

EMN-Study

Trafficked Third-Country Nationals: Detection, Identification and Protection in Austria

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SUMMARY

Trafficking in human beings is a serious violation of human rights and human dignity, and is considered one of the worst crimes of all. This global phenomenon also affects Austria, which is both a country of destination and a country of transit due to its central location in Europe. The phenomenon of human trafficking has intensified during the ongoing COVID-19 pandemic, especially in the area of labour exploitation, since economic hardship in particular makes people vulnerable to exploitation.

Number of third-country nationals identified as trafficked persons in Austria per year, disaggregated by gender (2015–2020)



Source: Data provided by the Federal Ministry of the Interior, 28 September 2021.

In order to tackle trafficking in human beings, Austria established a multidisciplinary task force in 2004. One of the roles of the task force is to draw up the National Action Plan on Combating Human Trafficking. The current National Action Plan 2021–2023 contains over 100 concrete goals to tackle human trafficking. A fundamental requirement for protecting trafficked persons is that the precarious situation of these people is detected and that they are subsequently identified as trafficked persons. In Austria, a clear separation between “detection” and “identification” is discernible to only a limited extent. However, this distinction is of only minor importance for care and support services. These services are funded by the State and are provided by victim protection organizations as soon as a presumed human trafficking situation is suspected, without any official intervention. Services can be accessed anonymously, voluntarily, free of charge and without the immediate involvement of the police, meaning that support is available unconditionally in Austria.

Austria employs a variety of measures to detect trafficking in human beings and identify trafficked persons. These include raising public awareness and providing training for authorities that are likely to come into contact with human trafficking. There is no provision for proactive checks in regular migration procedures. In asylum procedures, checks of this kind are carried out; however, the detection of vulnerable people appears to be fairly random and unsystematic. Of particular note is the human trafficking hotline set up by Criminal Intelligence Service Austria, which allows callers to give information anonymously and is available round the clock on +43 677 61 34 34 34.

If trafficked persons are detected or identified, established national referral mechanisms are designed to ensure that they are protected and supported. Austria has had a referral mechanism of this kind for trafficked children since 2016, but there is no such referral mechanism in place for trafficked adults. The Criminal Intelligence Service Austria has issued a decree that provides an important basis and governs the procedure in suspected cases with binding force for the officials of the public security service. Ultimately, however, this decree only governs the internal processes at the Federal Ministry of the Interior and is therefore not a national referral mechanism.

In Austria, (presumed) trafficked persons are granted a recovery and reflection period of 30 days. In this period actions by aliens police are suspended and trafficked persons are not expected to cooperate with the authorities. This regulation is not stipulated by law, but effected in the form of a decree. The recovery and reflection period also applies to Dublin procedures. In these cases, an assessment is also made on a case-by-case basis, and taking into account all the circumstances of the case, as to whether Austria may itself assume responsibility for the examination, in other words examine the application for international protection, although Austria is not responsible under the criteria laid down in the Dublin III Regulation.

With regard to the legitimacy of residence of trafficked persons in Austria, the “Residence Permit for Individual Protection” may also be considered – in addition to the claim for international protection – if the conditions are met. This residence permit is valid for 12 months and may be extended if the legal requirements are met.

