

Highly Qualified and Qualified Immigration of Third-Country Nationals

Legislation, Measures and Statistics in Austria



Theresa Bittmann

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MEASURES AND STATISTICS IN AUSTRIA**

The opinions presented in the study are those of the authors and do not necessarily represent the position of the Federal Ministry of the Interior, the European Commission and/or the International Organization for Migration.

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EUROPEAN MIGRATION NETWORK

The European Migration Network (EMN) was launched in 2003 by the European Commission (EC) by order of the European Council in order to satisfy the need of a regular exchange of reliable information in the field of migration and asylum at European level. Since 2008, Council Decision 2008/381/EC constitutes the legal basis of the EMN and National Contact Points (NCPs) were established in the EU Member States (with the exception of Denmark, which has observer status) plus Norway.

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

The NCP for Austria is located in the Research and Migration Law Department of the Country Office Austria of the International Organization for Migration (IOM) in Vienna. IOM Vienna was established in 1952 when Austria became one of the first members of the Organisation. The main responsibility of the IOM Country Office is to analyse national migration issues and emerging trends and to develop and implement respective national projects and programmes.

The main task of the NCPs is to implement the annual work programme of the EMN including the drafting of the annual policy report and theme-specific focussed and main studies, answering Ad-Hoc Queries launched by other NCPs, carrying out visibility activities and networking in several forums. Furthermore, the NCPs in each country set up national networks consisting of organisations, institutions and individuals working in the field of migration and asylum.

In general, the NCPs do not conduct primary research but collect and analyse existing data. Exceptions might occur when existing data and information is not sufficient. EMN studies are elaborated in accordance with uniform specifications valid for all EU Member States plus Norway in order to achieve comparable EU-wide results. Since the comparability of the results is frequently challenging, the EMN has produced a Glossary, which

assures the application of similar definitions and terminology in all national reports.

Upon completion of national reports, the EC with the support of a service provider drafts a synthesis report, which summarises the most significant results of the individual national reports. In addition, topic-based policy briefs, so called EMN Informs, are produced in order to present and compare selected topics in a concise manner. All national studies, synthesis reports, informs as well as the Glossary are available on the website of the EC DG Home Affairs (www.emn.europa.eu).

BACKGROUND, OBJECTIVES AND METHODOLOGY

The EU Member States are increasingly faced with the challenge to meet the demand for labour with specific skills and competencies that cannot immediately be met by the domestic workforce, nor generated quickly enough by changing the national education and training systems. Due to similar demographic developments in the EU Member States – which are characterised by an ageing and declining workforce – recruitment from other Member States may also be difficult. If Europe wants to remain competitive in the ‘global competition for talent’, strategies and concrete measures are needed to attract and win (highly) qualified labour also from third countries. This is the context in which the study ‘Attracting Highly Qualified and Qualified Third-Country Nationals’ was selected by the EMN Steering Board as part of the EMN Work Programme 2013. The present report has been prepared by the NCP Austria in the EMN and represents the Austrian contribution to this study. On the basis of common study specifications, the aim of the study is to:

- Provide an overview of national policies aimed at attracting (highly) qualified third-country nationals for the purpose of work;
- Outline concrete practical measures that are implemented to achieve the goals of the national policies (e.g. laws, cooperation with institutions/organisations in third countries, information provision etc.);
- Investigate available evaluative evidence about the effectiveness (or non-effectiveness) of different practical measures for attracting (highly) qualified third-country nationals where possible;
- Map labour migration agreements specifically targeting (highly) qualified third-country nationals and analysing their effectiveness, also in the framework of Mobility Partnerships;
- Identify challenges or barriers that potentially negatively affect the attractiveness of an EU Member State in terms of immigration of (highly) qualified third-country national.

In line with the methodology of the EMN, this study was based on common specifications and, principally, undertaken through secondary, desk-based research. The report is therefore mainly based on national and inter-

national literature, media coverage, statistics, legal provisions and internet sources. The public debate about the attraction of (highly) qualified third-country nationals in the first section of the study draws upon a continuous media monitoring of the main daily and weekly newspapers¹ and was complemented by correspondences of the relevant committees of the National Council by the Austrian NCP. Also, the described discussion regarding the development of Mobility Partnerships in Austria in the same section is largely based on media reporting. The statistical illustrations and tables in the second section of the study were created for the reference period 2008-2012 on the basis of data provided from Eurostat, the Federal Ministry of the Interior and from the Federal Ministry of Labour, Social Affairs and Consumer Protection.

Additionally, primary research work was carried out in the form of qualitative semi-structured face-to-face expert interviews, in order to cover areas which were not available from existing literature. A template version of the interview guideline is enclosed in the Annex of this study. Especially the findings in the third section relate to barriers for attracting (highly) qualified third-country nationals that were identified by the interviewed experts. Interviews were conducted with the following experts:

- Kreuzhuber Margit, Department for Social Policy and Health, Austrian Federal Economic Chamber, Vienna, 28 March 2013.
- Kutrowatz Heinz, International Labour Market Law Division, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.
- Peyrl Johannes, Department for Labour Market and Integration, Vienna Chamber of Labour, Vienna, 26 March 2013.
- Schönggrundner Alexandra, Division Education and Society, Federation of Austrian Industries, Vienna, 5 April 2013.
- Völker Tamara, Department for Residence and Citizenship Affairs, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

This study was conducted by Theresa Bittmann under the direction of Mária Temesvári and with the assistance of Saskia Koppenberg and Adel-Naim Reyhani. Saskia Koppenberg drafted the second section of this stu-

1 Daily newspapers: Der Standard, Die Presse, Kleine Zeitung, Kurier, Kronenzeitung, Österreich, Salzburger Nachrichten, Wiener Zeitung; Weekly newspapers: Falter, News, Profil, Format.

dy. The authors would like to thank all interviewed experts and those who provided written responses and statistical data for their valuable contributions and expertise. Special thanks go to Lisa Epe, Philipp Freudenthaler and Petra Knall for supporting the authors with the research work for the study, and to Katie Klaffenböck for proofreading the English version of the study.

EXECUTIVE SUMMARY

In Austria, the orientation towards (highly) qualified immigration of third-country nationals dates back to 2002. At that time, the immigration of third-country nationals for the purpose of work was focused on (highly) qualified workers, so-called ‘key workers’ and was regulated by quotas. Because this system could not sufficiently meet the needs of the Austrian labour market, the new so-called ‘Red-White-Red Card’ (RWR Card) system was introduced on 1 July 2011. It marked the change from the quota-based system to a system with defined and qualitative criteria on the basis of which the possibility of immigration to Austria is evaluated.

The RWR Card is a points system based on individual criteria such as age, language skills, education level and professional experience that has employer-led as well as supply driven elements. The RWR Card itself is a ‘single permit’, which entitles the holder to the right of residence and to pursue an economic activity. It is directed towards different categories of (highly) qualified third-country nationals. These include: very highly qualified workers; skilled workers in shortage occupations; other key workers; graduates of Austrian universities and colleges of higher education and self-employed key workers. The RWR Card and its specifications can be understood as the result of the negotiation process involving the perspectives of the responsible ministries, the social partners as well as the Federation of Austrian Industry.

Since the inauguration of this criteria-led immigration system, several accompanying and additional measures to increase the attractiveness of Austria for (highly) qualified third-country nationals have been introduced. For example, several information initiatives have been enacted in the form of online portals and information brochures. The findings of this study suggest that, along with the provision of information, facilitating the recognition of qualifications, family reunification rights and access to employment of family members are considered to be important tools to attract (highly) qualified workers.

A thorough evaluation of the RWR Card as a whole was not available at the time of writing this study. Based on statistics, the general trend in labour immigration from third countries to Austria from 2008 to 2012

was positive. During that period, (highly) qualified third-country nationals made up on average around 25.8 per cent of overall immigration for the purpose of employment from third countries to Austria. While the overall trend in valid settlement permits for (highly) qualified third-country nationals from 2008 to 2012 was slightly negative, the overall trend in first settlement permits issued to (highly) qualified third-country nationals between 2008 and 2012 is positive. The highest increase took place between 2010 and 2011, the year when the RWR Card was introduced. However, the numbers slightly decreased again between 2011 and 2012 – despite the fact that the regulation for skilled workers in shortage occupations entered into force on 16 June 2012, which means that from that day on, the title for skilled workers in shortage occupations was also issued.

After examining the characteristics of RWR Card holders in detail, it can be said that the typical (highly) qualified immigrant in Austria in 2012 was a male between the age of 25 and 29 who came from Bosnia and Herzegovina, living in Vienna and who was employed as key worker in a technical occupation.

Existing literature as well as interviewed experts suggest that challenges and barriers impeding the immigration and/or stay of (highly) qualified third-country nationals in Austria include factors such as: the characteristics of the Austrian labour market with a hierarchical structure and internal labour markets; lower income in an international comparison; language barrier regarding the access to information and job requirements; the image and signal effect of Austria in the country as well as abroad; discrimination in access to employment and career advancement as well as increased bureaucracy due to dispersion of institutional competences.

1. NATIONAL POLICIES AND MEASURES FOR ATTRACTING (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS

1.1. The criteria-led immigration system – ‘Red-White-Red Card’: Background, development and features

In Austria, the criteria-led immigration system that introduced the so-called ‘Red-White-Red Card’ (RWR Card) is currently the key element of the national immigration policy towards (highly) qualified third-country nationals. The RWR Card came into effect on 1 July 2011 in the framework of the amendments of the Aliens’ Law in 2011.² The RWR Card marked a change of system in the area of labour migration from a quota-based system to a system with specific and qualitative criteria on the basis of which the possibility of immigration is assessed (Kreuzhuber/Hudsky 2011: 85).

Since 1993, yearly quotas had mainly regulated the immigration of third-country nationals, including labour migration. The orientation towards (highly) qualified third-country nationals dates back to 2002, when the immigration of third-country nationals for the purpose of work was basically limited to (highly) qualified workers, so-called ‘key workers’ – with exceptions for special categories³ (Schumacher/Peyrl 2007: 68-69; Schumacher/Peyrl/Neugschwendtner 2012: 77-82; Biffi/Bock-Schappelwein 2012: 28). Individuals were considered as key workers if they had an education that was demanded on the national labour market, or possessed special know-how or skills with relevant working experience, and received a specified minimum remuneration. Beyond the fulfillment of these requirements and the general conditions for being granted a residence title (i.e. documen-

2 With the exception of the immigration scheme for skilled workers in shortage occupations which did not enter into force until 16 June 2012 with a regulation, the so-called ‘Skilled Workers Regulation’ (Original German name: „Fachkräfteverordnung“) according to the Act Governing the Employment of Foreign Nationals (Art. 13). For more information see 1.3. ‘Target Group of the RWR Card’)

3 i.e. executive personnel; long-term resident third-country nationals; self-employed workers according to a ‘Europe agreement’; harvesters; intra-corporate transferees; artists; journalists; diplomatic personnel; volunteers; priests and pastors; commuters and cross border workers; rotational forces; scientists; researchers; sex workers; au pairs; contractors; short term employed and self-employed workers.

tation, accommodation, subsistence, health insurance, etc.) settlement as a key worker was furthermore dependent on the existence of a quota place (Schumacher/Peyrl 2007: 44,55-56,69).

The change of system emerged out of a combination of various factors, which included – apart from the discontent with the former key worker system because it was not sufficiently able to meet the demand for skilled workers⁴ – the opening of the labour market for the new EU-8 citizens⁵ as well as developments at the European level regarding labour immigration policies⁶ (cf. Blue Card Directive⁷ and Single Permit Directive⁸). In addition to the satisfaction of the labour market demand and the aspiration to modernise the longstanding key worker model in order to make it more attractive for skilled key workers⁹, further motives were voiced during expert interviews. These were, however, not found to be mutually corroborati-

- 4 According to Margit Kreuzhuber (Austrian Federal Economic Chamber, Vienna, 28 March 2013) the inefficiency of the former system carried its full impact on the Austrian labour market around 2006, when there was a lack of workers in specialised industries (i.e. milling machinists, metal turners, welders) in the whole pan-European Labour market. In the Austrian government program for the XXIV legislative period, p.106 it is similarly stated ‘*The previous quota system could not precisely enough map the needs of the Austrian labour market and society.*’ (Original German quote: „*Das bisherige Quotensystem konnte nicht präzise genug die Bedürfnisse des österreichischen Arbeitsmarktes und der Gesellschaft abbilden*“).
- 5 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013; Johannes Peyrl, Vienna Chamber of Labour, Vienna, 26 March 2013.
- 6 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.
- 7 Official Journal of the European Union L 155/17, *Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*, 18 June 2009, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:155:0017:0029:en:PDF> (last accessed on 26 June 2013).
- 8 Official Journal of the European Union L 343/1, *Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State*, 23 December 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:343:0001:0009:EN:PDF> (last accessed on 26 June 2013).
- 9 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

ve.¹⁰ They include, for example, the guaranteed supply of labour to address the ageing of the society and to safeguard the social system, as well as the acceptance of immigration as a fact and the promotion of a more positive image of immigration.

In November 2008, following the principles of the immigration models in Canada, Australia and the United Kingdom, a common discussion paper for the development of a forward-looking immigration model was published by the Federation of Austrian Industry, the International Organization for Migration and the Austrian Federal Economic Chambers.¹¹ Some of the propositions were incorporated into the government programme (legislative period 2008–2013) of the coalition parties at that time – the Social Democratic Party of Austria (SPÖ) and the Austrian People's Party (ÖVP) – thereby committing themselves to the development of the RWR Card.¹²

By replacing the quota system for key workers, the RWR Card aimed to increase the immigration of workers for whom there was an acute shortage and who, according to labour market, economic development, educational and occupational training considerations could not be recruited among the existing labour force.¹³ Thus, the new system intends to specifically provide (highly) qualified third-country nationals the option to immigrate to Austria and to make Austria an attractive destination country.¹⁴ The qualifications and skills of immigrants who qualify as (highly) quali-

10 According to Johannes Peyrl (Vienna Chamber of Labour, Vienna, 26 March 2013) this is because when it comes to immigration the policy-makers are not homogeneous and follow different political principles and interests.

11 Federation of Austrian Industry, International Organization for Migration and Austrian Federal Economic Chamber (2008). *Zuwanderung Gestalten: Ein zukunftsorientiertes Migrationsmodell*, available at http://www.iv-mitgliederservice.at/iv-all/publikationen/file_474.pdf (last accessed on 4 April 2013).

12 Austrian government program for the XXIV legislative period, pp.105–107, available at <http://www.bka.gv.at/DocView.axd?CobId=32966> (last accessed on 28 May 2013).

13 Act Governing the Employment of Foreign Nationals, Amendment, Ministerial Proposal, Introduction and Explanations, p.9, available at http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00250/fname_202076.pdf (last accessed on 25 September 2013).

14 *Arbeitsmarkttöffnung. Ein Jahr danach. Kriteriengeleitetes Zuwanderungssystem Rot-Weiß-Rot-Karte*, available at http://www.arbeitsmarktoeffnung.at/servlet/ContentServer?pagename=S04/Page/Index&n=S04_80.2.3 (last accessed on 15 April 2013).

fied under the RWR Card regime are understood to supplement existing knowledge. This should thereby create more jobs and growth and is not expected to lead to displacement effects on the labour market.¹⁵ This policy consequently follows the principle that immigration is not to be further quantitatively expanded but qualitatively improved and controlled in a targeted manner (BMASK et al. 2011/2012).

The RWR Card was developed on three levels. Firstly, the development of the principle procedure was laid down by the Federal Ministry of the Interior (FMI); secondly, a commission – with the participation of the Austrian social partners and the Federation of Austrian Industry – was assigned with the task to develop the concrete parameters for the new system; and thirdly, the Federal Ministry of Labour, Social Affairs and Consumer Protection (FMLSC) surveyed the demand of the national labour market.¹⁶

After the official launch, the commission convened for the first time to develop on the basis of the discussion paper from 2008 – which did not yet incorporate the perspectives of the workers' representation – the eligibility criteria and point allocation system which should satisfy all social partners' demands.¹⁷ During this process, the different tiers for the immigration of (highly) qualified third-country nationals were developed and the system of point allocation was determined. The RWR Card can thus be understood as a compromise result of the working process between different stakeholders with different interests.¹⁸

The RWR Card incorporates a points system based on criteria such as age, language skills, education level and professional experience that has employer-led as well as supply-driven elements (for more information see

15 Federal Ministry of Labour, Social Affairs and Consumer Protection, *Die Rot-Weiß-Rot-Karte – das neue Zuwanderungssystem. Bessere Qualifikation, höheres Wirtschaftswachstum, raschere Integration*. Minister Rudolf Hundstorfer, 9 December 2010, available at http://www.bmask.gv.at/cms/site/attachments/3/6/0/CH0016/CMS1291897740667/101209_rotweissrotcard_layoutiert.pdf (last accessed on 28 May 2013).

16 Austrian Federal Ministry of the Interior, *Start der Umsetzung der Rot-Weiss-Rot Card. Weitere Vorgangsweise bei der Neuregelung des humanitären Aufenthaltes*, press conference material, 26 January 2009, available at <http://www.bmi.gv.at/cms/cs03documentsbmi/636.pdf> (last accessed on 28 May 2013).

17 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

18 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013; Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

also 1.2.). The RWR Card itself is a 'single permit', entitling the holder to work and reside in Austria following a specific single application. The admission procedure depends on the category of the RWR Card.¹⁹

In principle, the initial application for a residence permit must be submitted in person at the competent authorities abroad, prior to the entry into Austria.²⁰ Certain (highly) qualified workers are exempted from this rule; very highly qualified workers can enter Austria on the basis of a six-month job-seeker visa and apply for a RWR Card in Austria, provided that an adequate job offer has been received within this period. Furthermore, graduates of Austrian universities or accredited private universities from third countries can apply for an RWR Card in Austria (see also 1.3).

Initially, after the introduction of the RWR Card, skilled workers in shortage occupations and other key workers had to apply for the title at the competent Austrian representation (embassy or consulate) abroad.²¹ A simplification was introduced in April 2013, so that applications for the RWR Card can also be filed by the potential employer with the competent settlement and residence authority in Austria.²²

The RWR Card entitles the holder to temporary settlement for one year and employment limited to the employer specified in the application. If the RWR Card holder is employed in accordance with the foreseen criteria for a minimum of ten months during a twelve month period, he/she may apply for a RWR Card plus, entitling him/her to temporary settlement with unrestricted access to the labour market.²³

The issuing of the RWR Card is not subject to quotas. Generally, third-country nationals must possess basic German language skills prior to

19 Austrian Federal Economic Chamber, *Die Rot-Weiß-Rot-Karte: Zulassungsverfahren*, Mai 2013, available at http://portal.wko.at/wk/format_detail.wk?angid=1&stid=632560&dstid=0&titel=Die%2CRot-Wei%C3%9F-Rot-Karte%3A%2CZulassungsverfahren (last accessed on 26 June 2013).

20 Art. 21 of the Settlement and Residence Act.

21 For further information regarding application procedures and application forms please see the government's official information website on migration to Austria <http://www.migration.gv.at/en/> (last accessed on 26 June 2013).

22 Act Governing the Employment of Foreign Nationals, BGBl. I No. 2013/72, available at https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2013_I_72/BGBLA_2013_I_72.html (last accessed on 26 June 2013).

23 Art. 12d of the Act Governing the Employment of Foreign Nationals.

their immigration to Austria. However, this is not required in order to obtain a RWR Card or for family members of very highly qualified workers.²⁴

1.2. Classification of the RWR Card

According to literature on policy tools for the selection of (highly) qualified migrants (Boeri et al. 2012; Chaloff/Lemaitre 2009), immigration systems can be broadly classified as ‘supply/immigrant-driven’ or ‘demand/employer-driven’. While ‘supply/immigrant-driven’ systems are based on the selection of generally desired human capital features without the necessity of concrete job offers, the ‘demand/employer-driven’ system admits immigrants on the basis of a job offer. As the name already implies, ‘demand/employer-driven’ systems are thus labour market demand-oriented and centre on the actual needs of employers. In the ‘supply/immigrant-driven’ regime, the host country promotes its general willingness to accept immigration from potential candidates, independent of a specific labour demand (Chaloff/Lemaitre 2009: 17).

The RWR Card system can be described as a hybrid system including supply – as well as demand-driven aspects (OECD 2012a: 62-63). On closer examination, it can be observed that the RWR Card focuses on ‘demand/employer-driven’ aspects by means of predetermined shortage occupations (cf. tier for skilled workers in shortage occupations) or labour market testing (cf. tier for other key workers).

A ‘supply/immigrant-driven’ component is included for very highly qualified workers.²⁵ On the basis of a job search visa, this tier offers an immigration channel for highly qualified immigrants without a prior job of-

24 The possession of German language skills received increased value with the amendments of the Aliens’ Law in 2011, which became effective on 1 July 2011 (Kreuzhuber/Hudsky 2011: 72). Since then, Austrian immigration policy follows the principle of ‘German prior to immigration’ (‘Deutsch vor Zuzug’). According to the Settlement and Residence Act, third-country nationals must furnish proof of German language skills on A1 level according to the Common European Framework of Reference for Languages at initial application for certain residence permits (Art. 21a Settlement and Residence Act). Third-country nationals who request an RWR Card (namely that is, very highly qualified workers; skilled workers in shortage occupations; other key workers; graduates and self-employed key workers) and family members of holders of an RWR Card for very highly qualified workers are exempted from this requirement (Kreuzhuber/Hudsky 2011: 73, 141).

25 This analysis was supported by Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

fer. Similarly, graduates of Austrian universities can receive written confirmation and stay for a further six months after graduation in order to search for a job (OECD 2012a: 62-63).

1.3. Target Group of the RWR Card

The new immigration system created a tier scheme that determines which third-country nationals are considered to be (highly) qualified and can thus receive a RWR Card. The subdivisions into different categories of (highly) qualified third-country nationals is the result of the negotiation process involving the perspectives of the responsible ministries, the social partners as well as the Federation of Austrian Industry.

The established system takes into account the individual situation of the applicant as well as the situation of the labour market, which affects the overall evaluation according to points (Kreuzhuber/Hudsky 2011 :85). The set criteria and their associated value slightly vary depending on the tiers, but principally include: special qualifications and skills; work experience according to qualification; language skills (German or English); age and studies or work experience in Austria.

If the general requirements for the issuance of a residence permit are fulfilled, the following persons may obtain a RWR Card:

Very highly qualified workers

This category addresses the international top-level immigrants (Kreuzhuber/Hudsky 2011: 86). It constitutes the ‘paradigm shift’ from a purely demand-oriented system to a hybrid system that allows for immigration without a concrete labour market demand.²⁶ Consequently, third-country nationals with particularly high qualifications may obtain a visa for six months for the purpose of job search when they reach the required minimum number of points (70 out of 100) according to the defined set of criteria. For admission as a very highly qualified worker, the level of education is decisive. Third-country nationals must have completed the first or second stage of tertiary education, thus a study programme of four years

26 Johannes Peyrl, Vienna Chamber of Labour, Vienna, 26 March 2013.

minimum, which according to the International Standard Classification of Education (ISCED) corresponds to Level 5 and 6.²⁷

In the view of Johannes Peyrl, from the Vienna Chamber of Labour, the focus in this tier on specific occupational groups is less pronounced, but generally addresses the senior level.²⁸ Based on the International Standard Classification of Occupations (ISCO), this would encompass ISCO major groups 1-3.²⁹ According to Margit Kreuzhuber, from the Austrian Federal Economic Chamber, the fact that the graduation from one of the so-called 'MINT-subjects' (mathematics, information technology, the sciences and technology) is rewarded with additional points gives the indication that immigration is directed towards occupations which fall within these disciplines.³⁰

Skilled workers in shortage occupations

The immigration of skilled workers in shortage occupations is managed through personal as well as labour market related criteria (Kreuzhuber/Hudsky 2011: 97). This tier was created under the aspect of concrete labour market needs and represents the demand-driven element of the immigration system (OECD 2012a: 62). The Federal Minister of Labour in consultation with the Federal Minister of Economics therefore issues a regulation each year, the so-called 'Skilled Workers Regulation'³¹, listing the relevant shortage occupations. An occupation is considered to be a shortage

27 *International Standard Classification of Education (ISCED) 1997*, available at http://www.unesco.org/education/information/nfsunesco/doc/isced_1997.htm (last accessed on 9 April 2013).

28 According to Johannes Peyrl (Vienna Chamber of Labour, 26 March 2013) this can also be seen as the result of the split between wanting to increase qualified labour migration on the one side without neglecting Austrian wage standards on the other side; third- country nationals at management level will less likely sell at less than their fair value.

29 *International Standard Classification of Occupations*, available at <http://www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf> (last accessed on 9 April 2013).

30 Margit Kreuzhuber (Austrian Federal Economic Chamber, 28 March 2013) notes that the MINT-area plays a significant role both for academics and skilled workers; this follows the current demand situation in Austria. Because the number of graduates from MINT-subject in Austria is not expected to increase in the future these additional points will most likely remain also in long-term perspective.

31 The Skilled Workers Regulation (Original German name 'Fachkräfteverordnung'), according to Art. 13 of the Act Governing the Employment of Foreign Nationals, came into force on 16 June 2012 and was, for the time being, the final step towards the im-

occupation once there are not more than 1.5 unemployed persons registered with the Public Employment Service Austria (PES) for a listed job opening.³² The regulation is valid for one year, which makes this tier flexible to addressing changing labour market demands.³³ Since the labour market demand is already determined through the regulation, no labour market test is conducted in each individual case (Kreuzhuber/Hudsky 2011: 97).

To be admitted under this tier, third-country nationals must – independent of any higher qualification (university entrance, university or technical college degree) – have (also) completed a professional training in a relevant shortage occupation.³⁴ Thus, the level of education within this category cannot be clearly assigned to the ISCED classification, but requires at least the completion of compulsory schooling leading to further vocational training;³⁵ the higher the completed level of education, the higher the number of points assigned. The relevant occupational groups are not generally determined but vary each year according to the shortage occupation list. In the year 2013, these included for example milling machinists, metal turners or roofers but also technicians with a higher level of training (engineer) for mechanical engineering, agricultural equipment engineers or graduate nurses.³⁶

It follows that within this tier, the level of education as well as the field of occupation can vary. According to the ISCO, this means that potential candidates could in addition to the major groups 4-8 – which are generally associated with skilled workers or medium skilled workers (Biffl et al. 2010: 28; OECD 2012b: 118) – be equally found among the major groups 1-3. For that reason, the tier of skilled workers in shortage occupa-

plementation of the new immigration system for (highly) qualified third-country nationals, which became effective on 1 July 2011.

32 Art.13 of the Act Governing the Employment of Foreign Nationals. In German this indicator is also referred to as „Stellenandrangsziffer“.

33 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

34 Art.12a of the Act Governing the Employment of Foreign Nationals.

35 For more information on the Austrian educational system see also http://www.bic.at/downloads/at/brftipps/0_1_bildungssystem_de.pdf (last accessed on 13 September 2013).

36 *Skilled Workers Regulation 2013*, BGBl. II. No. 367/2012, 5 November 2012, available at http://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2012_II_367/BGBLA_2012_II_367.pdf (last accessed on 14 June 2013), see also <http://www.migration.gv.at/en/types-of-immigration/permanent-immigration-red-white-red-card/skilled-workers-in-shortage-occupations.html> (last accessed on 13 September 2013).

tion can categorically not be associated with one specific ISCO group, but might vary each year.

Other key workers

This category was according to Margit Kreuzhuber established in order to provide an immigration possibility to qualified third-country nationals who are not considered as very highly qualified or do not have an occupation which is listed as a shortage occupation. As the shortage occupation list cannot entirely be considered as representative of the demanded (or potentially demanded) skills, this category serves as an entry point for other potential candidates and thus provides more flexibility.³⁷

In order to qualify as a key worker, the following requirements have to be met:³⁸ (1) The potential employer pays the statutory monthly gross remuneration; for key workers above the age of 30 this amounts to 2,664 EUR and for key workers below the age of 30 to 2,220 EUR in 2013 gross monthly pay plus special payments;³⁹ (2) the applicant has to pass the labour market test, i.e. the assessment if no equally qualified person already registered as a jobseeker at the PES could be employed; and (3) the applicant achieves the minimum required points according to the established criteria.

The point system basically corresponds to the system for skilled workers in shortage occupations; however, the main difference is that for skilled workers in shortage occupations the labour market demand is determined based on the Skilled Workers Regulation, for other key workers this demand is assessed on the basis of individual labour market testing (Kreuzhuber/Hudsky 2011: 102).

This category is characterised by a particularity that allows for the immigration of third-country nationals with special skills and know-how without formal professional training.⁴⁰ Proof of formal training does not

37 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

38 Art.12b of the Act Governing the Employment of Foreign Nationals.

39 This amount for other key workers is calculated based on 50% (for workers below the age of 30) or 60% (for workers over the age of 30) of the regulated maximum contribution basis in accordance with Art.108 paragraph 3 of the General Social Security Act, see also <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008147> (last accessed on 9 September 2013).

40 Kreuzhuber/Hudsky (2011: 103) provide here the example of an internationally demanded Moroccan designer, who, however, does not dispose of formal professional training.

need to be furnished to demonstrate a certain level of qualification.⁴¹ Furthermore, professional athletes and professional sports coaches have the possibility to receive extra points.⁴² Due to this peculiarity, no clear reference to the ISCED or the ISCO can be made.

Graduates of Austrian universities, Universities of Applied Sciences or accredited private universities

Third-country nationals who graduate from Austrian universities, Universities of Applied Sciences or accredited private universities are eligible to receive written confirmation of the legality of their stay for a further six months in order to seek employment under the condition that they have pursued and successfully completed a diploma programme or a master's programme (Musil/Reyhani 2012: 13-14). If graduates are able to find an employment offer, an RWR Card can be issued if the occupation according to the work contract corresponds to their level of qualifications and the employer pays a minimum of 1,998 EUR (2013) a month, plus special payments.⁴³

The required level of education for this group of highly qualified third-country nationals corresponds to Level 5 and 6 of ISCED.

Self-employed key workers

Third-country nationals can be admitted under this tier provided that they pursue a gainful activity which supports overall economic growth, especially in terms of the associated transfer of capital investment and/or the creation and maintenance of jobs.⁴⁴ The decision on whether the pursued activity contributes to overall economic growth depends on the assessment of the competent regional office of the PES (Kreuzhuber/Hudsky 2011: 110). No point system is applied in the case of self-employed key workers.

41 See <http://www.migration.gv.at/en/types-of-immigration/permanent-immigration-red-white-red-card/other-key-workers.html> (last accessed on 14 June 2013).

42 Art.12b, Annex C of the Act Governing the Employment of Foreign Nationals.

43 This amount for graduates from third countries is calculated based on 45% of the regulated maximum contribution basis in accordance with Art.108 paragraph 3 of the General Social Security Act, see also <http://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008147> (last accessed on 9 September 2013).

44 Art.24 of the Act Governing the Employment of Foreign Nationals.

1.4. Accompanying and additional measures to increase attractiveness for (highly) qualified third-country nationals

As early as the development phase of the RWR Card, the social partners promulgated the importance of information provision to immigrants in their country of origin prior to immigration. By means of an information portal, they should obtain a realistic picture of their immigration possibilities, life in Austria and their chances in the labour market.⁴⁵ Since the inauguration of the criteria-led immigration system, several information initiatives have been enacted in the form of online portals and information brochures, so as to provide information on living and working in Austria; eligibility criteria to receive a RWR Card; competent authorities for recognition of education or professional training as well as on language training support, etc. Beyond the provision of information, other accompanying measures have been enacted that provide indications on additional factors that are considered important when it comes to the attracting of (highly) qualified third-country nationals. These include: facilitated recognition of qualifications and family reunification rights as well as access to employment of family members.

1.4.1. Information provision

Together with the new legislative provisions, the federal government has developed an official information website (www.migration.gv.at/en) that provides relevant information on immigration requirements, the RWR Card and on working and living conditions in Austria. The provided information is available in German and English and incorporates a point calculator to support interested third-country nationals in the assessment of their eligibility for immigration as a (highly) qualified person.

Additionally, as part of a 5-point programme⁴⁶ for the facilitated recognition of qualifications of academics from third countries (see also 1.4.2),

45 Social Partners Austria: Bad Ischler Dialog 2010, *Einigung der Österreichischen Sozialpartner zur Bekämpfung von Lohn- und Sozialdumping und zur Schaffung eines kriteriengeleiteten Zuwanderungsmodells (Rot-Weiß-Rot-Card)*, p.6, available at [http://www.sozialpartner.at/sozialpartner/badischl_2010/SozialpartnerpraesidenteneinigungIschl-I%20-zusammengefuehrt%20\(5\).pdf](http://www.sozialpartner.at/sozialpartner/badischl_2010/SozialpartnerpraesidenteneinigungIschl-I%20-zusammengefuehrt%20(5).pdf) (last accessed on 28 May 2013).

46 Federal Ministry of Science and Research, BM Töchterle und StS Kurz: *5 Punkte-Programm zur verbesserten Berufsanerkennung von Akademikern aus Drittstaaten*, Press Release, 5 March 2012, available at http://www.bmwf.gv.at/startseite/mini_menuue/presse_und_news/news_details/cHash/b99ca93cff9ef05fb957634e094e6992/article/bm-

an information campaign on the recognition of qualifications was enacted and several websites and materials were developed. For instance, the homepage www.nostrifizierung.at provides information for university graduates from third countries on validation⁴⁷ of their qualifications in Austria. Also a brochure called ‘Recognition ABC – Recognition of foreign qualifications in profession and education’⁴⁸, was published by the FMI in cooperation with the FMLSC.

The website www.berufsanerkennung.at, which has been operational since April 2013, provides information on the Austrian system regarding the recognition of foreign qualifications and supports through an online ‘recognition guide’ the identification of the competent authorities and counselling institutions for the recognition of foreign training and professions.

An online learning platform, the so called ‘language portal’⁴⁹ (www.sprachportal.at) from the Austrian Integration Fund, views itself as the first contact point for immigrants who want to actively develop their knowledge of German. The language portal offers information about German course providers, test dates, and opportunities to learn German online. Furthermore the website provides German courses at various levels as well as literacy courses including relevant self-study materials. All offers are available in English, German, French, Turkish, Bosnian, Croatian and Serbian, Polish, Hungarian and Romanian.⁵⁰

tochterle-und-sts-kurz-5-punkte-programm-zur-verbesserten-berufsanerkennung-von-akademikern-aus/ (last accessed on 28 May 2013).

47 Federal Ministry of Science and Research, ENIC NARIC AUSTRIA, ‘*Validation is the conversion of a foreign university degree into a corresponding (bachelor’s, master’s, diploma or doctor’s) Austrian one by the organ in charge of study affairs at a university or university of applied sciences, respectively.*’ Available at http://www.bmwf.gv.at/home/academic_mobility/enic_naric_austria/what_does_validation_mean/ (last accessed on 26 June 2013).

48 Original title in German: „Anerkennung ABC – Anerkennung ausländischer Qualifikationen aus Beruf und Bildung“, available at <http://www.integration.at/media/files/berufsanerkennung/Anerkennungs-ABC.pdf> (last accessed on 9 September 2013).

49 Original name in German: „Sprachportal“

50 For further information please see www.sprachportal.at ; Austrian Integration Fund, Österreichischer Integrationsfonds (ÖIF) präsentiert „Mein Sprachportal“, Press Release, 13 November 2012, available at http://www.ots.at/presseaussendung/OTS_20121113_OTS0164/oesterreichischer-integrationsfonds-oEIF-praesentiert-mein-sprachportal (last accessed on 28 May 2013).

1.4.2. Recognition of qualifications

In principle, the Austrian certification system can be characterised by a high fragmentation (see Biffl et al.⁵¹ for a comprehensive analysis); there are no uniform regulations regarding the formal recognition of qualifications that were acquired abroad.⁵² Formal proceedings can vary depending on the level of education, industry or country of origin and render the application timely and financially burdensome (Weiss/Kapeller 2012: 13-14). In cases where formal recognition (validation) is not required, employment may be hampered due to the fact that the potential employer cannot estimate the competences of the candidate.⁵³

For (highly) qualified third-country nationals, who dispose of a job-search visa, a RWR Card or an EU Blue Card, the formal recognition of studies is not required. The provision of a certificate providing evidence of the successful completion of the study programme as well as proof of the status of the university is sufficient.⁵⁴

Furthermore, on the basis of the aforementioned 5-point programme, a set of measures that aimed to accelerate the recognition of school education, academic and occupational attainments alike, was enacted.⁵⁵ These measures included the establishment of information and contact points in the federal provinces and an improved web presence with relevant informa-

51 Biffl, Gudrun; Pfeffer, Thomas; Skrivanek, Isabella (2012). *Anerkennung ausländischer Qualifikationen und informeller Kompetenzen in Österreich*. Donau-Universität Krems. Department für Migration und Globalisierung.

52 See also <http://www.berufsanerkennung.at/uebersicht/verfahren-zur-anerkennung/> (last accessed on 9 September 2013).

53 Federal Ministry of Science and Research, BM Töchterle und StS Kurz: *5 Punkte-Programm zur verbesserten Berufsanerkennung von Akademikern aus Drittstaaten*, Press Release, 5 March 2012, available at http://www.bmwf.gv.at/startseite/mini_menuue/presse_und_news/news_details/cHash/b99ca93cff9ef05fb957634e094e6992/article/bm-toechterle-und-sts-kurz-5-punkte-programm-zur-verbesserten-berufsanerkennung-von-akademikern-aus/ (last accessed on 28 May 2013).

54 Federal Ministry of Labour, Social Affairs and Consumer Protection, *Anerkennung von Studienabschlüssen für das Arbeitsuche-Visum, die Rot-Weiß-Rot-Karte und die Blaue Karte EU*, available at http://www.migration.gv.at/fileadmin/downloads/infoblaetter/anerkennung_studienabschluesse.pdf (last accessed on 26 June 2013).

55 Federal Ministry of Labour, Social Affairs and Consumer Protection and State Secretariat for Integration, *Berufsanerkennung für Migrantinnen und Migranten Pressekonferenz*, press conference material, 29 March 2012, available at http://www.bmask.gv.at/cms/site/attachments/1/2/8/CH0023/CMS1333093906635/presseunterlage_-_teil_1.pdf (last accessed on 28 May 2013).

tion (see also 1.4.1). In addition, if the received diploma or the university is not recorded in the classification system⁵⁶ that determines the officially recognised degrees from universities and Universities of Applied Science, a tentative evaluation of the qualification via the National Academic Recognition Information Centre (NARIC) may be obtained.⁵⁷

1.4.3. Family reunification

Beyond the facilitated immigration of (highly) qualified third-country nationals, the new immigration system also anticipates facilitated family reunification rights. As early as the development phase of the RWR Card, the social partners stressed the importance of recognising the rights of family members. Thus it is stated in the 'Agreement of the Austrian social partners to combat wage and social dumping and to create a criteria-based immigration model': *'Since the conditions for family members are often crucial for well-trained and internationally mobile people to opt for a country, family reunification and the access to the labour market for family members should be ensured as quickly as possible.'*⁵⁸

Family members⁵⁹ of RWR Card holders may obtain a RWR Card plus without any quota restrictions.⁶⁰ If general granting requirements have

56 For more information on recognised foreign university or college degrees, see also <http://www.anabin.de/> (last accessed on 9 September 2013).

57 Federal Ministry of Labour, Social Affairs and Consumer Protection, *Anerkennung von Studienabschlüssen für das Arbeitsuche-Visum, die Rot-Weiß-Rot-Karte und die Blaue Karte EU*, available at http://www.migration.gv.at/fileadmin/downloads/infoblaetter/anerkennung_studienabschluesse.pdf (last accessed on 26 June 2013).

58 Social Partners Austria: Bad Ischler Dialog 2010. *Einigung der Österreichischen Sozialpartner zur Bekämpfung von Lohn- und Sozialdumping und zur Schaffung eines kriteriengeleiteten Zuwanderungsmodells (Rot-Weiß-Rot-Card)*, p.6, available at [http://www.sozialpartner.at/sozialpartner/badischl_2010/SozialpartnerpraesidenteneinigungIschl-I%20-zusammengefuehrt%20\(5\).pdf](http://www.sozialpartner.at/sozialpartner/badischl_2010/SozialpartnerpraesidenteneinigungIschl-I%20-zusammengefuehrt%20(5).pdf) (last accessed 7 April 2013). (Original German quote: „Da die Rahmenbedingungen für Familienangehörige oft ausschlaggebend sind, dass sich gut ausgebildete, international mobile Menschen für ein Land entscheiden, soll ein möglichst rascher Familiennachzug mit Arbeitsmarktzugang für Familienangehörige gewährleistet werden.“).

59 In this context family members are defined as spouses, registered partners or minor children, including adopted children and stepchildren. At the time of filing the application, spouses and registered partners cannot be below the age of 21 (Art. 2 paragraph 1 (9) of the Settlement and Residence Act).

60 Family members of a sponsor with a RWR Card plus are subject of quotas, provided that it is not a RWR Card plus according to Art. 41a para 1 or 4 of the Settlement and

been met and the family member(s) proves knowledge of German at A1 level of the Common European Framework of Reference for Languages prior to entry, a RWR Card plus can be issued, which allows for settlement with immediate and unrestricted access to the labour market. Family members from very highly qualified workers are exempted from the requirement to prove German language skills (Kreuzhuber/Hudsky 2011: 141).

1.5. Integration of (highly) qualified third-country nationals and their family members

The topic of integration of (highly) qualified third-country nationals and their family members was raised as part of the amendments to the Aliens' Law in 2011 and the introduction of the RWR Card. Thus, during the development of the parameters of the criteria-based immigration system, not only aspects such as the impact on the labour market, the economic developments etc. were to be considered, but also *'the expected integration capacity'* of the immigrants.⁶¹

Correspondingly, potential immigrants can receive extra points for prior professional experience in Austria or German language skills.⁶² According to Heinz Kutrowatz from the Federal Ministry of Labour, Social Affairs and Consumer Protection, the possibility to receive additional points for German language skills and previous working experience in Austria is a result of different studies which outline the importance of local work experience and language skills.⁶³

Looking at the established points system, a simple calculation demonstrates what a difference the *'the expected integration capacity'* can make: This is most clearly visible in the case of very highly qualified workers; whereas one year of work experience in Austria would already score with the maximum of allowable points within the category of work experience (20

Residence Act (thus an 'extended' RWR Card or 'Residence permit – Researcher').

61 Act Governing the Employment of Foreign Nationals, Amendment, Ministerial Proposal, Introduction and Explanations, p.1, available at http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00250/fname_202076.pdf (last accessed on 24 September 2013). (Original German quote: „die zu erwartende Integrationsfähigkeit“).

62 See also admission criteria for very highly qualified workers, skilled workers in shortage occupations and other key workers, Annex A, B and C of the Act Governing the Employment of Foreign Nationals.

63 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

points), a very highly qualified worker without any working experience in Austria would have to dispose of at least 10 years of professional experience in order to receive the maximum number of points.⁶⁴

Furthermore, unrestricted access to the labour market for family members is considered to be an important integration measure. Thus, it is said in the ministerial draft amending the Aliens Employment Act: *‘With this provision an important integration measures, as addressed in the government programme and the National Action Plan for Integration, is realised. In this way, for the persons concerned, the livelihood opportunities through paid employment are significantly enhanced, thus improving their participation in economic and social life compared with the previous legislation.’*⁶⁵

1.6. Transposition of EU Directives and influence on national legislation

The EU’s legal framework on legal migration provides for harmonisation of admission and migrants’ rights concerning – amongst others – students, researchers and highly qualified workers. EU legislation is designed to facilitate the admission of these persons by harmonising entry and residence conditions throughout the EU and simplify admission procedures. In direct connection with (highly) qualified third-country nationals, the EU Blue Card Directive is the first instrument which provides for the harmonisation of national legislation regarding the immigration of this group of migrants. Given the Europe-wide shortage of (highly) qualified workers, the object of this directive is to improve the EU’s ability to attract (highly) qualified workers from third countries, but also to limit brain drain.

Since EU legislation provides for certain minimum requirements that have to be implemented by the EU Member States, it is in the context of

64 See also admission criteria for very highly qualified workers, Annex A of the Act Governing the Employment of Foreign Nationals.

65 Act Governing the Employment of Foreign Nationals, Amendment, Ministerial Proposal, Introduction and Explanations, p.11, available at http://www.parlament.gv.at/PAKT/VHG/XXIV/ME/ME_00250/fname_202076.pdf (last accessed on 24 September 2013). (Original German quote: *„Mit dieser Regelung wird eine im Regierungsprogramm und im Nationalen Aktionsplan für Integration angesprochene wichtige Integrationsmaßnahme verwirklicht. Für die Betroffenen werden dadurch die Möglichkeiten der Existenzsicherung durch eigene Erwerbstätigkeit wesentlich erweitert und so ihre Teilhabe am wirtschaftlichen und gesellschaftlichen Leben gegenüber der bisherigen Rechtslage deutlich verbessert.“*).

this study especially interesting to investigate, whether the transposition of relevant EU directives regarding (highly) qualified workers (e.g. EU Blue Card Directive, Researchers Directive etc.) has led to more favourable conditions for specific groups of (highly) qualified third-country nationals or has influenced the development of the national policy towards this group.⁶⁶

1.6.1. Students Directive⁶⁷

The Austrian provisions on labour market access for students who have completed the first stage of a diploma programme or a bachelor's degree programme are an example of more favourable conditions in Austria than required by EU law. Since July 2011, these students may receive employment permits for 20 hours per week without applying a labour market test; the Directive sets the minimum at 10 hours per week.⁶⁸ These provisions were introduced in the Austrian regime after the Commission had referred the Austrian case to the Court of Justice of the European Union (CJEU) (case C-568/10), claiming that Austria had failed to fulfil its obligations under Art. 17(1) of Council Directive 2004/114/EC by granting an employment permit only after the labour-market situation in Austria had been examined (Musil/Reyhani 2012: 57).

1.6.2. EU Blue Card and RWR Card

The EU Blue Card and the RWR Card were developed in parallel; the residence title 'EU Blue Card' was introduced at the same time that the RWR Card became effective.

The influence of the EU Blue Card Directive and its specifications on the development of the RWR Card cannot be determined unequivocally; for instance, according to Margit Kreuzhuber from the Austrian Federal Economic Chamber, the development of the RWR Card was influenced insofar as the EU Blue Card Directive did not meet all expectations. One

66 Interviewed experts were asked about the influence of European legislation on the Austrian policy towards highly qualified third-country nationals, and whether European legal standards have led to more favourable provisions for the persons concerned in Austria. The following directives were provided as examples: Researchers Directive, EU Blue Card Directive, Students Directive and Single Permit Directive.

67 Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

68 Art. 17(2) of the Directive 2004/114/EC.

of the shortcomings she mentioned was the given salary threshold which is set at a very high rate and does not reflect the realities of the Austrian labour market, where the medium segment is particularly in demand.⁶⁹ Heinz Kutrowatz from the Federal Ministry of Labour, Social Affairs and Consumer Protection indicated that the national demand and its specifics were probably more decisive for the development of the national policy than the developments of the EU Blue Card directive.⁷⁰ Tamara Völker from the Federal Ministry of the Interior saw the dominance of European legislation as negligible when it comes to the RWR Card, which she declared to be a purely national product.⁷¹

Persons who meet the requirements for an EU Blue Card will in most cases also be eligible to receive a RWR Card. The advantages of an EU Blue Card compared to the RWR Card are limited. Slight advantages arise when it comes to intra-EU mobility and – due to the possibility to accumulate periods of residence with an EU Blue Card in different EU Member States – the acquisition of a permanent residence title (Schumacher/Peyrl/Neugschwendtner 2012: 92). For this reason, the amount of applicants for an EU Blue Card was not expected to be very high (ibid; Kreuzhuber/Hudsky 2011: 114).

Looking at the numbers for the first RWR Cards issued compared to the first EU Blue Card issued in 2011⁷² and 2012, this prediction can at this point in time be confirmed. Thus, in 2011, 375 RWR Cards and 36 EU Blue Cards were issued, and in 2012 the number of RWR Cards issued amounted to 1,077 compared to 116 EU Blue Cards.⁷³

1.7. Relations with third countries

In the past, Austria fostered an active recruitment policy towards foreign workers from certain third countries; in the 1960s Austria signed recruit-

69 Margit, Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 26 March.

70 Heinz, Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

71 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April.

72 The titles 'Red-White-Red Card' and 'EU Blue Card' were introduced on 1 July 2011.

73 Federal Ministry of the Interior, Aliens' Statistics, Settlement and Residence Statistics 2011 and 2012. See also http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2011/Niederlassungs_und_Aufenthaltsstatistik_2011.pdf and http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2013/Niederlassungs_und_Aufenthaltsstatistik_Jahr_2012.pdf (last accessed on 27 September 2013).

ment agreements with Spain (1962), Turkey (1964) and Yugoslavia (1966) to actively recruit so-called ‘guest workers’ (Fassmann/Stacher 2003: 21). The recruitment and the immigration of these guest workers was organised by means of specially created offices on-site (Matuschenk 1985:170 quoted Münz/Zuser/Kytir 2003:22). Workers from Turkey and the former Yugoslavia particularly contributed to an increase in labour immigration to Austria (Fassmann/Stacher 2003: 21-32). This policy was maintained up until the late 1980s, due to economic downturn in the mid-1970s and the entrance of the baby boomer generation on the domestic labour market; however, the demand for foreign workers was less pronounced (Biffl et al. 2010: 19). Since then, Austria has not pursued an active recruitment policy from particular third countries.

Nowadays, according to the Federal Ministry of the Interior and the Federal Ministry of Labour, Social Affairs and Consumer Protection, the Austrian immigration policy in general, and the RWR Card in particular, do not focus on certain third countries. There are no bilateral immigration agreements.⁷⁴ In this context, Tamara Völker from the Federal Ministry of the Interior declared that under the principle of equal treatment of foreigners it is prohibited to treat third-country nationals, on the basis of their specific nationality, differently.⁷⁵

Margit Kreuzhuber from the Austrian Federal Economic Chamber stated that, although from the legal perspective no differentiation between third-country nationals is made, targeted information policy in certain regions should be implemented and can have an indirect regulating effect on immigration to Austria from these third countries.⁷⁶ According to Alexandra Schöngrundner, from the Federation of Austrian Industries, a more focussed attraction towards certain third countries would be welcome. In particular, Central and Eastern European countries as well as countries of the Black Sea region – where Austrian businesses progressively increase their investment activities – should be addressed more intensively.⁷⁷

74 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

75 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April.

76 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 26 March 2013.

77 Alexandra Schöngrundner, Federation of Austrian Industries, Vienna, 5 April 2013.

1.7.1. Mobility Partnerships

Legal migration, including labour migration, is an integral part of the EU's cooperation and dialogue with third countries in the area of migration and mobility, and a key area of the EU's external migration policy as defined through the Global Approach to Migration and Mobility (GAMM).⁷⁸ Organising and facilitating legal migration and mobility of (highly) qualified third-country nationals and others is one of the four priority areas of the GAMM: Mobility Partnerships are in this context an important tool. These are bilateral agreements between the EU and interested Member States, on the one hand, and selected third countries on the other. Mobility Partnerships are based on mutual commitments, but remain formally non-binding. In the framework of Mobility Partnerships, for example, Migration and Mobility Resource Centres should be set up in partner countries to serve as a first contact point for third-country nationals already in the country of origin and provide information on the recognition of their qualifications or the acquisition of further competences that are demanded in the EU; however, pre-departure, return or reintegration measures should also be provided (COM (2011) 743 final: 7-14). At the moment, the EU and different EU Member States are implementing Mobility Partnerships with Cape Verde, the Republic of Moldova, Georgia, Armenia and Morocco.⁷⁹

For the time being, Austria has not concluded Mobility Partnerships with third countries. The discussions to join this initiative were initiated in September 2007 by Benita Ferrero-Waldner in her function at that time as European Commissioner for External Relations and European Neighbourhood Policy. According to Ferrero-Waldner, Mobility Partnerships would follow the aim to contain irregular migration, foster legal migration and to potentially encounter labour shortages in certain employment sectors. Among national policy makers, however, the initiative was received restrainedly. Christine Marek (ÖVP), State Secretary for Economic and Employ-

78 European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and the Committee of the Regions The Global Approach to Migration and Mobility*, COM(2011) 743 final, 18 November 2011, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0743:FIN:EN:PDF> (last accessed on 13 September 2013).

79 See also http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration/specific-tools/index_en.htm (last accessed on 13 September 2013).

ment Affairs at that time, proclaimed that the conclusion of Mobility Partnerships with adjacent states from Eastern Europe and North Africa is not an issue for Austria. Under the aspect of the gradual opening of the Austrian labour market for citizens of the new EU Member States in Eastern Europe, it would be too early for such a move. Only after the opening of the labour market would it be necessary to assess whether there are still qualifications and skills lacking to satisfy the national labour demand.⁸⁰

Correspondingly, from side of the interviewed experts, Austria's approach towards Mobility Partnerships was described as restrained. This was on the one side explained with the general rejection of preferential treatment of one country over the other,⁸¹ and on the other side with the associations of Mobility Partnerships with the guest worker model of the 1970s.⁸² Although no Mobility Partnerships were thus far concluded, there is the possibility that Austria might pursue another approach in the future if this tool continues to develop positively on the European level.⁸³

1.7.2. Brain drain and brain circulation

The EU's policy approach in the area of (highly) qualified migration is on the one hand designed to be increasingly more attractive for (highly) qualified workers, yet on the other hand the aspect of 'brain drain' in the countries of origin of these workers is taken into account. Thus, for example, in the Communication from the Commission on immigration, integration and employment it is stated: *'The recourse to immigrants should not be detri-*

80 This information is only based on media coverage, see Die Welt, *Zuzug in die EU soll erleichtert werden*, 2 September 2009, available at <http://www.welt.de/politik/article1152822/Zuzug-in-die-EU-soll-erleichtert-werden.html> (last accessed on 28 May 2013); ORF.at, *Mobilitätspartnerschaften mit Drittstaaten*, available at http://news1.orf.at/070903-16136/?href=http%3A%2F%2Fnews1.orf.at%2F070903-16136%2F16137txt_story.html (last accessed on 28 May 2013).; Wiener Zeitung, *EU will sich den Nachbarn öffnen*, 3 September 2007, available at http://www.wienerzeitung.at/nachrichten/archiv/96509_EU-will-sich-den-Nachbarn-oeffnen.html (last accessed on 28 May 2013).

81 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

82 Margit Kreuzhuber, Austrian Federal Economic Chamber, 28 March 2013 and Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

83 Tamara Völker, Austrian Federal Ministry of the Interior, 10 April 2013.

*mental to developing countries, particularly with respect to the brain drain.*⁸⁴ Also, as aforementioned, the EU Blue Card Directive aims to reduce brain drain. The following section will therefore discuss if or to what extent the Austrian policy to attract (highly) qualified third-country nationals takes this aspect into consideration.

According to Margit Kreuzhuber, ‘ethical recruitment’⁸⁵ or brain drain has not been a significant subject of discussion at the federal level because the RWR Card is not considered to be a recruitment policy.⁸⁶ Tamara Völker underlined this statement by saying that Austria does not actively recruit certain professional groups in the countries of origin (i.e. the graduate nurses from the Philippines); thus, the motives for brain drain considerations were consequently small.⁸⁷ Johannes Peyrl added that the extent of (highly) qualified third-country nationals immigrating to Austria is hardly on a level where it would have a substantial impact.⁸⁸

Even if such considerations do not figure as part of the RWR Card, interviewed experts gave indications that generally there is an approach not to absorb labour force from other countries where it is locally needed:

In reference to foreign graduates, Heinz Kutrowatz reasoned that principally there is an approach not to absorb labour force where it is locally needed and referred in this connection to specific fellowship contracts, which should guarantee that gained knowledge could be used in the respective home countries.⁸⁹

Margit Kreuzhuber explained that, for the Austrian Federal Economic Chamber, brain drain is a matter of consideration. In 2012 the Austrian Federal Economic Chamber conducted an analysis via their foreign trade

84 European Commission, *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee of the Regions on immigration, integration and employment*, COM (2003) 336 final, 3 June 2003, page 16, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2003:0336:FIN:EN:PDF> (last accessed on 25 September 2013).

85 This term is used in the Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (see for example Art. 3 paragraph 3 and Art. 7 paragraph 4) and has been taken up by the interviewer during the expert interview.

86 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

87 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

88 Johannes Peyrl, Vienna Chamber of Labour, Vienna, 26 March 2013.

89 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

centres in selected third countries.⁹⁰ The aim of the analysis was to assess which third countries could be of particular interest regarding qualifications that are in demand on the Austrian labour market. Third countries were examined on the basis of demographic developments, skills compositions, availability of qualifications, level of unemployment, national labour market demand and availability of language courses. When third countries exhibit similar demand structures for qualifications, recruitment becomes more problematic and less attractive. When the labour market demands are however complementary and the third-country exhibits low employment rates, more active recruitment would lead to significant mutual benefits for both countries. The acquired knowledge subsequently ought to advise employers on what to pay particular attention to when recruiting from certain third countries. In this context and in the light of what has been raised already in the discussion paper, as mentioned above, the potential problem of brain drain is circumvented in advance.⁹¹

1.8. Public debate⁹²

The topic of (highly) qualified immigration to Austria in general and in the specific context of the RWR Card received increasingly more attention in the medial discourse after the official launch of the development of the RWR Card on the part of the Federal Ministry of the Interior on 26 January 2009.⁹³ During this early development phase, the media predominantly captured the divided sentiment in Austria among the relevant stakeholders, opposition parties and academics regarding the introduction of the RWR

90 According to Margit Kreuzhuber (Austrian Federal Economic Chamber, Vienna, 28 March 2013), this was not an official study but an internal analysis that is not publicly available.

91 Ibid.

92 In the framework of a continuous media monitoring, press articles dealing with migration and asylum issues were collected over the past years from the main daily and weekly newspapers (Daily newspaper: Der Standard, Die Presse, Kleine Zeitung, Kurier, Kronenzeitung, Österreich, Salzburger Nachrichten, Wiener Zeitung; Weekly newspaper: Falter, News, Profil, Format). These articles have now been analysed in order to outline the public debate regarding the RWR Card from 2009 to date.

93 Federal Ministry of the Interior, *Pressekonferenz der Frau Bundesminister für Inneres Dr. Maria Fekter. Start der Umsetzung der Rot-Weiss-Rot Card. Weitere Vorgangsweise bei der Neuregelung des humanitären Aufenthaltes*. 26 January 2009, Press Release, available at <http://www.bmi.gv.at/cms/cs03documentsbmi/636.pdf> (last accessed on 26 June 2013).

Card: Whereas representatives of industry and business received the Austrian government's initiative very positively,⁹⁴ the prevailing mood among representatives from the Austrian Trade Union Federation was rather sceptical, questioning the increased demand for immigration to Austria and underlining the danger of wage and social dumping.⁹⁵ Based on the arguments that Austria was not a country of immigration; on rising unemployment numbers; and the increased burden on the Austrian social and health system, the Austrian Freedom Party (FPÖ) and Alliance for the Future of Austria (BZÖ) evaluated the RWR Card as going too far.⁹⁶ Conversely, the Green Party denounced the proposal as being still too restrictive.⁹⁷ In 2009 the general utility of the RWR Card was debated in the media.

In the following years – with the progressive acquaintance of the RWR Card and its features – its specificities were politically discussed. The correspondences of the relevant committees of the National Council provide amongst others information on the topics that were intensively discussed prior to the resolution of the corresponding legislative changes. In summary, these related to: the positive development with regard to the immi-

94 Cf. Falter, *Gesucht: jung weiß christlich. Die Regierung wagt mit der Rot-Weiß-Rot-Card einen Paradigmenwechsel in der Zuwanderungspolitik. Wie schaut der perfekte Ausländer aus?*, July 2009, available at <http://www.falter.at/falter/2009/02/10/gesucht-jung-weiss-christlich/>; Wiener Zeitung, *Zuwanderer kommen nicht ohne Anreize, Warten auf die Rot-Weiß-Rot Card*, 27 July 2010, pp.1/8; Salzburger Nachrichten, *Österreich fehlen Arbeitskräfte*, 28 July 2010, p.2; Profil, *Gescheit gescheitert*, 9 August 2010, p.22-26.

95 Cf. Krone.at, *Fekter: Rot-Weiß-Rot-Card kommt schon 2010*, 27 January 2009, available at http://www.krone.at/Oesterreich/Fekter_Rot-Weiss-Rot-Card_kommt_schon_2010-Austro-Greencard-Story-130774 (last accessed on 2 July 2013); Die Presse, *„Rot-Weiß-Rot-Karte“ soll Zuwanderung neu regeln*, 26 January 2009, available at <http://diepresse.com/home/politik/innenpolitik/447017/RotWeissRotKarte-soll-Zuwanderung-neu-regeln> (last accessed on 28 May 2013); Die Presse, *Kriterienkatalog für Zuwanderer: ÖGB skeptisch*, 15 February 2010, available at <http://diepresse.com/home/politik/innenpolitik/539673/Kriterienkatalog-fuer-Zuwanderer-OeGB-skeptisch> (last accessed on 28 May 2013); Österreich, *Rot-Weiß-Rot-Card für Ausländer, Ausländer sichern unser Sozialsystem*, 27 July 2010, p.4-5; Die Presse, *Koalition will um Migranten werben*, 27 July 2010, p.1.; Österreich, *AK-Tumpel stellt sich strikt gegen Zuwanderung!*, 28 July 2010, p.5.

96 Die Presse, *„Rot-Weiß-Rot-Karte“ soll Zuwanderung neu regeln*, 26 January 2009, available at <http://diepresse.com/home/politik/innenpolitik/447017/RotWeissRotKarte-soll-Zuwanderung-neu-regeln> (last accessed on 28 May 2013);

97 Salzburger Nachrichten, *„Brauchen Einwanderungsgesetz“*, 28 July 2010, p.2.; Der Standard, *Die Besten gehen dorthin, wo sie willkommen sind*, 28 July 2010, p.7; Wiener Zeitung, *Grüne kritisieren Rot-Weiß-Rot-Card*, 16 December 2010, p.9.

gration of skilled workers, with the RWR Card as a „milestone“ (ÖVP / SPÖ); criticism of the differentiation of (highly) qualified in different categories and the lack of a guarantee of permanent residence (Green Party); positive development in terms of easier access to the labour market for family members (Green Party) as well as demands to extend the transition period for the opening of the labour market for the new EU-8-citizens (FPÖ) to avoid displacement effects of Austrian workers and wage dumping (BZÖ).⁹⁸

Despite partially conflicting public and political debates, the RWR card – as the new criteria-led immigration system – found basically broad social acceptance.

98 Parliament correspondence No. 243, *Arbeitsmarktzugang für AusländerInnen wird neu geregelt*, 15 March 2011, available at http://www.parlament.gv.at/PAKT/PR/JAHR_2011/PK0243/index.shtml (last accessed on 26 June 2013); Parliament correspondence No. 242, *Opposition kritisiert sozialpolitische Maßnahmen der Bundesregierung*, available at http://www.parlament.gv.at/PAKT/PR/JAHR_2011/PK0242/index.shtml (last accessed on 26 June 2013).

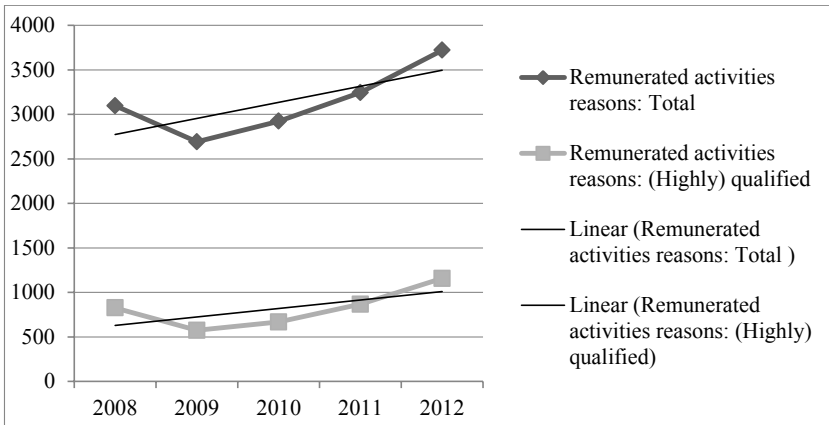
2. EVALUATION AND EFFECTIVENESS OF MEASURES FOR ATTRACTING (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS

2.1. Trends in labour immigration from third countries

The general trend in labour immigration from third countries to Austria over the period from 2008 to 2012 was positive. When examining first permits issued for remunerated activities as displayed in the figure below, it can be found that the trend in immigration of (highly) qualified third-country nationals reflected the overall immigration for remunerated activities from third countries (including highly qualified, researcher and other remunerated activities). During that period, (highly) qualified third-country nationals made up on average around 25.8 per cent of the overall immigration for remunerated activities from third countries to Austria.

The positive trend was, however, interrupted in 2009, when there was a decrease in both first permits issued for all remunerated activities and for (highly) qualified third-country nationals (2008: 3,096 and 827 respectively; 2009: 2,692 and 575 respectively). This decline is certainly related to the global economic crisis of mid-2008, which had a negative impact on the labour markets of the EU Member States and thereby led to a declining demand for migrant workers. In consequence, immigration decreased and the immigration numbers registered were lower in 2009 than in 2008. This is particularly true for immigration for remunerated activities (IOM 2010: 3-4; 39). However, beyond labour migration, a decline can also be observed in the share of (highly) qualified within the overall immigration for remunerated activities from third countries to Austria during that period; namely from 27 per cent in 2008 to 21 per cent in 2009 and 23 per cent in 2010. In 2011, this negative trend recovered and numbers continued increasing into 2012 (2011: 3,244 and 868 respectively; 2012: 3,721 and 1,158 respectively). In fact, with the regulation for skilled workers in shortage occupations entering into force in mid-2012, the RWR Card was now fully implemented after its introduction in July 2011.

Figure 1: First permits issued for remunerated activities, total and highly qualified, 2008-2012



Source: Eurostat

2.2. Evidence of effectiveness of the criteria-led immigration system based on statistics

In order to assess the effectiveness of the newly introduced criteria-led immigration system as described in the first section of the study, this section will present the scale and scope of (highly) qualified immigration to Austria over the period from 2008 to 2012, thereby drawing on national statistics on valid and issued RWR Cards.

2.2.1. Valid settlement permits

Looking at the number of valid settlement permits for (highly) qualified third-country nationals over the past five years as displayed in table 1 and figure 2 below, the following observations can be made:

The overall trend in valid settlement permits for (highly) qualified third-country nationals from 2008 to 2012 is slightly negative. The number decreased by around 4 per cent (or 58 permits) from 1,559 in 2008 to 1,501 in 2012. While between 2008 and 2010 the number of permits decreased by around 23 per cent (or 355 permits), it increased by around 33 per cent (or 400 permits) between 2010 and 2011, reaching the highest number (1,604 permits) within the given five year time frame in 2011. The number then dropped again by around 6 per cent (or 103 permits) between 2011 and 2012. Hence, the only increase happened in 2011 when

the new residence title for (highly) qualified third-country nationals, the RWR Card, was introduced on 1 July 2011. Additionally, in 2011, when the new residence title was introduced, the total number of valid settlement permits for (highly) qualified third-country nationals was made up of more 'old' than 'new' permits (the title settlement permit key worker made up around 63 per cent).⁹⁹

Table 1: Valid settlement permits for (highly) qualified third-country nationals, 2008-2012

| Year /Residence title | 2008 | 2009 | 2010 | 2011* | 2012 |
|---|-------|-------|-------|-------|-------|
| Settlement permit key worker (employed and self-employed) | 1,559 | 1,300 | 1,204 | 1,004 | 1 |
| Red-White-Red Card | - | - | - | 600 | 1,500 |
| TOTAL | 1,559 | 1,300 | 1,204 | 1,604 | 1,501 |

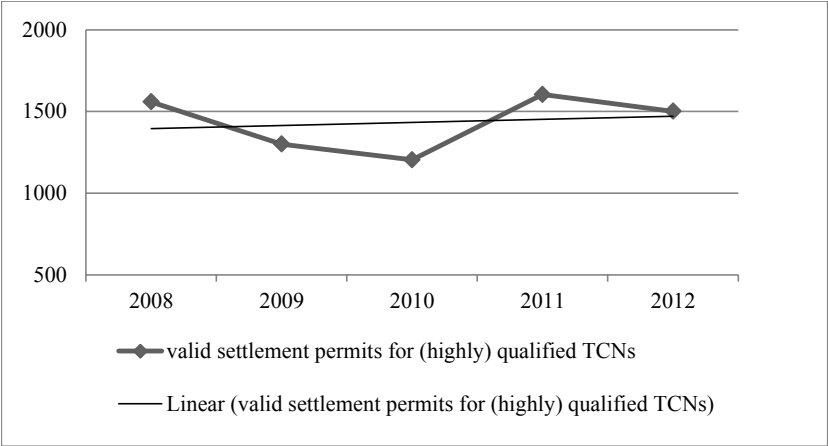
* On 1 July 2011, the residence title 'settlement permit key worker' was abrogated, but some were still valid because they had a duration of validity of 18 months; at the same time, the title 'Red-White-Red Card' was introduced. However, the regulation for skilled workers in shortage occupations entered into force only on 16 June 2012, which means that the title was only issued from this day on (with very few exceptions).

Source: Federal Ministry of the Interior, Aliens' Statistics 2008-2010, Settlement and Residence Statistics 2011 and 2012.

Despite the overall negative trend regarding valid settlement permits for (highly) qualified third-country nationals over the past five years, it should be highlighted that there was one increase within this period which happened in 2011 when the new residence title for (highly) qualified third-country nationals, the RWR Card, was introduced. Furthermore, the number of titles is higher in the year after the introduction of the new residence title RWR Card (i.e. 2012) than in the year before the introduction (i.e. 2010). However, the number dropped again between 2011 and 2012.

99 Please note that the residence title 'settlement permit key worker' had a duration of validity of 18 months, which is why those issued in 2010 were still valid in 2011, while the 'new' residence title valid in 2011 was exclusively newly issued.

Figure 2: Valid settlement permits for (highly) qualified third-country nationals, 2008-2012



Source: Federal Ministry of the Interior, Aliens' Statistics 2008-2010, Settlement and Residence Statistics 2011 and 2012.

2.2.2. First settlement permits issued

Based on the number of first settlement permits issued to (highly) qualified third-country nationals between 2008 and 2012 as displayed in table 2 and figure 3 below, the following observations can be made.

The overall trend in first settlement permits issued to (highly) qualified third-country nationals between 2008 and 2012 is positive. The number of first settlement permits issued to (highly) qualified third-country nationals increased by around 31 per cent (or 254 permits) from 823 in 2008 to 1,077 in 2012. While between 2008 and 2009 the number of permits issued decreased by around 34 per cent (or 278 permits), it increased by around 98 per cent (or 532 permits) between 2009 and 2012, reaching the highest number (1,077 permits) within the given five year time frame in 2012. Taking a closer look at the latter period of increase, it can be asserted that the highest increase of first settlement permits issued to (highly) qualified third-country nationals took place between 2010 and 2011 (an increase of around 35 per cent), while the increase between 2011 and 2012 was slightly less (around 30 per cent).

In 2011, when the new residence title was introduced, the total of first settlement permits issued to (highly) qualified third-country nationals was

made up of more ‘old’ than ‘new’ permits (the title settlement permit key worker made up around 55 per cent).¹⁰⁰

Table 2: First settlement permits issued to (highly) qualified third-country nationals, 2008-2012

| Year /Residence title | 2008 | 2009 | 2010 | 2011* | 2012 |
|---|------|------|------|-------|-------|
| Settlement permit key worker (employed and self-employed)** | 823 | 545 | 610 | 451 | - |
| Red-White-Red Card | - | - | - | 375 | 1.077 |
| TOTAL | 823 | 545 | 610 | 826 | 1.077 |

* On 1 July 2011 the residence title , Settlement permit key worker’ was abrogated; at the same time, the titles ‘Red-White-Red Card’ and ‘EU Blue Card’ were introduced.

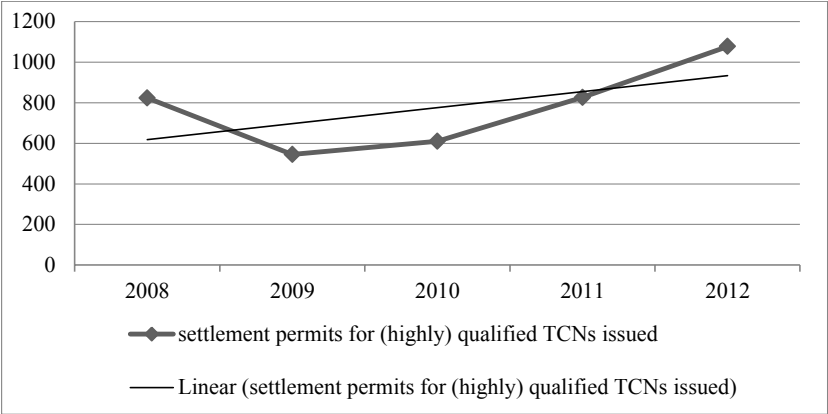
** Please note that the quotas for the years 2008 to 2011 were not exhausted.

Source: Federal Ministry of the Interior, Aliens’ Statistics 2008-2010, Settlement and Residence Statistics 2011 and 2012.

The overall trend of first settlement permits issued to (highly) qualified third-country nationals between 2008 and 2012 is positive. The highest increase took place between 2010 and 2011, the year when the RWR Card was introduced, but then slightly decreased between 2011 and 2012, despite the fact that the regulation for skilled workers in shortage occupations entered into force on 16 June 2012, which means that from that day on, also this title was issued.

100 Please note that the residence title ‘settlement permit key worker’ had a duration of validity of 18 months, which is why those issued in 2010 were still valid in 2011, while the ‘new’ residence title valid in 2011 was exclusively newly issued.

Figure 3: First settlement permits issued to (highly) qualified third-country nationals, 2008-2012



Source: Federal Ministry of the Interior, Aliens' Statistics 2008-2010, Settlement and Residence Statistics 2011 and 2012

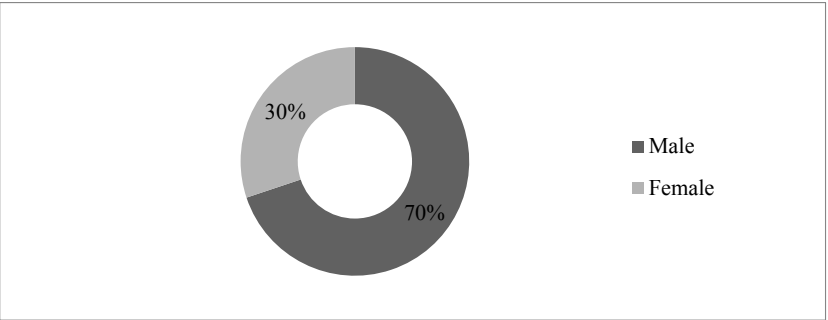
2.3. Characteristics of (highly) qualified immigration under current policies and related measures

After examining the RWR Cards valid in 2012, the following characteristics of (highly) qualified immigration towards Austria can be assessed.

Sex:

In 2012, out of the 1,500 RWR Card holders, 1,048 RWR Card holders were male (i.e. around 70 per cent) and only 452 were female (i.e. around 30 per cent).¹⁰¹

Figure 4: Valid Red-White-Red Cards by sex, 2012



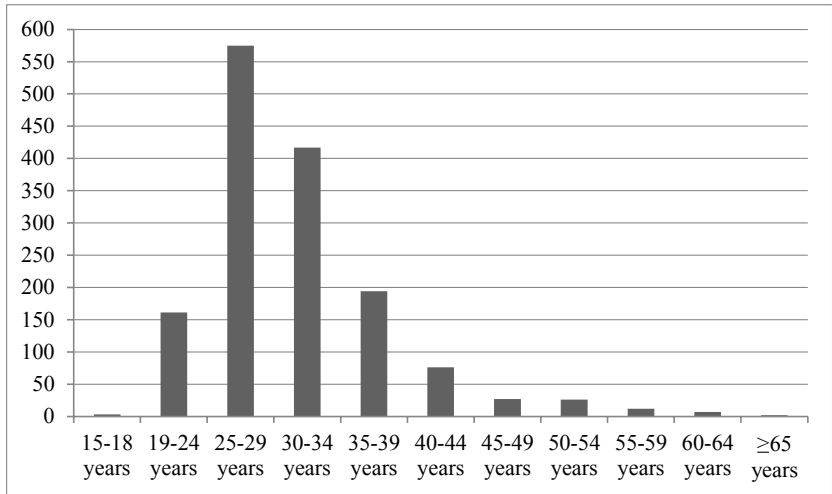
Source: Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

101 Austrian Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

Age:

Figure 5 indicates that the two largest groups of the RWR Card holders were 25 to 29 year olds (575 third-country nationals, representing around 39 per cent of all RWR Cards holders) and 30 to 34 year olds (417 cards or around 28 per cent). This can be explained by the fact that RWR Card applicants who have to comply with the points-based system (i.e. very highly qualified, skilled workers in shortage occupations and other key workers) receive the most points if they are younger than 30 (or 35 in case of very highly qualified workers) and the second most points if they are between the age of 30/35 and 40. This certainly has an impact on the age structure of the RWR Card holders as described.¹⁰²

Figure 5: Valid Red-White-Red Cards by age group, 2012



Source: Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

According to Margit Kreuzhuber from the Austrian Federal Economic Chamber, currently, qualified individuals with a completed apprenticeship (but no university degree) above the age of 40 have essentially no possibility

102 See also admission criteria for very highly qualified workers, skilled workers in shortage occupations and other key workers, Annex A, B and C of the Act Governing the Employment of Foreign Nationals.

to receive a RWR card, because they cannot receive the minimum required points;¹⁰³ a fact which has been criticised.¹⁰⁴

Nationality:

As figure 6 shows, the biggest group of RWR Card holders in 2012 came from Bosnia and Herzegovina with 12,6 per cent, followed by nationals from Croatia¹⁰⁵ with 10,47 per cent. Both are succession states of former Yugoslavia, a traditional region of origin that shares a long migration history with Austria (see also 1.7. 'Relations with third countries'). Already in the 1960s when Austria signed an agreement with Yugoslavia and started to actively recruit workers, migrants from this region contributed significantly to an increase in labour immigration in Austria. Later, when war broke out in Bosnia and Herzegovina and in Croatia, forced migration to Austria increased dramatically. However, economic growth in Austria since the end of the 1980s also led to increased labour immigration and towards the end of the 1990s, and the succession states of former Yugoslavia made up more than one fourth of immigration to Austria (Fassmann/Stacher 2003: 21-32).

Together, nationals of the succession states of former Yugoslavia (Bosnia and Herzegovina, Croatia, Serbia, Former Yugoslav Republic of Macedonia, Kosovo¹⁰⁶ and Montenegro) made up 36.47 per cent of all RWR Card holders in 2012.

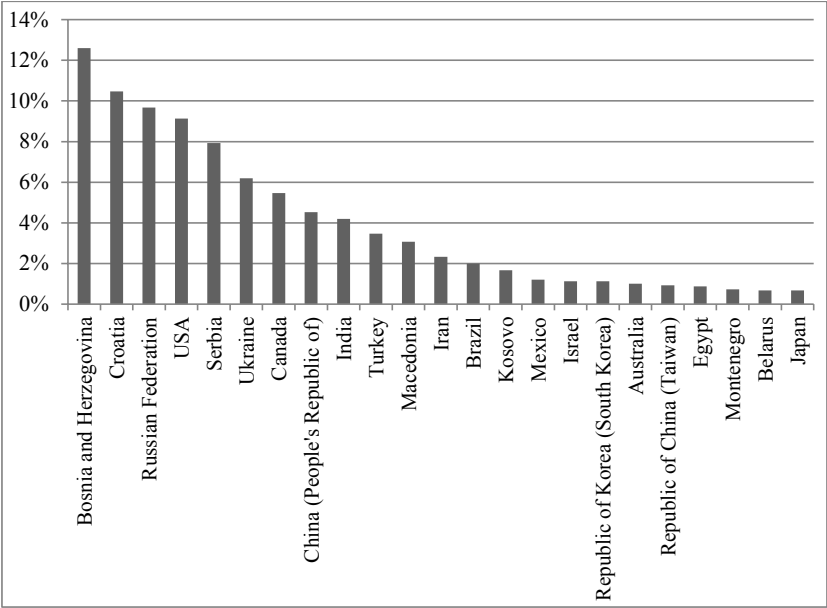
103 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

104 Federation of Austrian Industries and State Secretariat for Integration, *Qualifizierte Zuwanderung attraktiv gestalten. Strategien für eine zukünftige Migrationspolitik*, press briefing, 6 May 2013, p.2, available at http://www.iv-net.at/d3745/qualifizierte_zuwanderung_attraktiv_gestalten.pdf (last accessed on 26 June 2013).

105 Since 1 July 2013 the Republic of Croatia is a member of the European Union. For more information on the labour market access of Croatian citizens in Austria see: WKO, *EU-Beitritt Kroatiens, Ausländerbeschäftigung*, 11 June 2013, available at http://portal.wko.at/wk/format_detail.wk?angid=1&ctid=736029&dstd=2686 (last accessed on 9 September 2013). or BMASK, GZ: BMASK-435.006/0011-VI/B/7/2013, *Betreff: EU-Beitritt der Republik Kroatien; AuslBG-Novelle BGBl. I Nr. 73/2013; Durchführungserlass*, 6 June 2013.

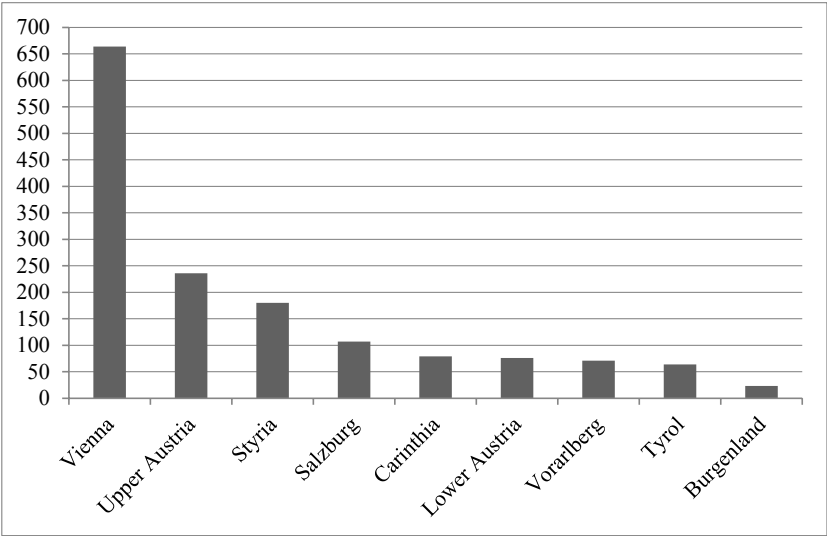
106 Under UN Resolution 1244, hereafter referred to as Kosovo.

Figure 6: Valid Red-White-Red Cards by nationality, 2012



Source: Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

Figure 7: Valid Red-White-Red Cards by federal province, 2012



Source: Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

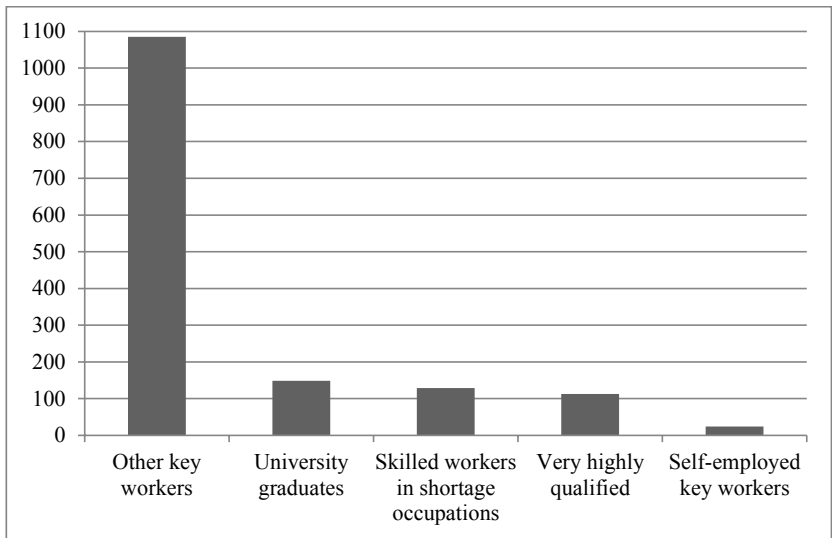
Geographical distribution:

As displayed in figure 7, the majority of RWR Card holders resided in Vienna (664 cards or around 44 per cent) as the main economic area. Vienna was followed by Upper Austria (236 cards or around 16 per cent) and Styria (180 cards or 12 per cent).

Reason:

Figure 8 shows that in 2012, the big majority of RWR Card holders were from the category ‘other key workers’ (1,085 or around 72 per cent). University graduates, skilled workers in shortage occupations¹⁰⁷ and very highly qualified third-country nationals were almost equally represented (between around 8 and 10 per cent). Among RWR Card holders, there were almost no self-employed key workers (only 24 or around 2 per cent).

Figure 8: Valid Red-White-Red Cards by reason, 2012



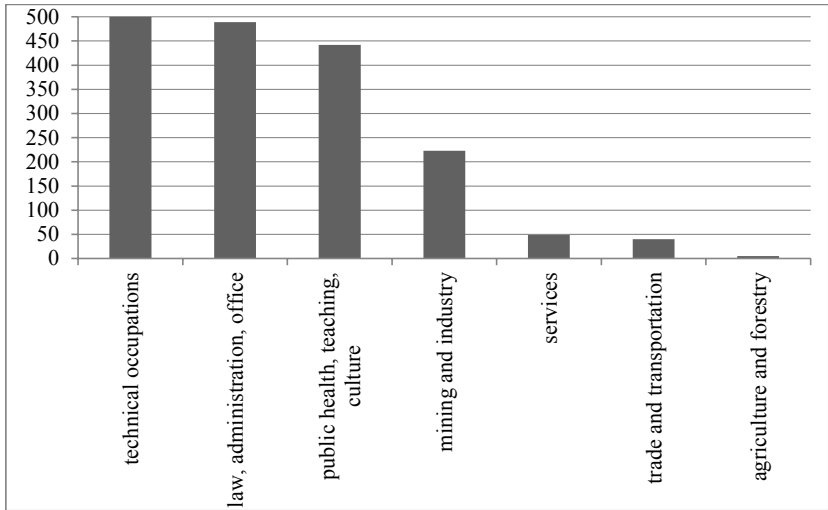
Source: Federal Ministry of the Interior, Settlement and Residence Statistics 2012.

107 Please note that the regulation for skilled workers in shortage occupations entered into force on 16 June 2012; the title was only issued from this day on (with very few exceptions).

Occupational group:

In 2012, as figure 9 shows, RWR Cards were mainly granted to third-country nationals working in (i) technical occupations, (ii) occupations in the areas of law, administration, office, and (iii) in occupations in the areas of public health, teaching and culture.

Figure 9: Valid Red-White-Red Cards by occupational groups, 2012



Source: Federal Ministry of Labour, Social Affairs and Consumer Protection, positive certificates Red-White-Red Card.

It follows that the typical (highly) qualified immigrant in Austria in 2012 was a male between the age of 25 and 29 who came from Bosnia and Herzegovina and who is employed as key worker in a technical occupation, living in Vienna.

2.4. Other methods of evaluation

Prior to the implementation of the RWR Card, in 2010 the Danube University Krems together with the Institute for Advanced Studies (IHS) conducted a study¹⁰⁸ to assess the potential impact of a change of the Austrian

108 Biffl et al (2010). *Potentielle Auswirkungen einer Änderung der österreichischen Migrationspolitik in Richtung qualifizierte Zuwanderung auf das mittel- bis langfristige Wirtschaftswachstum (Prognosehorizont 2050)*, Krems, September 2010, available at <http://www.donau-uni.ac.at/imperia/md/content/departement/migrationglobalisierung/for->

immigration policy regarding (highly) qualified immigration on medium- and long-term economic growth.

The study found, amongst other things, that by establishing a criteria-based immigration system, the annual immigration of (highly) qualified third-country nationals could increase from 1,000 in 2010 to 8,000 in 2030. During the initial phase, the annual immigration may reach 5,000 by 2015 and then increase towards 8,000 per year between 2020 and 2030 (Biffl et al. 2010: 8, 28).

Such an increase would, however, only be possible if the criteria-based immigration system is accompanied by other measures, such as a standardised (i.e. adaptation to the European Qualifications Framework – EQF) and thus facilitated recognition of skills, an opening of internal labour markets, the provision of framework conditions such as flexible forms of work and employment and flexible residential arrangements as well as childcare and elderly care facilities. In addition, the support of trade delegations and Austrian representations in countries that can be regarded as economic partners and a source of human capital are mentioned as necessary measures (Biffl et al. 2010: 8, 12, 27).

A thorough evaluation of the RWR Card as a whole was not available at the time of writing this study. Only a study of the Austrian Institute of Economic Research, commissioned by the Federal Ministry of the Interior, draws on the basis of available statistics at that time some conclusions on the RWR Card.¹⁰⁹ The study showed that after one year of the introduction of the new residence titles for (highly) qualified third-country nationals, at the end of June 2012, there were 1,233 RWR Card holders compared to 1,417 valid ‘settlement permit key worker’ by June 2011 (Biffl / Bock-Schappelwein 2012: 63, 66).

The study came to the conclusion that the introduction of the RWR Card and RWR Card plus led to facilitated residence and access to the labour market for some migrant groups (mainly family members and graduates from Austrian universities), but that there was no increase in the

schung/wko-duk-ihs-gesamtbericht-migrationspolitik.pdf (last accessed on 28 May 2013).

109 Austrian Institute of Economic Research, *Zur Niederlassung von Ausländerinnen und Ausländern in Österreich*, August 2012, available at http://www.bmi.gv.at/cms/BMI_Niederlassung/statistiken/files/2012/Endbericht_zur_NLV_2013.pdf (last accessed on 4 March 2013).

immigration of (highly) qualified third-country nationals (Biffel/Bock-Schappelwein 2012: 66, 68). At this point it was, however, acknowledged that it was probably too early to draw a conclusion in mid-June 2012, since the regulation for skilled workers in shortage occupations – which only then allowed for the access of the category of skilled workers in shortage occupation to the RWR Card – became effective only two weeks before the collection of data, namely on 16 June 2012. (Biffel/Bock-Schappelwein 2012: 52).

2.5. Policy makers' or other stakeholders' experience

Overall, the RWR Card was positively evaluated from side of the interviewed experts. During two interviews, the statistics of the RWR Card were referred to as indicator for its effectiveness.¹¹⁰ The interview partners' statements, however, also indicated that the assessment based on statistics and numbers must be put in perspective. Thus, two interviewed experts highlighted that, when it comes to immigration, analysis should not merely be focussed on numbers; focus should, instead, be put on the satisfaction of labour that is in demand and for which there is an available workplace.¹¹¹ It was also mentioned that statements regarding the effectiveness might be constrained by the fact that many foreign workers who would have previously fallen under the key worker system in the meantime gained freedom of movement and therefore fall outside of the RWR Card system.¹¹²

110 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013 and Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

111 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013 and Johannes Peyrl, Vienna Chamber of Labour, Vienna, 26 March 2013.

112 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

3. CHALLENGES AND BARRIERS FOR ATTRACTING (HIGHLY) QUALIFIED THIRD-COUNTRY NATIONALS

In the following, possible challenges and barriers that may negatively affect the attractiveness of Austria for (highly) qualified third-country nationals are outlined. It has to be noted, that thus far no comprehensive evaluation in this regard has been carried out in Austria. While there are studies and reports that provide indications regarding challenges for immigrants to Austria in general, the analysis of such barriers for the specific group of (highly) qualified third-country nationals is constrained by limited literature on this topic. Therefore, the following findings primarily relate to challenges and barriers that were identified by the interviewed experts. Based on these assessments, national and international literature was additionally used in order to better contextualise the addressed topics and deliver a more comprehensive picture of the potential challenges and barriers that affect the attractiveness of Austria. Finally, public perception is considered on the basis of an analysis of the medial discourse regarding the various topics.

The following elaborations are not weighted according to decisiveness. For the purpose of better comprehension, the addressed topics were summed up in distinctive groups; however, some of the mentioned factors represent cross-cutting elements. Thus, for example, the topic of discrimination does not only figure as a separate category, but is equally addressed regarding the external and internal signal effect of Austria or the characteristics of the Austrian labour market.

Characteristics of the labour market

According to Biffl (2000: 207-226), the Austrian labour markets exhibit the segmentation of the labour force in so-called 'insiders' (privileged persons, employees with specific know-how, higher job security and wage stability) and 'outsiders' (non-privileged persons, unemployed persons, employees with high job insecurity and wage instability). Although this distinction also exists between domestic workers, this problem is particularly evident in association with the employment of foreign nationals. Thus, foreign workers are relatively marginalised in the workforce due to, among

other things, their legal situation, since limited work permits create more job insecurity and wage instability. Consequently, they are less involved in career and wage ladders (ibid.: 207).

While the reasoning outlined above concerns foreign workers in general, also influenced by for example lower levels of qualifications, more recent publications (Biffl/Bock-Schappelwein 2006: 26) also refer to a similar challenge also in direct connection with (highly) qualified third-country nationals. Accordingly, it is argued that due to the hierarchical structure of internal labour markets and the importance of seniority rules,¹¹³ (highly) qualified workers might face entry barriers into higher career positions (cf. Biffl et al. 2010: 80).

However, since the segmentation of foreign workers described by Biffl and Biffl/Bock-Schappelwein was written prior to the amendments of the Aliens' Law in 2011, it cannot be clearly assumed that this argument is applicable also to (highly) qualified third-country nationals, within the scope of the RWR Card.

Language Skills

The majority of the interviewed experts identified the barrier of language as an influential factor. Language was on the one side recognised as a barrier when it comes to the collection of information and on the other side when professional language skills become necessary for the execution of a job.

To encounter the general language barrier for non-German speakers with regard to the sourcing of information, information needs to be available in several languages.¹¹⁴ According to one expert, in addition to the pro-

113 The 'principle of seniority' in the field of labour market economics signifies an increase in the duration of employment and is associated with increased employment entitlements (higher wages, greater job security, employment for supplementary services, preferential consideration for training, etc.), online Gabler economic dictionary, available at <http://wirtschaftslexikon.gabler.de/Definition/senioritaetsprinzip.html> (last accessed on 28 May 2013).

114 Heinz Kutrowatz (Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013) mentioned in this context that the language barrier is compensated with English information and counselling offers, which can also be found on the Austrian government's migration website (www.migration.gv.at). There are also information sheets of the Austrian Public Employment Service in several other languages, especially from main countries of origins of the skilled workers.

vision of information in English, other language versions should be provided to be attractive for highly qualified third-country nationals.¹¹⁵

Apart from that, language was mentioned as a particular challenge when German is required for the execution of the job.¹¹⁶ German is still often the primary working language. This can also be explained by the Austrian corporate structures; since it consists largely of small and medium-sized companies, German is still more common as working language than English.¹¹⁷ By contrast international experts often speak English rather than German as their second language, a trend which can be assumed to accelerate even more in the future.¹¹⁸

In international literature, language proficiency issues for highly skilled migrants are equally mentioned as a significant topic (cf. OECD 2009: 161-162, 164). According to Boeri et al (2012: 84) language can be an important factor especially for (highly) qualified workers. This is because highly educated individuals are typically employed in occupations where knowledge of the native language is necessary, compared to less educated workers who usually perform more physical jobs. The importance to share a common language is consequently considered to provide an explanation for the attractiveness of English-speaking countries for (highly) qualified migrants.

Remuneration and taxation

Heinz Kutrowatz from the Federal Ministry of Labour, Social Affairs and Consumer Protection underlined income as a decisive factor. Therein the low income as compared to international wages was mentioned as a factor that may negatively influences the attractiveness of Austria.¹¹⁹ Based on his

115 Margit Kreuzhuber (Austrian Federal Economic Chamber, Vienna, 28 March 2013), referred in this connection to the information provided on the Federal Government's official information website on migration, where next to German and English further languages could be included.

116 Alexandra Schönggrundner, Federation of Austrian Industries, Vienna, 5 April 2013.

117 Heinz Kutrowatz, Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013.

118 Ibid., explained in this context that the new EU citizens, especially from older generations, were partly able to speak German since it was often taught in school. Since nowadays English is generally taught, the trend goes towards English as the main second language. This is especially pronounced in the field of new technologies.

119 Referring to a recently published article, Heinz Kutrowatz (Federal Ministry of Labour, Social Affairs and Consumer Protection, Vienna, 17 April 2013) compared in

assessment this can also be seen against the background of the characteristics of the Austrian economic structure, which is small-sectioned and consists predominately of small and medium-sized enterprises (SMEs)¹²⁰ that can often not afford to remunerate as high as large enterprises.

In the media Austria was primarily compared to anglo-saxon countries where tax-rates are generally lower and therefore considered to be more attractive for (highly) qualified persons.¹²¹

According to a study from the Centre for European Economic Research (Elschner et al 2003) taxes are an important factor in the international competition for talent. Based on the BAK Taxation Index¹²² the study delivers information regarding the attractiveness of countries for (international) corporations based on taxes, and provides indications why some locations are potentially more attractive for (highly) qualified third-country nationals than others. The measurement of the effective tax burden on the employment of a highly skilled person follows the basic idea that employers compete internationally for (highly) qualified workers (ibid: 5). Since qualified workers are becoming increasingly more mobile, indicators suggest that they evaluate different job offers on the basis of income after taxes. Thus, for employers to remain attractive, they must compensate for taxes on labour income and tax-like social security contributions. For example, an employer in Singapore who wants to remunerate a (highly) qualified worker with a net disposable income of 100,000 EUR faces employment costs of 113,122 EUR, an employer in Belgium on the other hand faces more than double the amount (228,885 EUR) in order to provide its employee with the equivalent (BAK Taxation Index 2009).

this connection the higher wages for highly qualified persons in the United States of America with the generally lower wages in Austria for equally qualified persons.

120 Following the differentiation of the corporate landscape according to size, it can be said that the majority of Austrian firms are small in scale. According to the small business report 2012 published by the Federal Ministry of Economy, Family and Youth, at the end of 2011 about 408,100 enterprises were classified as small and medium-sized companies (SMEs); this amounts to 99.7 per cent of all Austrian enterprises of the business economy.

121 Salzburger Nachrichten, *Es fehlen die Fachkräfte*, 19 October 2010 p.13; Kronen Zeitung, *Die Suche nach echten Deppen*, 11 July 2011, p.W1.

122 The BAK Taxation Index calculates and examines the attractiveness of company taxation and on the employment of highly qualified workers in more than 80 locations of highly-industrialised countries, see also <http://baktaxation.ch/pages/english.php> (last accessed on 9 September 2013).

Following the tax policies analysis of the OECD for 2012, Austria was ranked as fifth of the 34 OECD member countries when it comes to tax burdens on labour income of a single person without children and on a single earner couple with two children respectively. With 48.9 per cent of labour income for a single average worker in 2012, only Belgium (56.0 per cent), France (50.2 per cent), Germany (49.8 per cent) and Hungary (49.4 per cent) imposed higher tax rates. With a tax burden of 38 per cent on a single earner couple with two children, Austria again ranks as fifth after France (43.1 per cent), Greece (43.0 per cent), Belgium (41.4 per cent) and Italy (38.3 per cent).¹²³

Recognition of qualifications and de-qualification

In recent years, several studies have mentioned the recognition of qualifications and practical experiences from the respective country of origin as problematic (Manolakos/Sohler 2005: 111; FRA 2010: 42; OECD 2012a: 34) and have underlined the need to reinforce measures to prevent overqualification in order to guarantee educationally adequate employment (Bock-Schappelwein et al. 2008: 172-183; Weiss/Kapeller 2012: 7-8). Huber et al. (2010: 188) refer in this context explicitly to the importance of facilitated recognition procedures for the attractiveness of Austria as a location for (highly) qualified workers.

As mentioned previously (see 1.4.2.), there have been measures to improve the recognition of qualifications from (highly) qualified third-country nationals; however, at this stage the effectiveness of these measures cannot be evaluated. Alexandra Schöngrundner from the Federation of Austrian Industries pointed out that more restrictive entrance requirements for (highly) qualified workers still exist in the case of regulated professions.¹²⁴ Bichl 2011 (In: Biffl et al. 2012: 78) equally notes that for immigrants who are subject to the RWR Card and wish to take up regulated professions, a formal recognition is still indispensable.

123 See OECD. Taxing Wages: Country note for Austria, available at <http://www.oecd.org/ctp/tax-policy/taxingwages-austria.htm> (last accessed on 9 September 2013).

124 Alexandra Schöngrundner (Federation of Austrian Industries, Vienna, 5 April 2013) mentioned in this context the recognition rules in the nursing sector where – depending on the federal state – different recognition rules apply.

Discrimination and xenophobia

According to a study conducted by the European Centre for Social Welfare Policy and Research (Manolakos/ Sohler 2005: 112) immigrants are frequently confronted with indirect discrimination in access to employment on the Viennese labour market. Discrimination in this connection is considered to be based on negative stereotypes and prejudice, which are reinforced by the social discourse (cf. *ibid*: 50-51).¹²⁵ The same study shows that discrimination with regard to career and intra-corporate advancement may equally be considered as a barrier; the results of a group discussion, which was conducted in the mentioned study, indicate that (highly) qualified academics estimate their career possibilities in Austria as generally low. Reference is made to the various factors that might hamper career advancement (e.g. hierarchical structures, small corporate structures and the lack of personal networks). Better opportunities for advancement are considered to exist in the country of origin or other EU countries (*ibid*: 102-103).

While studies often cite the problem of discrimination referring to 'immigrants' in general without distinguishing between EU/non-EU citizens and levels of qualification, Johannes Peyrl from the Vienna Chamber of Labour considered the topic of discrimination also problematic for the group of (highly) qualified third-country nationals.¹²⁶

Similar arguments can be found in the media. Herein, xenophobia as well as discrimination at the workplace are mentioned as factors that explain why (highly) qualified immigrants do not want to settle down in Austria or decide to move away again.¹²⁷ Referring to a publication of the Austrian Integration Fund (Potkanski 2010), which gives the indication

125 This argument is potentially constraint by the fact that the study refers not to the Austrian labour market as a whole but merely to the Viennese labour market and that there is no distinction between highly qualified and lower qualified immigrants.

126 Johannes Peyrl, Vienna Chamber of Labour, Vienna, 26 March 2013.

127 *Kleine Zeitung*, *Ausländer höchst begehrt*, 27 July 2010, available at <http://www.kleinezeitung.at/nachrichten/politik/2418955/auch-hundstorfer-fuer-geordnete-zuwanderung.story> (last accessed on 2 July 2013); OTS Press Release, *Frauenberger: Rot-Weiß-Rot-Card verfehlt bisher ihr Ziel*, 16 August 2012, available at http://www.ots.at/presseaussendung/OTS_20120816_OTS0125/frauenberger-rot-weiss-rot-card-verfehlt-bisher-ihr-ziel (last accessed on 2 July 2013); *Kurier*, *Sie kommen. Aber bleiben nicht*, 22 March 2013, available at <http://kurier.at/meinung/kolumnen/worklife/sie-kommen-aber-bleiben-nicht/6.321.285> (last accessed on 2 July 2013).

that (highly) qualified Turkish immigrants will increasingly emigrate from Austria, the discrimination experiences of immigrants with Turkish origin received particular attention in the media discourse.¹²⁸

Image, signal effect and processing of information

The signal effect of Austria towards (highly) qualified third-country nationals at the various levels was furthermore mentioned as a barrier to attracting (highly) qualified third-country nationals by Margit Kreuzhuber. According to Kreuzhuber, this includes for example the national public discourse, which is equally perceived abroad and can therefore be assumed to have an impact on an immigration decision. The provision and processing of information as well as the way in which immigrants are treated can be furthermore considered to have a signal effect. In this connection, the federal government's official information website on migration to Austria 'www.migration.gv.at/en/' was cited as a generally positive example when it comes to the provision of information. However, by processing the information to include additional languages, the positive signal effect could be even further developed. In this context the website maintained by the Austrian Federal Economic Chamber 'www.advantageaustria.org' was mentioned. The website provides information on working and living in Austria in 28 different languages.¹²⁹

The image of Austria at home and abroad has similarly been taken up by the Austrian media. The country's defensive attitude towards immigrants has been criticized based on statements regarding the unequal distribution of immigrants and locals in the labour market and estimates about the representation of migrants in public service (television/radio announcers, fire fighters, police officers etc.). An image campaign on the part of the public authorities is therein deemed to be desirable. When it comes to the perception of Austria abroad, it is equally noted that Austria is not perceived as welcoming, but as a rather restrictive and therefore relatively closed country, because it is sending the wrong signals (e.g. requirements

128 Wiener Zeitung, *Qualifizierte Migranten zieht es in die alte Heimat*, p.1, *Die gut Integrierten gehen weg*, p.11, Melih Gördesli: „Es gibt in Österreich eine Türkophobie“, p.11, 29 July 2011.

129 Margit Kreuzhuber, Austrian Federal Economic Chamber, Vienna, 28 March 2013.

of German prior to immigration, former quota system).¹³⁰ By contrast, and in line with what has been voiced during the expert interviews, the change in signal on the basis of the RWR Card is equally perceived by the media and therein generally valued as a positive signal for (highly) qualified individuals.¹³¹

Implementation practice for the issuance of a Red-White-Red Card

Generally, the interviewed experts did not consider the regulatory framework to be a barrier.¹³² However, the implementation practice was regarded as a possible barrier; while it was argued that bureaucracy is to a certain extent indispensable since the proceedings concern the decision on the right of residence,¹³³ it was also reasoned that the dispersion of institutional competences in Austria would additionally increase the administrative

130 Kurier, *Zuckerbrot und Peitsche für Fremde*, 20 January 2010, p.2-3; Format, *Zuwanderer verzweifelt gesucht*, 16 July 2010, available at <http://www.format.at/articles/1029/524/273652/wanted-qualifizierte-zuwanderer> (last accessed on 2 July 2013); Profil, *Gescheit gescheitert*, 9 August 2010, p.22-26; Kleine Zeitung, *In der Arbeit funktioniert Multikulti*, 22 October 2010, available at <http://www.kleinezeitung.at/nachrichten/politik/asyl/2527016/arbeit-funktioniert-multikulti.story> (last accessed on 2 July 2013); Wiener Zeitung, *Visum-Hürden für Ansiedlungen*, 25 February 2012, available at http://www.wienerzeitung.at/nachrichten/archiv/60826_Visum-Huerden-fuer-Ansiedlungen.html (last accessed on 2 July 2013); Der Standard, *Migranten für Öffentlichen Dienst und Bildung*, 3 February 2011, available at <http://derstandard.at/1295571350258/AK-Forderung-Migranten-fuer-Oeffentlichen-Dienst-und-Bildung> (last accessed on 2 July 2013); Die Presse, *Rare Erscheinung: Migranten im öffentlichen Dienst*, 17 July 2012, available at http://diepresse.com/home/panorama/integration/1268548/Rare-Erscheinung_Migranten-im-oeffentlichen-Dienst (last accessed on 2 July 2013).

131 Die Presse, *Zuwanderer: Wirtschaft drückt aufs Tempo*, 27 July 2010, available at <http://diepresse.com/home/politik/innenpolitik/583755/index> (last accessed on 2 July 2013); Wiener Zeitung, *Neue Signale bei Asyl und Zuwanderung, Migration à la carte*, 19 October 2010, p.4; News, *„Abschiebung von Kindern: Ich will nicht in einem Land leben ...“* 21 October 2010, p.46, *„ÖVP-Schwenk bei Zuwanderung“*, 4 November 2010, p.28-30; Österreich, *„Endlich! Fekter wagt Neustart bei Zuwanderern“*, 10 Dezember 2010, p.6; Format, *„Zuwanderung wird leichter“*, 17 Dezember 2010, p.19; Profil, *Interesse an Fremden*, 14 February 2011, p.22.

132 According to Tamara Völker (Austrian Federal Ministry of the Interior, Vienna, 10 April 2013) the regulatory framework has been considerably facilitated. The legal proceedings of the RWR Card are much less complicated and compared to other residence procedures much faster since it follows the one-stop principle.

133 Tamara Völker, Austrian Federal Ministry of the Interior, Vienna, 10 April 2013.

workload.¹³⁴ The duration of the proceedings, which in theory amount to eight weeks maximum, were viewed positively.¹³⁵ Based on the interviewees' assessments, it can be assumed that in practice the eight week period is not respected in all cases. However, whether a delay is due to a deficient application by the applicant or due to negligence on the part of the competent authority could not be clearly determined. Furthermore, the number of applicants was mentioned to be decisive in delayed proceedings.¹³⁶

134 Alexandra Schöngrundner (Federation of Austrian Industries, Vienna, 5 April 2013) compared in this connection the bureaucratic landscape of Austria with Sweden, where competences are more centred with one authority.

135 Johannes Peyrl (Vienna Chamber of Labour, Vienna, 26 March 2013) rated the period of eight weeks as considerably short also on an international average.

136 According to Johannes Peyrl (Vienna Chamber of Labour, Vienna, 26 March 2013) and Tamara Völker (Austrian Federal Ministry of the Interior, Vienna, 10 April 2013) proceedings in Vienna will most likely last longer than in other federal provinces with a smaller workload.

4. SUMMARY

The RWR Card represents a major change in Austrian immigration policy from the former quota-based key worker system to a criteria-led system. It is currently the key policy instrument regarding the attraction of (highly) qualified third-country nationals. As of now, a thorough evaluation of the RWR Card has not yet been carried out. Based on available statistics, the increase in the immigration of (highly) qualified third-country nationals since the introduction of the RWR Card has not yet met all national stakeholders' expectations, but is principally still considered to be a positive development. In 2012, 1,077 RWR Cards were issued. Even if the increase in the number of RWR Cards issued was lower in 2012 than in 2011, generally the immigration of (highly) qualified third-country nationals has increased since 2009. Future developments in terms of the scale of (highly) qualified immigration from third countries cannot be predicted at this time.

Recently, various discussions took place and efforts to further develop the RWR Card have been made. Concrete future developments, however, remain to be seen.

ANNEX

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2. Interview Guide

National Policy and concrete practical measures

1. How would you characterise the national Austrian policy regarding the recruitment of (highly) qualified third-country nationals? Do you consider the system of the 'Red-White-Red Card' (RWR Card) to be a recruitment measure for this group?
2. If yes, is the recruitment policy limited to the system of the RWR Card?
3. If no (to question 2) to what extent does the Austrian policy go beyond the range of the RWR Card (e.g. with regard to the groups of people that are being addressed)?
4. What motives determine the policy and what are the objectives (in addition to the attraction of the labour force)?
5. What is the role of European legal standards (e.g. Researchers Directive, EU Blue Card Directive, Students Directive and Single Permit Directive)? Have they led to more favourable provisions for the persons concerned in Austria?
6. What were the key motivations that led to the revision of the system?
7. What were the motives for the subdivision into different groups within the system of the RWR Card?
8. How were the details of the system of the RWR Card determined and how was the point allocation system decided?
9. To what extent do the aspects of 'brain drain' or 'brain circulation' play a role?
10. To what extent does the policy focus on specific occupational groups?
11. In addition to the core element of the new immigration model, the following additional accompanying measures were considered as relevant:^{*}
 - [1] Information and counselling (migration platform);
 - [2] targeted recruitment (Austrian embassies/consulates, educational facilities, Austrian Business Agency etc.)
 - [3] pooling of expertise and development of institutions (Austrian Expert Committee, language and orientation institutions abroad, *one-stop-shop*);
 - [4] recognition of qualifications (first contact points for recognition on the regional level);
 - [5] awareness raising and internationality (promotion of multilingual cultural offers etc.);
 - [6] focus on integration (individual support from departure etc.).
- 11.1. How far does the responsibility of the government go, regarding the promotion of the recruitment of (highly) qualified third-country nationals (through, for example, the above mentioned measures)?

^{*} This enumeration originates from a discussion paper for the development of a forward-looking immigration model which was published by the Federation of Austrian Industry, the International Organization for Migration and the Austrian Federal Economic Chamber (2008). *Zuwanderung Gestalten: Ein zukunftsorientiertes Migrationsmodell*, available at http://www.iv-mitgliederservice.at/iv-all/publikationen/file_474.pdf (last accessed on 4 April 2013).

- 11.2. How do you assess the relevance/importance of these measures in terms of recruitment of (highly) qualified third-country nationals?
- 11.3. Have these measures, from your point of view, been sufficiently implemented in Austria?
- 11.4. What other measures (*good practice*) do you know?
- 11.5. Which areas require further improvement?
- 12. How do you assess the impact of the public discourse on the development of the policy?
- 13. Does the Austrian immigration policy focus on (highly) qualified workers from specific third countries?
 - 13.1. If yes, which relevant agreements with third countries do you know?
 - 13.2. If yes, which (additional) legal/other measures do you know that aim to recruit this group of immigrants from specific third countries?
- 14. How would you describe the Austrian approach towards Mobility Partnerships?

Evaluation, Effectiveness of the measures

- 15. Do you know any statistics or do you have access to statistics that exhibit a connection between the set measures and the immigration of (highly) qualified third country nationals?
- 16. Have you (your institution) conducted (quantitative/qualitative) analyses/evaluations that verify/falsify the effectiveness of the implemented measures?
 - 16.1. If yes, please describe the exact approach of this evaluation.
 - 16.2. If yes, what conclusions can be drawn from this analysis?
 - 16.3. If no, have you (your institutions) planned to conduct such an analysis/evaluation?
- 17. Are you aware of any other sources (studies, employer survey etc.) that demonstrate a connection between the set measures and the immigration of (highly) qualified third country nationals?
- 18. How do you personally assess the effectiveness of the set measures?

Barriers and Challenges

- 19. What barriers can you identify that potentially negatively influence the attractiveness of Austria for (highly) qualified third-country nationals (salary levels, working conditions, economic crisis, language, discrimination (labour market), bureaucracy, lack of information, etc.)?
 - 19.1. Have you (your institution) conducted analyses that concern the influence of such barriers regarding the immigration of (highly) qualified third-country nationals?