

ORGANIZATION OF THE MIGRATION AND ASYLUM SYSTEM IN AUSTRIA

OVERVIEW

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INTRODUCTION

This document provides an overview of how asylum and migration policies are organized in **Austria**, including the organization of the institutional and regulatory context and framework for dealing with third-country nationals coming for the purpose of legal immigration or for international protection. It is based on the information provided by Austria in **January 2021**.



OVERVIEW OF ORGANIZATION OF LEGISLATIVE AND INSTITUTIONAL FRAMEWORK

THE INSTITUTIONAL CONTEXT

The Federal Ministry of the Interior is the institution mainly responsible for migration and asylum policy. As an agency under this ministry, the Federal Office for Immigration and Asylum is the authority in the first instance in asylum procedures and other procedures relating to migration.

The Federal Ministry for Europe and International Affairs is responsible for external aspects of migration issues, for processing and issuing visas as well as for receiving applications for residence and settlement permits. Residence permits are issued by the residence authorities. The Federal Minister for Women and Integration at the Federal Chancellery coordinates the general integration policy. The Austrian Integration Fund serves as a fund of the Republic of Austria in the area of migration and integration.

The Federal Ministry for Labour, Family and Youth is responsible for matters including labour market policy

and thus for employment policies applying to foreign nationals. The Public Employment Service has the task of enforcing the Act Governing the Employment of Foreign Nationals.

THE LEGAL SYSTEM

The central pieces of legislation governing migration and asylum are: the Asylum Act 2005, the Aliens Police Act 2005, the Settlement and Residence Act, the Citizenship Act 1985, the Act Governing the Employment of Foreign Nationals, the Integration Act and the acts on basic care at federal and provincial levels. Provisions of law applying to the criminal offence of trafficking in human beings are contained in the Criminal Code.

Any decision issued by an administrative authority can be appealed by lodging a complaint with an independent administrative court. Appeals against rulings by an administrative court can be brought before the Supreme Administrative Court and under certain conditions before the Constitutional Court.



INSTITUTIONAL CHART

Refer to annex.

Austria

Institutional Framework for Migration and Asylum*

FEDERAL LEVEL

Federal Minister for Women and Integration at the Federal Chancellery www.bundeskanzleramt.gv.at/en

Integration

- Social integration, communal life of persons with/without migratory background
- Coordination of the general integration policy
- National Action Plan for Integration
- Implementation of Integration Act
- Councils and expert groups regarding matters of integration
- Funding in the field of integration including foundations and trust funds

Federal Ministry for European and International Affairs www.bmeia.gv.at/en

Foreign Affairs

- Visa, residence and settlement procedures
- Red-White-Red Card
- Trafficking in human beings

Federal Ministry of the Interior www.bmi.gv.at

Aliens Issues

- Residence and citizenship
- National and international migration strategy
- Border management
- Aliens Police
- Asylum Affairs
- Return and Reintegration
- Basic care

Federal Ministry for Labour, Family and Youth www.bmafi.gv.at/en

Employment of foreign nationals

- Contingents for seasonal employment permits
- Definition of the exemptions from the Act Governing the Employment of Foreign Nationals
- Rules governing labour market access for certain groups

Austrian Integration Fund www.integrationsfonds.at

Support for migrants and recognized refugees during the integration process

- Processing of the integration agreement
- Providing of value and orientation courses
- German courses
- Orientation counselling

Federal Agency for Care and Support (BBU GmbH)

i.a. Basic care and legal counselling

- Provision of basic care to foreigners in need of assistance and protection (federal level)
- Legal assistance
- Return counselling and repatriation assistance
- Human Rights monitoring
- Interpretation and translation services

Austrian representation authorities abroad

Visas

- First instance visa authority
- All visa procedures outside Austria
- Processing of residence applications and settlement permits according to Art. 35 Asylum Act 2005

Federal Office for Immigration and Asylum www.bfa.gv.at

Settlement, asylum, aliens issues

- Dublin procedures
- Asylum procedures in the first instance
- Issuing of documents
- Administration of the Federal Basic Care Act
- Detention pending removal and alternatives to detention
- Execution of removal measures
- Voluntary return
- Residence permits for exceptional circumstances

Public Employment Service www.ams.at

Labour market

- Enforcement of the Act Governing the Employment of Foreign Nationals
- Issuing of employment permits
- Labor market test (seasonal quotas)

Courts

Legal remedies

Federal Administrative Court

www.bvwg.gv.at

- Complaints against decisions by federal authorities

Provincial administrative courts

- Primarily complaints against decisions by provincial authorities

Supreme Administrative Court

www.vwgh.gv.at/english.html

- Instance for extraordinary legal remedies

Constitutional Court

www.vfgh.gv.at/index.en.html

- Instance for extraordinary legal remedies

Control over:

- Public Employment Service
- Federal Office for Immigration and Asylum
- Austrian representation authorities abroad
- Non-central authorities

PROVINCIAL LEVEL

Non-central authorities

Residence titles, citizenship, social benefits

Provincial governments

- Provision of basic care (provincial level)
- Granting of citizenship



Residence authorities

- Granting of residence titles

Regional directorates of the Federal Office for Immigration and Asylum

- See Federal Office for Immigration and Asylum

Legend:

-  Bound by instructions
-  Other relationship

* This institutional chart provides an indicative overview of the migration and asylum system in Austria as of January 2021