: Rassismus-Report 2007. Einzelfallberichte über rassistische Übergriffe und Strukturen in Österreich. Vienna. 2008, available at: <http://www.zara.or.at/materialien/rassismus-report/Rassismus-Report%202007.pdf> (accessed in March 2008).

WKÖ: Mitterlehner: Österreich ist ein Zuwanderungsland. Vienna: 6 November 2007. Available at: http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=358316&DstID=0 (accessed in April 2008).

WKÖ: Mitterlehner: Transparentes Punktesystem für qualifizierte Einwanderung. Vienna: 6 November 2007. Available at: http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=358391&DstID=29 (accessed in April 2008).

WKÖ: WKÖ-Mitterlehner: "Spielerischer frühkindlicher Spracherwerb stärkt Integration von Migrantenkindern". Vienna: 11 December 2007. Available at: http://portal.wko.at/wk/format_detail.wk?AngID=1&StID=366673&DstID=0 (accessed in April 2008).

Media articles:

HEUTE 2007

Heute: 2007, Wer legal in Österreich ist. Asylwerber sollen arbeiten dürfen. 6 June 2007

KLEINE ZEITUNG 2007

Kleine Zeitung: 2007, Öffnung für Asylbewerber. 6 June 2007

KURIER 2007

Kurier: 2007, Asylwerber statt Saisonierkräften. 24 May 2007

KURIER 2007

Kurier: 2007, Asylwerber sollen arbeiten dürfen. 6 June 2007

NEUES VOLKSBLATT 2007

Neues Volksblatt: 2007, Asylanten-Jobs. 6 June 2007

NEWS 2007

News: 2007, Vorrang für Asylwerber. Vorstoss aus Wien: Asylsuchende sollen arbeiten dürfen. 21 May 2007

OÖ NACHRICHTEN 2007

Oberösterreichische Nachrichten: 2007, Bartenstein-Erlass verhindert, dass Asylwerber arbeiten dürfen. 30 April 2007

Ö24: 2007, Kosovarische Familie nach Flucht wieder aufgetaucht, 14. November 2007

ORF 2007,

ORF: Arbeiterkammer: Kritik am Entwurf zur 24-Stunden-Betreuung, 17 April 2007, Available: <http://oesterreich.orf.at/vorarlberg/stories/179527/> (accessed in September 2008)

ORF 2007

Leitkultur schützen. Haider: Bauverbot für Moscheen und Minarette. Available at: <http://kaernten.orf.at/stories/217207/>, 26 August 2007. (accessed in September 2008).

ORF 2007,

Landesregierung beschließt Minarett-Verbot. 11 February 2008. Available at: <http://kaernten.orf.at/stories/255969/> Regierungssitzung, (accessed in September 2008).

ORF 2007,

Schönborn versteht Schleierverbot im Prozess. 16 March 2008 Available at: <http://oesterreich.orf.at/wien/stories/263979/>, (accessed in September 2008).

ORF 2007,

Bischof: „Minarett gefährdet sozialen Frieden“. 18 March 2008. Available at: <http://vorarlberg.orf.at/stories/264428/>, (accessed in September 2008).

PRESSE 2007

Die Presse: 2007, Selektive Migrationspolitik in Österreich. 7 March 2007

PRESSE 2007

Die Presse: 2007, Wiener Polizei will mehr Beamte mit Migrations-Hintergrund. 20 March 2007

PRESSE 2007

Die Presse: 2007, Polizei gegen Bettelverbot. 25 March 2007

PRESSE 2007

Die Presse: 2007, Platter-Aussagen zu Asyl ernten Kritik und Lob. 28 April 2007

PRESSE 2007

Die Presse: 2007, Industrie will qualifizierte Ausländer. 9 May 2007

PRESSE 2007

Die Presse: 2007, IV-Generalsekretär: „Österreich ist ein Zuwanderungsland“. 9 May 2007

PRESSE 2007

Die Presse: 2007, Asyl: Molterer gegen automatisches Bleiberecht. 12 May 2007

PRESSE 2007

Die Presse: 2007, „Verschüttete Talente“. 14 May 2007

PRESSE 2007

Die Presse: 2007, Experten: Ausländerfeindlichkeit schadet Wirtschaft. 15 May 2007

PRESSE 2007

Die Presse: 2007, Zuwanderung: Arbeitsrecht für Flüchtlinge? 25 May 2007

PRESSE 2007

Die Presse 2007: Berger will Flüchtlingen Arbeitszugang erleichtern. 09 June 2007

PRESSE 2007

Die Presse: 2007, Asyl: Abschaffung der Schubhaft gefordert. 11 June 2007

PRESSE 2007

Die Presse: 2007, Hilfs-Organisationen für Abschaffung der Schubhaft. 11 June 2007

PRESSE 2007

Die Presse: 2007, Bartenstein klar gegen Arbeitsmarkt-Öffnung für Asylwerber. 12 June 2007

PRESSE 2007

Die Presse: 2007, Platter will einheitliche Kriterien bei Asyl. 10 July 2007

PRESSE 2007

Die Presse: 2007, Krach um Bleiberecht für Asylwerber. 18 July 2007

PRESSE 2007

Die Presse: 2007, Asyl: Gusenbauer für Bleiberecht. 18 July 2007

PRESSE 2007

Die Presse: 2007, Wirtschaft warnt vor Abschiebung. 18 July 2007

PRESSE 2007

Die Presse: 2007, Startschuss für Integrationsplattform. 20 September 2007

PRESSE 2007

Die Presse: 2007, Mehrheit gegen Bleibeautomatik. 9 September 2007

PRESSE 2007

Die Presse: 2007, Integration: Schwammiges Konzept im Regierungsprogramm. 15 October 2007

PRESSE 2007

Die Presse: 2007, Plattform für Integration starten. 15 October 2007

PRESSE 2007

Die Presse: 2007, Platter: Längere Deutschkurse nötig. 16 October 2007

PRESSE 2007

Die Presse: 2007, Erster Bericht der Integrationsplattform im Jänner, 12 November 2007

PRESSE 2007

Die Presse: 2007, Familie Zeqaj: Grüne fordern humanitäres Bleiberecht. 14 November 2007

PRESSE 2007

Die Presse: 2007, Polizei „fahndet“ nach Zuwanderern. 21 November 2007

PRESSE 2007

Die Presse: 2007, Asylgericht wie geplant von der Koalition beschlossen. 28 November 2007

PRESSE 2007

Die Presse: 2007, Von „Akt der Menschlichkeit“ zu „Auftrag für Bleiberecht“, 14 December 2007

PRESSE 2007

Die Presse: 2007, Gnade, 14 Dezember 2007

STANDARD 2007

Der Standard: 2007 Weiblich, wehrlos, jung, gesucht...11 January 2007

STANDARD 2007

Der Standard: 2007, Wirtschaft will Asylwerbern Arbeit geben. 6-7 June 2007

STANDARD 2007

Der Standard: 2007, Hohe Barrieren bei Einbürgerung haben „fatale Folgen“. 14 September 2007

STANDARD 2007

Der Standard: 2007, Familie Zeqaj wieder legal. 23 November 2007

STANDARD 2007

Der Standard: 2007, Buchinger und Bures für humanitäres Bleiberecht für Arigona. 18 December 2007

STANDARD 2007

Der Standard: 2007, Österreicher, die für Fremde „etwas riskieren“. 18 December 2007

STANDARD 2007

Der Standard: 2007, Humanitäres Bleiberecht wird kaum angewandt. 19 December 2007

STANDARD 2007

Der Standard: 2007, Selbst Heinz Fischer ist im "Fall Zogaj" machtlos. 23 December 2007

STANDARD 2008

Der Standard: 2008, Kenan Güngör: "Ich kann die grundsätzliche Skepsis verstehen", 24 Jänner 2008

Journal articles:

Grafl, Kriminalpolitische Initiative: Mehr Sicherheit durch weniger Haft! (juridikum 2005, 66)

Grafl, Gratz, Höpfel, Hovorka, Pilgram, Schroll, Soyer: Kriminalpolitische Initiative: Mehr Sicherheit durch weniger Haft. (juridikum 2005, 66)

Jabloner, Clemens: Kritisches zur neuen Asylgerichtsbarkeit. (migralex 01/2008)

Mayer: Heinz: Das humanitäre Bleiberecht – ein schrankenloses Ermessen? (migralex 1/2008)

Muzak, Gerhard: „Bleiberecht“ für integrierte Fremde nach negativer Asylentscheidung? (migralex: 3/2007)

Wiederin, Ewald: Der gerichtliche Rechtsschutz in Asylsachen. (migralex 01/2008)

Websites:

<http://www.amnesty.at/>

<http://www.asyl.at/>

<http://www.asylgh.gv.at/>

<http://www.austria.gv/>

<http://www.caritas.at/>

<http://www.bmeia.gv.at/>

<http://www.bmi.gv.at/>

<http://www.bundeskanzleramt.at/>

<http://www.coe.int/t/e/human%5Frights/ecri/1%2DECRI/>

<http://derstandard.at/integration>

<http://www.diakonie.at/>

<http://www.emn.at>

<http://www.epima.at/>

<http://www.equal-esf.at/new/de/index.html>

<http://www.eu-homecare.com/>

<http://www.fluchtistkeinverbrechen.at/>

<http://fluechtlingsdienst.diakonie.at/>

<http://www.fluequal.at/>

<http://www.iea-austria.at/pirls/index.html>

<http://www.inpower.at/>

<http://integration.at/>

<http://www.integrationsfonds.org/cms/>

<http://www.integrationshaus.at/>

<http://www.integrationsindex.eu/>

<http://www.iomvienna.at>

<http://www.parlament.gv.at/>

<http://www.pisa-austria.at/>

<http://portal.wko.at/wk/>

<http://www.rotekreuz.at/migration/>

<http://www.statistik.at>

<http://verein-menschenrechte.at/>

<http://www.volkshilfe.at/>

<http://www.wien.gv.at/integration/>

<http://work-in-process.at/html/dummy-3.8.1/index.php>

Decisions

VfGH, G14/07ua, 14 June 2007

VfGH, G 246/07, 27 June 2008

VfGH, B 328/07, 29 September 2007

VfGH, 1462/06, 13 October 2007

Legislation

(StVG 2008)

Strafrechtsänderungsgesetz 2008: BGBl. I 144/1969 amended version BGBl. I 109/2007

ANNEX: STATISTICS**Table 1: Resident Population by citizenship (by 1 January 2007)⁸²**

Citizenship	Austria
Total	8.298.923
Austrian Nationals	7.472.910
Non nationals	826.013
EU-26 countries	275.884
Germany	113.668
Poland	34.676
Romania	23.048
Hungary	18.135
Slovakia	14.850
Italy	13.441
Czech Republic	8.277
United Kingdom	7.799
Bulgaria	6.910
Slovenia	6.858
France	6.123
Netherlands	6.027
Sweden	3.092
Spain	2.629
Greece	2.544
Portugal	1.377
Belgium	1.370
Finland	1.210
Denmark	1.087
Ireland	891
Lithuania	596
Luxembourg	545
Latvia	401
Estonia	185
Cyprus	93
Malta	52
Selected non-EU countries	550.129
Serbien und Montenegro	137.289
Türkei	108.808
Bosnien und Herzegowina	86.427
Kroatien	57.103
Russische Föderation	18.897
Mazedonien, ehem.jug.Rep.	16.322
China (Volksrepublik)	9.153
Vereinigte Staaten (USA)	7.428
Schweiz	7.083
Nigeria	6.116
Others	95.503

Source: Statistics Austria (POPREG)

⁸² Please note that the data regarding sex is not publicly available anymore. Since NCP AT was not funded in 2007, there was no budget available to finance the acquisition of such data.

Table 2: Immigration and emigration 2007 by citizenship

Citizenship		Immigration	Emigration	Net migration
Total		106.905	74.191	32.714
Austrian nationals		14.955	20.464	-5.509
Foreign nationals		91.950	53.727	38.223
EU-26 total		52.228	27.083	25.145
Belgium		247	148	99
Bulgaria		2.168	965	1.203
Cyprus		21	7	14
Czech Republic		1.241	999	242
Denmark		165	195	-30
Estonia		51	31	20
Finland		276	258	18
France		934	563	371
Germany		17.920	7.678	10.242
Greece		347	267	80
Hungary		4.481	2.685	1.796
Ireland		113	120	-7
Italy		1.715	1.067	648
Latvia		78	55	23
Lithuania		190	144	46
Luxembourg		60	42	18
Malta		10	8	2
Poland		5.303	3.281	2.022
Portugal		306	187	119
Romania		9.267	3.555	5.712
Slovakia		3.638	2.384	1.254
Slovenia		733	505	228
Spain		516	289	227
Sweden		352	415	-63
The Netherlands		947	467	480
United Kingdom		1.149	768	381
Total		39.722	26.644	13.078
Serbien und Montenegro		6.396	5.487	909
Türkei		5.262	3.036	2.226
Bosnien und Herzegowina		3.043	2.059	984
Kroatien		2.284	2.043	241
Russische Föderation		2.223	944	1.279
Irak		2.010	1.417	593
Vereinigte Staaten (USA)		1.634	1.239	395
China (Volksrepublik)		1.259	892	367
Mazedonien, ehem.jug.Rep.		947	533	414
Georgien		913	650	263
Others		13.751	8.344	5.407

Source: Statistics Austria. (MIGSTAT 2007)

Table 3: Immigration and emigration from and to Austria by citizenship 1996-2007⁸³

Year	Citizenship	Immigration	Emigration	Net migration
1996	Austrians	12.830	17.136	-4.306
	Foreign Nationals	57.100	48.914	8.186
	Total	69.930	66.050	3.880
1997	Austrians	13.227	18.830	-5.603
	Foreign Nationals	56.895	49.755	7.140
	Total	70.122	68.585	1.537
1998	Austrians	13.494	19.407	-5.913
	Foreign Nationals	59.229	44.865	14.364
	Total	72.723	64.272	8.451
1999	Austrians	14.331	19.644	-5.313
	Foreign Nationals	72.379	47.279	25.100
	Total	86.710	66.923	19.787
2000	Austrians	13.324	17.639	-4.315
	Foreign Nationals	65.954	44.367	21.587
	Total	79.278	62.006	17.272
2001	Austrians	15.142	21.644	-6.502
	Foreign Nationals	74.786	51.010	23.776
	Total	89.928	72.654	17.274
2002	Austrians	20.598	40.881	-20.283
	Foreign Nationals	92.567	38.777	53.790
	Total	113.165	79.658	33.507
2003	Austrians	16.390	31.192	-14.802
	Foreign Nationals	97.164	46.065	51.099
	Total	113.554	77.257	36.297
2004	Austrians	18.452	28.491	-10.039
	Foreign Nationals	108.947	48.326	60.621
	Total	127.399	76.817	50.582
2005	Austrians	16.367	21.170	-4.803
	Foreign Nationals	101.455	47.480	53.975
	Total	117.822	68.650	49.172

⁸³ Migration statistics 1996-2001 did not record movements of persons but change of residence across borders. Base for these statistics was aggregated local population register data. With the introduction of a new central registration register, the methodology of migration statistics has considerably changed:

Migration statistics for the years from 2002 onwards are based on a newly developed population register (POPREG; created by Statistics Austria), which is based on the central registration register. With the creation of this new database, the compiled migration events can be linked to individuals. Furthermore, it will be possible to distinguish different categories of migrants following international concepts, like short-term and long-term migrants.

2006	Austrians	15.588	20.591	-5.003
	Foreign Nationals	85.384	52.904	32.480
	Total	100.972	73.495	27.477
2007	Austrians	14.955	20.464	-5.509
	Foreign Nationals	91.950	53.727	38.223
	Total	106.905	74.191	32.714

Source: Statistics Austria, ISIS database (1996-2001) and Migration Statistics (2002-2007)

Table 4: Issued permits to third country nationals 2004-2007⁸⁴

2004

Type of permit	Male	Female	Total
First settlement permit (quota)	1.840	3.298	5.138
First settlement permit (quota-free)	12.631	14.066	26.697
First residence permit	16.903	15.306	32.209
Renewal of settlement permit	33.443	38.304	71.747
Proof of settlement	26.362	24.775	51.137
Renewal of residence permit	10.757	12.731	23.488
TOTAL	101.936	108.480	210.416

2005

Type of permit	Male	Female	Total
First settlement permit (quota)	2.287	3.971	6.258
First settlement permit (quota-free)	12.221	13.687	25.908
First residence permit	11.374	9.826	21.200
Renewal of settlement permit	36.484	41.883	78.367
Proof of settlement	n.a.	n.a.	48.009
Renewal of residence permit	9.994	12.508	22.502

⁸⁴ 2006 and 2007: The number of "first settlement permits (quota-free)" includes the "Erstaufenthaltsstiel - Familienangehörige" (quota-free) (2006: 8.595 permits; 2007: 6.517), which are granted to (third country national) family dependants of Austrian nationals.

As of 2006, the "proof of settlement" (Niederlassungsnachweis) was replaced by the settlement permit "Daueraufenthalt -EG" ("permanent residence -EC"), which is granted to third country nationals, who are long-term residents (Directive 2003/109/EC).

Other renewals: this category includes "permanent residence -EC", "permanent residence - family dependant" and "family dependant" (=dependants of Austrian nationals, nuclear family).

Change of residence purpose - settlement permits: comprises quota-free settlement permits and settlement permits within the quota.

TOTAL	72.360	81.875	202.244
--------------	---------------	---------------	----------------

2006

Type of permit	Male	Female	Total
First settlement permit (quota)	1.616	2.453	4.069
First settlement permit (quota-free)	5.400	6.884	12.284
First residence permit	2.902	3.711	6.613
Renewal of settlement permit	22.462	24.260	46.722
Renewal of residence permit	7.521	8.008	15.529
Other renewals	29.389	31.518	60.907
Change of residence purpose - residence permits	131	203	334
Change of residence purpose - settlement permits	506	679	1.185
TOTAL	69.927	77.716	147.643

2007

Type of permit	Male	Female	Total
First settlement permit (quota)	2.096	3.159	5.255
First settlement permit (quota-free)	4.987	5.646	10.633
First residence permit	2.621	3.078	5.699
Renewal of settlement permit	29.781	31.527	61.308
Renewal of residence permit	7.124	7.085	14.209
Other renewals	29.422	30.647	60.069
Change of residence purpose - residence permits	124	278	402
Change of residence purpose - settlement permits	894	911	1.805
TOTAL	77.049	82.331	159.380

Source: Federal Ministry of the Interior

Table 5: Asylum applications 2006 by gender

Month	Male	Female	TOTAL
January	893	402	1.295
February	666	305	971
March	767	366	1.133
April	685	260	945
May	692	327	1.019
June	619	354	973
July	688	381	1.069
August	730	373	1.103
September	735	448	1.183
October	796	478	1.274
November	761	417	1.178
December	748	458	1.206
TOTAL	8.780	4.569	13.349

Source: Federal Ministry of the Interior (Annual Reports)

Table 6: Asylum applications 2007 by gender

Month	Male	Female	TOTAL
January	684	398	1.082
February	665	343	1.008
March	664	310	974
April	569	291	860
May	573	284	857
June	627	301	928
July	669	301	970
August	656	333	989
September	688	301	989
October	695	387	1.082

November		627	298	925
December		769	488	1.257
TOTAL		7.886	4.035	11.921

Source: Federal Ministry of the Interior

Table 7: Asylum applications by gender of asylum seekers 1997-2007

Year	Total	Male		Female	
		Total	in %	Total	in %
1997	6.719	5.093	75,8%	1.626	24,2%
1998	13.805	9.781	70,9%	4.024	29,1%
1999	20.129	13.472	66,9%	6.657	33,1%
2000	18.284	13.665	74,7%	4.619	25,3%
2001	30.127	23.430	77,8%	6.697	22,2%
2002	39.354	30.515	77,5%	8.839	22,5%
2003	32.359	23.726	73,3%	8.633	26,7%
2004	24.634	17.721	71,9%	6.913	28,1%
2005	22.461	15.957	71,0%	6.504	29,0%
2006	13.349	8.780	65,8%	4.569	34,2%
2007	11.921	7.886	66,1%	4.035	33,8%

Source: Federal Ministry of the Interior (Annual Reports)

Chart 1: Asylum Applications 1997-2006

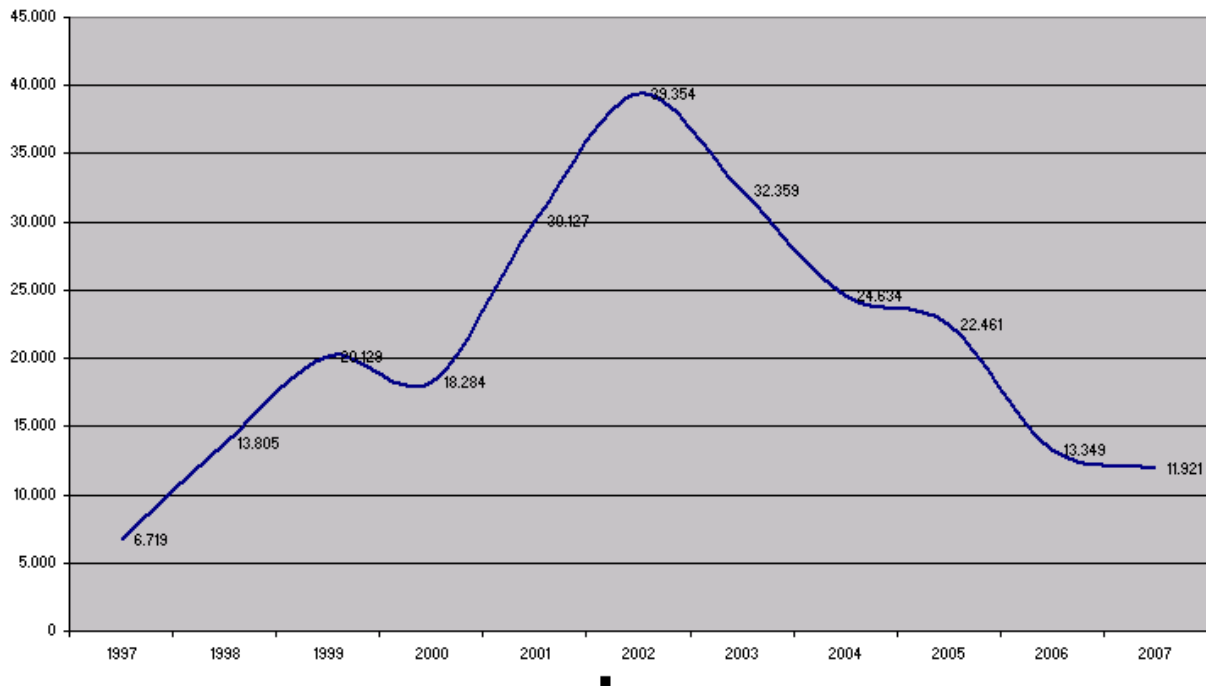


Table 8: Applications and decision 2000-2007⁸⁵

2000

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Afghanistan	4.205	295	217	57,6%
Iran	2.559	63	368	14,6%
India	2.441	0	268	0,0%
Iraq	2.361	98	241	28,9%
Serbia and Montenegro	1.486	292	2.025	12,6%
Pakistan	624	1	100	1,0%
Turkey	592	18	165	9,8%
Nigeria	390	1	142	0,7%
Bangladesh	305	0	40	0,0%
Russian Federation	290	21	48	30,4%

2001

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Afghanistan	12.955	432	335	56,3%
Iraq	2.118	87	239	26,7%

⁸⁵ Selected were the most important countries of citizenship according to the number of asylum applications. For calculations of recognition rates non-status decisions are not taken into consideration.

Turkey	1.868	49	284	14,7%
India	1.802	0	296	0,0%
Serbia and Montenegro	1.637	206	692	22,9%
Armenia	1.235	6	108	5,3%
Nigeria	1.047	2	216	0,9%
Bangladesh	949	0	63	0,0%
Macedonia	947	0	71	0,0%
Iran	734	134	334	28,6%

2002

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Afghanistan	6.651	263	308	46,1%
Serbia and Montenegro	4.723	191	1.249	13,3%
Iraq	4.466	117	159	42,4%
Turkey	3.561	68	352	16,2%
India	3.366	0	192	0,0%
Russian Federation	2.221	36	91	28,3%
Armenia	2.038	10	205	4,7%
Georgia	1.921	13	136	8,7%
Nigeria	1.432	6	322	1,8%
Bangladesh	1.104	0	52	0,0%
Moldova	819	1	77	1,3%

2003

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Russian Federation	6.706	788	237	76,9%
Turkey	2.854	73	424	14,7%
India	2.822	0	694	0,0%
Serbia and Montenegro	2.526	162	1.090	12,9%
Afghanistan	2.357	339	168	66,9%
Nigeria	1.849	3	371	0,8%
Georgia	1.525	60	233	20,5%
Iraq	1.446	143	49	74,5%
Moldova	1.178	0	175	0,0%
Armenia	1.098	26	126	17,1%

2004

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Russian Federation	6.172	2.987	202	93,7%
Serbia and Montenegro	2.835	433	936	31,6%
India	1.839	0	548	0,0%
Nigeria	1.828	3	460	0,6%
Georgia	1.731	54	410	11,6%
Moldova	1.346	9	225	3,8%
Turkey	1.114	103	647	13,7%
Afghanistan	757	766	116	86,8%

Pakistan	575	4	125	3,1%
China (People's Republic)	571	4	83	4,6%

2005

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Serbia and Montenegro	4.403	470	1.056	30,8%
Russian Federation	4.355	2.467	256	90,6%
India	1.530	1	381	0,3%
Moldova	1.210	7	220	3,1%
Turkey	1.064	71	602	10,5%
Georgia	954	59	497	10,6%
Afghanistan	923	538	139	79,5%
Nigeria	880	7	652	1,1%
Mongolia	640	3	56	5,1%
Bangladesh	548	0	114	0,0%

2006

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Serbia	2.515	318	1.530	17,2%
Russian Federation	2.441	2.090	398	84,0%
Moldova	902	13	259	4,8%
Afghanistan	699	475	128	78,8%
Turkey	668	113	380	22,9%
Georgia	564	38	504	7,0%
Mongolia	541	2	159	1,2%
India	479	2	432	0,5%
Nigeria	421	11	352	3,0%
Iraq	380	92	50	64,8%

2007

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Russian Federation	2.676	2.633	542	82,9%
Serbia	1.760	240	1.759	12,0%
Afghanistan	761	497	151	76,7%
Turkey	659	195	531	26,9%
Moldova	545	13	160	7,5%
Iraq	472	215	96	69,1%
Somalia	467	191	41	82,3%
Armenia	405	135	196	40,8%
Georgia	400	56	480	10,4%
Nigeria	394	20	514	3,7%

Source: Federal Ministry of the Interior (Annual reports)

Table 9: Asylum decisions 1997-2007⁸⁶

Asylum decisions	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Positive decisions	639	500	3.393	1.002	1.152	1.073	2.084	5.136	4.528	4.063	5.197
Negative decisions	7.286	3.491	3.300	4.787	3.840	4.285	4.951	5.069	5.427	5.867	6.646
Recognition Rates	8,1	12,5	50,7	17,3	23,1	20,0	29,6	50,3	45,5	40,9	43,9

Source: Federal Ministry of the Interior

Table 10: Number of employed persons 2005-2007

	Average 2005	Average 2006	Average 2007
Total number of employed persons in Austria	3.234.636	3.278.444	3.340.999
Male	1.740.816	1.763.822	1.796.599
Female	1.493.820	1.514.622	1.544.400
of whom:			
Employed foreign nationals	373.692	389.894	411.680
Male	225.139	234.506	246.975
Female	148.553	155.388	164.705

Source: Federation of Austrian Social Insurance Institutions (Hauptverband der Sozialversicherungsträger)

⁸⁶ For calculations of recognition rates, non-status decisions are not taken into consideration.

Table 11: Employed foreign nationals holding an obligatory work permit (average 2007)⁸⁷

	Male	Female	Total	As % of TOTAL
Foreign nationals holding a work permit (TOTAL)	139.835	86.691	226.526	
Category of permit:				
Employment permit	15.284	8.352	23.636	10,4%
Work permit	2.193	1.225	3.418	1,5%
Exemption certificate	28.840	15.910	44.750	19,8%
Exemption certificate - §4c AuslBG	1.979	1.063	3.042	1,3%
Proof of settlement	54.938	40.209	95.147	42,0%
Permanent Residence - EC	12.537	7.818	20.355	9,0%
Settlement permit - unrestricted	3.106	3.064	6.170	2,7%
EU documentations	19.321	8.458	27.779	12,3%
Key professionals	611	269	880	0,4%
Others	1.026	323	1.349	0,6%

Source: Public Employment Service (Arbeitsmarktservice, AMS)

⁸⁷ Employment permit (= Beschäftigungsbewilligung): valid for max. 1 year and limited to a particular job (employer), extension possible
Work permit (= Arbeitserlaubnis): after 52 weeks of legal employment, valid for two years, limited to a specific region (province), extension possible
Exemption certificate (= Befreiungsschein): provides unlimited access to the Austrian labour market; requirements: five years of legal employment within the last 8 years of residence (exceptions for particular groups)
Exemption certificate §4c AuslBG: Issued to Turkish nationals, based on Association Agreement EEC-Turkey.
Proof of settlement (= Niederlassungsnachweis): combines unlimited settlement permit with exemption certificate; requirements: after five years of legal settlement and legal employment. As of 2006, the proof of settlement (Niederlassungsnachweis) was replaced by the settlement permit "Daueraufenthalt -EG" ("permanent residence -EC"), which is granted to third country nationals, who are long-term residents (Directive 2003/109/EC).
Settlement permit - unrestricted: grants access to the labour market (duration of validity 1 year); issued to key professionals at the earliest after 18 months of settlement, if they were employed as key professionals for at least 12 months, upon notification of the Public Employment Service (Arbeitsmarktservice, AMS). It may also be issued to foreigners who are long-term residents, if they meet the conditions for expulsion/a residence ban, but cannot be expelled (their right to settlement is then "downgraded").
EU documentations: includes three categories (EU documentation, EU documentation - family dependants, EU-key professional-employment permit); these are permits for EU nationals, who do not have access to the labour market (EU-8, Romania and Bulgaria)

Table 12: Foreign national employees holding an obligatory work permit (all titles) by nationality 2007

	Male	Female	Total	As % of TOTAL
Yugoslavia	24.395	20.103	44.498	19,6%
Bosnia and Herzegovina	23.915	16.929	40.844	18,0%
Turkey	20.616	8.619	29.235	12,9%
Croatia	14.790	10.632	25.422	11,2%
Hungary	12.388	4.510	16.898	7,5%
Poland	8.012	3.725	11.737	5,2%
Slovakia	5.258	3.589	8.847	3,9%
Romania	4.471	3.503	7.974	3,5%
Slovenia	4.756	1.873	6.629	2,9%
Macedonia	3.854	1.608	5.462	2,4%
Czech Republic	3.497	1.888	5.385	2,4%
Serbia and Montenegro	2.631	1.656	4.287	1,9%
Bulgaria	890	748	1.638	0,7%
China (People's Rep.)	783	503	1.286	0,6%
Russia	584	676	1.260	0,6%
India	779	426	1.205	0,5%
Serbia	683	450	1.133	0,5%
Others	7.533	5.253	12.786	5,6%
TOTAL	139.835	86.691	226.526	100,0%

Source: Public Employment Service (Arbeitsmarktservice, AMS)

Table 13: Registered unemployed persons 2005-2007⁸⁸

	Average 2005	Average 2006	Average 2007
TOTAL	252.654	239.174	222.248
thereof:			
Austrians	208.352	196.983	182.685
Foreign nationals	44.302	42.191	39.563

Source: Public Employment Service (AMS)

Table 14: Unemployment rates 2005-2007⁸⁹

	Average 2005	Average 2006	Average 2007
Overall unemployment rate	7,2	6,8	6,2
Unemployment rate Austrian nationals	6,8	6,4	5,9
Unemployment rate foreign nationals	10,6	9,7	8,7

Source: Public Employment Service (Arbeitsmarktservice, AMS)

Table 15: Support and training for employees and unemployed persons 2005-2007

Supported persons	Average 2005	Average 2006	Average 2007
TOTAL	291.809	308.530	292.284
thereof			
Foreign nationals	39.063	47.158	42.720

Source: Public Employment Service (Arbeitsmarktservice, AMS)

⁸⁸ National calculation of unemployment rate: registered unemployed persons divided by total labour force (defined as the sum of registered unemployed and registered employed persons).

⁸⁹ National calculation of unemployment rate: registered unemployed persons divided by total labour force (defined as the sum of registered unemployed and registered employed persons).

Table 16: Naturalisations 2007 by original citizenship (Top-15)⁹⁰

Original Citizenship	Total
TOTAL	14.041
Serbia	4.216
Bosnia and Herzegovina	3.329
Turkey	2.077
Croatia	1.349
Romania	455
Macedonia, FYROM	415
Poland	172
India	137
Russian Federation	130
Germany	113
Egypt	101
Bulgaria	93
Iran	88
Philippines	85
Ukraine	81
Other	1.200

Source: Statistics Austria (Statistik Austria)

Table 17: Naturalisations 1995-2007⁹¹

Year	Total number of naturalisations
1995	15.309
1996	16.243
1997	16.274
1998	18.321
1999	25.032
2000	24.645
2001	32.080
2002	36.382
2003	45.112
2004	42.174
2005	35.417
2006	26.259
2007	14.041

Source: Statistics Austria (Statistik Austria)

⁹⁰The figures include naturalisations of persons, who are residing abroad.

⁹¹The figures include naturalisations of persons, who are residing abroad.

Chart 2: Naturalisations 1995-2007

