



# MIGRATORY PATHWAYS FOR START-UPS AND INNOVATIVE ENTREPRENEURS TO AUSTRIA



**Alexander Spiegelfeld**



REPUBLIC OF AUSTRIA  
FEDERAL MINISTRY OF THE INTERIOR

The European Migration Network (EMN) is coordinated by the European Commission with National Contact Points (EMN NCPs) established in each EU Member State plus Norway. The National Contact Point Austria in the EMN is financially supported by the European Commission and the Austrian Federal Ministry of the Interior.

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# EUROPEAN MIGRATION NETWORK

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

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

The NCP Austria – based on an agreement with the Federal Ministry of the Interior – is located in the Research and Migration Law Department of the Country Office for Austria of the International Organization for Migration (IOM). The IOM office was established in 1952 when Austria became one of the first Member States of the Organization. The main responsibility of the IOM Country Office is to analyse national migration issues and emerging trends and to develop and implement corresponding national projects and programmes.

The main tasks of the NCPs in implementing the work programme of the EMN include drafting the annual policy reports and studies covering specific topics, responding to Ad-Hoc Queries launched by other NCPs or the European Commission, carrying out activities to increase the EMN visibility, and networking within several fora. In addition, the NCPs in each country also set up national networks of organizations, institutions and individuals working in the field of migration and asylum.

In general, the NCPs do not conduct primary research but collect and analyse existing data and information, which are supplemented where necessary through additional information collected directly. EMN studies are prepared in accordance with common study templates in order to achieve comparable results within the EU and Norway. Since comparing results frequently proves challenging, the EMN has produced a Glossary,

which ensures that similar definitions and terminology are used in all national reports.

On completion of national reports, the European Commission with the support of a service provider drafts a synthesis report, which summarizes the most significant results from the individual national reports. In addition, topic-based policy briefs, referred to as EMN Informs, are prepared as succinct summaries and comparisons of national findings on key selected topics. All national studies, synthesis reports, Informs and the Glossary are available on the website of the European Commission Directorate-General for Migration and Home Affairs.

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY</b>	8
<b>1. INTRODUCTION</b>	11
1.1 Background and objectives	11
1.2 Target group and definitions	12
1.3 Methodology	17
<b>2. START-UPS AND INNOVATIVE ENTREPRENEURSHIP IN AUSTRIA</b>	19
2.1 Policies and strategies	19
2.2 Start-up ecosystems and hubs	21
2.3 Starting a business in Austria	22
2.3.1 <i>Process</i>	22
2.3.2 <i>Time frame</i>	24
2.3.3 <i>Costs</i>	25
2.3.4 <i>Registering a trade</i>	25
2.4 Evaluations and public discussions	26
<b>3. THE ADMISSION OF THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS</b>	28
3.1 Legal framework	28
3.1.1 <i>Start-ups and innovative entrepreneurs</i>	28
3.1.2 <i>Third-country national employees of start-ups</i>	30
3.2 Policy framework	30
3.3 Public discussion	32
3.4 Evaluations of migratory pathways	33
<b>4. ADMISSION PROCESS FOR THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS</b>	35
4.1 Process from the perspective of start-up founders	35
4.1.1 <i>Admission requirements</i>	36
4.1.2 <i>Process: responsible authorities, steps and time frame</i>	37
4.2 Process from the perspective of start-ups	38
4.2.1 <i>Admission requirements</i>	38
4.2.2 <i>Process: responsible authorities, steps and time frame</i>	39
4.2.3 <i>Documents</i>	40
4.3 Misuse	41

4.4	Challenges	42
4.5	Good practices	43
<b>5.</b>	<b>ATTRACTING THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS</b>	<b>44</b>
5.1	Legal aspects	44
5.2	Incentive measures	45
5.2.1	<i>Actors</i>	46
5.2.2	<i>General measures to promote start-ups</i>	48
5.3	Business location marketing	52
5.4	Evaluation of measures and factors influencing success	53
5.5	Challenges	55
5.6	Good practices	56
<b>6.</b>	<b>RETAINING THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS</b>	<b>57</b>
6.1	Extending period of stay	57
6.1.1	<i>Prerequisites and steps in process</i>	58
6.1.2	<i>Procedure for successful start-ups</i>	59
6.1.3	<i>Procedure for failed start-ups</i>	59
6.1.4	<i>Procedure for a change of business plan</i>	59
6.2	Measures to retain and nurture established third-country nationals	60
6.3	Challenges	61
6.4	Good practices	62
<b>7.</b>	<b>CONCLUSIONS</b>	<b>63</b>
	<b>ANNEXES</b>	<b>66</b>
A.1	Case study scenarios	66
A.2	List of translations and abbreviations	70
A.3	Bibliography	72

# LIST OF INFORMATION BOXES AND TABLES

Information box 1: Admission requirements pursuant to Art. 24 para 2 Act Governing the Employment of Foreign Nationals	39
Information box 2: Criteria for changing the purpose of stay pursuant to Art. 24 para 4 Act Governing the Employment of Foreign Nationals	58
Table 1: Admission criteria for start-up founders as specified in annex D Act Governing the Employment of Foreign Nationals	37
Table 2: Rights potentially granted to start-up founders	45
Table 3: Relevant measures to promote start-ups in Austria	49

# EXECUTIVE SUMMARY

Thanks to their unique qualities, start-ups and innovative entrepreneurship contribute to creating new employment opportunities, implementing innovative technologies and securing international investments. Major European cities such as Berlin, Stockholm and Madrid have start-up scenes that have been attracting innovative entrepreneurs from all over the world for years. In view of this movement, this study investigates immigration systems and measures aimed at attracting start-up founders and their employees as well as innovative entrepreneurs from third countries.

Supporting start-ups is a high priority for Austria, as the government established in its programme for 2017–2022. Specifically, there are plans to create an environment that lends itself to research and innovation so as to allow start-ups to achieve their potential. Targeted support is to be given to start-ups active in the fields of mathematics, information, natural science or technology. The start-up ecosystem<sup>1</sup> in Austria, made up of a variety of public and private stakeholders, has matured considerably in recent years owing, among other things, to intensified State support. Through support and advice at the local level, towns, cities and regions make an important contribution to ensuring attractive conditions for entrepreneurs. The City of Vienna is regarded as Austria's central start-up hub.

With the adaption of the Red-White-Red Card (RWR Card) in 2017 the residence permit for (highly) skilled workers was reformed and a separate admission track for start-up founders was introduced. This RWR Card for start-up founders is usually granted for two years. While opening up the RWR Card to additionally include start-up founders met with broad approval, this type of residence permit has only been issued in one instance since being introduced. The bureaucratic obstacles as well as the lengthy and costly application procedures are particularly challenging for applicants. Austria offers no special visas or residence permits for third-country nationals employed by start-ups, or for innovative entrepreneurs.

Applicants need to meet a number of general requirements in addition to the special admission requirements for the residence permit. The

1 These and other thematic terms are defined in section 1.2 of this study.

eligibility requirements applicable to start-up founders include qualifications, professional experience and language skills. Potential founders have to submit a plausible business plan for their companies, for example, while providing evidence of at least EUR 50,000 in capital. Start-up founders have to submit their initial applications for an RWR Card to the competent authority representing Austria in another country. A decision regarding the application is subsequently made by the competent settlement and residence authority in Austria, based among other things on an assessment by the Public Employment Service. This division of responsibilities between authorities functions well, while the procedures are perceived as transparent.

Once an RWR Card for start-up founders has been issued, the holder is generally able to have it renewed, or can apply for a change of purpose of stay and be issued an Red-White-Red Card Plus residence permit or a Settlement Permit. Differing requirements need to be met for each of those residence permits. Austria has no simplified renewal process in place specifically for third-country start-up founders or innovative entrepreneurs.

In addition to the implementation of the RWR Card for start-up founders, other important initiatives aimed at attracting third-country start-up founders and innovative entrepreneurs to Austria include the Global Incubator Network (GIN) and the goAustria programme implemented through GIN. GIN serves as a central clearing point for international start-ups, incubators and investors wishing to establish themselves in Austria. We are not aware of any other programmes that exclusively target third-country start-up founders or innovative entrepreneurs. Several measures do exist, however, that contribute to internationalizing Austria's start-up ecosystem.

The Austrian Business Agency is the main actor at federal level involved in attracting international companies, while towns, cities and regions, private institutions, and universities also play important roles. International start-ups interested in becoming established in Austria are introduced to Austria's start-up ecosystem through various measures. However, whether a country is attractive depends, among other things, on direct factors, such as potential grants and financing, as well as on indirect factors, which include political stability. Getting start-ups to establish businesses is nevertheless challenging, as such firms are highly flexible and enjoy a certain amount of freedom in choosing where to locate.

Austria retains start-up founders mainly by providing them with services and an environment that facilitates cooperation among companies. Additionally, Austria's well-trained workforce and superior infrastructure also score points in this regard. Yet, a lack of financing options for start-ups during their growth phase represents one of the main challenges in retaining these businesses. Too few (international) investors are willing to invest in the common types of Austrian companies thanks to all the requirements doing so entails.

# 1. INTRODUCTION

## 1.1 Background and objectives

Thanks to their unique qualities, start-ups and innovative entrepreneurship contribute to creating new employment opportunities, implementing innovative technologies and securing international investments. Entrepreneurs are typically highly motivated to bring innovative products and services to market and are willing to take on certain risks. The European Union (EU) has recognized the need to improve the conditions for attracting and retaining third-country start-up founders and innovative entrepreneurs, especially in the face of demographic change and labour market needs.<sup>2</sup> Half of all EU Member States have adapted their migration policies accordingly to attract this target group (European Commission, 2018:2). Similarly, Austria broadened the scope of the Red-White-Red Card (RWR Card) in 2017 to create a separate admission track for start-up founders.

The aim of this study is to examine in detail the migratory pathways open to third-country start-up founders and innovative entrepreneurs who wish to become established in Austria. Some attention is also given here to the category of third-country nationals employed by start-ups. The main focus is on identifying the various conditions and factors influencing the success of efforts to attract and retain such businesses as well as describing the migratory pathways. We also address the challenges and good practices as well as public debates and the existing evaluations of this issue. The period under study spans 2014–2018. Chapter 2 provides a general description of entrepreneurship and the situation facing start-ups in Austria. Austria's

2 European Commission, *Communication from the Commission to the European Parliament and the Council – Reform of the Common European Asylum System and Enhancing Legal Avenues to Europe*, COM(2016) 197, available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards\\_a\\_reform\\_of\\_the\\_common\\_european\\_asylum\\_system\\_and\\_enhancing\\_legal\\_avenues\\_to\\_europe\\_-\\_20160406\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160406/towards_a_reform_of_the_common_european_asylum_system_and_enhancing_legal_avenues_to_europe_-_20160406_en.pdf) (accessed 27 April 2019).

start-up ecosystem<sup>3</sup> is presented in summary form and the specific role played by towns, cities and regions in building this ecosystem is addressed. Insights are also provided into the sometimes complex process of setting up a company in Austria. Chapter 3 discusses the current legal framework under which start-up founders and innovative entrepreneurs from third countries are admitted. Attention is also given in this regard to the category of third-country nationals employed by start-ups. This chapter additionally summarizes the public discussion regarding the introduction of the RWR Card for start-up founders and evaluations of the immigration system. Chapter 4 primarily focuses on providing a detailed description of the process and the requirements for obtaining an RWR Card for start-up founders. Taking the structure specified in the common study template<sup>4</sup> as a basis, the process is discussed from the perspective of both the individual applicant and that of the start-up. Chapter 5 looks into programmes aimed at attracting start-ups and innovative entrepreneurs. This includes a description of the key players involved in internationalizing Austria's start-up ecosystem. Chapter 6 describes the options available to start-up founders for renewing their residence status, detailing the particular processes and conditions.

Annex 1 of the study presents four different case study scenarios depicting innovative third-country entrepreneurs who wish to start a business in Austria. Aspects discussed here are the migratory pathways available in such cases, the conditions needing to be met for admission, the authority responsible for the process, and the steps involved.

## 1.2 Target group and definitions

This study focuses on third-country nationals who are either start-up founders, start-up employees or are engaged in another form of innovative entrepreneurship. The scope includes third-country nationals intending to migrate as well as those already residing in Austria.

3 These and other thematic terms are defined in section 1.2 of this study.

4 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

The study makes use of the definitions below, which are taken from the Asylum and Migration Glossary of the European Migration Network (EMN)<sup>5</sup> unless otherwise indicated.

**Academic spin-off start-up:** A start-up based on the commercial exploitation of knowledge or new technological developments that have been produced at universities or public research institutions.<sup>6</sup>

**Accelerator:** An institution that supports start-ups for a specific period by providing coaching to develop the company's product or service concept. The conditions under which accelerators operate are what mainly distinguish them from incubators, with the latter often active in what is referred to as boot camps.<sup>7</sup>

**Business angel:** An experienced entrepreneur who supports start-up founders by providing capital and practical knowledge. A business angel invests in a company in exchange for a share of the equity, usually as early as the start-up stage, and often makes their business network available to the start-up.<sup>8</sup>

**Business plan:** A report of a company's plans, describing the entrepreneurial goals, as well as the planned strategies and measures.<sup>9</sup>

5 See European Migration Network, *Migration and Asylum Glossary 6.0* (EMN, Brussels, 2018a). Available from [www.emn.at/wp-content/uploads/2018/06/emn-glossary-6-0\\_en.pdf](http://www.emn.at/wp-content/uploads/2018/06/emn-glossary-6-0_en.pdf) (accessed 9 May 2019); European Migration Network, *EMN Glossar zu Asyl und Migration 5.0* (EMN, Brussels, 2018b). Available from [www.emn.at/wp-content/uploads/2018/07/emn-glossar-5-0\\_de.pdf](http://www.emn.at/wp-content/uploads/2018/07/emn-glossar-5-0_de.pdf) (accessed 9 May 2019).

6 Definition according to: Ploder, M. et al., *Evaluierung des AplusB-Programms – Endbericht* (Ploder et al., Vienna/Graz, 2015), p. 2. Available from [www.bmvit.gv.at/service/publikationen/innovation/evaluierungen/downloads/aplusb\\_evaluierung\\_end.pdf](http://www.bmvit.gv.at/service/publikationen/innovation/evaluierungen/downloads/aplusb_evaluierung_end.pdf) (accessed 24 April 2019).

7 Definition according to: Gründerszene, *Accelerator*, available from [www.gruenderszene.de/lexikon/begriffe/accelerator](http://www.gruenderszene.de/lexikon/begriffe/accelerator) (accessed 5 May 2019).

8 Definition according to: Deutsche Akademie für Management, *Business Angel*, available from [www.akademie-management.de/service/glossar/glossarordner-mit-b/business-angel](http://www.akademie-management.de/service/glossar/glossarordner-mit-b/business-angel) (accessed 9 May 2019).

9 Definition according to: Gabler Wirtschaftslexikon, *Businessplan Definition*, available from <https://wirtschaftslexikon.gabler.de/definition/businessplan-31252/version-254814> (accessed 9 May 2019).

**Company:** Also referred to as “undertaking”, any permanent organization for the purpose of independent economic activity even if not profit-oriented (Art. 1 Austrian Commercial Code).

**Co-working spaces:** Shared common office space where small companies, freelancers and start-ups all benefit from the support and facilities provided while working separately.<sup>10</sup>

**Ecosystem (start-up ecosystem):** A geographically and politically defined space that comprises numerous factors that influence the entrepreneurial environment so as to have considerable effect on business developments. An ecosystem represents the relationships between actors and institutions, the goal of which is to facilitate technological progress and innovation.<sup>11</sup>

**Employee:** Worker holding an explicit or implicit employment contract which gives them a basic remuneration that is not directly dependent upon the revenue of the unit for which they work.

**Hub (start-up hub):** An umbrella term for a physical environment that nurtures start-ups and entrepreneurs.<sup>12</sup>

**Incubator:** An organization that supports start-up founders as they seek to establish independent businesses. Often referred to as “start-up centres”, such organizations provide support, among other things, through coaching, office space and service packages.<sup>13</sup>

10 Definition according to: Fuzi, A., *Co-working spaces for promoting entrepreneurship in sparse regions: the case of South Wales* (Taylor & Francis, 2015), p. 462. In: Taylor & Francis (ed.), *Regional Studies, Regional Science, Vol. 2, No. 1*, pp. 462–469.

11 Definition according to: Hebing et al., *Startup Ökosysteme – Wege zu einem verbesserten Benchmarking* (Alexander von Humboldt Institut für Internet und Gesellschaft gGmbH, Berlin, 2017), p. 22. Available from [www.hiig.de/wp-content/uploads/2017/06/2017-06-15-startup-ecosystems-v1.0.pdf](http://www.hiig.de/wp-content/uploads/2017/06/2017-06-15-startup-ecosystems-v1.0.pdf) (accessed 5 May 2019); Jackson, D., *What is an Innovation Ecosystem?* (National Science Foundation, Arlington, n.d.), p. 2. Available from [http://erc-assoc.org/sites/default/files/topics/policy\\_studies/DJackson\\_Innovation%20Ecosystem\\_03-15-11.pdf](http://erc-assoc.org/sites/default/files/topics/policy_studies/DJackson_Innovation%20Ecosystem_03-15-11.pdf) (accessed 10 May 2019).

12 Definition according to: Chirchiatti, N., *The role of Innovation Hubs taking start-ups from idea to business* (Hochschule Bonn-Rhein-Sieg/IZNE, Sankt Augustin, 2017), p. 9. Available from [https://pub.h-brs.de/frontdoor/deliver/index/docId/3362/file/N\\_Chirchiatti\\_The\\_role\\_of\\_Innovation\\_Hubs.pdf](https://pub.h-brs.de/frontdoor/deliver/index/docId/3362/file/N_Chirchiatti_The_role_of_Innovation_Hubs.pdf) (accessed 15 May 2019).

13 Definition according to: Gründerszene, *Inkubator*, available from [www.gruenderszene.de/lexikon/begriffe/inkubator?interstitial](http://www.gruenderszene.de/lexikon/begriffe/inkubator?interstitial) (accessed 5 May 2019).

**Innovative entrepreneur:** In the EU context, an individual who founds and runs a business that introduces a new or improved product, a new method of production, a new market, a new source of supply or the reorganization of management.<sup>14</sup>

The term “innovative entrepreneur” is defined in the Austrian context primarily based on the definition of “entrepreneur” given in the Austrian Commercial Code:<sup>15</sup> an entrepreneur is an individual who runs a business. What is “innovative”, however, is derived from the explanatory notes on the draft legislation relevant for this study, which state that products, services, processes or technologies are considered innovative in particular when “they are to be introduced to Austria for the first time and a corresponding demand is to be expected, a new type of access or a creative approach is selected, for example, by combining different products or sectors (interdisciplinary approach), or the start-up creates new products in the social or ecological sector, or accepts social or ecological responsibility.”<sup>16</sup>

**Migrant:** In the global context, a migrant is a person who is outside the territory of the State of which they are nationals or citizens and who has resided in a foreign country for more than one year irrespective of the causes, voluntary or involuntary, and the means, regular or irregular, used to migrate.

**Residence permit:** An authorization issued using the format laid down in Regulation (EC) No 1030/2002<sup>17</sup> entitling its holder to stay legally in the territory of a Member State.

14 Definition according to: ICF International, *Volume II: Admission of migrant entrepreneurs* (ICF International, n.p., 2016). Available at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal-migration-policy/volume\\_ii\\_-\\_admission\\_of\\_migrant\\_entrepreneurs\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/legal-migration-policy/volume_ii_-_admission_of_migrant_entrepreneurs_en.pdf) (accessed 9 May 2019); EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

15 ILG S 219/1897, in the version of federal law FLG I No. 58/2018.

16 Federal Act, which amends the Foreign Nationals Employment Act and the General Social Insurance Act, Government Proposal – Explanatory Notes, p. 10, available from [www.parlament.gv.at/PAKT/VHG/XXV/II/I\\_01516/fname\\_618784.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/II/I_01516/fname_618784.pdf) (accessed 19 April 2019).

17 Definition according to: Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, OJ L 157, pp. 1–7.

**Start-up:** No general definition exists. According to the *European Startup Monitor*, start-ups are younger than 10 or 5 years, depending on the sector, have products, services or business models that are innovative, and intend to increase the number of employees or expand their markets.<sup>18</sup>

The Austrian context has no general legal definition of “start-up”, nor does it have any uniform working definition of the term. Foreigners wishing to receive a work permit as start-up founders are required, among other things, to “develop innovative products, services, processes or technologies within the framework of the start-up and launch them on the market”, as stated in Art. 24 para 2 subpara 2 of the Act Governing the Employment of Foreign Nationals.<sup>19</sup> The explanatory notes on that legislation add that the undertaking behind the start-up must not be more than five years old. The specific types of cases falling into the category of “start-ups” under Austrian law can be identified in approximate terms by referring to the criteria above. Yet in practice the category usually includes (only) technology-sector businesses, and mainly those active in high-end technologies and in the internet (Kind, commentary on the Act Governing the Employment of Foreign Nationals, Art. 24 margin number 13).

In its 2018 SME report, the Federal Ministry of Digital and Economic Affairs defines start-ups as “innovative new companies displaying exceptional growth potential or corresponding development that are able to make a major contribution to ensuring a dynamic national economy” (Federal Ministry of Digital and Economic Affairs, 2018a:86–87). It is nonetheless noted that the term has not been clearly defined for policy or research purposes (Federal Ministry of Digital and Economic Affairs, 2016:54).

**Survival rate:** The rate at which start-ups are still in business after a certain period of time (Federal Ministry of Digital and Economic Affairs, 2018a:57).

**Third country:** A country that is not a member of the European Union as well as a country or territory whose citizens do not enjoy the European Union right to free movement as defined in Art. 2 para 5 of the Schengen Borders Code.<sup>20</sup>

18 Definition according to: Stiegenthaler, L. and R. Mauer, *EU Startup Monitor – 2018 Report* (Jean-Baptiste Say Institute, n.p., 2018). Available from <http://startupmonitor.eu/EU-Startup-Monitor-2018-Report-WEB.pdf> (accessed 9 May 2019).

19 FLG No. 218/1975, in the version of federal law FLG I No. 25/2019.

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

**Third-country national:** Any person who is not a citizen of the European Union within the meaning of Art. 20 para 1 of the Treaty on the Functioning of the European Union<sup>21</sup> and who is not a person enjoying the European Union right to free movement as defined in Art. 2 para 5 of the Schengen Borders Code.

**Venture capital:** A time-limited equity investment in a new growth-oriented company.<sup>22</sup>

### 1.3 Methodology

The present study was conducted by the National Contact Point (NCP) Austria in the EMN within the framework of the EMN's 2019–2020 Work Programme. The study follows a common study template<sup>23</sup> with a predefined set of questions developed by the EMN in order to facilitate comparability of the findings across all Member States.

Legislative texts, national and international publications, press releases and websites were used as sources. The study was also able to draw on continuous media monitoring information provided by the Country Office for Austria of the International Organization for Migration (IOM).

To supplement the information obtained through secondary research, the author maintained contact with representatives of the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection. Additionally, qualitative, semi-structured interviews were conducted in person or by telephone with Austrian experts in the fields relevant for the study, with information requested in writing in some cases. The experts listed below participated, either through in-person or phone interviews or through written responses to questions:

- 21 Definition according to: Consolidated version of the Treaty on the Functioning of the European Union, OJ C 326, pp. 47–390.
- 22 Definition according to: Gabler Wirtschaftslexikon, *Venture-Capital Definition*, available from <https://wirtschaftslexikon.gabler.de/definition/venture-capital-49706> (accessed 9 May 2019).
- 23 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

- Andrea Hagendorfer, Deputy Federal Managing Director of the Business Start-Up Service (*Gründerservice*), Austrian Federal Economic Chamber;
- Sarah Klaffner, Location Policy and Business Financing, Federal Ministry of Digital and Economic Affairs;
- Sabine Matzinger, Location Policy and Business Financing, Federal Ministry of Digital and Economic Affairs;
- Eva-Caroline Pflieger, Residence and Citizenship Affairs (Unit V/2), Federal Ministry of the Interior;
- Gregor-Robert Posch, Start-Up Services, Vienna Business Agency;
- Birgit Reiter-Braunwieser, Director for Central and Eastern Europe and Start-Ups, Austrian Business Agency;
- John Shen, Managing Director, Xencio GmbH;
- Claudia Schweda, Residence and Citizenship Affairs (Unit V/2), Federal Ministry of the Interior;
- Tülay Tuncel, Start-Up Services, Vienna Business Agency.

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## 2. START-UPS AND INNOVATIVE ENTREPRENEURSHIP IN AUSTRIA

This chapter describes the business environment for start-ups in Austria, including policies and strategies aimed at fostering innovative entrepreneurship in Austria. The process of establishing a company is also explained in general terms, followed by a summary of public discussions and evaluations of the business environment. Attention is also given to the role played by towns, cities and regions in nurturing start-up ecosystems.<sup>24</sup>

### 2.1 Policies and strategies

Supporting start-ups is given high priority in Austrian policy, according to the Austrian Economic Chamber. The government's programme for 2017–2022 establishes this priority accordingly.<sup>25</sup> The government programme pledges, among other things, to ensure the best possible conditions for innovative companies and especially for start-ups. Specifically, there are plans to create an environment that lends itself to research and innovation so as to allow start-ups to achieve their potential. The plans set out here range from expanding alternative funding options and stepping up efforts to attract international accelerators to Austria, to establishing protected conditions for business development (Austrian Federal Government, 2018:75–83).

Targeted support is to be given to start-ups active in the MINT fields, that is, in mathematics, information, natural science or technology, according to the programme. Here specifically, the intention is to simplify the process of founding high-tech start-ups (*ibid.*, 2018:75, 83). Furthermore, a focus can be identified that includes technology, life sciences, digitalization as well as the creative economy.<sup>26</sup> According to the Vienna

24 These and other thematic terms are defined in section 1.2 of this study.

25 Written Input by Andrea Hagedorfer, Austrian Federal Economic Chamber, 11 April 2019.

26 Interview with Sarah Klaffner and Sabine Matzinger, Federal Ministry for Digital and Economic Affairs, 11 April 2019.

Business Agency, emphasis is also put on topics such as the smart city, intelligent production, as well as digital and sustainable technologies.<sup>27</sup>

Even before the government programme for 2017–2022, national strategies had existed that defined the policy priority of supporting start-ups and innovative entrepreneurship. The 2015 “start-up country strategy” (*Gründerlandstrategie*) is a prominent example falling within the period under study here, 2014 to 2018. That strategy specifies 40 measures in five fields of action aimed at helping Austria become the leading start-up country within Europe. The measures include facilitating the founding of start-ups, creating alternative funding sources, nurturing a culture hospitable to founders and entrepreneurs from other countries, and broadening existing international alliances (Federal Ministry of Science, Research and Economy, 2015:99–101). The start-up country strategy was expanded with the addition of a start-up package in 2016. The package, intended to further strengthen Austria as a location for start-ups, included sweeping measures, such as reducing the non-wage labour costs for innovative start-ups, offering a risk capital bonus for investors and introducing a digital one-stop shop for business founders. Of particular interest for this study was the announcement, as part of the start-up package, of an Red-White-Red Card (RWR Card) for start-up founders (see chapter 3; Federal Ministry of Science, Research and Economy, n.d.:4–5). An additional start-up package was announced in January 2019.<sup>28</sup>

The foreign trade strategy adopted in December 2018 also addresses support for start-ups. One of the goals of the strategy, prepared under the leadership of the Federal Ministry of Digital and Economic Affairs, is to tie start-ups into the global value chain and eliminate red tape. This is to be achieved specifically by expanding existing networks and nurturing the international character of start-ups active in research, technology and innovation (Federal Ministry of Digital and Economic Affairs et al., 2018:31–32).

At European level, Austria’s efforts are targeted primarily at improved funding options. Austria also actively supports the implementation of the

27 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

28 Der Brutkasten, *Schramböck kündigt Startup-Paket an: Erleichterte Finanzierung und Sandboxes*, 11 January 2019, available from [www.derbrutkasten.com/schramboeck-startup-paket/](http://www.derbrutkasten.com/schramboeck-startup-paket/) (accessed 4 April 2019).

Digital Single Market strategy, which should, among other things, result in improved legal certainty, which in turn will enable more rapid growth among start-ups in Austria (Federal Ministry of Digital and Economic Affairs, 2018b:17, 25–26).

## 2.2 Start-up ecosystems and hubs

The start-up ecosystem in Austria is made up of a variety of public and private stakeholders, including public institutions and funding sources, business angels, venture capital providers, co-working spaces, start-up services, and incubators and accelerators, in addition to events and networking opportunities aimed especially at start-ups.<sup>29</sup> The start-up ecosystem has matured considerably in recent years owing, among other things, to an intensified State support, according to the Austrian Business Agency (ABA).<sup>30,31</sup>

Private ecosystem providers such as StartUp300 AG in Linz as well as weXelerate Innovation Hub and Impact Hub in Vienna also have a key role in this regard.<sup>32</sup> Universities in Austria also provide separate ecosystems. At its start-up centre, the Vienna University of Economics and Business offers services including advice and support especially for young entrepreneurs.<sup>33</sup>

Towns, cities and regions play a key role in setting up business ecosystems. These levels of government are able to make an important contribution to ensuring attractive conditions for entrepreneurs by providing support and advice at local level. The City of Vienna is regarded as Austria's central start-up hub. Between 2004 and 2017, around half of all start-ups

29 Austrian Startups, *Ecosystem*, available from [www.austrianstartups.com/ecosystem/](http://www.austrianstartups.com/ecosystem/) (accessed 10 April 2019).

30 At the federal level, ABA is the main player in the recruitment of international companies (see section 5.2.1).

31 Wirtschaftswoche, *Studie: Start-up Ökosystem in Österreich reift*, 20 March 2019, available from <https://gruender.wiwo.de/studie-start-up-oekosystem-in-oesterreich-reift/> (accessed 26 April 2019).

32 Impact Hub Vienna, *About us*, available from <https://vienna.impacthub.net/about-us/> (accessed 10 April 2019); STARTUP300 AG, *About*, available from <https://startup300.at/about/> (accessed 10 April 2019); weXelerate, available from [www.wexelerate.com](http://www.wexelerate.com) (accessed 10 April 2019).

33 Entrepreneurship Center Network, *Unipreneurship Ökosystem*, available from <https://ecn.ac.at/de/get.connected/unipreneurship/wu> (accessed 10 April 2019).

were founded here (Dömötör and Spannocchi, 2016:3; Federal Ministry of Digital and Economic Affairs, 2016:54; Leitner et al., 2018:20). The Vienna Business Agency is the main contact point for businesses and founders. In addition to offering funding and advice, services include providing guidance to international companies seeking to locate in Vienna.<sup>34</sup>

This leading position notwithstanding, start-up ecosystems have also formed in other Austrian provinces and provincial capitals, such as in Linz and Graz.<sup>35</sup> In Tyrol as well, public and private stakeholders in the regional ecosystem cooperate under the umbrella of STARTUP.TIROL, combining forces to support start-up founders and innovative entrepreneurs through various programmes (Sammer, n.d.).<sup>36</sup>

Regional clusters also have a part in setting up business ecosystems.<sup>37</sup> Within such clusters, businesses belonging to the same sector form alliances to share information and launch cooperative projects. Examples of this type of cooperation include the ACStyria Mobility Cluster in Graz and Cluster Life Sciences Tirol (Ermisch, 2019).<sup>38</sup>

## 2.3 Starting a business in Austria

### 2.3.1 Process

The process of starting a business in Austria involves various and numerous steps, depending on the specific situation. The first step is to choose a legal form, one of the most challenging decisions when setting up a company.<sup>39</sup> This decision strongly affects how long the process will take

34 Vienna Business Agency, *Unterstützung für den Wirtschaftsstandort Wien – seit über 30 Jahren*, available from <https://wirtschaftsagentur.at/ueber-uns/das-unternehmen/organisation/> (accessed 10 April 2019).

35 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

36 STARTUP.TIROL, *Wir über uns*, available from [www.startup.tirol/wir-ueber-uns/](http://www.startup.tirol/wir-ueber-uns/) (accessed 10 April 2019).

37 Wirtschaftswoche, *Studie: Start-up Ökosystem in Österreich reift*, 20 March 2019, available from <https://gruender.wiwo.de/studie-start-up-oekosystem-in-oesterreich-reift/> (accessed 26 April 2019).

38 Standort-Tirol, *Cluster Life Science Tirol*, available from [www.standort-tirol.at/page.cfm?vpath=cluster/fachbereiche/life-sciences#schwerpunkte](http://www.standort-tirol.at/page.cfm?vpath=cluster/fachbereiche/life-sciences#schwerpunkte) (accessed 10 April 2019).

39 Austrian Federal Economic Chamber, *Unternehmensgründung: Wahl der Rechtsform*, 28 April 2017, available from [www.wko.at/service/wirtschaftsrecht-gewerberecht/Unternehmensgruendung\\_Wahl\\_der\\_Rechtsform.html](http://www.wko.at/service/wirtschaftsrecht-gewerberecht/Unternehmensgruendung_Wahl_der_Rechtsform.html) (accessed 28 April 2019).

and how complex it will be, while also influencing financial aspects of the start-up process and of later business activities.<sup>40</sup>

The discussion here is limited to two legal forms, the sole proprietorship (*Einzelunternehmen*) and the private limited company (*Gesellschaft mit beschränkter Haftung, GmbH*), as these are by far the most widely used legal forms in Austria.<sup>41</sup> Another reason is that the large majority of innovative companies in Austria can be classified under either sole proprietorships or private limited companies (Ruhland and Kaufmann, 2017:7).

### Starting a sole proprietorship

A sole proprietorship is usually created when the trade is registered or approved, which makes for a relatively brief and inexpensive<sup>42</sup> start-up process.<sup>43</sup> A sole proprietor can have their business entered voluntarily into the commercial register.<sup>44</sup> Entry becomes compulsory only once the company comes under the accounting obligation specified in Art. 189 of the Commercial Code<sup>45</sup> (Art. 8 para 1 Commercial Code).<sup>46</sup>

As of 2017, sole proprietorships can be registered online through the business service portal (*Unternehmensserviceportal*).<sup>47</sup> Via that portal, trades can also be registered for health and social insurance and with the tax office.

40 University Graz, *Gründungsleitfaden*, available from <https://unternehmensfuehrung.uni-graz.at/de/gruenden/gruendungsleitfaden/> (accessed 28 April 2019).

41 Austrian Federal Economic Chamber, *WKO Statistik*, available from [http://wko.at/statistik/ng/ng-rf.pdf?\\_ga=2.205849946.812995529.1554967176-21603767.1538028563](http://wko.at/statistik/ng/ng-rf.pdf?_ga=2.205849946.812995529.1554967176-21603767.1538028563) (accessed 19 April 2019).

42 Business registration is free of charge (see section 2.3.3).

43 Austrian Federal Economic Chamber, *Einzelunternehmen gründen*, available from [www.gruenderservice.at/site/gruenderservice/planung/Einzelunternehmen\\_gruenden.html](http://www.gruenderservice.at/site/gruenderservice/planung/Einzelunternehmen_gruenden.html) (accessed 28 April 2019).

44 The Companies Register is a register of all legal entities which maintain a company, i.e. the name of an entrepreneur entered in the Companies Register (Fischer and Feuchtinger, 2017:109, 122).

45 ILG S 219/1897, in the version of federal law FLG I No. 58/2018.

46 The accounting obligation enters into force if in two consecutive business years a turnover of EUR 700,000 or within one business year a revenue of more than EUR 1,000,000 is made (Art. 189 para 2 Commercial Code).

47 For further information please see *Unternehmensserviceportal*, available from [www.usp.gv.at](http://www.usp.gv.at) (accessed 16 May 2019).

### Starting a private limited company

The steps in setting up a private limited company depend on whether a plurality of partners or just one individual is involved. In the first case, the articles of association initially need to be drafted and finalized, while in the latter case, a declaration establishing the company is required. Both the articles of association and any declaration of establishment have to be finalized in the form of a (payable) notary deed<sup>48</sup> (Art. 4 Private Limited Companies Act).<sup>49</sup> To start a private limited company, EUR 35,000 in nominal share capital is required, with the partners having to put up half that amount in cash (Art. 6 Private Limited Companies Act). The private limited company must subsequently be entered in the commercial register with the certified signatures of each and every partner (Art. 9 Private Limited Companies Act). Only once entered in the commercial register is the private limited company considered established (Art. 2 para 1 Private Limited Companies Act). Any activity falling under the Industrial Code that the company intends to pursue has to be registered as a trade (see section 2.3.4).

As of 1 January 2019, a digital process has been available for establishing a private limited company (Art. 4 para 3 Private Limited Companies Act; Art. 79 para 9 Notarial Code).<sup>50</sup> This is intended to simplify and accelerate the process while reducing expenses.<sup>51</sup> As it is no longer necessary for the partners to be physically present when the notarial deed establishing the company is executed, it is now easier for foreign investors not in attendance to hold shares in a company.<sup>52</sup>

#### *2.3.2 Time frame*

No information is available as to how long it takes to establish a sole proprietorship (Unternehmensserviceportal, 2019:3–17). Theoretically, it takes eight days to register a private limited company in Austria (Federal

48 According to Art. 2 and 52 of Notaries Order (ILG No 75/1871, in the version of federal law FLG I No. 71/2018) this refers to a legal act carried out in front of and confirmed by a notary.

49 FLG I No. 114/1997, in the version of federal law FLG I No. 71/2018.

50 ILG No. 75/1871, in the version of FLG I No. 71/2018.

51 Federal Act amending the Austrian Companies Act and the Notaries Regulation (Electronic Notarial Form Incorporation Act), Government Proposal – Explanatory Notes, p. 1, available from [www.parlament.gv.at/PAKT/VHG/XXVI/II/I\\_00253/fname\\_701817.pdf](http://www.parlament.gv.at/PAKT/VHG/XXVI/II/I_00253/fname_701817.pdf) (accessed 19 April 2019).

52 Interview with Sarah Klaffner and Sabine Matzinger, Federal Ministry for Digital and Economic Affairs, 11 April 2019.

Ministry of Digital and Economic Affairs, 2018a:101–102). An analysis by KMU Forschung Austria nonetheless indicates that the process of starting up a private limited company can in fact take much longer, which faces business founders with considerable scheduling challenges (Ruhland and Kaufmann, 2017:37–38, 56).

### 2.3.3 Costs

How much it costs to start a business in Austria depends on the legal form chosen in the particular case. The cost of registering a sole proprietorship is about EUR 90, according to the Austrian Economic Chamber. Founding a private limited company with two or more partners costs at least EUR 2,000.<sup>53</sup> The fees for entering the company in the commercial register can be waived under certain conditions, specified in Art. 1 subpara 3 of the Business Start-Up Promotion Act.<sup>54</sup> The fees otherwise range between EUR 90 and EUR 400 depending on the legal form.<sup>55</sup> The expense can be much higher in practice, at least when registering a private limited company. These higher costs are explained by the necessary expense of a notary public and of drafting the articles of association, as well as other expenses not waived on the basis of the Business Start-Up Promotion Act (Ruhland und Kaufmann, 2017:13).

### 2.3.4 Registering a trade

In Austria, a trade is defined as any independent, regular activity pursued for profit (Art. 1 para 2 Industrial Code).<sup>56</sup> Trade registration is always required in order to practise a trade (Art. 339 para 1 Industrial Code). A basic distinction is made between regulated and non-regulated trades. Proof of qualification is required to register a regulated trade (Art. 16 Industrial Code). Legal entities<sup>57</sup> intending to operate a trade business are

53 Austrian Federal Economic Chamber, *Gründungskosten*, available from [www.gruenderservice.at/site/gruenderservice/planung/Gruendungskosten.html](http://www.gruenderservice.at/site/gruenderservice/planung/Gruendungskosten.html) (accessed 9 April 2019).

54 FLG I No. 194/1999, in the version of federal law FLG I No. 40/2017.

55 Austrian Federal Economic Chamber, *Gründungskosten*, available from [www.gruenderservice.at/site/gruenderservice/planung/Gruendungskosten.html](http://www.gruenderservice.at/site/gruenderservice/planung/Gruendungskosten.html) (accessed 9 April 2019).

56 FLG No. 194/1994, in the version of federal law FLG I No. 112/2018.

57 This refers to non-natural persons, who have been created by legal act and who are holders of rights and obligations. A Private Limited Company is an example of a legal person (Unternehmensserviceportal, *Lexikon*, available from [www.usp.gv.at/Portal.Node/usp/public/content/lexikon/61664.html](http://www.usp.gv.at/Portal.Node/usp/public/content/lexikon/61664.html) (accessed 16 May 2019)).

additionally required to appoint a business manager to be responsible for ensuring that the trade is practised fully in line with professional standards and in compliance with the Industrial Code (Art. 9 para 1 and Art. 39 para 1 Industrial Code).

## 2.4 Evaluations and public discussions

Numerous evaluations and rankings of the business environment in Austria have been made by national and international bodies. The annual SME report by the Federal Ministry of Digital and Economic Affairs is especially relevant at national level. Here Austria was attested a business cycle upswing in 2017, which reportedly had a positive impact on conditions including business financing terms (Federal Ministry of Digital and Business Affairs, 2018a:20). The upswing continued in 2018 (Austrian National Bank, 2018:5). The Federal Minister for Digital and Economic Affairs, whose portfolio includes national and international businesses in Austria, also sees Austria as offering an attractive environment.<sup>58</sup> Issues nonetheless resulted from the acute shortage of skilled workers, restrictive labour market regulations, high public fees and taxes, and complex red tape (Federal Ministry of Digital and Economic Affairs, 2018a:9–11). There has been especially much discussion in Austria over eliminating bureaucratic obstacles to businesses. International evaluations, including the Global Entrepreneurship Monitor 2016 (GEM 2016), have called for such barriers to be lifted (FH Joanneum, 2017:10–13).<sup>59</sup>

In its 2018 Country Report for Austria, the European Commission also recognized a highly developed business environment, based on the rise in business start-ups and the high survival rate among businesses. A weakness is nonetheless seen in Austria's consistent failure to set up a dynamic ecosystem for innovative entrepreneurs (European Commission, 2018: 42–43). The regulatory environment is also criticized in an analysis by the

58 APA, *Schramböck: Neues Rekordergebnis bei Betriebsansiedlungen*. Press Release, 22 February 2018, available from [www.ots.at/presseaussendung/OTS\\_20180222\\_OTS0073/schramboeck-neues-rekordergebnis-bei-betriebsansiedlungen](http://www.ots.at/presseaussendung/OTS_20180222_OTS0073/schramboeck-neues-rekordergebnis-bei-betriebsansiedlungen) (accessed 25 April 2019).

59 The GEM 2016 is a quantitative inquiry based on a survey of more than 4,500 persons as well as an additional survey of experts in Austria.

Organisation for Economic Co-operation and Development (OECD) of Austria's innovation programmes (OECD, 2018:13–14). In an evaluation of innovative entrepreneurship in Austria, Ruhland and Kaufmann (2017:55) also see the existing environment as leading to a loss of innovative potential.

Another widely discussed challenge in Austria was access to growth capital, or scarce risk capital. The NEOS – The New Austria, a political party, consequently voiced in 2015 a demand for a modern risk capital market as a means of improving Austria's competitiveness.<sup>60</sup> The OECD also pointed out the need for Austria to create tax incentives to encourage private investments, as is already common in other OECD countries (OECD, 2018:13–14). The system for supplying start-ups with capital works especially well in the early stage, whereas funding challenges arise in the expansion phase, a prominent Austrian investor complained.<sup>61</sup> The situation nonetheless seems to be improving, with major rounds of funding, that is, investors increasing their capital contributions, becoming more frequent.<sup>62</sup>

60 APA, *NEOS-Offensive für unternehmensfreundliches Österreich*. Press Release, 21 January 2015, available from [www.ots.at/presseaussendung/OTS\\_20150121\\_OTS0259/neos-offensive-fuer-unternehmensfreundliches-oesterreich](http://www.ots.at/presseaussendung/OTS_20150121_OTS0259/neos-offensive-fuer-unternehmensfreundliches-oesterreich) (accessed 29 April 2019).

61 Der Standard, *Start-up-Szene: "Wien hat den Anschluss verloren"*, 18 May 2016, available from <https://derstandard.at/2000037181752/Startup-Szene-Wien-hat-den-Anschluss-verloren> (accessed 29 April 2019).

62 Wirtschaftswoche, *Studie: Start-up Ökosystem in Österreich reift*, 20 March 2019, available from <https://gruender.wiwo.de/studie-start-up-oekosystem-in-oesterreich-reift/> (accessed 26 April 2019).

### 3. THE ADMISSION OF THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS

This chapter describes Austria's current immigration policy towards third-country start-ups<sup>63</sup> and innovative entrepreneurs. Besides the legal framework, attention is given to the events leading up to the introduction of the Red-White-Red Card (RWR Card) for start-up founders and the accompanying public debate. Potential residence permits for third-country nationals working for start-ups are also discussed. Finally, several evaluations of the migratory pathways open to third-country start-up founders and innovative entrepreneurs are presented by way of example.

#### 3.1 Legal framework

The following section discusses the legal framework for introducing the residence permit referred to as the RWR Card for start-up founders, as well as planned changes to the RWR Card. Details are also provided on the migratory pathways open to third-country nationals wishing to work for a start-up.

##### 3.1.1 *Start-ups and innovative entrepreneurs*

Third-country nationals intending to migrate to Austria in order to start up a new business can obtain the residence permit referred to as an RWR Card for start-up founders, provided they meet certain requirements (Art. 41 para 2 subpara 5 Settlement and Residence Act;<sup>64</sup> Art. 24 para 2 Act Governing the Employment of Foreign Nationals).<sup>65</sup> Prior to the introduction of the RWR Card for start-up founders, entrepreneurs from third countries wishing to start up a business in Austria were able to

63 These and other thematic terms are defined in section 1.2 of this study.

64 FLG I No. 100/2005, in the version of federal law FLG I No. 25/2019.

65 FLG No. 218/1975, in the version of federal law FLG I No. 25/2019.

immigrate by applying for an RWR Card for self-employed key workers<sup>66</sup> (Art. 24 para 1 Act Governing the Employment of Foreign Nationals).<sup>67</sup>

The new RWR Card for start-up founders was implemented in 2017 (Spiegelfeld, 2018:11). This involved adapting the Settlement and Residence Act through the Act Amending the Aliens Law 2017,<sup>68</sup> as well as introducing the “Federal Act amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act”<sup>69</sup> to adapt the Act Governing the Employment of Foreign Nationals. The amendments became effective partly as of October and partly as of November 2017. It should be noted, however, that the RWR Card for start-up founders has been issued on only one occasion since it was introduced in late 2017.<sup>70,71</sup>

The Austrian Federal Government presented in March 2019 a draft amendment of the RWR Card. One of the changes is to waive for RWR Card applicants the previous requirement to provide evidence of accommodation to local standards, as referred to in Art. 11 para 2 subpara 2 of the Settlement and Residence Act – currently applying also to applicants for an RWR Card for start-up founders. Another planned change is to lower the minimum salary that applicants for an RWR Card for other key workers are required to earn. This step would also benefit potential third-country employees of start-ups (see section 3.1.2).<sup>72</sup>

66 Besides the RWR Card for start-up founders and for self-employed key workers, the residence permit RWR Card exists for four more groups of persons: very highly qualified, skilled workers in shortage occupations, other key workers, and students and graduates of Austrian higher education institutions (migration.gv.at, *Dauerhafte Zuwanderung*, available from [www.migration.gv.at/de/formen-der-zuwanderung/dauerhafte-zuwanderung/](http://www.migration.gv.at/de/formen-der-zuwanderung/dauerhafte-zuwanderung/) (accessed 13 May 2019); see also Bittmann, 2013).

67 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

68 FLG I No. 145/2017.

69 FLG I No. 66/2017.

70 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

71 According to the Federal Ministry of the Interior, the residence permit was issued in February 2019 and thus outside the reporting period of this study (2014–2018) (written input by Claudia Schweda, Federal Ministry of the Interior, 16 April 2019).

72 Ministerial draft of the Federal Act, which amends the Employment of Foreign Nationals Act and the Settlement and Residence Act, Ministerial draft – Explanatory Notes, pp. 1–2, available from [www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME\\_00124/fname\\_739712.pdf](http://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00124/fname_739712.pdf) (accessed 26 April 2019); the political future of this amendment is uncertain, however, as the Austrian Federal Government was dissolved in May 2019 (written input by the Federal Ministry of the Interior, 25 July 2019).

### 3.1.2 Third-country national employees of start-ups

Austria offers no special visas or residence permits for third-country nationals wishing to work for a start-up company. Such individuals can, therefore, enter Austria or immigrate only under the general visa provisions of the Aliens Police Act 2005<sup>73</sup> or based on the general legal provisions set out in the Settlement and Residence Act. Yet, such individuals could conceivably have special skills or training making them eligible to immigrate under other categories of the RWR Card, for instance as “other key workers” (Art. 41 para 1 Settlement and Residence Act in conjunction with Art. 20d Act Governing the Employment of Foreign Nationals). Start-ups in Austria are generally permitted to employ third-country nationals. They must nevertheless in general meet the requirements of the Act Governing the Employment of Foreign Nationals. This means that any third-country national must have either a residence permit permitting access to the labour market or a corresponding official permit.<sup>74</sup>

In general, however, for third-country nationals who wish to work for start-ups, immigration appears to be a challenge, as the residence permits open to this category of individuals entail strict requirements and considerable cost. Start-ups in particular are, for example, often unable to afford the minimum salaries specified under law (Austrian Startups, n.d.:20),<sup>75</sup> so that third-country nationals willing to work for a start-up in Austria cannot meet the requirements for obtaining the residence permit necessary in the particular case.

## 3.2 Policy framework

The RWR Card was introduced in 2011, redefining the conditions under which foreign workers may immigrate to and settle in Austria.<sup>76</sup>

73 FLG I No. 100/2005, in the version of FLG I No. 56/2018.

74 oesterreich.gv.at, *Checklisten Arbeit in Österreich für Drittstaatsangehörige*, available from [www.help.gv.at/Portal.Node/hlpd/public/content/12/Seite.120753.html#Allgemeines](http://www.help.gv.at/Portal.Node/hlpd/public/content/12/Seite.120753.html#Allgemeines) (accessed 2 May 2019).

75 Der Standard, *Gründer sehen Wien am Weg zum internationalen Start-up-Zentrum*, 22 August 2018, available from <https://derstandard.at/2000085827224/Gruender-sehen-Wien-am-Weg-zum-internationalen-Start-up-Zentrum> (accessed 16 May 2019).

76 For further information on the RWR-Card, see [migration.gv.at](http://migration.gv.at), *Dauerhafte Zuwanderung*, available from [www.migration.gv.at/de/formen-der-zuwanderung/dauerhafte-zuwanderung/](http://www.migration.gv.at/de/formen-der-zuwanderung/dauerhafte-zuwanderung/) (accessed 13 May 2019) and Bittmann, 2013.

The goal was to attract (highly) skilled workers from third countries (Faßmann, 2013:2–4). The RWR Card was adapted in 2017, with a separate admission track introduced for start-up founders. This became necessary after it was recognized that the previous provisions applying to the admission of young entrepreneurs intending to start a business in Austria were overly restrictive.<sup>77</sup> One example was the requirement for self-employed key workers to optionally transfer at least EUR 100,000 in investment capital in order to obtain a residence permit (Art. 24 para 1 Act Governing the Employment of Foreign Nationals). Introducing the RWR Card for start-up founders was also in line with the “start-up country strategy” (*Gründerlandstrategie*), which among other things calls for establishing a culture of welcoming start-up founders and entrepreneurs from other countries. The new migratory pathway was intended to make Austria a “start-up magnet”.<sup>78</sup> In addition, the foreign trade strategy adopted in December 2018 specifies the goal of ensuring favourable conditions to make Austria a more attractive business location for start-up founders from other countries, contributing in this way to a more dynamic business ecosystem (Federal Ministry of Digital and Economic Affairs et al., 2018:31). The highest policy priority is to counteract the shortage of skilled workers. The strategy to respond to this challenge is built on three pillars: (a) expanding education in Austria; (b) recruiting skilled workers from other EU countries; and (c) recruiting skilled workers from third countries. Creating a separate admission track for start-up founders from third countries can be interpreted as indicating an interest on the part of policymakers to have start-ups and innovative entrepreneurs settle in Austria.<sup>79</sup>

77 Federal Act Amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act, Government Proposal – Explanatory Notes, p. 10, available from [www.parlament.gv.at/PAKT/VHG/XXV/II/I\\_01516/fname\\_618784.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/II/I_01516/fname_618784.pdf) (accessed 19 April 2019).

78 APA, *Mitterlehner/Mahrer: Rot-Weiß-Rot-Karte wird attraktiver – Neues Start-Up-Visum kommt*. Press Release, 28 February 2017, available from [www.ots.at/presseaussendung/OTS\\_20170228\\_OTS0062/mitterlehnermahrer-rot-weiss-rot-karte-wird-attraktiver-neues-start-up-visum-kommt](http://www.ots.at/presseaussendung/OTS_20170228_OTS0062/mitterlehnermahrer-rot-weiss-rot-karte-wird-attraktiver-neues-start-up-visum-kommt) (accessed 25 April 2019).

79 Interview with Sarah Klaffner and Sabine Matzinger, Federal Ministry for Digital and Economic Affairs, 11 April 2019.

### 3.3 Public discussion

The introduction of the RWR Card for start-up founders, and later changes in 2017, were discussed in Austrian media. Broad approval was expressed when the Settlement and Residence Act was amended to open the RWR Card to start-up founders as of 1 October 2017. The general secretary of the Austrian People's Party referred to the move as “an important signal sent out by Austria to all those wishing to start their own businesses”, one that would additionally “put our country in first place among start-up countries”.<sup>80</sup> The Federation of Austrian Industries similarly cited opening the residence permit as helping to enhance Austria's attractiveness as a place to locate for young and innovative entrepreneurs. There was nonetheless a need to lower the admission barriers facing applicants for the RWR Card for start-up founders (see sections 4.1 and 4.2).<sup>81</sup> Concurring, the Federal Ministry of Finance criticized in a statement on the draft bill that the admission terms were overly complex and would thus discourage competition (Federal Ministry of Finance, 2016:2).

Later, in February 2019, the Council of Ministers adopted changes to the RWR Card aimed at encouraging immigration of more key workers and at reducing the red tape involved in applying for an RWR Card. It was mainly the Austrian Economic Chamber and the Federation of Austrian Industries who expressed satisfaction at the changes. The former additionally proposed improving the process by adding a type of monitoring system, enabling applicants to evaluate the process based on its length and their satisfaction with it.<sup>82</sup> Trade unions criticized the plan to lower the minimum

80 APA, *Amon: Regierung setzt wichtige ÖVP-Maßnahmen rasch um*. Press Release, 28 February 2017, available from [www.ots.at/presseaussendung/OTS\\_20170228\\_OTS0143/amon-regierung-setzt-wichtige-oevp-massnahmen-rasch-um](http://www.ots.at/presseaussendung/OTS_20170228_OTS0143/amon-regierung-setzt-wichtige-oevp-massnahmen-rasch-um) (accessed 26 February 2019).

81 APA, *Industrie: Weiterentwicklung der Rot-Weiß-Rot-Karte wichtiger Schritt*. Press Release, 28 February 2017, available from [www.ots.at/presseaussendung/OTS\\_20170228\\_OTS0123/industrie-weiterentwicklung-der-rot-weiss-rot-karte-wichtiger-schritt](http://www.ots.at/presseaussendung/OTS_20170228_OTS0123/industrie-weiterentwicklung-der-rot-weiss-rot-karte-wichtiger-schritt) (accessed 26 April 2019).

82 APA, *Reform der Rot-Weiß-Rot-Karte für WKÖ Schritt in Richtung mehr Praxisnähe*. Press Release, 27 February 2019, available from [www.ots.at/presseaussendung/OTS\\_20190227\\_OTS0121/reform-der-rot-weiss-rot-karte-fuer-wkoe-schritt-in-richtung-mehr-praxisnae](http://www.ots.at/presseaussendung/OTS_20190227_OTS0121/reform-der-rot-weiss-rot-karte-fuer-wkoe-schritt-in-richtung-mehr-praxisnae) (accessed 26 April 2019); Salzburger Nachrichten, *Reform zu Rot-Weiß-Rot-Card passiert Ministerrat*, 27 February 2019, available from [www.sn.at/politik/innenpolitik/reform-zu-rot-weiss-rot-card-passiert-ministerrat-66415285](http://www.sn.at/politik/innenpolitik/reform-zu-rot-weiss-rot-card-passiert-ministerrat-66415285) (accessed 26 April 2019).

salary required to obtain an RWR Card for other key workers, which would affect groups including potential start-up employees who originate from third countries. Further opening the Austrian labour market to people from third countries would lead to wage dumping and stifle wage increases, according to a representative of the Vida trade union.<sup>83</sup>

### 3.4 Evaluations of migratory pathways

There has not been any evaluation or study of the RWR Card for start-up founders. This is obviously because the residence permit was introduced only recently, in 2017 (see section 3.1.1). Nonetheless, publications are available that deal with certain aspects of the migratory pathways open to third-country start-up founders or innovative entrepreneurs.

#### (1) 2018 Austrian Start-Up Monitor

As part of compiling the *Austrian Start-Up Monitor*, 512 start-up founders and business managers were surveyed in 2018. The study reveals that almost one in four start-ups in Austria employs a third-country national (Leitner et al., 2018:49). This indicates the great significance, particularly for start-ups, of migration to Austria by third-country nationals. Based on the survey, more than 60 per cent of those interviewed had the impression that the Federal Government, contrary to voiced intentions, had little or no interest in promoting start-ups (Leitner et al., 2018:99–101).

#### (2) Start-Up Hub Vienna – Making Targeted Use of Opportunities

The study entitled *Start-Up Hub Vienna – Making Targeted Use of Opportunities*, by management consulting firm Roland Berger and the Pioneers start-up network, revealed Vienna as having a truly vibrant start-up ecosystem that was nonetheless underdeveloped compared with hubs in other major cities. Referring to the migration of international start-ups, recommendations included shortening the process involved in obtaining

83 Die Presse, *Einfacherer Zugang zur Rot-Weiß-Rot-Karte soll kommen*, 27 February 2019, available from <https://diepresse.com/home/innenpolitik/5586488/Einfacherer-Zugang-zur-RotWeissRotKarte-soll-kommen> (accessed 25 April 2019).

an RWR Card. As one stakeholder observed: “We need to attract international start-ups to Vienna, because we don’t produce enough ourselves. We’re simply too small for that” (Pioneers Discover and Roland Berger, 2016:8, 14, 46–47).

### (3) Austrian Startup Agenda

Austrian Startups, a forum for innovative entrepreneurs in Austria, has published detailed recommendations for improving Austria’s prospects for attracting start-ups. The recommendations were based on a survey of 50 stakeholders and experts active in Austria’s start-up scene.<sup>84</sup> One demand was for a comprehensive “start-up visa” free of all red tape. While a step in the right direction, the current residence permit benefits only start-up founders. An arrangement is also required for employees from third countries wishing to work for start-ups, it was noted (Austrian Startups, n.d.:20).

84 Austrian Startup, *Austrian Startup Agenda*, available from [www.austrianstartups.com/wp-content/uploads/2017/09/Austrian\\_Startup\\_Agenda.pdf](http://www.austrianstartups.com/wp-content/uploads/2017/09/Austrian_Startup_Agenda.pdf) (accessed 3 May 2019).

## 4. ADMISSION PROCESS FOR THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS

Introducing the Red-White-Red Card (RWR Card) for start-up founders (Art. 41 para 2 subpara 5 Settlement and Residence Act)<sup>85</sup> resulted in a criteria-based migratory pathway open to start-up founders and innovative entrepreneurs. This chapter details the various legal and procedural aspects of the RWR Card for start-up founders. In line with the structure specified in the common study template,<sup>86</sup> the discussion considers the perspective of both the individual applying and the start-up. The subsequent section deals with potential cases of misuse as well as the various related challenges and good practices. Reference is made in that context to evaluations and observations by different national and international stakeholders.

### 4.1 Process from the perspective of start-up founders

The following section provides insights into the requirements and criteria that third-country nationals need to meet in order to obtain an RWR Card for start-up founders. The competent authorities are also presented in addition to the steps involved in and time frame of the process.

85 FLG I No. 100/2005, in the version of the federal law FLG I No. 25/2019.

86 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

#### *4.1.1 Admission requirements*

In general, applicants for a residence permit must meet the general requirements<sup>87</sup> set out in Part 1 of the Settlement and Residence Act. To obtain an RWR Card for start-up founders, applicants must additionally meet the special requirements specified in Art. 41 para 2 subpara 5 of the Settlement and Residence Act in conjunction with Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals.<sup>88</sup> This entails the admission requirements for the start-up (see section 4.2.1) as well as the admission criteria based, among other things, on the points system set out in annex D of the Act Governing the Employment of Foreign Nationals. A maximum of 85 points can be awarded, while at least 50 are necessary to be eligible for admission (see table 1). Applicants meeting the requirements for an RWR Card are issued the permit for two years, in accordance with Art. 41 para 5 of the Settlement and Residence Act.

To be issued an RWR Card for start-up founders, applicants must meet the requirements when initially applying as well as when applying to renew or change the purpose of the residence permit. A change of purpose is permissible only when the foreigner meets the specific requirements for the desired residence permit (Art. 26 Settlement and Residence Act).

It should be noted that applicants already admitted to Austria under another residence permit are not allowed to simultaneously hold more than one such permit or to combine permits. This is due to the requirement that any application for a residence permit precisely indicate the purpose of stay (Art. 19 para 2 Settlement and Residence Act). The authorities are to be notified immediately if the purpose of an individual's stay changes, for instance, if the purpose becomes starting a business (Art. 26 Settlement and Residence Act).

87 A residence permit may only be granted to a foreigner if (a) the foreigner's stay does not conflict with public interest; (b) the foreigner provides evidence of legal entitlement to accommodations meeting local standards for a family of comparable size; (c) the foreigner has health insurance that covers all risks and is valid in Austria as well; (d) the foreigner's residence would not result in a financial burden for a regional authority; (e) the granting of a residence permit does not significantly impair relations of the Republic of Austria with another State or subject of international law; (f) when applying for renewal under Art. 24, the foreigner has fulfilled module 1 of the Integration Agreement as referred to in Art. 9 of the Integration Act (FLG I No. 68/2017) within the specified period; and (g) in cases falling under Art. 58 and 58a, more than four months have passed since the departure to a third country, in accordance with Art. 58 para 5 (Art. 11 para 2 Settlement and Residence Act).

88 FLG No. 218/1975, in the version of federal law FLG No. 25/2019.

**Table 1: Admission criteria for start-up founders as specified in annex D Act Governing the Employment of Foreign Nationals**

Criteria	Points
<b>Skills</b>	<b>Max. no. of points able to be recognized 30</b>
Completed vocational education and training or special skills or knowledge in the planned field of activity	20
Completion of a minimum three-year course of study at a tertiary education institution	20
Completion of a course of studies at the Diploma, Bachelor's, Master's or doctoral level, or of vocational education and training in Austria	30
<b>Professional experience</b>	<b>Max. no. of points able to be recognized 10</b>
Professional experience (per year)	2
<b>Language skills</b>	<b>Max. no. of points able to be recognized 15</b>
Ability to use German at the advanced basic level (A 2)	5
Ability to use German at the independent or advanced independent level (B 1 or B 2)	10
Ability to use English at the advanced independent level (B 2)	10
Proficient use of German (C 1)	15
<b>Additional points</b>	<b>Max. no. of points able to be recognized 30</b>
Evidence of at least EUR 50,000 in additional capital	10
Admission to an Austrian start-up centre or support from an Austrian start-up funding provider	10
Under 35 years of age	10

Source: Act Governing the Employment of Foreign Nationals, annex D.

#### 4.1.2 Process: responsible authorities, steps and time frame

With individuals applying in another country, the local authority responsible for representing Austria is also responsible for receiving applications (Art. 3 para 3 in conjunction with Art. 5 para 1 Settlement and Residence Act). Applicants are to submit applications in person and await the outcome of the decision in the foreign country (Art. 19 para 1 and Art. 21 para 1 Settlement and Residence Act).

The Austrian representation authority then forwards the application, along with any documents submitted, to the competent settlement and residence authority in Austria. The latter is the governor of the province where the applicant resides or intends to take up residence (Art. 3 para 1 and Art. 4 para 1 Settlement and Residence Act). In a later step in the process, the settlement and residence authority requests an assessment from the provincial office of the Public Employment Service Austria, in accordance with Art. 41 para 2 subpara 5 Settlement and Residence Act (see

section 4.2.2). The competent settlement and residence authorities are to decide within eight weeks on whether to issue an RWR Card (Art. 41 para 3 Settlement and Residence Act). No information is available on average processing times.<sup>89</sup>

In the event that a positive decision is reached after taking into consideration the assessment, the settlement and residence authority advises the authority representing Austria in the other country. A visa permitting entry to Austria may be issued if required (Art. 25 para 1 Aliens Police Act 2005).<sup>90</sup> After being issued a valid visa, the applicant can travel to Austria and personally collect the residence permit from the competent settlement and residence authority (AT EMN NCP, 2015:33–34).

Art. 21 of the Settlement and Residence Act provides for exceptions to the rule requiring first-time applicants to await the outcome of decisions in another country. For example, where foreigners are entitled to enter Austria without a visa, they can apply for the permit after lawful entry and during lawful residence in Austria (Art. 21 para 2 subpara 5 Settlement and Residence Act).

## **4.2 Process from the perspective of start-ups**

The following section details admission procedures for start-ups. Particular attention is given to the requirements and competent authorities, as well as to the steps in and time frame of the process. The documents required to be submitted during the process are also described.

### *4.2.1 Admission requirements*

The special admission requirements needing to be met by start-ups, as well as the prerequisites for obtaining a residence permit, are set out in Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals (see information box 1). In addition to meeting these requirements,

89 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

90 Federal Act Amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act, Government Proposal – Explanatory Notes, p. 10, available from [www.parlament.gv.at/PAKT/VHG/XXV/II/I\\_01516/fname\\_618784.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/II/I_01516/fname_618784.pdf) (accessed 19 April 2019).

the company behind the start-up must not be more than five years old.<sup>91</sup> The admission criteria for start-up founders are based, among other things, on the points system specified in annex D of the Act Governing the Employment of Foreign Nationals (see section 4.1.1).

**Information box 1: Admission requirements pursuant to Art. 24 para 2 Act Governing the Employment of Foreign Nationals**

Foreign nationals are admitted as start-up founders when they:

1. Achieve the minimum number of points awarded for the criteria listed in annex D;
2. Develop and bring to market innovative products, services, processes or technologies within the framework of a newly established undertaking;
3. Submit a plausible business plan for founding and operating the undertaking;
4. Personally have a major influence on the actual management of the planned undertaking;<sup>92</sup>
5. Provide evidence of at least EUR 50,000 in capital for starting the company, with at least half the amount held as owner's equity.

*Source:* Act Governing the Employment of Foreign Nationals.

#### *4.2.2 Process: responsible authorities, steps and time frame*

The provincial office of the Public Employment Service competent for the planned company headquarters is responsible for deciding whether the start-up meets the requirements specified in Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals. That office is to prepare within three weeks an assessment as to whether the start-up meets the requirements (Art. 24 para 3 Act Governing the Employment of Foreign Nationals). No information is available on average processing times.

Applicants must apply in person for the residence permit for start-up founders – and thus for having the assessment issued – to the competent authority representing Austria in another country (Art. 19 para 1 Settlement and Residence Act; see section 4.1.2 for details). The appropriate documents, certificates and evidence required for the assessment are to be submitted with the application. That assessment later represents a basic prerequisite for issuing an RWR Card (Art. 41 para 2 subpara 5 Settlement and Residence Act).

91 Ibid.

92 According to a decision by the Provincial Administrative Court of Vienna dated 21 January 2016, “in addition to the applicant meeting the conditions enumerated in Art. 24 of the Act Governing the Employment of Foreign Nationals, an assessment must take place to determine whether the applicant does in fact play a key role in their company that involves making business decisions as well as business strategy decisions, thereby providing substantial input for managing that company and taking the relevant business decisions” (Provincial Administrative Court of Vienna, 21 January 2016, VGW-151/023/5491/2015).

One question raised in the common template for this study<sup>93</sup> relates to how long it takes after receiving a positive assessment before the start-up founder can apply for the residence permit. Austria has no such interim period. The start-up founder will already have applied for an RWR Card when the provincial office of the Public Employment Service prepares the assessment of whether the requirements are met (see section 4.1.2). There is similarly no set period in Austria between when the assessment is issued and when a company is started. A valid residence permit is nonetheless required to found a company (Unternehmensserviceportal, 2019:5–6).

#### 4.2.3 Documents

Applicants for a residence permit are generally required to make certain documents available, such as a valid travel document, a birth certificate and a photo (Art. 7 para 1 Regulation on the Implementation of the Settlement and Residence Act).<sup>94</sup>

Those applying for an RWR Card for start-up founders are additionally required to submit a “business plan for founding and operating the undertaking” (Art. 24 para 2 subpara 3 Act Governing the Employment of Foreign Nationals). Documents verifying the innovative character of products, services, processes or technologies are also to be submitted with the application or the business plan, in accordance with Art. 9 para 5 subpara 9 of the Regulation on the Implementation of the Settlement and Residence Act. Products, services, processes or technologies are considered innovative in particular when “they are to be introduced to Austria for the first time and a corresponding demand is to be expected, a new type of access or a creative approach is selected, for example, by combining different products or sectors (interdisciplinary approach), or the start-up undertaking creates new products in the social or ecological sector, or accepts social or ecological responsibility.”<sup>95</sup>

93 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

94 FLG II No. 451/2005, in the version of federal law FLG II No. 81/2019.

95 Federal Act Amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act, Government Proposal – Explanatory Notes, p. 11, available from [www.parlament.gv.at/PAKT/VHG/XXV/II/I\\_01516/fname\\_618784.pdf](http://www.parlament.gv.at/PAKT/VHG/XXV/II/I_01516/fname_618784.pdf) (accessed 19 April 2019).

Evidence of the investment capital, including the available owner's equity, is to be provided in accordance with Art. 9 para 5 subpara 7 of the Regulation on the Implementation of the Settlement and Residence Act. The minimum amount of capital required is EUR 50,000, with at least half in the form of owner's equity (Art. 24 para 2 subpara 5 Act Governing the Employment of Foreign Nationals). The other half can be in the form of callable loan assurances, amounts pledged by business angels, venture capital or grants.<sup>96</sup>

Applicants have to achieve the minimum number of points awarded for the criteria relating to skills, professional experience, language skills and other areas, as listed in annex D of the Act Governing the Employment of Foreign Nationals (Art. 24 para 2 subpara 1 Act Governing the Employment of Foreign Nationals; see table 1). Corresponding certificates, documents and evidence are to be submitted with the application (Art. 9 para 5 Regulation on the Implementation of the Settlement and Residence Act).

An agreement with the specific institution also has to be submitted where the applicant refers to being admitted to an Austrian start-up centre or receiving support from an Austrian start-up funding provider in order to claim points under annex D of the Act Governing the Employment of Foreign Nationals (Art. 9 para 5 subpara 8 Regulation on the Implementation of the Settlement and Residence Act). Evidence also needs to be provided of having a major influence on the business rules of the planned undertaking, except where a sole proprietorship is involved (Art. 9 para 5 subpara 10 Regulation on the Implementation of the Settlement and Residence Act; see footnote 92.)

### **4.3 Misuse**

Due to the small number of applications for the RWR Card for start-up founders received so far, we have no information about any misuse of that residence permit, in other words, of cases where applicants applied for the residence permit without intending to actually found a start-up (see section 3.1.1).<sup>97</sup>

96 Ibid.

97 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

## 4.4 Challenges

In general the bureaucratic obstacles and the lengthy process appear to be major challenges for applicants wishing to obtain an RWR Card. These challenges have been recognized both by policymakers and administrators as well as by private business, research institutions and bodies representing stakeholders' interests (see section 3.4). According to Biffi (2016:63) the requirement to apply to the local authority representing Austria in another country is an initial challenge (see section 4.1.2). Opening a bank account in Austria is another bureaucratic obstacle, resulting from the various obligations owing on banks in the European Union. A bank account is necessary, however, in order to deposit the capital required as a condition for obtaining an RWR Card for start-up founders (Art. 24 para 2 subpara 5 Act Governing the Employment of Foreign Nationals).<sup>98</sup> In view of the length of the process, some have called for a sort of fast-track system for the RWR Card. This is intended to benefit employees of start-ups originating from other countries (Austrian Startups, n.d.:20; Pioneers Discover and Roland Berger, 2016:23, 47).

In an interview, a third-country national who had applied for an RWR Card described another related problem: during the application process, the start-up's business theoretically comes to a halt, with no use able to be made of the EUR 50,000 in capital, required to be demonstrated in accordance with Art. 24 para. 2 subpara 5 of the Act Governing the Employment of Foreign Nationals. This can reportedly be a major obstacle in the fast-paced start-up scene, making the difference between the success or failure of an idea. Another reported challenge is the expense associated with applying for the start-up founder's RWR Card as well as for residence permits for family members. In addition to the fees prescribed by law, additional expense is said to be incurred as a result of lawyers, demonstrating language skills and travel. Here special mention is made of how it is practically impossible without legal assistance for a third-country national to start a company in Austria, particularly in view of the various legal forms of companies and the existing requirements in Austria.<sup>99</sup> The Austrian

98 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

99 Interview with John Shen, Xenico, 8 April 2019.

Economic Chamber similarly recognizes this challenge and seeks to help remedy it by offering advice.<sup>100</sup>

Another challenge arises from the points system for the RWR Card (see section 4.1.1). The Vienna Business Agency, for instance, expressed concern at the type of inflexible points system applicable to the RWR Card, which could potentially result in losing innovative ideas where applicants did not meet all of the requirements placed by the RWR Card for start-up founders.<sup>101</sup> A study of entrepreneurship among international migrants in Austria concluded that the selection criteria also needed to take into account non-formalized aspects of human capital, such as a knowledge of products, services and business opportunities deriving from another culture (Vandor, 2015:98).

#### **4.5 Good practices**

In the way of good practices relating to admission under the RWR Card for start-up founders, the third-country national who had applied for the residence permit underscored the adequate and transparent information made available online at [www.migration.gv.at](http://www.migration.gv.at) to prospective applicants for the RWR Card for start-up founders.<sup>102</sup> The individual reported that the process was transparent, allowing applicants to realistically assess their chances for obtaining the RWR Card. He additionally noted that, with its various incentive programmes, Austria made the impression of being interested in having international start-ups and innovative entrepreneurs immigrate to the country (see section 5.2).<sup>103</sup> The Federal Ministry of the Interior mentioned in particular how well cooperation succeeded among the authorities responsible for such cases. Dividing responsibilities between the settlement and residence authorities and the Public Employment Service is said to be effective, with the latter's staff contributing the needed expertise.<sup>104</sup>

100 Written input by Andrea Hagendorfer, Austrian Federal Economic Chamber, 11 April 2019.

101 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

102 Interview with John Shen, Xenico, 8 April 2019.

103 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019; interview with John Shen, Xenico, 8 April 2019.

104 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

## 5. ATTRACTING THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS

This chapter presents Austria's efforts in the way of attracting start-ups<sup>105</sup> and innovative entrepreneurs from third countries. Besides providing a detailed summary of related legal aspects, various programmes aimed at attracting the different stakeholder groups are described. Afterwards, discussion is given to aspects of marketing Austria as a business location as well as to the major factors involved in attracting start-ups, along with related challenges and good practices.

### 5.1 Legal aspects

Introducing the Red-White-Red Card (RWR Card) for start-up founders in 2017 represented a major step towards attracting start-ups and innovative entrepreneurs from third countries. This resulted in a transparent catalogue of eligibility criteria, including items such as a low minimum capital threshold to be met when starting a company. Specifically, to be admitted under an RWR Card for start-up founders, applicants are required to provide evidence of at least EUR 50,000 in capital, with a minimum of half in the form of owner's equity (Art. 24 para 2 Act Governing the Employment of Foreign Nationals).<sup>106</sup> Previously, entrepreneurs from third countries wishing to start a business in Austria were able to immigrate by applying for an RWR Card for self-employed key workers (Art. 24 para 1 Act Governing the Employment of Foreign Nationals).<sup>107</sup> This was associated with conditions, including the optional transfer of at least EUR 100,000 in investment capital (Art. 24 para 1 Act Governing the Employment of Foreign Nationals).

105 These and other thematic terms are defined in section 1.2 of this study.

106 FLG No. 218/1975, in the version of federal law FLG I No. 25/2019.

107 Interview with Eva-Caroline Pfeleger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

The rights associated with residence status under an RWR Card for start-up founders are described in the following. A selection of rights, as specified in the common study template,<sup>108</sup> is presented.

**Table 2: Rights potentially granted to start-up founders**

Rights potentially granted as listed in the common study template <sup>109</sup>	Brief description of the rights granted
Facilitated access to permanent residence	In accordance with Austrian law, the residence permit Permanent Residence – EU entitles holders to permanently reside in Austria (Art. 45 Settlement and Residence Act). <sup>110</sup> This permit can be granted based on an RWR Card for start-up founders when certain conditions are met. No facilitated access is granted to start-up founders as such.
Access to employment	An RWR Card for start-up founders does not entail labour market access, that is, authorization to pursue dependent gainful employment. To work for an employer, the card holder must have the purpose of stay specified in the residence permit changed (Art. 26 Settlement and Residence Act). When meeting the requirements, start-up founders can after two years change to an RWR Card Plus, which allows unrestricted access to employment (see section 6.1).
Possible accompaniment by family members	Family members of individuals with residence status under an RWR Card for start-up founders are to be granted an RWR Card Plus, provided they meet the requirements set out in Art. 46 para 1 of the Settlement and Residence Act. The general requirements include a secure means of subsistence, health insurance and accommodations meeting local standards (see footnote 87).
Family members allowed to access the labour market	The RWR Card Plus for family members allows unrestricted access to the labour market, as specified in Art. 17 para 1 of the Act Governing the Employment of Foreign Nationals (Abermann et al., 2016:Art. 46 margin number 11).
Other rights: naturalization	Under certain conditions, third-country nationals can be granted Austrian citizenship after at least six years of continuous legal residence (Art. 11a para 4 Citizenship Act 1985). <sup>111</sup> This can be regarded as an additional legal incentive to start a business in Austria (Biffl, 2016:131).

Source: Representation by author.

## 5.2 Incentive measures

The following section presents the major actors in Austria involved in attracting start-up founders and innovative entrepreneurs, while giving examples of incentive measures.

108 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

109 Ibid.

110 FLG I No. 100/2005, in the version of federal law FLG I No. 25/2019.

111 FLG No. 311/1985, in the version of federal law FLG I No. 61/2018.

### 5.2.1 Actors

#### Private sector

Austria has numerous private incubators and accelerators, technology and start-up centres, co-working spaces and networking events.<sup>112</sup> While no specific focus can be recognized on start-ups and innovative entrepreneurs from third countries, many of these providers aim also to arouse the interest of international start-ups and entrepreneurs. Specific examples of this are the weXelerate accelerator programme and Talent Garden (see table 3).<sup>113</sup>

#### Universities

Universities offer a variety of support and funding programmes for start-ups and innovative entrepreneurs, yet none specifically for individuals or projects from third countries. Special mention needs to be made here of Academic plus Business (AplusB), an incubator programme for academic spin-off start-ups (see table 3). Support and funding opportunities such as those offered through this programme represent a major incentive factor for international start-up founders (see section 5.5).

#### Local and regional actors

Towns, cities and regions play a key role in cultivating business ecosystems in Austria (see section 2.2). Regional business agencies are especially active in attracting international companies, as well as investors. In Vienna, Austria's central start-up hub, the Vienna Business Agency plays the key role in these activities. The Vienna Business Agency supports businesses, helping them, for example, to find their way within Austria's start-up ecosystem and to network with other start-ups (see table 3). In projects to attract international start-ups and innovative entrepreneurs, the Vienna Business Agency also does not focus on third-country nationals. The goal instead is to promote start-ups in general, with special effort put towards expanding start-up in Vienna hub into Central and Eastern European countries.<sup>114</sup>

112 ABA, *Startup Ecosystem Austria*, available from <https://investinaustria.at/en/startups/overview.php> (accessed 24 April 2019).

113 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

114 Ibid.

### Other actors

The Austrian Business Agency (ABA), an organization belonging to the Republic of Austria, is the main actor at federal level involved in attracting international companies.<sup>115</sup> The ABA is tasked with getting as many international businesses as possible to become established in Austria, investing as much as possible and creating the most jobs possible. The ABA does not focus especially on start-ups from third countries, as such businesses usually seek capital and do not directly invest in Austria. The ABA is nonetheless dedicated to representing Austria as being a highly innovative and attractive business location.<sup>116</sup>

### Cooperation between the State and private sectors

To attract start-ups and innovative entrepreneurs from third countries, State institutions and the private sector cooperate within the framework of the goAustria programme (see section 5.2.2). Participants include the ABA, along with private incubators and accelerators such as weXelerate, Kapsch Factory One and Raiffeisen Elevator Lab.<sup>117</sup> Other direct and indirect types of cooperation do exist, but not exclusively for the purpose of attracting start-ups and innovative entrepreneurs from third countries. Rather, direct cooperation takes place to support activities including the Pioneers Festival (see section 5.2.2 and table 3).<sup>118</sup>

Mention is made here of Austria's aws JumpStart support programme, which provides funding to private sector incubators and accelerators serving as consultants for highly innovative companies and business ideas with a technology focus (aws, n.d.:1–2). We are not aware whether the private incubators and accelerators funded through this programme also assist third-country start-ups and innovative entrepreneurs.

115 ABA, *ABA – About us*, available from <https://investinaustria.at/en/about-aba/> (accessed 24 April 2019).

116 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

117 Ibid.

118 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

### 5.2.2 General measures to promote start-ups

The Global Incubator Network (GIN), a measure aimed at attracting start-up founders, was introduced as part of the “start-up country strategy”. Among the purposes of GIN, along with the goAustria programme implemented under the network, is to serve as a central clearing point for international start-ups, incubators and investors wishing to take up business in Austria. The offerings include a two-week incubator programme involving mentoring, training and legal advice, as well as an internationalization programme individually tailored to start-up founders and innovative entrepreneurs from third countries. GIN particularly focuses on these regions: (a) Israel; (b) Hong Kong Special Administrative Region, China; (c) Singapore; (d) Japan; (e) China; and (f) Republic of Korea.<sup>119</sup>

We are not aware of any other activities that exclusively target third-country start-up founders or innovative entrepreneurs. There are nonetheless activities aimed at helping in general to internationalize Austria’s start-up ecosystem. The Vienna Start-Up Package, to name an example, targets international start-ups from all over the world while mainly seeking to nurture exchange with stakeholders at national level.<sup>120</sup> A two-month assistance programme is included in the package, with all expenses, such as for travel and accommodation, paid for one individual from each participating start-up. Although the programme does not specifically target third-country start-ups, five of the 11 start-ups participating in 2019 were in fact from third countries.<sup>121</sup>

The table below summarizes relevant measures in Austria to promote start-ups. The list is only meant by way of example. Numerous other general activities exist. The measures listed here fall under the categories given in the common study template.<sup>122</sup>

119 Global Incubator Network, *GO AUSTRIA*, available from [www.gin-austria.com/goAustria.html](http://www.gin-austria.com/goAustria.html) (accessed 25 April 2019).

120 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

121 Vienna Business Agency, *Vienna Start-up Package 2019*, available from <https://viennabusinessagency.at/startup-city-vienna/vienna-startup-package/> (accessed 25 April 2019).

122 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

Table 3: Relevant measures to promote start-ups in Austria

Measures as listed in the common study template <sup>123</sup>	Brief description of the measure	Time-limited or permanent	Party implementing the measure	Applies to:	
				TCNs only <sup>124</sup>	General
<b>Facilitated admission of start-up founders</b>	The RWR Card for start-up founders was introduced in Austria in 2017 (Art. 41 para 2 subpara 5 Settlement and Residence Act). This is a special type of RWR Card, intended to simplify the immigration requirements applicable to third-country nationals wishing to start a business (see chapter 3). <sup>125</sup>	Permanent	State sector		
<b>Access to special funding and investments</b>	The main sources of public funding for start-ups in Austria are the Austrian Wirtschaftsservice GmbH (aws) and the Austrian Research Promotion Agency (FFG). <sup>126</sup> The web search engine <a href="http://www.foerderpilot.at">www.foerderpilot.at</a> was launched in 2016 to provide an overview of all sources of public funding in Austria. <sup>127</sup>  Business angels represent another important source of funding for start-ups in Austria. By doubling the amount of equity contributed by business angels, the aws Business Angel Fund assists in this type of promotion activity. In Austria, business angels also form private networks such as the Austrian Angel Investors Association (Federal Ministry of Digital and Economic Affairs, 2018a: 11, 27–29).  Alternative forms of funding such as crowdfunding play an increasingly important role in Austria. To establish a legal basis for alternative forms of business funding, the Alternative Financing Act <sup>128</sup> was introduced in 2015 and later amended in 2018. The amendment set new higher thresholds for defining the act's scope of application (Federal Ministry of Digital and Economic Affairs, 2018a:115–116).	Permanent	State sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Permanent	Cooperation between the State and private sectors	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Permanent	State sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>

123 Ibid.

124 Third-country nationals (TCN).

125 Federal Act Amending the Act Governing the Employment of Foreign Nationals and the General Social Insurance Act, Government Proposal – Explanatory Notes, p. 11, available from [www.parlament.gv.at/PAKT/VHG/XXV/II/01516/index.shtml](http://www.parlament.gv.at/PAKT/VHG/XXV/II/01516/index.shtml) (accessed 19 April 2019).

126 ABA, *Startup Ecosystem Austria*, available from <https://investinaustria.at/en/startups/overview.php> (accessed 24 April 2019).

127 Förderpilot, available from [www.foerderpilot.at](http://www.foerderpilot.at) (accessed 2 May 2019).

128 FLG No. 311/1985, in the version of FLG I No. 61/2018.

Measures as listed in the common study template	Brief description of the measure	Time-limited or permanent	Party implementing the measure	Applies to:	
				TICNs only	General
Access to incubation/accelerator support programmes	Start-ups in Austria have access to a closely knit network of public and private sector incubators and accelerators (Organisation for Economic Co-operation and Development, 2018:13–14). The goAustria programme, under the Global Incubator Network (GIN) offers a two-week course for incubators as well as an internationalization programme individually tailored to start-up founders and innovative entrepreneurs from third countries. The activities include introducing Austrian start-ups to potential investors. <sup>129</sup> GIN is currently planned for 2019–2022 (Global Incubator Network Austria, austria.wirtschaftsservice, 2019:4).	Time-limited	Cooperation between the State and private sectors	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Some private sector providers are highly active at international level. An example here is weXelerate, with an accelerator programme attended by representatives from almost 30 States since 2017. <sup>130</sup>	Permanent	Private sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Co-working spaces	Academic plus Business (AplusB) is a highly relevant public sector incubator programme (Leitner et al., 2018:94). The programme enables start-up teams of university professors, staff and students to commercially exploit university research findings. Innovative yet complex technology-oriented start-up proposals require considerable time investments and overtax the resources of research institutions and private incubators. The publicly funded AplusB centres respond by supporting projects of a scale significant for the Austrian economy (Ploder et al., 2015:i, 23). The current funding programme is scheduled to run until 2020 (AWS, Federal Ministry for Transport, Innovation and Technology, 2016:1).	Time-limited	State sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Austria has an abundance of co-working spaces for start-ups, varying in terms of location, size and types of businesses supported (ABA – Invest in Austria, 2018). Talent Garden and Impact Hub are examples for co-working spaces in Vienna that feature a strong focus on international businesses. <sup>131</sup>	Permanent	Private sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>

129 Global Incubator Network, *GO AUSTRIA*, available from [www.gin-austria.com/goAustria.html](http://www.gin-austria.com/goAustria.html) (accessed 25 April 2019).

130 weXelerate, available from [www.wexelerate.com](http://www.wexelerate.com) (accessed 10 April 2019).

131 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

Measures as listed in the common study template	Brief description of the measure	Time-limited or permanent	Party implementing the measure	Applies to:	
				TCNs only	General
<b>Consultation services/facilitators helping in networking/accessing networks</b>	The Vienna Start-Up Package, offered by the Vienna Business Agency, has been providing a two-month support programme for international start-ups since 2014. The packages are awarded each year to selected start-ups. One of the aims of the programme is to foster sharing between Austrian and international stakeholders. <sup>132</sup> The Pioneers Festival has been held in Vienna for a number of years. The event invites international start-ups, investors and representatives of ministries to share with one another (see section 5.2.1). <sup>133</sup>	Permanent	Local and regional actors	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Training programmes for start-ups</b>	Austrian universities have special training programs for young entrepreneurs; an example here is the start-up centre operated by the Vienna University of Economics and Business. Within the framework of a skills academy, separate workshops are provided to help participants acquire entrepreneurial skills. <sup>134</sup> The Austrian Economic Chamber makes available a number of programmes for (potential) start-up founders. Vienna, for example, has its own start-up academy, providing workshops to support start-up founders from the idea to market entry. <sup>135</sup>	Permanent	Universities	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Financial support to cover administrative and/or staff costs</b>	An amendment to the Business Start-Up Promotion Act <sup>136, 137</sup> became law in 2016 (Federal Ministry of Digital and Economic Affairs, 2016:97). Art. 1 of the act exempts companies meeting the requirements for start-ups (Art. 2 Business Start-Up Promotion Act) from official fees and charges, normally due for official procedures, purchases of property, entries in the property or commercial register, and similar services.	Permanent	Private sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Tax incentives</b>	A reduced corporate tax rate has been defined for private limited companies (GmbHs; Art. 24 para 4 subpara 3 Corporate Tax Act 1988). <sup>138</sup> Exemptions from various taxes as well as tax benefits are available based on the Business Start-Up Promotion Act (Art. 1 subpara 5, 6 and 7). Confirmation of having received advice from the professional representation group responsible is required in order to take advantage of exemptions (Art. 4 para. 3 Business Start-Up Promotion Act).	Permanent	State sector	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Source: Representation by author.

132. Vienna Business Agency, *Vienna Start-up Package 2019*, available from <https://viennabusinesagency.at/startup-city-vienna/vienna-startup-package/> (accessed 25 April 2019).

133. Forschungsförderungsgesellschaft, *Pioneers Festival 2018*, available from [www.ffg.at/veranstaltungen/pioneers2018](http://www.ffg.at/veranstaltungen/pioneers2018) (accessed 28 April 2019).

134. WU Vienna, *Skills Academy*, verfügbar auf [www.wu.ac.at/gruenden/programme/skills-academy](http://www.wu.ac.at/gruenden/programme/skills-academy) (accessed 24 April 2019).

135. Austrian Federal Economic Chamber, *rocket science – die WKW Startup-Akademie*, available from [www.wko.at/service/w/innovation-technologie-digitalisierung/Startups.html](http://www.wko.at/service/w/innovation-technologie-digitalisierung/Startups.html) (accessed 25 April 2019).

136. FLG I No. 194/1999, in the version of federal law FLG I No. 40/2017.

137. Start-ups are subject to a reduced minimum corporation income tax of EUR 125 for the first five calendar years after founding and EUR 250 per full calendar quarter during the following five calendar years (Art. 24 para 4 subpara 3 Corporation Income Tax Act).

138. FLG No. 401/1988, in the version of federal law FLG I No. 62/2018.

### 5.3 Business location marketing

The intention in introducing the RWR Card for start-up founders was to make Austria a “start-up magnet”.<sup>139</sup> As with the other categories of RWR Card, by introducing the new RWR Card for start-up founders Austria has specified the type of individuals to be considered (highly) qualified third-country nationals and thus eligible for an RWR Card (Bittmann, 2013:20). In this light, the RWR Card can be regarded as a sort of national “brand”, which is advertised on a website and other places. That site currently provides information on items including eligibility requirements for the RWR Card for start-up founders, in addition to other significant details about immigrating to Austria (Bittmann, 2013:26).<sup>140</sup>

As the main organization in Austria responsible for attracting international companies, the ABA puts forth every effort to enhance Austria’s international reputation as a start-up location. This reportedly has a positive impact on Austria’s overall image as a business location.<sup>141</sup> With this goal in mind, information booklets are prepared especially for international start-up founders and innovative entrepreneurs, and made available in various languages as well as periodically updated (ABA Invest in Austria, n.d.).<sup>142</sup>

Responsible for marketing the City of Vienna as a business location is the Vienna Business Agency. It is tasked with advertising the business location for start-up location at international events. Most recently, the Vienna Business Agency launched the Start-Up City Vienna campaign. The campaign includes a website in German and English, which provides information to international start-ups on subjects including open calls, support and funding options.<sup>143</sup>

Austria is also advertised as a start-up location within two international programmes, goAustria and the Vienna Start-Up Package (see section 5.2.2).

139 APA, *Mitterlehner/Mahrer: Rot-Weiß-Rot-Karte wird attraktiver – Neues Start-Up-Visum kommt*. Press Release, 28 February 2017, available from [www.ots.at/presseaussendung/OTS\\_20170228\\_OTS0062/mitterlehnermahrer-rot-weiss-rot-karte-wird-attraktiver-neues-start-up-visum-kommt](http://www.ots.at/presseaussendung/OTS_20170228_OTS0062/mitterlehnermahrer-rot-weiss-rot-karte-wird-attraktiver-neues-start-up-visum-kommt) (accessed 25 April 2019).

140 For further information please see [migration.gv.at](http://migration.gv.at), available from [www.migration.gv.at](http://www.migration.gv.at) (accessed 16 May 2019).

141 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

142 Ibid.

143 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019. For further information please see Vienna Business Agency, *Startup City Vienna*, available from <https://viennabusinessagency.at/startup-city-vienna/overview/> (accessed 29 May 2019).

## 5.4 Evaluation of measures and factors influencing success

On the whole, the measures to advertise Austria as a start-up location and to attract start-up founders and innovative entrepreneurs have apparently been successful. Austria has, in fact, recorded an increased number of start-ups from other countries. This is shown by the ABA annual report and other sources. That agency was instrumental in helping 355 international companies become established in Austria in 2018, more than in the two preceding years (ABA Invest in Austria, 2019). The City of Vienna in particular enjoys a good international image due to its proven high standard of living, availability of talents, and regional expertise in Central and Eastern Europe.<sup>144</sup> The city correspondingly ranks first on The Economist's Global Livability Index.<sup>145</sup>

In 2018 an interim evaluation of GIN took place. A total of 62 companies had participated in goAustria, the network's main programme, since 2015. The evaluation concluded that initial sustained effects had been achieved among these businesses, with the visibility of the GIN programmes being enhanced (Handler et al., 2018:18).

The Vienna Start-Up Package was also received well in international circles, as shown by the 230 applications submitted in 2017. This is a highly positive trend, according to the Vienna Business Agency, with applications doubling each year. Of the 230 applications received, support was provided to 12 international start-ups in the end, seven of which are based in third countries (Vienna Business Agency, n.d.:19, 27).

When compared with other countries, Austria also does a good job of competing for talents. This is shown by the 2019 Global Talent Competitiveness Index (GTCI), which rates Austria at twenty-first place among 125 countries in terms of attracting talent (Lanvin et al., 2018:24). On the same scale, Vienna ranked fourteenth within a field of 114 cities and even took fourth place overall.<sup>146</sup> According to the Federal Minister for Digital and Economic Affairs, Austria's attractiveness results from the stable

144 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

145 The Economist, *Global Liveability Index 2018*, available from [www.eiu.com/public/topical\\_report.aspx?campaignid=Liveability2018](http://www.eiu.com/public/topical_report.aspx?campaignid=Liveability2018) (accessed 25 April 2019).

146 GTCI, *Special Section: The GTCI*, available from <https://gtcistudy.com/special-section-gtci/#> (accessed 25 April 2019).

and safe conditions, the quality and motivation of employees, strong purchasing power, and vast competence in business with Eastern Europe.<sup>147</sup>

An analysis of the RWR Card concluded that legal regulations or bureaucratic processes were not the main factors determining the attractiveness of a country. Instead, “non-legal factors are more significant for attractiveness, including the income level able to be achieved (return on human capital), the opportunities for personal professional development, the effectiveness and international compatibility of the educational system (where children arrive with their parents), an affordable cost of living, an attractive housing market, public safety, and an exciting cultural life” (Faßmann, 2013:13).

In particular, getting start-ups to establish businesses is challenging, according to the ABA, as such firms are highly flexible and enjoy a certain amount of freedom in choosing where to locate. The considerations that influence the decision to establish a company at a specific location vary greatly; this depends among other things on direct factors, such as potential grants and financing and the availability of skilled workers, as well as indirect factors, which include political stability and foreseeability of developments.<sup>148</sup> Other factors are wages and salaries and non-labour costs, incubation programmes and even the political climate, according to the Vienna Business Agency.<sup>149</sup>

147 ABA, *Österreich: Umfassende Maßnahmen für Start-ups und KMU*. Press Release, 14 August 2014, available from <https://investinaustria.at/de/presse/presseaussendungen/start-ups-und-kmu.pdf> (accessed 29 April 2019); APA, *Schramböck: Neues Rekordergebnis bei Betriebsansiedlungen*. Press Release, 22 February 2018, available from [www.ots.at/presseaussendung/OTS\\_20180222\\_OTS0073/schramboeck-neues-rekordergebnis-bei-betriebsansiedlungen](http://www.ots.at/presseaussendung/OTS_20180222_OTS0073/schramboeck-neues-rekordergebnis-bei-betriebsansiedlungen) (accessed 25 April 2019).

148 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

149 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

## 5.5 Challenges

The ABA sees a main challenge to attracting start-ups in the discrepancy between policymakers' avowed intention to attract start-ups and the actual policies, which often prove restrictive.<sup>150</sup> Various bureaucratic obstacles and the amount of time it takes to process start-up applications in Austria are reported as challenges for migrants wishing to start a business. The requirements specified in Austria's Industrial Code are considered especially debilitating, according to Bristol-Faulhammer (2017:16) (see section 2.3.4). This was substantiated in an interview with a third-country national who had applied for an RWR Card for start-up founders.<sup>151</sup> Another challenge identified by the Vienna Business Agency is the degree of legal uncertainty existing for students from third countries in Austria who start a business. Due to the current legal situation, such individuals cannot be sure whether they will be able to remain in Austria and continue running their businesses once they graduate.<sup>152</sup>

Spin-offs and academic start-ups play a central role in the debate over how to drive dynamic economic development. A study on this question published in 2016 concluded that universities support business start-ups through "awareness and education" in most cases. When likely to result in start-ups, projects are passed on to other bodies or to incubators. Due to a lack of resources, only few Austrian universities have their own incubation centres. To promote academic start-ups in Austria, and corresponding innovation, the study concluded that alternative funding instruments were required, such as venture capital funds accessible to more than one region. Other recommendations included tax incentives for private holdings and dismantling bureaucratic obstacles (Ecker and Gassler, 2016:8, 45, 49–50).

150 Interview with Birgit Reiter-Braunwieser, Austrian Business Agency, 5 April 2019.

151 Interview with John Shen, Xenico, 8 April 2019.

152 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

## 5.6 Good practices

According to the third-country national who applied for an RWR Card for start-up founders, Austria does a very good job of introducing interested international start-ups and innovative entrepreneurs to the country's start-up ecosystem. Programmes such as goAustria and Vienna Start-Up Package build lasting relationships among target group members and investors, multipliers, networks and potential customers.<sup>153</sup> Both programmes are cited by the Finnish government as examples of how to attract start-ups from outside Europe (Rilla et al., 2018:13).

The Organisation for Economic Co-operation and Development (OECD) has attested to Austria's closely knit network of incubators and accelerators (OECD, 2018:13–14). The latter help companies develop their businesses especially during their growth phase and play an important role in attracting international start-ups (see section 5.4). Another example to mention here is the AplusB start-up programme, which has also gained international recognition. About 800 start-up projects received support at AplusB centres between 2001 and 2017 Ploder et al. (2015:i) report how the programme has helped create awareness among university staff and research institutions for the option of starting academic spin-offs (see section 5.2.2).

153 Interview with John Shen, Xenico, 8 April 2019.

## 6. RETAINING THIRD-COUNTRY START-UPS AND INNOVATIVE ENTREPRENEURS

This chapter discusses various issues relating to retaining start-ups<sup>154</sup> and innovative entrepreneurs who have migrated from third countries. In particular, a detailed description is given of the process and the main requirements involved in renewing an Red-White-Red Card (RWR Card) for start-up founders or changing the purpose of a residence permit. In addition, measures are presented that are aimed at retaining and nurturing start-up founders and innovative entrepreneurs who already reside in Austria. The chapter closes with a discussion of related challenges and good practices.

### 6.1 Extending period of stay

The RWR Card for start-up founders was only introduced in May 2017, while residence permits under Art. 41 para 5 of the Settlement and Residence Act<sup>155</sup> are generally issued for two years. Hence no experience with renewing this residence permit has been gathered yet. In cases of renewal as well, an RWR Card is issued with a validity of two years at the most, in accordance with Art. 41 para 5 Settlement and Residents Act.

Before such a residence permit expires, start-up founders are more likely in practice to apply for a change of purpose of stay (Art. 24 Settlement and Residence Act) in order to obtain an Red-White-Red Card Plus permit (Art. 41a para 7a leg. cit.) or a Settlement Permit (Art. 43 leg. cit.).<sup>156</sup> Both types of permits are to be issued for three years (Art. 20 para 1a Settlement and Residence Act).

The prerequisites for and the process of renewing a residence permit or changing the purpose of stay are discussed in the following, with special attention given to the assessment for evaluating the start-up. Various scenarios are treated in this context.

154 These and other thematic terms are defined in section 1.2 of this study.

155 FLG I No. 100/2005, in the version of federal law FLG I No. 25/2019.

156 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

### 6.1.1 Prerequisites and steps in process

A renewal application must be submitted no later than when the residence permit expires but no earlier than three months prior to expiry (Art. 24 para 1 Settlement and Residence Act). Normally, pursuant to Art. 24 para 3 of the Settlement and Residence Act, the RWR Card for start-up founders is to be renewed if the applicant still meets the conditions enumerated in Art. 41 para 2 in conjunction with Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals.<sup>157</sup> In other words, the original prerequisites continue to apply (see section 4.1.1 and 4.2.1).

As part of the procedure for issuing an RWR Card for start-up founders, the provincial office of the Public Employment Service is generally required to prepare an assessment certifying that the applicant meets the requirements (see section 4.2.1). We are not aware whether the existence of the business is verified as part of the renewal procedure under Art. 24 para 3 of the Settlement and Residence Act.

When a start-up founder applies to have the purpose of their stay changed, in order to switch to an Red-White-Red Card Plus permit, they have to meet the conditions enumerated in Art. 41a para 7a of the Settlement and Residence Act. Here the provincial office of the Public Employment Service additionally verifies whether the applicant meets the criteria listed in Art. 24 para 4 of the Act Governing the Employment of Foreign Nationals and prepares a corresponding assessment (see information box 2).

**Information box 2: Criteria for changing the purpose of stay pursuant to Art. 24 para 4 Act Governing the Employment of Foreign Nationals**

Foreign nationals can be issued an Red-White-Red Card Plus if in the undertaking they have started they:

1. Employ at least two full-time workers;
2. Personally have a major influence on the actual management of the undertaking;
3. Have achieved annual revenues of at least EUR 200,000 or have secured at least EUR 100,000 in additional financing;
4. Actually provide or are developing an innovative product or an innovative service.

In addition, the provincial office of the Public Employment Service responsible for the applicant's company headquarters must issue a written statement to the competent settlement and residence authority, confirming that these conditions are met.

*Source:* Act Governing the Employment of Foreign Nationals.

157 FLG No. 218/1975, in the version of federal law FLG I No. 25/2019.

To apply for a change of purpose of stay in order to switch to a Settlement Permit, the applicant must meet the criteria enumerated in Art. 43 para 4 of the Settlement and Residence Act, which include the requirement to have pursued for two years the activity specified for the RWR Card for start-up founders (Art. 43 para 4 subpara 3 Settlement and Residence Act). We are not aware in this case either whether the existence of the business is verified as part of the procedure for changing the purpose of stay.

#### *6.1.2 Procedure for successful start-ups*

No generally valid definition of a “start-up” exists (see section 2.1); it is correspondingly not possible to determine the conditions under which a start-up is to be considered “successful”. It can be said, however, that no specific legal norms exist that would specify how to deal with a start-up that has developed into a successful company.

#### *6.1.3 Procedure for failed start-ups*

The conditions under which a start-up is to be considered “failed” are not defined under Austrian law. If, however, the start-up founder holding a residence permit no longer meets the requirements for the permit, it can be withdrawn as specified in Art. 28 para 5 Settlement and Residence Act. If the start-up fails, the founder potentially has the option of applying for another residence permit through a procedure for changing the purpose of stay (Art. 26 Settlement and Residents Act).

We are not aware of the average survival rate of start-ups founded by third-country nationals in Austria. Yet, 50 per cent of businesses newly established in 2011 are known to have survived after five years (Federal Ministry of Digital and Economic Affairs, 2018a:58). According to the creditors’ protection association (*Kreditschutzverband*), about 10 per cent of all newly founded companies must report insolvency within the first five years. Start-ups having to stop business within the first three years account for one third of all insolvency cases (Exner, 2019).

#### *6.1.4 Procedure for a change of business plan*

One of the requirements start-up founders have to meet when applying for an RWR Card is to present a plausible business plan (see chapter 3). If no business plan exists (any longer) and the start-up founder no longer meets the conditions for being issued the residence permit, it can be

withdrawn as specified in Art. 28 para 5 of the Settlement and Residence Act. Companies are not checked regularly, so that it is difficult to verify whether the business plan has changed or the conditions for issuing the permit are no longer met. This means that the authorities initially assume that start-up founders can be trusted while at the same time relying on existing verification and control mechanisms.<sup>158</sup>

## **6.2 Measures to retain and nurture established third-country nationals**

We are not aware of any special measures aimed at retaining start-up founders and innovative entrepreneurs from third countries. Yet mention should be made of the option of applying to the competent authority in Austria when requesting renewal or a change of purpose of stay; this represents a somewhat simplified procedure compared with the initial application (Art. 24 para 1 and Art. 26 Settlement and Residence Act). In addition, a number of support programmes and tax relief measures exist for start-up founders in general, which could contribute to retaining start-ups (see section 5.2.2).

Austria also has measures aimed at third-country nationals already residing in the country who wish to found a start-up. An example is the TOGETHER:AUSTRIA Start-Ups pilot project launched in 2017 by the Austrian Integration Fund as part of the Together:Austria project. The programme provides support to migrants in the process of implementing an innovative business idea. The start-up founders receive guidance from mentors over a two-year period and can participate in various events.<sup>159</sup> The measure is aimed at exploiting the qualifications and potential that migrants import, allowing them to input these resources into the Austrian labour market.<sup>160</sup>

158 Interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

159 Austrian Integration Fund, *ZUSAMMEN:ÖSTERREICH Gründer/innen*, available from [www.zusammen-oesterreich.at/wer-ist-zoe/akademie-gruenderinnen/](http://www.zusammen-oesterreich.at/wer-ist-zoe/akademie-gruenderinnen/) (accessed 17 April 2019).

160 APA, *ZUSAMMEN:ÖSTERREICH Gründer/innen: Wirtschaftsprofis unterstützen Zuwander/innen und Flüchtlinge bei Verwirklichung ihrer Geschäftsidee*. Press Release, 5 May 2017, available from [www.ots.at/presseaussendung/OTS\\_20170505\\_OTS0241/zusammenoesterreich-gruenderinnen-wirtschaftsprofis-unterstuetzen-zuwanderinnen-und-fluechtlinge-bei-verwirklichung-ihrer-geschaeftsidee](http://www.ots.at/presseaussendung/OTS_20170505_OTS0241/zusammenoesterreich-gruenderinnen-wirtschaftsprofis-unterstuetzen-zuwanderinnen-und-fluechtlinge-bei-verwirklichung-ihrer-geschaeftsidee) (accessed 17 April 2019).

The Vienna Business Agency also provides advice to migrants wishing to become self-employed in Vienna, with start-ups explicitly mentioned here as a group targeted. The project makes free services available, including coaching and workshops, advice on support benefits and funding paid out by the City of Vienna, and information on managing administrative officials and authorities. Separate workshops are offered for individuals with experience as refugees.<sup>161</sup>

In the way of private initiatives, Immipreneurs of Austria can be mentioned. This accelerator programme helps young entrepreneurs with a migration background,<sup>162</sup> providing advice and assistance for starting a business.<sup>163</sup>

### 6.3 Challenges

A lack of financing options in general for start-ups and innovative entrepreneurs in the growth phase represents the main challenge in retaining such businesses. The Vienna Business Agency reports that, especially in the later growth phase (requiring investments of more than EUR 1 million), too few (international) investors are willing to invest in the common types of Austrian companies, considering all the requirements this entails.<sup>164</sup> In a study on the general conditions for innovative start-ups, KMU Forschung Austria also concluded that start-ups and businesses in Austria have little or no access to risk capital (Ruhland und Kaufmann, 2017:56). Similarly, in an evaluation of the country's innovation measures, the Organisation for Economic Co-operation and Development (OECD) called for improved funding options in Austria. The same report criticized legal aspects in relation to insolvency and competition as well as management skills. Especially to encourage private investments, the OECD

161 Vienna Business Agency, *Migrant Enterprises*, available from <https://wirtschaftsagentur.at/beratungen/migrant-enterprises-6/> (accessed 10 April 2019).

162 The project targets the group of first-generation migrants aged 25 to 49 from a “developing country” who now live in Austria (Immipreneurs of Austria, n.d.:1).

163 Immipreneurs of Austria, *About us*, available from [www.immipreneurs.eu/About-Us/](http://www.immipreneurs.eu/About-Us/) (accessed 24 April 2019).

164 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

also pointed out the need for Austria to create tax incentives to encourage private investment, as is already common in other OECD countries (OECD, 2018:13–14).

## 6.4 Good practices

As a business location, Austria can offer among other things favourable overall conditions such as well-trained workers and superior infrastructure.<sup>165</sup> Austria's start-up ecosystem also stands out by virtue of its excellent services and an exceptionally well-developed culture of cooperation among businesses, as was observed by one third-country national interviewed for the study who had applied for an RWR Card for start-up founders.<sup>166</sup>

One Austrian project that achieved special recognition is TOGETHER: AUSTRIA Start-Ups. Receiving the 2017 Future Zone Award, the initiative assists migrants already residing in Austria, helping them put an innovative business idea into practice (see section 6.2).<sup>167</sup>

165 Interview with Sarah Klaffner and Sabine Matzinger, Federal Ministry for Digital and Economic Affairs, 11 April 2019.

166 Interview with John Shen, Xenico, 8 April 2019.

167 futurezone, *Das sind die Gewinner des futurezone Award 2017*, available from <https://futurezone.at/myfuzo/das-sind-die-gewinner-des-futurezone-award-2017/296.577.448> (accessed 17 April 2019).

## 7. CONCLUSIONS

Austria's start-up ecosystem<sup>168</sup> appears to be developing positively,<sup>169</sup> an observation confirmed by international evaluations (European Commission, 2018:42–43). Various public and private sector players are contributing to building Austria's start-up ecosystem.<sup>170</sup> Towns, cities and regions play a key role here. Even though Vienna continues to be the most important area for start-ups locating in Austria, regional ecosystems are gradually emerging in other provinces and provincial capitals, such as in Linz (Federal Ministry of Digital and Economic Affairs, 2016:54).<sup>171</sup>

Issues facing the business environment include in particular the acute shortage of skilled workers, restrictive labour market regulations, high public fees and taxes, and complex red tape (Federal Ministry of Digital and Economic Affairs 2018a:9–11). The existing framework conditions cause Austria to lose innovative potential, in the view of Ruhland and Kaufmann (2017:55). To remedy the situation, the Austrian Federal Government has pledged support for start-ups in its programme for 2017–2022.<sup>172</sup> The plans range from expanding alternative funding options and stepping up efforts to attract international accelerators to Austria, to establishing protected conditions for business development (Austrian Federal Government, 2018:75–83).

Introducing the Red-White-Red Card (RWR Card) for start-up founders in 2017 can be seen as indicating an interest on the part of policymakers to have third-country start-up founders and innovative entrepreneurs immigrate to and settle in Austria.<sup>173</sup> Yet, to achieve this goal, a number of challenges facing applicants need to be resolved.

168 These and other thematic terms are defined in section 1.2 of this study.

169 Wirtschaftswoche, *Studie: Start-up Ökosystem in Österreich reift*, 20 März 2019, available from <https://gruender.wiwo.de/studie-start-up-oekosystem-in-oesterreich-reift/> (accessed 26 April 2019).

170 AustrianStartups, *Ecosystem*, available from [www.austrianstartups.com/ecosystem/](http://www.austrianstartups.com/ecosystem/) (accessed 10 April 2019).

171 STARTUP300 AG, *About*, available from <https://startup300.at/about/> (accessed 10 April 2019).

172 Written input by Andrea Hagendorfer, Austrian Federal Economic Chamber, 11 April 2019.

173 Interview with Sarah Klaffner and Sabine Matzinger, Federal Ministry for Digital and Economic Affairs, 11 April 2019; interview with Eva-Caroline Pflieger and Claudia Schweda, Federal Ministry of the Interior, 9 April 2019.

As particularly debilitating, this study identifies, for example, the bureaucratic procedures involved in making an application (Biffl, 2016:63). Another major challenge arises from the points system serving as a basis for issuing the residence permit. The Vienna Business Agency expressed concern at this sort of inflexible points system, which could potentially result in losing innovative ideas where applicants did not meet all of the requirements.<sup>174</sup> On the other hand, this system also ensures transparency, by allowing applicants to realistically assess their chances for obtaining the RWR Card.<sup>175</sup>

Another challenge for start-ups is the requirement to provide evidence of minimum capital of EUR 50,000 (Art. 24 para 2 subpara 5 Act Governing the Employment of Foreign Nationals),<sup>176</sup> as well as the fact that this capital cannot be used during the procedure for issuing the residence permit. This can reportedly be a major obstacle in the fast-paced start-up scene and make the difference between the success or failure of an idea, according to a third-country national who applied for an RWR Card for start-up founders.<sup>177</sup>

This and other challenges named in the study represent potential reasons why only one RWR Card for start-up founders has been issued since its introduction in late 2017. To increase the number of applications, high priority should be given to eliminating the bureaucratic obstacles involved in applying for the card. Another step would be to broaden the group of eligible applicants to include third-country nationals employed by start-ups, as domestic stakeholders demand (Austrian Startups, n.d.:20). Up to now there has been no special admission track for that group of individuals.

With regard to the processes referred to in the common study template,<sup>178</sup> and based on the distinctions made there, this study shows how in Austria the procedure for granting a residence permit and the one for admitting start-ups are interdependent and cannot be viewed separately. Specifically, parallel to processing the start-up founder's application for a

174 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

175 Interview with John Shen, Xenico, 8 April 2019.

176 FLG No. 218/1975, in the version of FLG I No. 25/2019.

177 Interview with John Shen, Xenico, 8 April 2019.

178 EMN, *Migratory pathways for start-ups and innovative entrepreneurs in the EU and Norway Common Template for EMN Study 2019* (EMN, Brussels, 2019). Available from [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00\\_eu\\_start-ups\\_common\\_template\\_2019\\_final\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/00_eu_start-ups_common_template_2019_final_en.pdf) (accessed 17 June 2019).

residence permit, an assessment is prepared of whether the start-up meets the requirements applicable to the business. The assessment by the competent provincial office of the Public Employment Service later represents a basic prerequisite for issuing an RWR Card for start-up founders.

Besides introducing the RWR Card for start-up founders, Austria has only one measure aimed at attracting start-ups and innovative entrepreneurs from third countries. As part of the Global Incubator Network (GIN), the goAustria programme offers a course for incubators and an internationalization programme individually tailored to start-up founders and innovative entrepreneurs from third countries who wish to set up businesses in Austria. Alongside goAustria, several general measures exist that contribute to internationalizing Austria's start-up ecosystem. By and large, Austria appears to do a good job of introducing interested start-ups and innovative entrepreneurs from other countries into Austria's start-up ecosystem (Rilla et al., 2018:35).<sup>179</sup>

Yet the lack of access to growth capital is a challenge to retaining international start-ups in Austria.<sup>180</sup> The Vienna Business Agency reports that, especially in the later growth phase (requiring investments of more than EUR 1 million), too few (international) investors are willing to invest in the common types of Austrian companies, considering all the requirements this entails.<sup>181</sup> Specifically to encourage private investments, the Organisation for Economic Co-operation and Development (OECD) points out the need for Austria to create tax incentives (OECD, 2018:13–14). Nonetheless, in certain respects Austria offers convincing advantages, for example a well-developed culture of cooperation among businesses and excellent services for entrepreneurs.<sup>182</sup>

179 Interview with John Shen, Xenico, 8 April 2019.

180 Der Standard, *Start-up-Szene: "Wien hat den Anschluss verloren"*, 18 May 2016, available from [www.derstandard.at/story/2000037181752/startup-szene-wien-hat-den-anchluss-verloren](http://www.derstandard.at/story/2000037181752/startup-szene-wien-hat-den-anchluss-verloren) (accessed 29 April 2019).

181 Interview with Gregor-Robert Posch and Tülay Tuncel, Vienna Business Agency, 10 April 2019.

182 Interview with John Shen, Xenico, 8 April 2019.

# ANNEXES

## A.1 Case study scenarios

### Case study scenario 1

Vihaan is a highly skilled professional from India with a Master's degree from the University of Delhi, currently living in Delhi. For the past few months he has been working in an IT company there, but he plans to start his own business in the near future. He already has a business plan<sup>183</sup> for a service-based app that he thinks could do well in Austria. His goal is to go to Austria and start his company there. What is the process that Vihaan would have to go through to build his start-up in Austria?

**1. What are the migratory pathways available?**

Vihaan could apply for an Red-White-Red Card (RWR Card) for start-up founders (Art. 41 para 2 Settlement and Residence Act).<sup>184</sup>

**2. Would Vihaan qualify for the permit and, if yes, under what specific conditions?**

To be issued a residence permit, applicants must meet the general requirements set out in Part 1 of the Settlement and Residence Act (see section 4.1.1). To obtain an RWR Card for start-up founders, applicants must additionally meet the specific requirements defined in Art. 41 para 2 subpara 5 of the Settlement and Residence Act in conjunction with Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals<sup>185</sup> (see section 4.2.1). Because of a lack of details, it is not possible to decide whether Vihaan meets the requirements for obtaining an RWR Card for start-up founders.

**3. Which authority would assess Vihaan's eligibility?**

Both the provincial office of the Public Employment Service and the settlement and residence authority (governor of the province of residence) would have to assess whether the requirements are met (Art. 3 para 1 Settlement and Residence Act; Art. 24 para 3 Act Governing the Employment of Foreign Nationals).

**4. What is the application process?**

The individual must submit the application for an RWR Card for start-up founders to the competent authority representing Austria in another country (Art. 21 para 1 Settlement and Residence Act). The Austrian representation authority then forwards the application, along with any documents submitted, to the competent settlement and residence authority in Austria, which then takes a decision on the application (see chapter 4).

**5. How long would it take for Vihaan to obtain the permit?**

The authority has the duty to take a decision on the application "without delay but within a maximum of eight weeks from when the application is submitted", as specified in Art. 41 para 3 of the Settlement and Residence Act.

183 These and other thematic terms are defined in section 1.2 of this study.

184 FLG I No. 100/2005, in the version of federal law FLG I No. 25/2019.

185 FLG No. 218/1975, in the version of federal law FLG I No. 25/2019.

Amel is a Tunisian citizen working for B Solutions, a biotech company. She lives in Austria under an EU Blue Card permit or an alternative national permit for highly skilled workers arranged through her employer. After having worked for the company for two years, she feels that she is ready to take on a new challenge. She would like to start her own business in the same sector and set up a company that offers high-tech solutions to recycle waste in new, innovative ways, remaining in Austria. What are her possibilities?

**1. What are the migratory pathways available?**

Amel has already been working in Austria under an EU Blue Card permit for two years. This means that she can apply for an RWR Card Plus as referred to in Art. 41a para 2 of the Settlement and Residence Act. This type of residence permit would allow her unrestricted labour market access, without having to apply for any additional work permit (Art. 17 Act Governing the Employment of Foreign Nationals; Kind, 2018:417). She would consequently also be permitted to become self-employed (Art. 8 para 1 subpara 2 Settlement and Residence Act) and start a business.

**2. Would Amel qualify for the permit and, if yes, under what specific conditions?**

To be issued an RWR Card Plus, Amel would have to meet the requirements for the permit as set out in the Settlement and Residence Act, in addition to having held an EU Blue Card for two years (see section 4.1.1). The competent provincial office of the Public Employment Service would also need to confirm that she had been employed for 21 of the previous 24 months at a job meeting the major requirements for the residence permit (Art. 41a para 2 in conjunction with Art. 20e para 1 subpara 3 Act Governing the Employment of Foreign Nationals).

**3. Which authority would assess Amel's eligibility?**

Both the provincial office of the Public Employment Service and the governor of the province of residence would have to assess whether the requirements are met (Art. 3 para 1 Settlement and Residence Act; Art. 20e para 1 Act Governing the Employment of Foreign Nationals).

**4. What is the application process?**

As a holder of an EU Blue Card permit, Amel would need to apply for renewal (Art. 24 Settlement and Residence Act) or for a change of purpose of stay (Art. 26 Settlement and Residence Act) to the competent authority in Austria. The authority would then assess whether she met the requirements set out in Art. 41a para 2 of the Settlement and Residence Act (see question 2).

**5. How long would it take for Amel to obtain the permit?**

With no specific period defined for such cases, Art. 73 of the General Administrative Procedures Act 1991<sup>186</sup> would apply, according to which the authority has the duty to decide without unnecessary delay and within a maximum of six months of application.

186 FLG No. 51/1991, in the version of federal law FLG I No. 58/2018.

Sergey from Minsk, Belarus owns Icomp Technologies, a manufacturing company which has just launched the production of electronic components in the IoT (Internet of Things) technology sector. The company has already shipped some experimental products to third-country markets, such as Japan and Malaysia. Based on this initial success, Sergey has decided to reallocate the company's headquarters to Austria for further business development. What is the process that Sergey would have to go through to move the headquarters? Are there any additional provisions for other staff members aiming to relocate to Austria?

**1. What are the migratory pathways available?**

Relocating the company's headquarters would require that the business be founded and operated under a legal form recognized in Austria (see chapter 2). Regardless of that, Sergey could apply for an RWR Card for start-up founders. Austria has no special visas or residence permits for third-country nationals employed by start-ups (see section 3.1.2).

**2. Would Sergey qualify for the permit and, if yes, under what specific conditions?**

To be issued a residence permit, applicants must meet the general requirements set out in Part 1 of the Settlement and Residence Act (see chapter section 4.1.1). To obtain an RWR Card for start-up founders, applicants must additionally meet the specific requirements defined in Art. 41 para 2 subpara 5 of the Settlement and Residence Act in conjunction with Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals (see chapter section 4.2.1). Because of a lack of details, it is not possible to decide whether Sergey meets the requirements for obtaining an RWR Card for start-up founders.

**3. Which authority would assess Sergey's eligibility?**

Both the provincial office of the Public Employment Service and the governor of the province of residence would have to assess whether the requirements are met (Art. 3 para 1 Settlement and Residence Act; Art. 24 para 3 Act Governing the Employment of Foreign Nationals).

**4. What is the application process?**

The individual must submit the application for an RWR Card for start-up founders to the competent authority representing Austria in another country (Art. 21 para 1 Settlement and Residence Act). The Austrian representation authority then forwards the application, along with any documents submitted, to the competent settlement and residence authority in Austria, which then takes a decision on the application (see chapter 4).

**5. How long would it take for Sergey to obtain the permit?**

The authority has the duty to take a decision on the application "without delay but within a maximum of eight weeks from when the application is submitted", as specified in Art. 41 para 3 of the Settlement and Residence Act.

Auri is a Dominican PhD student in the field of biotechnology studies at a university in Austria. Parallel to her studies (outside her PhD contract) Auri researched fermentation and revealed hitherto unknown characteristics of the investigated ferment. Auri discovered that the reaction between the researched ferment and a specific enzyme could have a particular effect on human skin regeneration. She was approached by a potential investor who saw how promising the discovery was for the medical cosmetology sector. As a next step, Auri would like to register a company in Austria and undertake further necessary research to receive patents and start the production of agents. What are her possibilities?

**1. What are the migratory pathways available?**

It can be assumed that Auri resides in Austria under a Temporary Residence Permit – Student (Art. 64 Settlement and Residence Act). In such cases, the holder is entitled to pursue employment only to a limited extent (Bassermann, 2019:62). Nor would self-employment be permitted in this case (Art. 3 para 2 in conjunction with Art. 4 para 1 Act Governing the Employment of Foreign Nationals). Auri would therefore need to apply for a change of purpose of stay to obtain another residence permit, for example, an RWR Card for start-up founders.

**2. Would Auri qualify for the permit and, if yes, under what specific conditions?**

To be issued an RWR Card for start-up founders, applicants must meet the requirements when initially applying as well as when applying to change the purpose of the residence permit. To be issued a residence permit, applicants must meet the general requirements set out in Part 1 of the Settlement and Residence Act (see section 4.1.1). To obtain an RWR Card for start-up founders, applicants must additionally meet the specific requirements defined in Art. 41 para 2 subpara 5 of the Settlement and Residence Act in conjunction with Art. 24 para 2 of the Act Governing the Employment of Foreign Nationals (see section 4.2.1). Because of a lack of details, it is not possible to decide whether Auri meets the requirements for obtaining an RWR Card for start-up founders.

**3. Which authority would assess Auri's eligibility?**

Both the provincial office of the Public Employment Service and the governor of the province of residence would have to assess whether the requirements are met (Art. 3 para 1 Settlement and Residence Act; Art. 24 para 3 Act Governing the Employment of Foreign Nationals).

**4. What is the application process?**

Auri would need to inform the settlement and residence authority without delay if she intends to change the purpose of her stay in Austria. The change of purpose is permissible only if Auri meets the specific requirements for the desired residence permit. If she meets all the requirements, Auri is in fact legally entitled to receive the residence permit.

**5. How long would it take for Auri to obtain the permit?**

The authority has the duty to take a decision on the application “without delay but within a maximum of eight weeks from when the application is submitted”, as specified in Art. 41 para 3 of the Settlement and Residence Act.

## A.2 List of translations and abbreviations

English term	English abbreviation	German term	German abbreviation
Academic spin-off start-up	–	Akademische Spin-Off-Gründungen	–
Act Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsgesetz	AuslBG
Aliens Police Act 2005	–	Fremdenpolizeigesetz 2005	FPG
Alternative Financing Act	–	Alternativfinanzierungsgesetz	AltFG
Austrian Business Agency	ABA	Österreichische Industrieansiedlungs- und WirtschaftswerbungsgmbH	ABA
Austrian Federal Economic Chamber	–	Wirtschaftskammer Österreich	WKÖ
Austrian Integration Fund	–	Österreichischer Integrationsfonds	ÖIF
Austrian People's Party	–	Österreichische Volkspartei	ÖVP
Austrian Research Promotion Agency	–	Forschungsförderungsgesellschaft	FFG
Austrian Wirtschaftsservice GmbH	aws	Austria Wirtschaftsservice Gesellschaft mbH	aws
Business Start-Up Promotion Act	–	Neugründungs-Förderungsgesetz	NeuFöG
Citizenship Act 1985	–	Staatsbürgerschaftsgesetz 1985	StbG
Commercial Code	–	Unternehmensgesetzbuch	UGB
commercial register	–	Frimengesetzbuch	–
common study template	–	gemeinsame Studienvorlage	–
Corporate Tax Act 1988	–	Körperschaftsteuergesetz 1988	KStG 1988
Electronic Notarial Form Incorporation Act	ENG	Elektronische Notariatsform-Gründungsgesetz	–
EU Blue Card	–	Blaue Karte EU	–
European Commission	–	Europäische Kommission	–
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Union	EU	Europäische Union	EU
Federal Law Gazette	FLG	Bundesgesetzblatt	BGBl.
Federal Ministry for Transport, Innovation and Technology	–	Bundesministerium für Verkehr, Innovation und Technologie	BMVIT
Federal Ministry of Digital and Economic Affairs	–	Bundesministeriums für Digitalisierung und Wirtschaftsstandort	BMDW
Federal Ministry of the Interior	MoI	Bundesministerium für Inneres	BMI
Federal Ministry of Labour, Social Affairs, Health and Consumer Protection	–	Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz	BMASGK
Federation of Austrian Industries	–	Industriellenvereinigung	IV
General Administrative Procedures Act 1991	–	Allgemeines Verwaltungsverfahrensgesetz 1991	AVG
General Social Insurance Act	–	Allgemeines Sozialversicherungsgesetz	ASVG
(highly) skilled workers	–	(hoch-)qualifizierte Arbeitskräfte	–
Imperial Law Gazette	ILG	Reichsgesetzblatt	RGBl.
Industrial Code	–	Gewerbeordnung 1994	GewO 1994

<b>English term</b>	<b>English abbreviation</b>	<b>German term</b>	<b>German abbreviation</b>
Integration Act	–	Integrationsgesetz	IntG
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM
mathematics, information, natural science or technology fields	MINT-fields	Mathematik, Informatik, Naturwissenschaft und Technik – Bereich	MINT-Bereich
National Contact Point	NCP	Nationaler Kontaktpunkt	NKP
NEOS – The New Austria	NEOS	NEOS – Das Neue Österreich	NEOS
Organisation for Economic Co-operation and Development	OECD	Organisation für wirtschaftliche Zusammenarbeit und Entwicklung	OECD
Permanent Residence – EU	–	Daueraufenthalt – EU	–
private limited company	–	Gesellschaft mit beschränkter Haftung	GmbH
province	–	Bundesland	–
Provincial Administrative Court of Vienna	–	Landesverwaltungsgericht Wien	VGW
Public Employment Service	–	Arbeitsmarktservice	AMS
Red-White-Red Card (plus)	RWR Card (plus)	Rot-Weiß-Rot – Karte (plus)	RWR – Karte (plus)
Registering a trade	–	Gewerbeanmeldung	–
Regulation on the Implementation of the Settlement and Residence	–	Niederlassungs- und Aufenthaltsgesetz-Durchführungsverordnung	NAG-DV
residence permit	–	Aufenthaltsstitel	–
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
skilled workers		Fachkräfte	
sole proprietorship	–	Einzelunternehmen	–
third-country nationals	–	Drittstaatsangehörige	–
Vienna Business Agency	–	Wirtschaftsagentur Wien	–
Vienna University of Economics and Business	–	Wirtschaftsuniversität Wien	WU
work permit	–	Beschäftigungsbewilligung	–

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