



IOM International Organization for Migration
IOM Internationale Organisation für Migration

MIGRATION AND ASYLUM IN EUROPE 2004

AUSTRIA

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



BM.I  **REPUBLIK ÖSTERREICH**
BUNDESMINISTERIUM FÜR INNERES
www.bmi.gv.at

Impressum:

International Organization for Migration (IOM) Vienna
Nibelungengasse 13/4
1010 Vienna, Austria
June 2008
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PREFACE

This country report is an analysis of the trends and developments in the field of migration, asylum and illegal immigration in Austria in the year 2004. The Report was written by Brigitte Schütz, Researcher for the National Contact Point (NCP) Austria to the European Migration Network (EMN) at the International Organization for Migration (IOM) in Vienna. She was assisted by Herwig Schinnerl and Katharina Benedetter, interns at IOM Vienna in 2007 and 2008.

The basis for this report is statistical information compiled by Eurostat, which is published by the European Commission in the Annual Statistical Report on Migration and Asylum for 2004. These statistics are not included in this report, as they will be published by the European Commission in a separate document with the country reports. Where feasible, this country report on Austria reverts to additional statistics (included in the Annex), which are published by Austrian authorities and Statistics Austria.

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A) MIGRATION ISSUES

1) ANALYSIS AND INTERPRETATION OF MIGRATION STATISTICS

a) Migration Flows

How did migration flows in your Member State change compared to the previous years, from 2002 onwards? Please explain the reasons for changes. Did the migration trends observed in this field reflect immigration policies at the time?

While in 2002 and 2003 the number of inflows¹ was more or less stable (2003: 113,165), the number increased from 2003 to 2004 to 127,399 (+13%). At the same time, the outflows slightly decreased between 2002 (79,658) to 2004 (76,817, -4%). The consequence was an increase of net migration, which has grown from 33,507 in 2002 to 50,582 in 2004. According to Statistik Austria (2007: 22-23), the year 2004 (and also 2005) marked a new peak in international immigration to Austria. Overall, the population growth is mainly caused by rising net migration, which is significantly higher than the years before. Lebhart/Marik-Lebeck (2007:147) point out that international migration has become the “*engine of the demographic development*” in Austria over the past thirty years.

In general, this trend of increased inflows and growing net migration does not reflect the official migration policy of Austria, already highlighted in the Country Report on Statistics of 2003 (NCP 2006b)². The guiding principle of Austria’s immigration policy since the 1990s has been “Integration vor Neuzuzug” (“Integration before new immigration”) meaning that Austria aims at restricting the admission of new immigrants while focussing on integration of resident immigrants. Referring to the 2003 report, the reasons for this increase of inflows are manifold.

Looking at the inflows in 2004 (127,399), 15% (18,452) are Austrian nationals returning to Austria, another 28% (36,198) are EU-nationals (EU-24) and the majority at 57% (72,749) are third country nationals. It is interesting to see that the number of EU-10 nationals immigrating to Austria has significantly increased since the accession of these countries to the European Union in 2004: the number of EU-10 nationals immigrating to Austria rose by 60% (+ 6,147)

¹ As of 2002, the migration statistics compiled by Statistics Austria are based on the definitions recommended by the UN (e.g. short-term and long-term migration). Consequently, the change of place of residence with a stay of less than three months in Austria is not counted as a migration event and therefore not included in the migration statistics (Lebhart/Marik-Lebeck 2007; see also Kytir/Lebhart/Neustätter 2005).

² National Contact Point Austria to the European Migration Network (EMN): Migration and Asylum in Europe 2003. Austria. Vienna 2006b, accessible at: http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/doc_annual_report_2003_en.htm

between 2003 to 2004. At the same time, the immigration of “old” EU-14 nationals is significantly rising too (+2,975, +18% comparing 2003 and 2004). By contrast, the rise of inflows of third country nationals is only 4% (+ 2,661). The proportion of EU-10 nationals among the inflows of EU-24 nationals is 45% (see Annex for detailed tables).

Thus, an interesting trend for Austria is that although inflows of third country nationals are quantitatively still most important, immigration from EU Member States is gaining momentum. From 2003 to 2004, there was only a slight increase in inflows of third country nationals (+2,661; +4%; EU-10 nationals not included in the calculation).

Regarding outflows in 2004, third country nationals account for 40% of the outflows, followed by Austrian nationals (37%; their migration balance is continuously negative) and EU-24 nationals (23%). In 2004, the net migration amounted to 50,582: the net migration of Austrian nationals was negative (-10,039) compared to a positive migration balance of non-nationals (60,621). The largest share falls upon third country nationals (44,245), followed by EU-14 nationals (9,534) and EU-10 nationals (8,842). According to Lebhart/Marik-Lebeck (2007:146) the trend of increasing net migration since 2001 is essentially due to the growing immigration of EEA nationals as well as third country nationals under preferential treatment, mainly family dependants of naturalised persons.

The main countries of origin of third country nationals (2004: 72,749 inflows) are Serbia and Montenegro (11,375), Turkey (8,261), the Russian Federation (6,500), Romania (5,501) and Bosnia (5,211). That the Russian Federation is among the top-five countries of origin concerning inflows is a very recent trend, entering above Bosnia and Croatia, two of the ‘traditional’ countries of origin.

Although the countries of origin of former so-called “guest workers” are still predominant in the statistics, a diversification of countries of origin is evident in recent years, particularly when looking at net migration rates. The net migration of third country nationals amounted to 42,245 in 2004. The Russian Federation (5,595) already ranks second after Serbia and Montenegro (6,757), even before Turkey (5,270). Similarly, the net migration of Nigerian (1,553) and Chinese nationals (1,125) is higher than the net migration of Croatian nationals (804), which is a traditional country of origin. A reason for Russia’s emergence as a main country of origin is the inflow of asylum seekers (mainly from Chechnya) during the recent past (see also chapter B).

In general, immigration of third country nationals with the purpose of settlement (long-term residence) is regulated by decree, fixed at a yearly quota. The Settlement Decree

(Niederlassungsverordnung)³ of 2004 stipulated a total number of 8,050 settlement permits (NLV 2004), somewhat fewer than in 2003 (8,070) (see Chapter 1c and statistics in the Annex). In effect, there are also other means of entry into Austria that explain why the total number of inflows of third country nationals is much higher than the quota indicates at first glance.

A large group of third country nationals who are granted a (quota-free) settlement permit, are family dependants of Austrian or other EEA nationals. The total number of settlement permits which were issued to family dependants of Austrian nationals in 2004 was 23,308⁴. Compared to the previous year, this number slightly increased. In addition, 559 settlement permits were issued to (third country national) family dependants of EEA nationals. The rising number of naturalisations in the past decade presumably had an impact on the increasing significance of this type of family reunification (for naturalisation trends see Chapter D). In addition, certain groups of foreigners, such as students, pupils, artists, persons exempt from the scope of the Aliens' Employment Act, and others whose stay is not considered as permanent, are granted a residence permit, which is not subject to quota restrictions (see Chapter 1c).

An important change was introduced with the amendment of the Asylum Act in 2003 (in force as of 1 May 2004)⁵: this constitutes the abolition of exemption from the obligation of registration for asylum seekers in federal care facilities in Austria (§2 Meldegesetz (Registration Act)). Consequently, asylum seekers are included in the Central Registration Register (Zentrales Melderegister, ZMR) as of October 2004 and are therefore covered by the official migration and population statistics. According to Statistik Austria, this had an effect on the number of inflows and net migration, which has increased in comparison with the year before (Statistik Austria 2005: 23). In 2004, a total number of 24,634 asylum applications were recorded in Austria (see Chapter B).

Further observations were made on the duration of stay of immigrants. Lehart/Marik-Lebeck (2007:151-155) analysed immigration to Austria in 2003 and 2004, taking into consideration the duration of stay. According to this analysis, the majority of inflows are long-term migrants (persons staying in Austria for more than one year): approx. 90% of the net migration to Austria in this period or 60% of all registered inflows and outflows are long-term migrants. The percentage of short-term migrants (persons staying in Austria from three months to one

³ Niederlassungsverordnung (NLV) 2004, BGBl. II 616/2003

⁴ Data source: Federal Ministry of the Interior, statistics accessible at: <http://www.bmi.gv.at/publikationen>

⁵ 101. Bundesgesetz: Änderung des Asylgesetzes 1997 (AsylG-Novelle 2003), des Bundesbetreuungsgesetzes, des Bundesgesetzes über den unabhängigen Bundesasylsenat und des Meldegesetzes, BGBl. 101/2003 of 21 November 2003

year) is higher in the group of EU-nationals (EU-24), which is 16% compared to 11% among third country nationals.

b) Population by Citizenship in 2004

What were the largest groups (by citizenship) of third country nationals in 2004? If significant changes occurred in reference to the size of particular groups of third country nationals in 2003, what were the underlying causes of these changes (e.g. legal, political, economical, other)?

By the 1st of January 2004, 637,938 third country nationals (including-EU-10 nationals⁶) were residing in Austria. People from Serbia and Montenegro marked the majority with 137,602 residents (22%), followed by Turkish nationals (122,931; 19%), nationals from Bosnia and Herzegovina (94,114; 15%), Croatia (58,520; 9%) and Poland (22,537; 4%). The share of third country nationals (non-EU-14 nationals) in the total number of resident foreigners amounted to 83%. Among the EU-14 nationals (127,365), the most important group were Germans (68% of EU-14 nationals).

Although the countries of origin of former “guestworkers” such as the successor states of the Former Yugoslavia and Turkey are still predominant, the group of third country nationals residing in Austria has become more diversified in the last decades. The reasons for this development are manifold, ranging from the dismantling of the Iron Curtain to the increasing number of refugees from countries outside of Europe.

In 2004, Russian nationals were for the first time among the ten largest groups of third country nationals. In recent years, their number has been rising noticeably, between 2003 and 2004 by 57% (2004: 8,033 persons, +131% compared to 2001). This is due to a large extent to the inflows of asylum seekers from the Russian Federation to Austria (many of them Chechens), of whom many obtained refugee status. As explained above, Austrian migration and population statistics also include asylum seekers as of 2004. Additionally, the number of Chinese nationals has risen (7,666 in 2004), exceeding the numbers of nationals from the USA and Switzerland (see Annex for detailed statistics).

Looking at changes of the resident population, the total number of residents in Austria (including Austrian nationals) increased by 0.5% between 2003 and 2004. The group of EU-14 nationals saw the most significant growth of 8%, while the number of third country

⁶ Population statistics are compiled by the 1st of January of the respective year – as the EU enlargement incurred by 1st of May 2004, the EU-10 nationals are still included in the number of third country nationals in 2004.

nationals remained more or less stable (+0.2%). Excluding the group of accession countries (EU-10) from the calculation, it is very interesting to see that the number of third country nationals (non-EU-24 countries) has slightly decreased from 2003 to 2004 (-0.3%). In contrast, the number of residents from EU-10 countries has risen by 5% in the same period.

The stability or decrease of the number of third country nationals (depending on whether EU-10 nationals are included or not) can be attributed to the decrease of the number of residents from certain “traditional” countries of origin, such as Serbian (-3%), Turkish (-3%) and Bosnian nationals (-2%). While their migration balance is still positive, many of them were naturalised during the past decade.

c) Residence Permits: annual total positive decisions 2004

How did the total number of positive decisions for residence permits (or other authorisations to reside) change in comparison to the previous year? Please explain the reasons for this (legal, political, administrative changes, etc.).

As the Statistical Report on Migration and Asylum in Europe from the European Commission only provides selected figures on issued residence permits, reference will be made to the more detailed statistics published by the Austrian Ministry of the Interior. These statistical reports contain data on issued first permits and renewals of permits. Data on negative decisions are not available.⁷ The competent authorities for issuing residence titles are the provincial governments and consequently the respective district commissions.

Indeed, the variety of permits issued in Austria hardly complies with the categorisation used in the EC Statistical Report, which distinguishes between family reunification, study, employment and other permits. In general, the Aliens' Act 1997 (which was the legal basis during the reference period of this report) distinguishes between residence permits (Aufenthaltserlaubnis) and settlement permit (Niederlassungsbewilligung). Residence permits are granted for temporary stay in Austria (e.g. students, pupils, temporary employees) and though renewable, they do not allow for permanent settlement. On the contrary, settlement permits are issued for the purpose of permanent settlement in Austria.

In 2004, a total of 31,835 first settlement permits were issued (-8% compared to 2003). Admission for the purpose of settlement is regulated by a quota regime which distinguishes between key professionals and their dependants, family reunification and settlement for

⁷ These reports are available at <http://www.bmi.gv.at/publikationen>

persons who do not have access to the labour market. In 2004, only 5,138 (16%) of the first settlement permits were within the quota regime. Quota-free settlement permits (26,697) are issued to (third country national) dependants of Austrian, EEA and Swiss nationals for humanitarian reasons, and other groups (e.g. artists, employment exempt from the scope of the Aliens' Employment Act etc). The majority of these permits are issued to dependants of Austrian nationals, amounting to 23,308 first settlement permits in 2004. The decrease in the total number of settlement permits between 2003 and 2004 is caused by the decrease of settlement permits issued within the quota. In the first place, the quota was slightly reduced in 2004 (8,050 compared to 8,070 permits in 2003), and secondly, the quota was by far not exhausted: in total, 5,138 settlement permits were effectively issued within the quota⁸ (compared to 8,027 issued permits in 2003).

On the contrary, the number of quota-free settlement permits was more or less stable. The amount of quota-free settlement permits issued to dependants of Austrian nationals even slightly increased (+3%). In comparison, the number of permits issued to (third country national) dependants of EEA nationals was stable (559 permits in 2004).

With regards to the renewals of settlement permits, their number is also stable. In addition, a total of 51,137 "proofs of settlement" (Niederlassungsnachweis) were granted to third country nationals with at least five years of settlement in Austria. In 2003, this number was higher with 70,918 proofs of settlement. However, these figures are inadmissible as a comparison as the proof of settlement was first introduced in 2003, when these permits were granted. The proof of settlement is granted to foreigners who have settled in Austria for at least five years who have the ability to maintain themselves through a lawful activity and who have fulfilled the Integration Agreement (for preferentially treated third country nationals a residence of at least two years is required). It combines an unlimited settlement permit and unlimited access to the labour market.⁹

Besides settlement permits, another 32,209 first residence permits were issued, a decrease by 9% compared to 2003. The most important subcategories are residence permits for temporary employment (15,718), permits for study purposes (5,383) and residence permits for employment exempt from the scope of the Aliens' Employment Act (2,581). Other groups

⁸ In 2004, it was particularly the quota for key-professionals, which was by far not exhausted (about only half of the permits foreseen by the quota were effectively issued).

⁹ With the adoption of the new Settlement and Residence Act in 2005 (entry into force on 1 January 2006), the proof of settlement was abolished and replaced by the residence title "permanent residence – EC". Those proofs of settlement, which have already been issued, are still valid after the adoption of the new law. The main difference between these two permits is that the proof of settlement does not allow for settlement in another EU member state.

who obtain a residence permit are self-employed persons, artists, commuters, intra-corporate transferees etc. In addition to first permits, 23,488 residence permits were renewed, which is also a decrease compared to the number of renewals in 2003 (-14%). Detailed figures on issued permits, which go beyond the EC Annual Report for 2004, are included in the Annex of this report.

2) CONTEXTUAL INTERPRETATIONS (LEGAL, POLITICAL AND INTERNATIONAL FACTORS)

a) Main trends in migration policy

What have been the main trends and most important developments in the area of migration policy in your country since 2003 until 2004 (political stance; new or amended laws, procedural changes, etc.?)

In 2004, the immigration legislation was not amended, nor had previous amendments come into force. In 2002 (coming into effect in 2003), the two major laws which control immigration and the employment of foreigners: the Aliens' Act 1997 (Fremdengesetz, FrG) and the Aliens' Employment Act 1975 (Ausländerbeschäftigungsgesetz, AuslBG)¹⁰, were considerably amended. Yet, the effects of these amendments were still visible in 2004. Since the Austrian Country Report to the Annual Report on Statistics 2003 (NCP 2006b) addressed this issue in more detail, only a brief summary of the most important effects of this amendment are included here.

A crucial change of the Aliens' Act amendment in 2002 was that settlement permits for the purpose of work were restricted to key professionals¹¹ and their dependants (§ 2 (5) AuslBG; § 12 AuslBG; § 89 (1a) FrG)^{12, 13}. Before the amendment entered into force, a general quota for "employment" existed, thus permanent immigration for working purposes was also possible for groups other than key professionals. As mentioned above, the quota for settlement permits for key professionals was neither exhausted in 2004, nor the previous year.

¹⁰ In 2005, the Aliens' Act was replaced by the Settlement and Residence Act (Niederlassungs- und Aufenthaltsgesetz, NAG) and the Aliens' Police Act (Fremdenpolizeigesetz, FPG), entering into force as of 1 January 2006.

¹¹ Key professionals are defined by several criteria such as income (the threshold for 2003 was set at 2016 Euros gross income, not including 13th and 14th monthly income), qualification and special needs of the labour market (according to § 2 (5) AuslBG).

¹² Key professionals are entitled to a combined settlement and work permit. This is contrary to the normal procedure: in general, foreigners are subject to the Aliens' Act and the Aliens Employment Act and thus require two different types of permits (residence/settlement permit and work permit).

¹³ A separate quota for key professionals exists already since 1998. However key professionals were not as strictly defined as since the amendment of 2002.

However, the exhaustion of the quota varies when comparing the figures in the nine Austrian provinces.

In order to cope with temporary shortages in the labour force, provisions for temporary employment and commuting were extended by the 2002 amendment (§ 9 FrG; § 5 AuslBG). The concept of seasonal employment was extended, replacing the term “seasonal worker” by “temporary employed alien” (see Schuhmacher 2003: 59). As a consequence, temporary employment is possible in all economic branches for which the Minister of Labour and Economy fixes contingents by degree. In addition, the duration of employment can be extended to one year (previously, the employment was limited to seasonal periods).¹⁴ The settlement decree for the year 2004¹⁵ fixed the quota for employment permits for temporary employment at 8,000 as in the previous years, with the number of employment permits for temporary workers for harvest at 7,000. Effectively, the number of issued employment permits is higher as the numbers are interpreted in a way that the total number of temporarily employed foreigners at one point in time must not exceed this quota of 8,000 or 7,000 permits (König/Stadler 2003: 237). As defined by § 5 Abs (1a) AuslBG, the quota refers to the weighted annual average of temporarily employed aliens.

A further innovation was the entry into force of the so-called integration agreement (Integrationsvereinbarung, IV) on 1 January 2003 (§§ 50a ff FrG). All third country nationals who immigrated to Austria with the purpose of settlement after 1 January 1998 are obliged to accept and fulfil the IV. A few groups are exempted from the IV, such as holders of residence permits, asylum seekers, recognised refugees, third country nationals with preferential treatment (family dependants of Austrian and EEA nationals), infants and pupils attending school in Austria, and particular groups of key professionals (see Schuhmacher 2003: 115). As mentioned above, the Aliens’ Act Amendment also introduced the so-called proof of settlement (Niederlassungsnachweis) (§ 24 FrG) for long-term residents as of 2003.¹⁶

¹⁴ Employment permits for temporary employment are both granted to foreigners, who are already legally residing in Austria (preferential treatment, even though their residence title might not grant access to the labour market) and to foreigners, who want to immigrate for the purpose of temporary employment (they then receive a residence title for temporary employment). Temporary employed foreigners are exempted from the right to family reunification and consolidation of residence.

¹⁵ Niederlassungsverordnung (NLV) 2004, BGBl. II/616, 30 December 2003

¹⁶ This kind of permit is granted to foreigners, who have settled in Austria for at least five years (for preferentially treated third country nationals a residence of at least two years is required), who have the ability to maintain themselves through a lawful activity and who have fulfilled the Integration Agreement (IV). It combines an unlimited settlement permit and unlimited access to the labour market. With the adoption of the new Settlement and Residence Act in 2005 (entry into force on 1 January 2006), the proof of settlement was abolished and replaced by the residence title “permanent residence – EC” (according to Directive 2003/109/EC on the status of long-term residents). The already issued proofs of settlement are still valid after the adoption of the new law. Main difference is that the proof of settlement did not allow for settlement in another EU member state.

b) Categories of admission and non-admission in 2004

The categories of admission were the same as in the previous year of 2003. In general, the categories can be distinguished between (short-term) residence and (long-term) settlement. General categories of admission are work (e.g. key professionals, temporary employment, other categories of employment), family reunification, study, persons with no access to the labour market (“private”) and other. Indeed, the most important category of admission is family reunification. In 2004, a total number of 28,875 first settlement permits and a total number of 355 first residence permits were issued to family dependants (summarising all categories of family reunification), which accounted for 45% of all issued first permits. Looking at the category of settlement permits, 91% of those are issued to family dependants. For a general analysis on issued permits see Chapter 1c; the Annex of this reports contains a detailed table on the number of issued residence and settlement permits.

c) European and international factors

Could you identify European / international factors explaining certain changes/continuity regarding migration in your country in 2004 in comparison with the previous years?

An important event during 2004 was the accession of the then ten new Member States to the EU as of May 2004. In the past decade, Austria faced immigration from Eastern European countries, Polish nationals being among the main groups of third country nationals. Comparing the population statistics of 2004 to 2005 (dating from the 1st of January of the respective year), the increase of the number of EU-10 nationals residing in Austria is significantly larger than from 2003 to 2004 (reference date 1st of January, which was before the accession). When the increase of the number of residents of EU-10 countries is debated, we certainly have to take into account that nationals of eight of these states do not have access to the labour market as do the EU-14 nationals. Yet, the recent years were marked also by an increase in the number of residents from “old” EU-14 Member States, particularly Germany.

B) ASYLUM ISSUES

1) ANALYSIS AND INTERPRETATION OF ASYLUM STATISTICS

a). Please describe trends in first-time asylum applications in 2004 compared to the previous year. Are these trends related to legislative or administrative developments/ changes?

In 2004, a total number of 24,634 persons applied for asylum in Austria. Compared to 2003 the number of first asylum applications declined by 7,725 (-24%), a continuation of the trend since 2003. In 2002, asylum applications reached a peak with 39,534 applications. 6,913 applications were filed by women in 2004, constituting 28% of the total applications. 1,212 applications were made by unaccompanied minors. More detailed data on age categories of asylum applicants is not published by the Austrian Ministry of the Interior.

Regarding the countries of origin, the main group of applicants in 2004 are citizens of the Russian Federation (presumably from Chechnya/North Caucasus Region) with 6,172 applications. Compared to 2003, when 6,713 applications were filed by this group, their number declined by 8%. The second most important country of origin is Serbia and Montenegro (2,835 applications) followed by India (1,839), Nigeria (1,828) and Georgia (1,731). It is difficult to assess to what extent these developments are related to legislative or administrative factors or changes, as external factors also play an important role here. In general, asylum applications are declining in industrialised countries and the EU, as reported by UNHCR (2004; 2005). However, an amendment of the Austrian Asylum Act entered into force by 1 May 2004 which stipulated changes of the asylum procedure (see Chapter 2).

b) What is the total number of first and final positive decisions in 2004, disaggregated by the citizenship of the person concerned? Please explain changes in the total number of positive decisions in comparison to previous year.

The total number of final decisions¹⁷ (first instance and appeal) in 2004 was 25,424 of which 5,136 were positive and 5,069 negative. Another 15,219 decisions were non-status decisions. These are, for example cessations of asylum proceedings when the asylum seeker is absent and the place of residence unknown to the authorities. Overall, the number of decisions increased considerably, a continuing trend since 1997. While in 2003 2,084 positive decisions

¹⁷ These are decisions taken during one calendar year, independent of the fact, when the asylum application was filed.

were taken, the number more than doubled and amounted to 5,136 in 2004. The number of negative decisions increased slightly to 5,069 (2003: 4,951 negative decisions). Apart from the total number of 5,136 positive decisions, meaning that refugee status according to the Geneva Convention was granted, another 1,660 positive decisions for humanitarian status were taken (decisions on non-refoulement).

In the first instance (Federal Asylum Office (Bundesasylamt)) 3,157 positive decisions were taken and 4,177 negative decisions. The first appeal instance (Federal Asylum Review Board (Unabhängiger Bundesasylsenat, UBAS), took 1,979 positive and 892 negative decisions. It is interesting to see that the number of positive decisions significantly increased in both instances compared to 2003, when 1,339 positive decisions were taken by the Federal Asylum Office and 745 positive decisions by UBAS. While the number of negative decisions taken by the Federal Asylum Office also increased (+25%; 2003: 3,351), the number of negative decisions taken by UBAS nearly halved with 892 decisions (2003: 1,600 negative decisions) (see tables in the Annex). The authority for subsequent appeal is the Administrative Court (Verwaltungsgerichtshof); statistics on these decisions are not published by the MoI.

A main reason for the general increase in asylum decisions is the increasing numbers of applications in recent years. Concerning the general increase of positive decisions, this relates to countries of origin of asylum seekers in recent years and their high recognition rates due to the situation in their home countries (e.g. Afghanistan, Russian Federation/North Caucasus Region).

c) When compared with the previous year, can you observe changes in the statuses regularly granted to particular citizenship groups in 2004? How do you explain these changes or continuity?

When differentiated by country of origin, 2,905 positive decisions (first and appeal instance) were issued to Russian nationals (57%) in 2004, followed by Afghan nationals (744 decisions, 14%), Serbia and Montenegro (419 decisions, 8%), the Islamic Republic of Iran (414 decisions, 8%) and Iraq (128 decisions, 2%). The recognition rate¹⁸ for Russian nationals was already 77% in 2003, a level which was even exceeded in 2004 (94%). Afghan citizens also had a high recognition rate in both years (2003: 67%; 2004: 87%). Citizens of Serbia and Montenegro had a recognition rate of 13% in 2003 increasing to 32% in 2004. Nationalities

¹⁸ For the calculation of recognition rates, only positive and negative decisions (first and appeal instance) are taken into consideration.

with a significantly low recognition rate were - as in 2003 - India (0%), Nigeria (1%) and Moldova (4%). These countries are also among the predominant countries of citizenship of asylum applicants.

Interpreting changes in positive and negative decisions is difficult, as an asylum decision does not necessarily relate to an application filed in the same year. In practice, it could take years until asylum seekers are issued a final decision on their application.

2) CONTEXTUAL INTERPRETATIONS (LEGAL, POLITICAL AND INTERNATIONAL FACTORS)

a) New or amended laws effective in 2004

Please describe briefly any new or amended laws on asylum and relevant case law effective in 2004. Have there been important changes in comparison with the previous year?

In 2003, the Asylum Act 1997 (Asylgesetz, AsylG)¹⁹ was comprehensively amended, coming into effect on 1 May 2004.^{20 21} On 1 May 2004, the Austrian federal state and its provinces concluded the Basic Welfare Support Agreement (Grundversorgungsvereinbarung), an agreement regarding the basic care for a defined group of needy aliens, mainly asylum seekers. This agreement shifts part of the institutional responsibility of the basic care for asylum seekers from the federal state to the nine provinces. The last major change in institutional developments happened in July 2003, when the Austrian Ministry of Interior (BMI) outsourced the reception and care of asylum seekers in the Initial Reception Centres (Erstaufnahmestellen, EAST).

b) Procedural changes effective in 2004

Please explain administrative or legal changes in the application, decision, or appeals process contributing to any numerical changes. Have there been important changes in comparison with the previous year?

The following text highlights the main points of the Asylum Act amendment in 2003. More detailed information can be found in the Policy Report for Austria for the period 2003/2004

¹⁹ 101. Bundesgesetz: Änderung des Asylgesetzes 1997 (AsylG-Novelle 2003), des Bundesbetreuungsgesetzes, des Bundesgesetzes über den unabhängigen Bundesasylsenat und des Meldegesetzes, BGBl. 101/2003 of 21 November 2003

²⁰ The Statistical Report for 2003 explains the amendments of 2001 and 2002; the report is accessible at: http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/doc_annual_report_2003_en.htm

²¹ See also Policy Report 2003/2004 (NCP Austria 2004).

(NCP Austria 2004: 19-21; see also Vogl 2007: 19-21; Bundesministerium für Inneres 2004; Asylkoordination 2005a). The aim of the amendment, which came into force as of 1 May 2004, was to make the Austrian asylum system more efficient and to accelerate asylum proceedings. This was due to the fact that Austria had been facing a rather high number of asylum applications in recent years (see Vogl 2007). A major modification was to split the asylum procedure into an admission procedure and the substantive asylum procedure. Thus, the first hearing of the asylum seeker has to take place within a timeframe of 48 to 72 hours in order to determine if the asylum application is admissible or manifestly unfounded (§ 24a (1) AsylG). According to the Dublin-II Regulation, an asylum application is inadmissible if another EU Member State is responsible for the examination of the asylum application or if the asylum applicant enters Austria via Switzerland or Liechtenstein. The application is manifestly unfounded if, for example, the country of origin of the asylum seeker is a country deemed to be safe, e.g. an EU Member State. The authority has to take a decision accordingly within a period of max. 20 days.

The admission procedure takes place in one of the three Initial Reception Centres (Erstaufnahmestellen, EAST), which were established by way of decree in the course of the amended law (§ 24a in corroboration with §37a AsylG). The respective executive order (Asylgesetz-Durchführungsverordnung 2004, AsylG – DV) established three of the aforementioned centres in Austria, namely the centres East (Traiskirchen, Lower Austria), West (Thalham, Upper Austria) and Airport (Vienna International Airport Schwechat). Each centre is responsible for determining the admission of an asylum seeker to the substantive asylum procedure.

With regard to filing asylum applications, it is no longer possible to do that at an Austrian embassy or representation abroad, with the exception of family dependants of recognised refugees and persons with subsidiary protection status.

The amendment of the Asylum Act also changed the appeal system. With the so-called "Neuerungsverbot", the introduction of new means of evidence was restricted (with exceptions for traumatised asylum seekers). Moreover, a simplified 'family procedure' was introduced meaning that the asylum procedures of all members of the core family will be treated as one single case. As a consequence, the asylum applicants of one family are subject to the same decision.

The Basic Welfare Support Agreement (Grundversorgungsvereinbarung)²², which came into effect on 1 May 2004, stipulated the provision of basic welfare for asylum seekers in Austria. This agreement was concluded between the federal state and the provinces according to Article 15a of the Austrian Federal Constitution. With this agreement, the persistent conflict between the federal state and the provinces about the competence and responsibility regarding accommodation and care for asylum seekers was finally resolved.

Some provisions of the amendment of the Asylum Act were criticised by representatives of civil society as well as within political circles. Criticism was raised against the so-called “Neuerungsverbot” (the interdiction to present new evidence in the appeal procedure) and the possibility to deport asylum applicants before the appeal decision in the admission procedure is taken (see also UNHCR Austria 2005). The reaction to this new rule was a claim to the Federal Constitutional Court (Verfassungsgerichtshof, VfGH) lodged by the provincial governments of Upper Austria and Vienna together with the Independent Federal Asylum Review Board (UBAS). The subsequent judgment of 15 October 2004²³ by the Constitutional Court declared the amendment of the Asylum Act as partially unconstitutional (see NCP 2006a). In particular, the court overruled the provision that asylum applicants are not allowed to bring up new evidence during the appeal procedure. Another provision lifted by the court was the rule that applying for asylum once again after having received a negative decision would entail that the asylum seeker is kept in detention. To sum up, the Constitutional Court overthrew some of the most controversial points of the Asylum Act amendment.

As explained above, the main trends in the asylum field in 2004 were a decreasing number of asylum applications and an increasing number of asylum decisions. Indeed, European and international factors seem to be the main reasons for the decrease in asylum applications (see below). Regarding the increasing number of asylum decisions, their increase is to some extent due to the high numbers of asylum applications in recent years.

It is difficult to assess the impact of the amendment of the Asylum Act, as the basis for most of the decisions taken in 2004 was the previous version of the Asylum Act (before its amendment). For asylum applications which were filed before May 2004, the legal basis for decisions is still the old law. In 2004, a total number of 10,205 (positive and negative) decisions were taken: 87% of which were on the basis of the old Asylum Act. To give another example, nearly 90% of the positive decisions taken by the first instance were on the basis of

²² Grundversorgungsvereinbarung – Art. 15a B-VG, BGBl. I 80/2004.

²³ VfGH G237/03 of October 15, 2004.

the old Asylum Act. The appeal instance only took two positive decisions according to the Asylum Act amendment, compared to 1,977 positive decisions on the basis of the previous law. Therefore, a comprehensive analysis about the consequences of the legal amendment for asylum proceedings is not possible at the end of the year 2004. Indeed, the backlog of asylum applications was still very large at the end of the year 2004: there were 27,000 asylum applications pending, which were filed under the old law and 9,700 pending applications filed according the amended Asylum Act (Asylkoordination 2005b).

c) European and international factors

Can you identify European/international factors explaining certain changes regarding asylum trends in 2004 in your Member State? Has the situation changed in comparison with the previous year?

As it was mentioned above, asylum applications in Austria reached a peak in 2002 with 39,354 applications. Since then, the number has declined, amounting to 24,634 in 2004. As reported by UNHCR, the falling numbers of asylum applications in industrialised countries is a continuous trend (see UNHCR press releases 2004; UNHCR 2005).

It can be assumed that “European Factors” in particular have had a strong influence on asylum trends in Austria, e.g. the Dublin-II-Regulation or implementation of the Eurodac-System in place since 2003. Another main European factor was the accession of Austria’s neighbouring countries to the European Union on the 1st of May 2004. With their accession, the new Member States are obliged to implement the EU Acquis, including the Dublin-II Regulation. As a general rule, the responsibility for processing an asylum application lies with the Member State where the asylum applicant enters the EU. Being no longer a border country within the EU, the consequence for Austria is a declining number of asylum seekers. In general, the number of so-called Dublin proceedings increased in 2004, amounting to 2,336 (see also Asylkoordination 2005b). Looking at (negative) asylum decisions according to § 5 AsylG, which determines that asylum applications are inadmissible if another state is responsible for its examination according to Council Regulation 343/2003 (Dublin II Regulation) or another convention²⁴, their number significantly increased between 2003 and 2004. While in 2003 216 negative decisions were taken, their number rose to 936 negative

24 With the Asylum Act amendment (in force since May 2004), a direct reference to the Dublin II Regulation was added to §5 AsylG.

decisions in 2004 (the majority according to the Asylum Act amendment coming into effect in May 2004).

Certainly, the situation in countries of origin should not be disregarded when interpreting asylum statistics. It is interesting to see that asylum trends vary when comparing different countries of origin of asylum seekers. To give an example, countries such as Afghanistan (-68%, 757 applications in 2004), Turkey (-61%, 1,114 applications) and India (-35%, 1839 applications) display a remarkable decrease compared to the year 2003. The number of asylum seekers from the Russian Federation (which is the largest group with 6,172 applications) fell by 8%, and the number of applications made by Nigerians more or less remained stable (-1%, 1,828 applications). On the contrary, the applications filed by citizens of Serbia and Montenegro (+12%, 2,835 applications), Georgia (+14%, 1,731 applications) and Moldova (+15%, 1346 applications) increased.

C) ILLEGAL ENTRY

The figures, which are presented in the following chapters (as published by the EC Annual Report for 2004), slightly diverge from the statistics, which are published by the Austrian Ministry of Interior. Contrary to the statistics of the Ministry of the Interior, the statistics on removals and refusals from Eurostat are broken down by main countries of citizenship. With regard to apprehensions, additional statistics, which are published by the Criminal Intelligence Service (Bundeskriminalamt) in its annual report²⁵, are presented in order to provide some additional information.

1) ANALYSIS AND INTERPRETATION OF STATISTICS

a) Please describe developments/trends pertaining to the number of refused aliens²⁶ in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of refused aliens since 2003? If possible, give reasons for these changes/continuity.

In 2004, 24,803 aliens were refused at Austrian borders, an increase of 11% compared to the year 2003 when 22,305 refusals were recorded. The five main countries of citizenship of refused aliens in 2004 are Romania (38%), followed by Bulgaria (21%), Russian Federation (7%), Poland (4%) and Ukraine (3%). Comparing these numbers to the year 2003, the number of refused aliens from Romania (+18%) and Bulgaria (+44%) has grown. In addition, the number of refused aliens from Ukraine rose considerably by 47% to 768 refusals. Certainly, the number of refused aliens from new EU-Member States has significantly decreased as a consequence of the EU accession in May 2004, e.g. Poland from 2,257 in 2003 to 914 in 2004 (-60%). Russian nationals with 1,808 refusals in 2004 were not among the main nationalities of refused aliens in 2003.²⁷

²⁵ Available for download at <http://www.bmi.gv.at/publikationen>.

²⁶ Defined as "Persons not covered by Community law who are refused entry at the border owing to (a) a lack of, or counterfeit/falsified, border documents; (b) an existing entry or residence prohibition; (c) other grounds for refusal." The 'other grounds for refusal' must have a link with the immigration status of the person. Thus, a refusal because a car is not roadworthy should not be counted here.

²⁷ In 2003, the main countries of citizenship of refused persons were Romania, Bulgaria, Poland, Slovak Republic, Serbia and Montenegro, Croatia, Czech Republic, Ukraine and Slovenia (EC Annual Report on Statistics 2003).

b) Please describe developments/trends pertaining to the number of apprehended aliens in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of apprehended aliens in 2004? If possible, give reasons for these changes/continuity.

In 2004, 36,879 aliens who were in Austrian territory illegally were apprehended, which marks a decline of 15% compared to 2003 when 43,448 aliens were apprehended. The main countries of citizenship of apprehended persons were Romania (26%), Russian Federation (15%), Bulgaria (8%), Moldova (6%) and Ukraine (5%). Comparing the years 2004 and 2003, the ten main countries of origin of apprehended persons were more or less the same, while their ranking changed only somewhat (e.g. the Russian Federation was at the top).²⁸

An increase of apprehensions of Romanian (+43%), Ukrainian (+21%), Georgian (+20%) and Moldovan nationals (+9%) was registered. On the contrary, the number of apprehended persons from India (-45%), Serbia and Montenegro (-40%), Bulgaria (-32%) and the Russian Federation (-16%) declined.

As pointed out by the annual “Smuggling Report” (Schlepperbericht), which is published by the Criminal Intelligence Service (Bundeskriminalamt), the main reasons for the general decline in apprehensions in 2004 were the EU enlargement and the efforts of Austria’s neighbouring countries to protect their external borders along with tighter controls in the border region towards Austria, thus preventing illegal migrants to enter the Austrian territory (Bundeskriminalamt 2005: 8). In addition, Austria continued to control its green and blue border to its Eastern neighbouring countries with the assistance of the Austrian military service, in cooperation with the police, as it is still a border country of the Schengen area. According to the Smuggling Report, apprehensions at Vienna International Airport in Schwechat decreased by 77% compared to 2003 due to the tight control measures in place, in particular ramp controls (ibid).

It is important to mention that the statistics on apprehended persons and asylum seekers are interrelated. Hence, asylum seekers are included in the number of apprehended persons when they enter Austria illegally (which is their usual way of entry) and file an asylum application at/after their apprehension (e.g. asylum seekers originating from the Russian Federation). Concerning apprehended Romanians and Bulgarians, these are mostly persons who were ‘over-stayers’ and were apprehended at the moment of departure from Austria. Since 2002,

²⁸ In 2003, the main countries of citizenship of apprehended persons were the Russian Federation, Romania, Bulgaria, India, Serbia and Montenegro, Moldova, Ukraine, Poland, Georgia and Iraq (EC Annual Report on Statistics 2003).

Romanians and Bulgarians were no longer subject to visa obligations. According to the Criminal Intelligence Service (ibid: 46), Romanians and Bulgarians mainly come to the Schengen area for the purpose of (illegal) work. Austria is considered to be a transit country on their way to the destinations Italy, Spain and Germany.²⁹

c) Please describe developments/trends pertaining to the number of aliens removed in 2004 in comparison to the previous year. Have there been changes in the main countries of citizenship of removed aliens? If possible, explain the underlying factors for these changes/continuity.

Compared to the year 2003, the number of removed aliens has decreased from 11,070 to 9,408 (-15%). Looking at the main countries of citizenship, most of the removed aliens are from Romania (15%), followed by the Russian Federation (11%), citizens of Moldova (10%), Ukraine (7%) and Bulgaria (6%). In general, this statistic corresponds with the distribution of refused as well as apprehended aliens by country of citizenship. The main countries of origin are similar to those in 2003, with few exceptions³⁰: Chinese and Slovak nationals were no longer among the main countries of citizenship of removed persons in 2004. On the contrary, Georgia was among the main countries of origin in 2004 (462 removed persons). Despite the general decrease of removals, the number of apprehensions increased for certain nationalities, e.g. Russian Federation (+59%), Moldova (+17%), Ukraine (+74%) and India (+8%). The number of removed persons from Poland (-74%), Romania (-26%) as well as Serbia and Montenegro (-56%) significantly decreased.

d) In cases of refused, apprehended, and removed aliens in 2004, are these from the same countries in all categories, or are particular citizenship groups more common in a particular category? If possible, explain the underlying causes.

The main countries of citizenship are similar in all three categories, with only minor differences. Romania for example is the most prominent country of citizenship in all three categories. There are also consistencies with the main countries of origin of asylum seekers. To give an example, Russian nationals were the largest group of asylum seekers and of apprehended persons, but they were not among the main countries of citizenship of refused

²⁹ For more information on apprehensions and illegal immigration in Austria in general, see NCP Austria 2005.

³⁰ The main countries of citizenship of refused aliens in 2003 were Romania, Poland, Serbia and Montenegro, Moldova, Russian Federation, Bulgaria, Slovak Republic, India, China and Ukraine.

persons. As stated above, among the apprehended aliens are a large number of asylum seekers who have crossed the border illegally and were apprehended at the border or in Austrian territory.

2) CONTEXTUAL INTERPRETATIONS (LEGAL, POLITICAL AND INTERNATIONAL FACTORS)

a) New or amended laws influencing irregular immigration in 2004

Please explain the most important changes in policies regarding refusal of entry or return from the previous year. Please explain the most important changes in policies regarding refusal of entry or return from the previous year.

There were no changes in laws or policies regarding refusal of entry, apprehensions and removals. It is difficult to assess to what extent the amendment of the Asylum Act in 2003 (see Chapter B) had an impact on the numbers. The Criminal Intelligence Service (Bundeskriminalamt) states in its annual “Smuggling Report” for 2004 (Bundeskriminalamt 2005: 8), that this amendment was one among several factors (e.g. tightened controls) causing the decrease in the number of apprehensions. They argue that smugglers waited and observed the effects of this legal amendment, which then produced the decline. Effects of the amended Asylum Act (with the aim to accelerate proceedings) on the number of removals cannot be observed because removals are decreasing, which is a continuing trend (even for 2005). Concerning removals, we also have to take into account that the number of positive asylum decisions has increased considerably in 2004, as highlighted above. Statistics of the Ministry of the Interior for the years 2003 and 2004³¹ also show that the number of expulsions and residence bans is declining like the number of removals.

As a general measure, Austria applied stronger controls and enhanced the security measures at its external borders in the past decade (going hand in hand with Austria’s accession to the EU and the Schengen area). For more information on these measures of control and prevention see Research Study on “Illegal Immigration in Austria” (NCP Austria 2005).

³¹ The statistics are available at: www.bmi.gv.at/publikationen

b) Procedural changes influencing irregular immigration in 2004

Please describe modifications to the procedure in cases of identified illegal entry, illegal residence and return since the previous year. Include changes that are the result of both administrative and legal developments.

There are no major procedural changes to report for this period. Certainly, Austria has continuously improved the prevention and control of illegal immigration, particularly by investments and upgrades in special equipment and training of personnel. For instance in January 2003 the reporting system of the subordinate authorities to the Central Unit in the Criminal Intelligence Service (Bundeskriminalamt) was replaced by an electronic system. In all provinces, instructors were trained and made familiar with the use of the electronic database on illegal migration. As reported by the Criminal Intelligence Service, this database, which allows for comprehensive analysis, turned out to be very useful (Bundeskriminalamt 2005: 4).

c) European and International factors

Can you identify European / international factors explaining certain changes/continuity regarding illegal entry in your Member State in 2004?

The most important event in 2004, as emphasised above, was the enlargement of the European Union on 1 May 2004 with the accession of Austria's neighbouring countries. It is assumed that the EU enlargement had an effect on the (decreasing) number of apprehensions, the (increasing) number of persons who were refused entry at the border as well as the (decreasing) number of asylum applications. As mentioned above, the number of apprehensions and the number of asylum applications are interrelated, as many asylum seekers are among the number of apprehended persons.

D) OTHER DATA AND INFORMATION AVAILABLE

Labour market and employment

In 2004, the annual average of employed foreign nationals was 361,767 persons, which is 11% of the total number of employees in this period.³² 40,394 foreign nationals were registered as unemployed by the Public Employment Service (Arbeitsmarktservice, AMS). The unemployment rate of foreign nationals amounts to 10% compared to 7% among Austrian nationals.³³ In general, recent years were characterised by an increase in the number of unemployed persons, while non-nationals are more affected by unemployment than Austrian nationals.

Naturalisations

The numbers of naturalisations has significantly risen since the 1990s and reached a peak in 2003 with a total of 45,112 naturalisations (including persons residing abroad). In 2004, a decline in the number of naturalisations was registered (42,174; -7%).³⁴ This development is not connected to legal changes, as the Citizenship Act has not been recently amended, the last amendment dating back to 1998. According to Statistik Austria (2006), the number of naturalisations due to a period of residence of at least ten years has decreased since 2003, a parallel development to the declining inflows of immigrants since 1993 (which changed again since the year 2000). As a general rule, foreigners can be naturalised after a period of settlement of ten years (with several exceptions). As the provinces are responsible for granting Austrian citizenship, practices might vary between the provinces.

Main countries of citizenship of naturalised persons are Turkey (13,024 persons, 31%), followed by Bosnia and Herzegovina (8,664 persons, 21%), Serbia and Montenegro (7,260 persons, 17%), Croatia (2,213 persons, 5%) and Romania (1376 persons, 3%). Poland is the only EU Member State among the ten main countries of origin, with 774 naturalised persons in 2004 (see table in the Annex).

³² Data source: Federation of Austrian Social Insurance Institutions (Hauptverband der Sozialversicherungsträger, HV) and Public Employment Service (Arbeitsmarktservice, AMS).

³³ National method of calculation: Percentage of registered unemployed persons in the total labour force (defined as the sum of registered employed and registered unemployed persons).

³⁴ Data source: Statistics Austria, available online:
http://www.statistik.at/web_de/statistiken/bevoelkerung/einbuengerungen/index.html

Voluntary Return

Compared to the previous year, the statistics compiled by the International Organization for Migration (IOM) in Vienna for 2004 display an increase in voluntary return from Austria via the Assisted Humanitarian Voluntary Return Programme (AHVR). While in 2003 a total of 1,063 individuals were assisted in their return to their country of origin, the number increased to 1,158 returnees in 2004 (+9%). Of these, 924 persons were male and 234 persons were female. Also this year, voluntary return to Serbia and Montenegro (most of them returning to Kosovo) was the main destination in the AVR programme with 188 returnees. Other main countries of return in 2004 were Georgia (161), Turkey (115), Moldova (93) and Armenia (74).³⁵

³⁵ Data source: International Organization for Migration (IOM) Vienna; available at: www.iomvienna.at

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ANNEX

Table 1: Overview of population and migration flows 1999-2005

	1999	2000	2001	2002	2003	2004	2005
Legally resident population (1st January)	7.982.461	8.002.186	8.020.946	8.065.146	8.102.175	8.140.122	8.206.524
Recorded immigration	86.710	79.278	111.998	113.165	113.554	127.399	117.822
Recorded emigration	66.923	62.006	79.034	79.658	77.257	76.817	68.650

Source: Statistics Austria, Eurostat

Table 2: Inflows and outflows by citizenship 2003

Citizenship	IMMIGRATION			EMIGRATION		
	Total	Men	Women	Total	Men	Women
Nationals and foreign nationals	113.554	61.690	51.864	77.257	46.074	31.183
Nationals	16.390	10.571	5.819	31.192	18.158	13.034
Non-nationals	97.164	51.119	46.045	46.065	27.916	18.149
EU-14						
EU-14 total	16.913	9.227	7.686	8.731	4.970	3.761
Germany	10.644	5.557	5.087	4.604	2.592	2.012
Italy	1.407	874	533	981	613	368
Belgium	225	147	78	142	86	56
Denmark	173	88	85	98	46	52
Finland	256	93	163	214	93	121
France	673	338	335	423	222	201
Greece	463	334	129	348	246	102
Ireland	142	93	49	60	38	22
Luxembourg	40	19	21	26	13	13
Netherlands	619	366	253	355	203	152
Portugal	319	246	73	213	167	46
Sweden	456	228	228	398	192	206
Spain	445	232	213	221	110	111
United Kingdom	1.051	612	439	648	349	299
EU-10						
EU-10 total	10.163	4.799	5.364	7.123	4.089	3.034
Hungary	2.691	1.369	1.322	2.087	1.201	886
Slovenia	393	213	180	408	275	133
Slovakia	2.499	1.029	1.470	1.522	778	744
Czech Republic	1.154	461	693	861	426	435
Estonia	37	10	27	18	8	10
Latvia	67	12	55	24	2	22
Lithuania	126	45	81	82	32	50
Malta	1	0	1	1	1	0
Poland	3.186	1.656	1.530	2.115	1.364	751
Cyprus	9	4	5	5	2	3
Non-EU						
Non-EU-total	70.088	37.093	32.995	30.211	18.857	11.354
Switzerland	471	242	229	275	153	122
Turkey	10.176	5.302	4.874	3.085	2.031	1.054
Croatia	3.315	1.666	1.649	2.486	1.357	1.129
Bosnia-Herzegovina	5.005	2.654	2.351	2.499	1.542	957
Macedonia	1.538	832	706	467	366	101
Serbia Montenegro	9.834	5.342	4.492	4.849	3.107	1.742
Albania	214	107	107	87	56	31
Bulgaria	1.714	771	943	830	437	393
Romania	5.333	2.447	2.886	2.689	1.436	1.253
Others	32.488	17.730	14.758	12.944	8.372	4.572

Source: Statistics Austria

Table 3: Inflows and outflows by citizenship 2004

Citizenship	IMMIGRATION	EMIGRATION	NET MIGRATION
Nationals and foreign nationals	127.399	76.817	50.582
Austrian nationals	18.452	28.491	-10.039
Foreign nationals	108.947	48.326	60.621
EU-14	19.888	10.354	9.534
Belgium	300	161	139
Denmark	198	161	37
Germany	13.179	5.581	7.598
Finland	277	261	16
France	849	506	343
Greece	431	344	87
Ireland	142	96	46
Italy	1.431	1.010	421
Luxemburg	56	40	16
Netherlands	727	453	274
Portugal	273	219	54
Sweden	443	406	37
Spain	439	299	140
United Kingdom	1.143	817	326
EU-10 (since 1 May 2004)	16.310	7.468	8.842
Estonia	63	28	35
Latvia	127	47	80
Lithuania	182	98	84
Malta	5	3	2
Poland	7.170	2.173	4.997
Slovakia	3.588	1.691	1.897
Slovenia	595	378	217
Czech Republic	1.399	951	448
Hungary	3.171	2.093	1.078
Cyprus	10	6	4
Third country nationals	72.749	30.504	42.245
Serbia and Montenegro	11.375	4.618	6.757
Turkey	8.261	2.991	5.270
Russian Federation	6.500	905	5.595
Romania	5.501	3.528	1.973
Bosnia-Herzegovina	5.211	2.731	2.480
Croatia	3.311	2.507	804
Nigeria	2.372	819	1.553
China (People's Republic)	1.990	865	1.125
Bulgaria	1.725	1.045	680
Macedonia, FYROM	1.557	509	1.048
Others	24.946	9.986	14.960

Source: Statistics Austria

Table 4: Resident population by citizenship (on the 1st of January 2004)

Citizenship	Resident Population 1st January 2004
Total	8.140.122
Austrian Nationals	7.374.819
Foreign nationals	765.303
EU-14 nationals	127.365
Germany	86.657
Italy	11.681
Belgium	1.142
Denmark	984
Finland	1.123
France	4.843
Greece	2.358
Ireland	686
Luxembourg	460
Netherlands	4.722
Portugal	1.112
Sweden	3.044
Spain	2.036
United Kingdom	6.517
EU-10 nationals (since 1 May 2004)	60.370
Hungary	14.375
Slovenia	6.187
Slovakia	9.485
Czech Republic	6.984
Estonia	97
Latvia	280
Lithuania	310
Malta	45
Poland	22.537
Cyprus	70
Third country nationals	577.568
Serbia Montenegro	137.602
Turkey	122.931
Bosnia-Herzegovina	94.114
Croatia	58.520
Romania	20.850
Macedonia	15.219
Russian Federation	8.033
China (People's Rep.)	7.666
USA	6.607
Switzerland	6.474
Others	99.552

Source: Statistics Austria

Table 5: Settlement decrees (quotas) 1998-2005

Purpose of settlement permit	1998	1999	2000	2001	2002	2003	2004	2005
Key professionals (employees) and family	1.860	1.130	1.010	1.613	1.905	2.185	2.030	1.440
Key professionals (self-employed)	-	-	-	-	-	220	170	160
Employment	950	1.120	1.000	815	495	-	-	-
Family reunification	4.550	5.210	5.000	5.490	5.490	5.490	5.490	5.460
Private	630	660	490	420	390	175	360	440
Others*	550	1.445	878	-	-	-	-	-
TOTAL	8.540	9.565	8.378	8.338	8.280	8.070	8.050	7.500

Source:

Settlement decree 1998 (Niederlassungsverordnung (NLV) 1998), BGBl. II Nr. 371/1997
 Settlement decree 1999 (Niederlassungsverordnung (NLV) 1999), BGBl. II Nr. 424/1998
 Settlement decree 2000 (Niederlassungsverordnung (NLV) 2000), BGBl. II Nr. 460/1999
 Settlement decree 2001 (Niederlassungsverordnung (NLV) 2001), BGBl. II Nr. 96/2001
 Settlement decree 2002 (Niederlassungsverordnung (NLV) 2002), BGBl. II Nr. 2/2002
 Settlement decree 2003 (Niederlassungsverordnung (NLV) 2003), BGBl. II Nr. 236/2003
 Settlement decree 2004 (Niederlassungsverordnung (NLV) 2004), BGBl. II Nr. 616/2003
 Settlement decree 2005 (Niederlassungsverordnung (NLV) 2005), BGBl. II Nr. 496/2004

Comments:

With the amendment of the Aliens Act in 2002 (entry into force: 01/01/2003), categories of purposes for settlement permits have changed: the category "employment" was completely replaced by two new categories of key professionals (employed and self-employed). Spouses and children of self-employed key professionals are included in the first category "key professionals (employees) and family".

Private: this kind of settlement permit excludes the access to the labour market

*Others: In 2000, there was an exceptional quota for minor unmarried children of third country nationals, who have legally settled down in Austria before 01/01/1998. Furthermore, a special quota for refugees from Kosovo (which was introduced in 1999) was extended to the year 2000.

Table 6: Issued permits 2004

Type of permit	Male	Female	Total
First settlement permit (quota)			
Self-employed key professionals	33	10	43
Employed key professional	414	175	589
Family dependants of self-employed key professionals	9	17	26
Family dependants of employed key professionals	97	182	279
Private (no access to the labour market)	3	178	181
Family reunification	1.284	2.736	4.020
Total	1.840	3.298	5.138
First settlement permit (quota-free)			
Family dependants of Austrian nationals	11.050	12.258	23.308
Family dependants of EEA nationals	215	344	559
Family dependants of Swiss nationals	6	10	16
Private (no access to the labour market) - quota-free	375	730	1.105
Self-employed	42	9	51
Employee of media enterprise	3	5	8
Artists	61	42	103
Employees - exempt from Aliens' Employment Act	418	263	681
Key professionals - convention	3	0	3
Humanitarian reasons	119	77	196
Humanitarian reasons - family dependants	339	328	667
Total	12.631	14.066	26.697
First residence permits			
Education	2.683	2.700	5.383
Education - family dependants	92	116	208
Intra-company transfers	135	37	172
Intra-company transfers - family dependants	42	105	147
Trainees (Volontär)	392	120	512
Interns (Praktikant)	189	91	280
Cross-border commuters	173	72	245
Commuters	588	102	690
Commuters - Convention	15	4	19
Temporary employment	9.433	6.285	15.718
Business delegates (Betriebsentsandte)	1.306	54	1.360
Persons exempt from obligation to hold a work permit	90	30	120
Employment exempt from Aliens' Employment Act	744	1.837	2.581
Selfemployed	178	1.367	1.545
Humanitarian reasons	210	254	464
Temporary self-employed artists	229	1.949	2.178
Temporary employed artists	404	183	587
Total	16.903	15.306	32.209
Proof of settlement	26.362	24.775	51.137
Renewals of permits			
Renewals of settlement permits	33.443	38.304	71.747
Renewals of residence permits	10.757	12.731	23.488
Total	44.200	51.035	95.235
TOTAL	101.936	108.480	210.416

Source: Ministry of the Interior

Comments:

The "Proof of Settlement" was introduced as of 2003 as new settlement permit for long-term residents. It is a combined unlimited settlement work permit. As of 2006, it was replaced by the new settlement permit "Permanent Residence - EC" according to Directive 2003/109/EC on the status long-term residents.

Table 7: Asylum applications by gender 1997-2004

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%

Source: Ministry of the Interior

Table 8: Asylum applications and decisions – main countries of origin 2003

Citizenship	Asylum applications	Positive decisions	Negative decisions	Recognition rate
Russian Federation	6.713	635	215	74,7%
Turkey	2.843	65	398	14,0%
India	2.823	0	651	0,0%
Serbia and Montenegro	2.521	164	1.028	13,8%
Afghanistan	2.360	294	156	65,3%
Nigeria	1.846	3	345	0,9%
Georgia	1.517	53	220	19,4%
Iraq	1.452	138	50	73,4%
Moldova	1.175	0	155	0,0%
Armenia	1.112	23	119	16,2%

Source: Ministry of the Interior

Table 9: Asylum applications and decisions – main countries of origin 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%

Source: Ministry of the Interior

Table 10: Positive and negative asylum decisions by instance 1998-2004

	1998		1999		2000		2001		2002		2003		2004	
	pos.	neg.	pos.	neg.	pos.	neg.	pos.	neg.	pos.	neg.	pos.	neg.	pos.	neg.
First instance	422	1.700	1.789	2.211	708	2.362	741	2.104	N/A	N/A	1.339	3.351	3.157	4.177
Appeal instance	78	1.791	1.604	1.089	294	2.425	411	1.736	N/A	N/A	745	1.600	1.979	892
Total	500	3.491	3.393	3.300	1.002	4.787	1.152	3.840	1.073	4.285	2.084	4.951	5.136	5.069

Source: Ministry of the Interior

Comments:

Detailed statistics broken down by instance were not published in 2002. As of 1 May 2004, the amended Asylum Act entered into force.

Table 11: Naturalisations 1995-2004

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

Source: Statistics Austria

Comments:

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

Table 12: Naturalisations 2004

Former Citizenship	Number of naturalisations
Total	42.174
Turkey	13.024
Bosnia and Herzegovina	8.664
Serbia and Montenegro	7.260
Croatia	2.213
Romania	1.376
Macedonia (FYROM)	803
Poland	774
Egypt	712
India	603
China (People's Republic)	528
Iran	415
Nigeria	357
Philippines	342
Afghanistan	322
Bulgaria	276
Pakistan	271
Ghana	270
Bangladesh	237
Ukraine	231
Russian Federation	196
Others	3.300

Source: Statistics Austria

Table 13: Voluntary Return 2004 - returnees by country of destination

Destination Country	Male	Female	TOTAL
Serbia and Montenegro	154	34	188
Georgia	146	15	161
Turkey	108	7	115
Moldova	61	32	93
Armenia	53	21	74
Afghanistan	38	9	47
Russian Federation (Europe)	32	15	47
Ukraine	32	14	46
Nigeria	38	5	43
Macedonia (FYROM)	34	7	41
Iran	30	6	36
Iraq	29	3	32
Romania	17	15	32
Bosnia and Herzegovina	17	9	26
Mongolia	13	9	22
Other	122	33	155
Total	924	234	1.158

Source: International Organization for Migration (IOM) Vienna

Table 14: Employed persons in Austria 2004

	Average 2004
Employed persons	3.199.012
Male	1.730.780
Female	1.468.232
thereof:	
Employed foreign nationals	361.767
Male	218.736
Female	143.031

Source: Federation of Austrian Social Insurance Institutions