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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.

Saskia Heilemann

AUSTRIA – 2018 ANNUAL POLICY REPORT

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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.

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EXECUTIVE SUMMARY

The *2018 Annual Policy Report* has been produced within the framework of annual reporting by the National Contact Points (NCPs) in the European Migration Network (EMN). The report outlines the most significant political and legislative developments in the field of asylum and migration in Austria in 2018 and provides related information on policy and public debates. Recent statistics are also presented. The most important developments seen in Austria in 2018 in relation to each of the topics covered are outlined below.

Overarching migration and asylum developments

In October 2018 the Federal Ministry of the Interior announced the restructuring of the migration and asylum portfolios as of January 2019. A new Directorate (Directorate V “Aliens Affairs”) was set up, which pools resources and expertise in matters relating to border protection, aliens police, asylum, material reception conditions, residence, citizenship and return (see section 2.1).

From 1 July to 31 December 2018 Austria held the Presidency of the Council of the European Union. In light of the Austrian EU Council Presidency’s motto of “A Europe that protects”, one of the three focuses was “Security and the fight against illegal migration”. The main goals were to reform the Common European Asylum System, to refocus and strengthen the European Border and Coast Guard Agency (Frontex), and to work more closely with third countries. The media extensively covered the Federal Government’s plans and achievements in the area of migration in the context of the Austrian Presidency (see section 2.4)

Legal migration

In 2018 the Red-White-Red Card and Red-White-Red Card Plus¹ accounted for almost half (49%) of all issued first residence titles for permanent immigration. As regards temporary immigration, student migration was the most popular form, with the Temporary Residence Permit – Students accounting for 63 per cent of all first residence titles issued for temporary immigration (see section 3.1).

An amendment to the Act Governing the Employment of Foreign Nationals was adopted in December 2018. This included modifying the points system for granting a Red-White-Red Card for “other key workers”² and the definition of lists of shortage occupations at provincial level (see section 3.2.1)

The Students and Researchers Directive (EU) 2016/801 was transposed into national law as a result of the Act Amending the Aliens Law 2018. One of the changes was the creation of two new residence titles: the Temporary Residence Permit – Researcher Mobility and the Temporary Residence Permit – Volunteers (see section 3.2.2).

International protection including asylum

Statutes including the Asylum Act 2005, the Federal Office for Immigration and Asylum Procedures Act and the Federal Basic Care Act 2005 were amended through the Act Amending the Aliens Law 2018. An example of the changes is that officials of the public security service are now authorized to seize and analyse storage media in the possession of asylum seekers, as a means of obtaining information on such individuals’ identities or travel routes. The authorities may now also seize limited amounts of cash carried by asylum seekers as a contribution to the costs of material

¹ For further information see Migration.gv.at, *Permanent immigration*, available from www.migration.gv.at/en/types-of-immigration/permanent-immigration/ (accessed 15 April 2019).

² Meaning (highly) qualified workers in further areas.

reception conditions. The media reported intensively about changes in the area of asylum due to the Act Amending the Aliens Law 2018 (see sections 4.3.1 and 4.3.2).

On 12 September 2018, the Council of Ministers decided to repeal a decree of the former Federal Ministry of Labour, Social Affairs and Consumer Protection. Consequently, asylum seekers no longer have access to apprenticeships. The media reported extensively for several months on the controversial opinions evoked by this topic as well as on the forced removals of apprentices who had received a negative asylum decision (see section 4.3.4).

In 2018 the number of positive final decisions on applications for international protection (granting asylum, subsidiary protection or humanitarian residence titles) dropped by 33 per cent compared to the previous year (2017: 30,428; 2018: 20,326), while the number of negative decisions continued to increase (2017: 28,818; 2018: 32,221). As a percentage of all final decisions taken in 2018, negative decisions accounted for 58 per cent or for the majority of decisions; that had last been the case in 2015. At the same time, the Federal Office for Immigration and Asylum reported the initiation of 6,000 withdrawal procedures in 2018, four times more than in the previous year, with asylum or subsidiary protection actually being withdrawn in 1,640 cases or three times more frequently (see sections 4.1 and 4.3.5).

Unaccompanied minors (UAMs)

In December 2018 the National Council passed a constitutional amendment reorganizing the distribution of competencies between the Federal Government and the provinces. This affected among other things the area of child and youth welfare, under which primary responsibility for the care of UAMs falls. In future, the provinces will be solely responsible for laws relating to child and youth welfare. Before the change takes effect, an agreement pursuant to Art. 15a of the Federal Constitutional Act must be reached between the Federal Government and the provinces to ensure uniform quality standards throughout Austria (see section 5.2).

Integration

Despite the decline in the number of asylum applications lodged in Austria in 2018 (see section 4.1), the area of integration continues to face major challenges due to the disproportionate high number of persons entitled to asylum and beneficiaries of subsidiary protection in the Austrian reception system. According to the Federal Ministry for Europe, Integration and Foreign Affairs, the large number of immigrants requires intensive efforts from those responsible for the cross-sectoral area of integration in the municipalities, provinces and at the federal level as well as from the many volunteers and from the society, who – in many cases – were not prepared for these developments.³

An amendment to the School Organization Act became effective in 2018, providing for separate remedial German classes for those students at general compulsory schools who due to inadequate language proficiency are unable to follow instruction (see section 6.2.1).

Integration funding was modified in 2018. The expiration of the “Integration Special Fund” and the “Fund for Active Labour Market Integration” (both called “integration package”) affected budgets. As a consequence, for instance the education budget for language support, the labour and social budget for the mandatory integration year, and the funds earmarked for the Public Employment Service Austria towards the integration of persons granted asylum and beneficiaries of subsidiary protection were adapted. The government parties explained the budget cuts with the decreasing number of asylum seekers. Instead, a focus was put on promoting the integration of women with a migrant background (see chapters 6.3 and 6.4).

³ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, Department VIII.1 (General Integration Affairs), 8 May 2019.

Citizenship and statelessness

The Citizenship Act 1985 was amended as part of the Act Amending the Aliens Law 2018. The major change is that, to be eligible for citizenship, persons granted asylum must have legally resided in Austria for 10 consecutive years. Previously the term was six years (see section 7.2).

Relating to citizenship, the media reported mainly about cases in which persons were – based on a purported list of persons eligible to vote in Turkey – found to have forfeited their Austrian citizenship by reacquiring Turkish citizenship (see section 7.3).

Borders, visa and Schengen

Through a regulation issued by the Federal Minister of the Interior in accordance with Art. 10 para 2 of the Border Control Act, temporary controls at the EU internal borders with Slovenia and Hungary were introduced on two occasions, initially until 11 November 2018 and then until 12 May 2019 (see section 8.3).

Irregular migration including migrant smuggling

In 2018 the Federal Ministry of the Interior set up additional structures to monitor trends in irregular migration and to identify migration routes. For example, in June 2018 a migration task force was established for the ongoing evaluation of changes in migration flows. In addition, a structural model to support the centralized control of asylum and aliens affairs (GAF) was implemented. These arrangements allow information on migration flows to be shared and analysed as well as appropriate measures to be defined and coordinated (see section 9.5.2).

Countering trafficking in human beings

The fifth National Action Plan (NAP) on Combating Human Trafficking (2018–2020) was adopted in October 2018. The plan is designed to reflect the changed situation since increased immigration in 2015. It also singles out unaccompanied minors as a group potentially at risk while expanding existing programmes aimed at identifying and caring for trafficked children (see section 10.2).

In accordance with the NAP (2018–2020), various training courses on human trafficking as well as awareness-raising measures were held in 2018 for legal counsellors, staff members of various authorities, those working at reception facilities, and other institutions providing basic care (see section 10.3).

Return and readmission

The Federal Office for Immigration and Asylum focused in 2018 on the return of individuals who were staying irregularly in Austria, who were convicted of a criminal offence, or whose asylum application was rejected (see section 11.2).

Notably, the rate of forced returns rose by 47 per cent (by 24% excluding Dublin transfers). Overall, return increased by four per cent to a total of 12,611 in 2018. Of that number, 45 per cent returned voluntarily and 55 per cent were forcibly removed (see section 11.1).

On 1 September 2018 the Federal Office for Immigration and Asylum launched a new bonus programme to encourage the assisted voluntary return of (former) asylum seekers. Eligible individuals include asylum seekers whose procedures are currently pending (having applied before 1 September 2018) and foreign nationals who received a final decision on asylum status within the previous six months and were citizens of one of the six most common countries of origin (see section 11.5.1).

1 INTRODUCTION

1.1 Purpose

The *2018 Annual Policy Report* has been produced within the framework of the European Migration Network (EMN),⁴ which was established by Council Decision 2008/381/EC in May 2008.⁵ The EMN provides up-to-date, objective, reliable and comparable information on migration and asylum matters, with the aim of supporting policymaking at European Union (EU) and national levels as well as of disseminating this information among the general public.

This is the fifteenth annual policy report⁶ compiled by the National Contact Point (NCP) Austria in the EMN, covering the period from 1 January to 31 December 2018. The purpose of the annual policy report is to provide an overview of the most significant political and legislative developments relating to asylum and migration in Austria; it is also intended to summarize the political and public debates in the area of asylum and migration. The report covers the following topics: legal migration; international protection including asylum; unaccompanied minors and other vulnerable groups; integration; citizenship and statelessness; borders, visas and Schengen; irregular migration including migrant smuggling; countering trafficking in human beings; and return and readmission.

1.2 Methodology and definitions

In preparing the *2018 Annual Policy Report*, the NCP Austria in the EMN has followed common specifications developed by the EMN, in order to facilitate comparability of the findings from all Member States. At the same time, the format allowed flexibility to a certain degree, so as to enable output that targets the national audience. The terminology used in the context of this report is based on the terms and definitions given in the EMN Asylum and Migration Glossary 6.0 (EMN, 2018b).

In order to allow concise reporting and to facilitate comparability, the *2018 Annual Policy Report* only reflects significant developments and debates as have been defined on the basis of the criteria listed in the study specifications. Hence, for the present report, proposals for amended or new legislation or policy changes were considered to be significant developments, while a significant debate was defined as an event that had been discussed in national parliament, by relevant ministries, political parties or civil society stakeholders and, consequently, had been widely reported in the media.

Based on the methodology used in previous annual policy reports, the referenced sources of information include: press releases and websites of relevant national authorities, journals, studies, reports, draft and enacted legislation, court rulings, parliamentary debates, as well as online media articles from the main daily newspapers in Austria. In the latter case, press articles dealing with migration and asylum issues were collected throughout the year, within the framework of

⁴ More information on the EMN is available from www.emn.at/en (accessed 7 February 2019).

⁵ Council Decision of 14 May 2008 establishing a European Migration Network (2008/381/EC), 21 May 2008, OJ 2008 L 131/7.

⁶ Previous versions from 2004 to 2017 are available from www.emn.at/en/publications/annual-reports (accessed 7 February 2019).

continuous media monitoring, in order to gain an overview of the most important public discussions.

The basis for the *2018 Annual Policy Report* is provided by the *Annual Report 2018 on Migration and Asylum in Austria – Contribution to Commission and to EASO Annual Reports*,⁷ which was developed in cooperation with the Federal Ministry of the Interior as well as the Criminal Intelligence Service Austria, the Federal Chancellery, the Federal Ministry for Europe, Integration and Foreign Affairs, the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, and the Federal Office for Immigration and Asylum.

This report was prepared by Saskia Heilemann (Research Associate, IOM Country Office for Austria). Martin Stiller (Legal Associate, IOM Country Office for Austria) provided legal input and reviewed the report. Thanks go also to Thomas Rossmüller (Research Intern, IOM Country Office for Austria) for his support in researching as well as preparing the footnotes and bibliography.

⁷ AT EMN NCP, *Annual Report 2018 on Migration and Asylum in Austria – Contribution to Commission and to EASO Annual Reports*. IOM, Vienna. Available from www.emn.at/wp-content/uploads/2019/03/arma-2018_national-report-austria-part-1_en_final.pdf (accessed 22 March 2019).

2 GENERAL DEVELOPMENTS IN MIGRATION AND ASYLUM

2.1 Overall institutional changes

In Austria, the Federal Ministry of the Interior is the institution mainly responsible for migration and asylum policy. In October 2018 it was announced that the system of asylum and aliens affairs would be restructured within the Federal Ministry of the Interior; this restructuring was implemented in January 2019. Resources and expertise in matters relating to border protection, aliens police, asylum, material reception conditions, residence, citizenship and return are now concentrated in one directorate (Directorate V “Aliens Affairs”). According to media reports, the 2015 migration influx had presented the authorities with unexpected challenges. With the new Directorate V, the structures were to be made more crisis-proof, as a way of rebuilding public trust in state structures.⁸ One of the new directorate’s main activities is related to the external dimension of migration, meaning cooperation with EU Member States and with migrants’ regions of transit and origin. The new directorate will support the Federal Office for Immigration and Asylum, specifically in operations, in procuring information and in analysis, as well as in optimizing the time required for procedures.⁹

2.2 Main legislative developments

2.2.1 Legislative developments in 2018

In 2018 Austrian asylum and migration legislation underwent changes, enacted through the Act Amending the Aliens Law 2018.¹⁰ Most of these changes entered into force on 1 September 2018. The act aims at increasing the efficiency of asylum and migration law procedures as well as adapting the alien law to the requirements of the Students and Researchers Directive (EU) 2016/801.¹¹ The main aim was to implement the following:

- 1) EU Directive 2016/801;
- 2) Recent decisions by the Supreme Administrative Court;
- 3) Federal Government programme for 2017–2022.¹²

The main changes include:

- Expanding the conditions under which an asylum status withdrawal procedure can be initiated;
- Allowing asylum seekers’ storage media to be seized and analysed;
- Introducing an obligation for asylum seekers to cover part of the costs of federal care and creation of a scheme to seize asylum seekers’ cash;
- Extending an application for international protection to also cover an asylum seekers’ child born in Austria;

⁸ See, for example, Salzburger Nachrichten, *Kickl installiert neue Sektion "Fremdenwesen" im Ministerium*, 8 October 2018, available from www.sn.at/politik/innenpolitik/kickl-installiert-neue-sektion-fremdenwesen-im-ministerium-41381335 (accessed 8 April 2019).

⁹ Federal Ministry of the Interior, *Kickl: Ab Jänner 2019 neue Sektion V Fremdenwesen*. News, 8 October 2018, available from www.bmi.gv.at/news.aspx?id=46376E67345673757863773D (accessed 20 December 2018).

¹⁰ *FLG I No. 56/2018*.

¹¹ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ 2016 L 132/21.

¹² Act Amending the Aliens Law 2018, Preamble and Impact Assessment, pp. 1–3, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698464.pdf (accessed 4 February 2019).

- Allowing asylum seekers to be granted Austrian citizenship only after 10 successive years of lawful residence;
- Enabling the extension of a Settlement Permit – Researcher to allow job-seeking or starting a business;
- Introducing a Temporary Residence Permit for volunteers and mobile researchers and a new visa D for trainees.¹³

In the legislative procedure, the ruling coalition parties (Austrian People's Party and Freedom Party Austria) voted in favour of the Act Amending the Aliens Law 2018, while the opposition parties (Social Democratic Party of Austria, NEOS – The New Austria, JETZT – Liste Pilz) voted against.¹⁴ In the comments submitted during the evaluation period, certain provisions in particular received attention. Among the amendments most commented on were the authorization to seize cash and analyse storage media held by asylum seekers¹⁵ and the extension from six to 10 years of the residence period required of persons granted asylum in order to be granted Austrian citizenship.¹⁶ The implementation of EU Directive 2016/801 received positive feedback and was endorsed especially by the Austrian Federal Economic Chamber and the Federation of Austrian Industries.¹⁷ The media reported comprehensively on the legislative amendments.¹⁸

Other legislative developments relating to migration and asylum included amendments to the Act Governing the Employment of Foreign Nationals,¹⁹ the Border Control Act,²⁰ the School Organization Act,²¹ and the Weapons Act 1996.²²

2.2.2 Legislative changes planned for 2019

In November 2018, the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection submitted for review the Federal Act on Principles for Social Assistance (General Social Assistance Act) and a Federal Act Concerning Comprehensive Nationwide Statistics on Social Assistance (Social Assistance Statistics Act).²³ The draft legislation is relevant for migration and asylum insofar as the proposed General Social Assistance Act is to create incentives for immigrants to enter

¹³ Ibid, p. 1.

¹⁴ Parliament of the Republic of Austria, *Nationalrat beschließt neuerliche Verschärfung des Fremdenrechts*, Parliamentary Correspondence No. 829, 5 July 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0829/#XXVI_I_00189 (accessed 4 February 2019).

¹⁵ For further information see chapter 4.3.2.

¹⁶ For further information see chapter 7.2.

¹⁷ Austrian Federal Economic Chamber, Bundesgesetz, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005, das BFA-Verfahrensgesetz, das BFA-Einrichtungsgesetz, das Grundversorgungsgesetz – Bund 2005, das Staatsbürgerschaftsgesetz 1985, das Universitätsgesetz 2002 und das Ausländerbeschäftigungsgesetz geändert werden (Fremdenrechtsänderungsgesetz 2018 – FrÄG 2018); Stellungnahme, 11 May 2018, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00919/imfname_693791.pdf (accessed 7 February 2019); Federation of Austrian Industries, Bundesgesetz, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005, das BFA-Verfahrensgesetz, das BFA-Einrichtungsgesetz, das Grundversorgungsgesetz-Bund 2005, das Staatsbürgerschaftsgesetz 1985, das Universitätsgesetz 2002 und das Ausländerbeschäftigungsgesetz geändert werden (Fremdenrechtsänderungsgesetz 2018 – FrÄG 2018), Stellungnahme, 16 May 2018, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00982/imfname_694446.pdf (accessed 7 February 2019).

¹⁸ See, for example, orf.at, *Asylrecht: Außenministerium kritisiert Innenministerium*, 19 May 2018, available from <https://orf.at/v2/stories/2439189> (accessed 22 March 2019); Kurier, *Kickl bringt neue Asyl-Verschärfungen auf den Weg*, 16 April 2018, available from <https://kurier.at/politik/inland/kickl-bringt-neue-asyl-verschaerfungen-auf-den-weg/400021630> (accessed 22 March 2019).

¹⁹ FLG I No. 94/2018.

²⁰ FLG I No. 93/2018.

²¹ FLG I No. 35/2018.

²² FLG I No. 97/2018.

²³ Federal Act enacting a Federal Act on Principles for Social Assistance (General Social Assistance Act) and a Federal Act Concerning Comprehensive Nationwide Statistics on Social Assistance (Social Assistance Statistics Act), Ministerial Draft – Legislative Text, 30 November 2018, available from www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00104/fname_724088.pdf (accessed 28 February 2019).

the Austrian social system by redesigning social assistance.²⁴ Specifically, integration policy and aliens police objectives are to be supported through the proposed General Social Assistance Act (Art. 1 para 2 General Social Assistance Act). As a basic act of the Federal State, the draft legislation provides for a number of principles requiring implementation in provincial legislation. This would achieve a harmonization of the social assistance systems.²⁵ At present, the provinces are free to regulate the area of social assistance, since expiry at the end of 2016 of the Agreement Pursuant to Art. 15a of the Federal Constitutional Act between the Federal State and the Provinces Stipulating a Nationwide System of Needs-based Guaranteed Minimum Resources.²⁶

For immigrants, the following is particularly relevant:

- Persons without actual residence in Austria, asylum seekers, persons entitled to subsidiary protection as well as foreigner who are obliged to leave the country are to be excluded from social assistance (Art. 4 para 2 and para 3 General Social Assistance Act).
- Foreigners can only be granted social assistance if they are entitled to asylum or have been permanently, legally and lawfully residing in Austria for at least five years (Art. 4 para 1 General Social Assistance Act).

Asylum seekers, it is argued, already receive basic care. Beneficiaries of subsidiary protection status are intentionally excluded, with the aim of reducing incentives for them to enter the Austrian social system. Excluding persons required to leave the country aims at enforcing the obligation to return, according to the proposed legislation.²⁷

In addition, Art. 5 para 6 of the General Social Assistance Act makes payment of a “Job Qualification Bonus” dependent on whether the individual concerned can be placed within the Austrian job market. This can be demonstrated, for example, by knowledge of German at the B1 level or by signing an integration declaration or an integration agreement as well as completing a values and orientation course (Art. 5 para 6 General Social Assistance Act).

Around 140 comments in total were received during the evaluation period (30 November 2018–10 January 2019), which indicates the sociopolitical relevance of the draft legislation. From an economic point of view, the Austrian Federal Economic Chamber argued that reducing the cash benefits paid out to persons without knowledge of German (“Job Qualification Bonus”) would only be effective as an incentive if their basic living and housing needs were covered and there was a sufficient supply of German courses.²⁸ Agenda Asylum, a coalition of non-governmental organizations including Asylkoordination, Diakonie, Integrationshaus, SOS Mitmensch and Volkshilfe, noted that the aim of reducing poverty would be side-lined if the legislation pursued goals set out in the Aliens Police Act. In addition, people already on the fringes of society would be further marginalized.²⁹ From an international perspective, the United Nations High Commissioner

²⁴ Parliament of the Republic of Austria, *Sozialhilfe-Grundsatzgesetz, Sozialhilfe-Statistikgesetz (104/ME)*, available from www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00104/index.shtml (accessed 28 February 2019).

²⁵ Ibid.

²⁶ *FLG I No. 96/2010*.

²⁷ Federal Act enacting a Federal Act on Principles for Social Assistance (General Social Assistance Act) and a Federal Act Concerning Comprehensive Nationwide Statistics on Social Assistance (Social Assistance Statistics Act), Ministerial Draft – Explanatory Notes, 30 November 2018, pp. 3–4, available from www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00104/fname_724090.pdf (accessed 28 February 2019).

²⁸ Austrian Federal Economic Chamber, Entwurf eines Bundesgesetzes betreffend Grundsätze für die Sozialhilfe (Sozialhilfe-Grundsatzgesetz) sowie eines Bundesgesetzes betreffend die bundesweite Gesamtstatistik über Leistungen der Sozialhilfe (Sozialhilfe-Statistikgesetz), Stellungnahme, 21 December 2018, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_03732/imfname_729889.pdf (accessed 8 February 2019), p. 2.

²⁹ Agenda Asyl, Stellungnahme von Agenda Asyl zum Materialienentwurf betreffend Bundesgesetze, mit dem ein Bundesgesetz betreffend Grundsätze für Sozialhilfe (Sozialhilfe-Grundgesetz) und ein Bundesgesetz über die bundesweite Gesamtstatistik über Leistungen der Sozialhilfe (Sozialhilfe-Statistikgesetz) erlassen werden (104/ME XXVI.GP), 10 January 2019, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_03708/imfname_729844.pdf (accessed 8 February 2019), p. 2.

for Refugees (UNHCR) underscored the fact that refugees and beneficiaries of subsidiary protection status often need support, especially at the beginning of the integration process. In this light, UNHCR views the provisions of the draft legislation as counterproductive.³⁰ The proposed General Social Assistance Act was also discussed critically in the Austrian media.³¹ By the end of 2018, Parliamentary procedures had not yet been concluded and it remained to be seen what changes, if any, would be made.³²

2.3 Policy developments with international implications

A team of experts from the Office of the United Nations High Commissioner for Human Rights (OHCHR) visited Austria in October 2018. According to media reports, the aim of the mission was to investigate the human rights situation of migrants and refugees in Austria. The focus lay on recent developments in Austrian policies relating to the return of refugees (refer to sections 11.1 and 11.2).³³ Even the announcement of Commissioner Michelle Bachelet's visit in September was taken up by the media and commented on by the Federal Chancellor. The latter, in a statement, welcomed the planned mission to Austria, pointing out the high number of persons admitted to Austria as well as the good living conditions for migrants.³⁴ The mission would be an opportunity to eliminate any misunderstandings, the Foreign Ministry added.³⁵ The OHCHR report on the mission to Austria was not yet available when this report was prepared.

On 31 October 2018 the Council of Ministers decided against Austria's participation in the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration (A/RES/73/195),³⁶ being held in Marrakech, Morocco on 10 and 11 December 2018. It was also announced that Austria would abstain during voting to adopt the Global Compact for Migration at the United Nations General Assembly on 19 December 2018. In explaining this decision, the Austrian Federal Chancellor pointed to a perceived mixing of the concepts of international protection and labour migration and that the government feared a possible future legal obligation through customary international law.³⁷ The Federal President, on the other hand, underscored the importance of discussing global issues such as migration within the United Nations (UN) framework. This was necessary to preserve Austria's reputation as a reliable partner in international cooperation and not least the country's role as a seat of the UN.³⁸ The Global Compact for Migration was adopted in Marrakech on 10 December 2018 and was officially endorsed by the

³⁰ United Nations High Commissioner for Refugees (UNHCR), *UNHCR-Analyse des Entwurfs für ein Sozialhilfe-Grundsatzgesetz*, 8 January 2019, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_03621/imfname_729535.pdf (accessed 8 February 2019), p. 4.

³¹ See, for example, Der Standard, *Regierung einigt sich auf Mindestsicherung neu: Maximal 863 Euro und Nachteile für Ausländer*, 28 May 2018, available from <https://derstandard.at/2000080528405/Mindestsicherung-neu-Deutsch-als-Voraussetzung-und-Wartefrist-fuer-EU-Buerger> (accessed 25 March 2019).

³² Parliament of the Republic of Austria, *Sozialhilfe-Grundsatzgesetz, Sozialhilfe-Statistikgesetz (104/ME)*, available from www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00104/index.shtml (accessed 28 February 2019).

³³ See, for example, Die Presse, *UNO kontrolliert Menschenrechte in Österreich*, 16 October 2018, available from <https://diepresse.com/home/ausland/aussenpolitik/5514364/UNO-kontrolliert-Menschenrechte-in-Oesterreich> (accessed 6 March 2019).

³⁴ APA-OTS, *Stellungnahme von Bundeskanzler Kurz zu Aussagen der UNO Menschenrechtskommissarin*, 10 September 2018, available from www.ots.at/presseaussendung/OTS_20180910_OTS0130/stellungnahme-von-bundeskanzler-kurz-zu-aussagen-der-uno-menschenrechtskommissarin (accessed 25 March 2019).

³⁵ See, for example, orf.at, *Kurz sieht in UNO-Prüfung eine „Chance“*, 10 September 2018, available from <https://orf.at/stories/3011201/> (accessed 25 March 2019).

³⁶ United Nations General Assembly, Resolution adopted by the General Assembly on 19 December 2018 – Global Compact for Safe, Orderly and Regular Migration, A/RES/73/195, 11 January 2019, available from www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195 (accessed 8 April 2019).

³⁷ Federal Chancellery, *Ministerrat lehnt Beitritt zu UN-Migrationspakt ab*. News, 30 October 2018, available from www.bundeskanzleramt.gv.at/-/ministerrat-lehnt-beitritt-zu-un-migrationspakt-ab (accessed 3 January 2019).

³⁸ See, for example, Kurier, *Van der Bellen: „Entwicklung kann Sorgen bereiten“*, 10 November 2018, available from <https://kurier.at/politik/inland/van-der-bellen-entwicklung-kann-sorgen-bereiten/400319874> (accessed 25 March 2019).

United Nations General Assembly in New York on 19 December 2018, with 152 of the 193 UN Member States voting in favour (with five against³⁹ and 12 abstentions⁴⁰).⁴¹

2.4 Austrian Presidency of the Council of the European Union

Plans: From 1 July to 31 December 2018 Austria held the Presidency of the Council of the European Union. In keeping with the Austrian EU Council Presidency's motto of "A Europe that protects", Austria highlighted the EU's role in protecting its citizens through three focal areas of the Austrian programme. The first focus, relating to migration, was entitled "Security and the fight against illegal migration". The main goals here were to reform the Common European Asylum System, to refocus and strengthen the European Border and Coast Guard Agency (Frontex), and to work more closely with third countries (Federal Chancellery, 2018a:7–8). The media reported extensively about the Federal Government's plans for the Austrian Presidency in the area of migration.⁴²

Developments: According to the Austrian Federal Chancellor, the Austrian Presidency promoted a turnaround in migration and asylum by focusing on the protection of external borders and on cooperation with third countries.⁴³ At a press conference held on the margins of the 2018 EMN Annual Conference during the Austrian Presidency, the Austrian Federal Minister of the Interior, together with the Danish Minister for Immigration, Integration and Housing, and a professor from the University of Oxford presented their visions for an improved protection system.⁴⁴ In addition, at the meeting of the Council of Ministers of Home Affairs on 6 December, Austria presented five ideas for solidarity in the area of asylum: 1) a mechanism for responsibility and solidarity; 2) development of regional solidarity plans; 3) permanent migration monitoring; 4) a commitment by the Member States to take solidarity measures; and 5) pursuing the goals of decreasing irregular migration and relieving the burden on Member States in crisis.⁴⁵

Achievements: During the Austrian Presidency, a total of 2,722 events and meetings took place, 128 agreements were reached, 56 resolutions and recommendations were adopted, 52 legal acts were signed, and 509 decisions were taken.⁴⁶ In detail, the following achievements related to migration and asylum:

- At a ministerial conference under the motto of "Security and Migration – Promoting Partnership and Resilience" held in Vienna on 13 September 2018, the home affairs ministers from the Western Balkans, the EU and the Republic of Moldova signed a

³⁹ CZ, HU, IL, PL, US.

⁴⁰ DZ, AU, AT, BG, CL, IT, LV, LY, LI, RO, SG, CH.

⁴¹ UN News, *General Assembly officially adopts roadmap for migrants to improve safety, ease suffering*, 19 December 2018, available from <https://news.un.org/en/story/2018/12/1028941> (accessed 8 April 2019).

⁴² See, for example, News, *Lob für Österreichs Regierung in Brüssel*, 6 June 2018, available from www.news.at/a/lob-oesterreichs-regierung-bruessel-10114484 (accessed 25 March 2019).

⁴³ Federal Chancellery, *Bundeskanzler Kurz: EU-Ratsvorsitz in einer herausfordernden Zeit*. News, 12 December 2018, available from www.bundeskanzleramt.gv.at/-/bundeskanzler-kurz-eu-ratsvorsitz-in-einer-herausfordernden-zeit (accessed 28 February 2019).

⁴⁴ Federal Ministry of the Interior, *Kickl bei EMN Konferenz: Sieben Ziele für ein besseres Schutzsystem*. News, 4 October 2018, available from www.bmi.gv.at/news.aspx?id=777934365A6834576435673D (accessed 28 February 2019).

⁴⁵ Federal Ministry of the Interior, *Kickl: Österreich ist Impulsgeber, Trendsetter und Vorreiter*. News, 11 December 2018, available from www.bmi.gv.at/news.aspx?id=51707A4D4C7A45335645733D (accessed 28 February 2019).

⁴⁶ Federal Chancellery, *The Austrian Presidency of the Council of the EU: Accomplishments and challenges*. News, 21 December 2018, available from www.eu2018.at/latest-news/news/21-21-The-Austrian-Presidency-of-the-Council-of-the-EU--Accomplishments-and-challenges.html (accessed 28 February 2019).

memorandum of understanding and a related implementing agreement on automated data exchange among law enforcement agencies.⁴⁷

- At a Council of Ministers of Home Affairs' meeting in Brussels on 6 December, a partial general approach was agreed on to strengthen Frontex's mandate regarding return to and cooperation with third countries.⁴⁸
- At the same meeting, the ministers approved a comprehensive set of operational measures to step up the fight against migrant smuggling networks.⁴⁹
- Furthermore, an agreement was reached between the EU and Côte d'Ivoire to improve cooperation on return and readmission.⁵⁰

Review: Not only in view of the achievements relating to “Security and the fight against illegal migration” but also with regard to the Austrian Presidency as a whole, European Commission President Jean-Claude Juncker referred to the results as impressive. Yet the Austrian government's decision not to adopt the Global Compact for Safe, Orderly and Regular Migration⁵¹ was, he said, the one point on which he would have wished for a different decision by the Council Presidency (refer to section 2.3). This criticism was shared by parties in the European Parliament, specifically the Progressive Alliance of Socialists and Democrats, the Greens/European Free Alliance, and the Party of the European Left. The other political groups mostly congratulated the Austrian Presidency on its achievements.⁵² In the Austrian National Council, the Austrian Federal Chancellor (Austrian People's Party) and Vice-Chancellor (Austrian Freedom Party) pointed to a turnaround in migration and asylum policy to now focus on decreasing irregular migration, a development supported by the Austrian Presidency. The opposition parties, in contrast, criticized the lack of tangible results (JETZT – Liste Pilz, NEOS – The New Austria, Social Democratic Party of Austria) and the exclusive focus on migration and asylum, while other urgent issues such as climate protection, social issues or tax evasion were not touched upon (JETZT – Liste Pilz, NEOS – The New Austria).⁵³ The Austrian media reported on these controversial positions and that assessments were divided.⁵⁴ Yet the compliment by the European Commission President has also been cited many times, as has the disappointment expressed by the Commission President and EU parliamentarians –

⁴⁷ Federal Ministry of the Interior, *Western Balkans Conference: Signature of Prüm agreement for Southeast Europe*. News, 13 September 2018, available from www.eu2018.at/latest-news/news/09-13-Westbalkan-Konferenz--Pr-m-Abkommen-f-r-S-dosteuropa-unterzeichnet-.html (accessed 28 February 2019).

⁴⁸ Federal Ministry of the Interior, *EU-Innenministerrat – Kickl: Wichtiger Schritt zu krisenfestem EU-Außengrenzschutz gelungen*. News, 6 December 2018, available from www.bmi.gv.at/news.aspx?id=396A427076372F38712B773D (accessed 28 February 2019).

⁴⁹ Federal Ministry of the Interior, *Kickl: Einigung auf umfassendes EU-Antischlepperpaket erzielt*. News, 7 December 2018, available from www.bmi.gv.at/news.aspx?id=7873463167424A545438513D (accessed 28 February 2019).

⁵⁰ Written input by the Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 22 January 2019.

⁵¹ United Nations General Assembly, Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration – Draft outcome document of the Conference, A/CONF.231/3, available from <http://undocs.org/en/A/CONF.231/3> (accessed 28 February 2019).

⁵² European Parliament, *3. Review of the Austrian Council Presidency (debate)*, 15 January 2019, available from www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20190115+ITEM-003+DOC+XML+V0//EN&language=EN (accessed 28 February 2019); *Kleine Zeitung, EU-Ratspräsidentschaft – Was bleibt ist das Nein zum Migrationspakt*, 15 January 2019, available from www.kleinezeitung.at/politik/aussenpolitik/5561211/EURatspraesidentschaft_Was-bleibt-ist-das-Nein-zum-Migrationspakt (accessed 28 February 2019).

⁵³ Parliament of the Republic of Austria, *Nationalrat zieht Bilanz über Österreichs EU-Ratsvorsitz*, Parliamentary Correspondence No. 1492, 12 December 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1492/index.shtml (accessed 28 February 2019).

⁵⁴ See, for example, *Die Presse, Kurz im EU-Parlament: Opposition lässt kein gutes Haar an Ratsvorsitz*, 15 January 2019, available from https://diepresse.com/home/ausland/eu/5561336/Kurz-im-EUParlament_Opposition-laesst-kein-gutes-Haar-an-Ratsvorsitz (accessed 28 February 2019).

both from the opposition parties and the European People's Party group – at Austria's refusal to approve the Global Compact for Migration.⁵⁵

⁵⁵ See, for example, Kronen Zeitung, *Ratsvorsitz: Endbilanz von Kurz und EU-Parlament*, 15 January 2019, available from www.krone.at/1844137 (accessed 28 February 2019); Profil.at, *Scharfe Kritik an Österreichs EU-Ratspräsidentschaft*, 15 December 2018, available from www.profil.at/oesterreich/scharfe-kritik-oesterreichs-eu-ratspraesidentschaft-10536606 (accessed 28 February 2019).

3 LEGAL MIGRATION

3.1 Statistical developments and trends

In 2018, 17,724 first residence titles for permanent immigration⁵⁶ were issued in Austria, only slightly more than in the previous year (2017: 16,677; + 6%). In addition, 5,918 first residence titles for temporary immigration⁵⁷ were issued, 18 per cent less than in 2017 (2017: 7,219) (see tables 1 and 2; Federal Ministry of the Interior 2017:38).

The Red-White-Red Card and Red-White-Red Card Plus accounted for almost half (49%) of all first residence titles issued for permanent immigration in 2018, making them the most common first residence titles for third-country nationals. Together with the RWR Card (Plus) issued based on quotas, they account for 66 per cent (see table 1).

Table 1: Number of first residence titles for permanent immigration issued in Austria by type (2018)

	Total	Per cent
Red-White-Red Card (Plus)	8 746	49%
Family Member	3 403	19%
Red-White-Red Card (Plus) (quota-based)	3 095	17%
Settlement Permit	1 325	7%
Permanent Residence – EU ⁵⁸	498	3%
Settlement Permit (quota-based)	411	2%
EU Blue Card	246	1%
Total	17 724	100%

Source: Federal Ministry of the Interior, 2018a:27–29, representation by author.

The Temporary Residence Permit – Students accounted for 63 per cent of all first residence titles issued for temporary immigration in 2018. Hence, student migration was the most popular form of temporary immigration (see table 2).

Table 2: Number of first residence titles for temporary immigration issued in Austria by type (2018)

	Total	Per cent
Students	3 751	63%
Special Cases of dependent gainful occupation	972	16%
Pupils	676	11%
Family Reunification	353	6%
ICT	101	2%
Seconded employee	41	1%
Social Service Employee	13	0%
Self-employed Persons	11	0%
Total	5 918	100%

Source: Federal Ministry of the Interior, 2018a:27–29; representation by author.

⁵⁶ Residence titles for permanent immigration are required for third-country nationals who plan to stay in Austria for more than six months (Migration.gv.at, *Temporary residence*, available from www.migration.gv.at/en/types-of-immigration/temporary-residence/ (accessed 28 February 2019)).

⁵⁷ Residence titles for temporary immigration, so-called Temporary Residence Permits, are for third-country nationals who wish to stay temporarily for a specific purpose (ibid.).

⁵⁸ The number refers to persons granted international protection who were issued a first residence title Permanent Residence – EU.

3.2 Legislative developments

3.2.1 Economic migration

In Austria, the immigration of qualified and highly qualified third-country nationals (TCNs) is – besides the EU Blue Card – regulated through the Red-White-Red Card (RWR Card). TCNs can apply for one of the following groups of RWR Cards: very highly qualified workers, skilled workers in shortage occupations, other key workers,⁵⁹ graduates of Austrian Universities and Colleges of Higher Education, self-employed key workers, and start-up founders.⁶⁰

Red-White-Red Card for skilled workers in shortage occupations:

Regarding the immigration of individuals in the category of “skilled workers in shortage occupations” under the RWR Card, each year a new list is published that defines the occupations falling under the category of “shortage occupations”.⁶¹ The Regulation for Skilled Workers 2018 entered into force as of 1 January 2018.⁶² This legislation defines the shortage occupations to be recognized for the employment of skilled workers from other countries in 2018. Based on the list, foreign workers in 27 occupations can apply for a RWR Card for skilled workers in shortage occupations. This number represents a significant rise in shortage occupations from the previous year (2017: 11 shortage occupations). This is also reflected in a more than two-fold increase in the number of RWR Cards for skilled workers in shortage occupations issued for the first time (2017: 164; 2018: 368) (Federal Ministry of the Interior 2017:28; Federal Ministry of the Interior, 2018a:28).

The list of shortage occupations is now also specified by region in order to better control immigration in line with needs.⁶³ In addition to vocations for which a maximum of 1.5 employment seekers are registered per vacancy nationwide, shortage occupations now additionally include fields in which there is a shortage of workers in certain provinces (Art. 13 para 1 Act Governing the Employment of Foreign Nationals).⁶⁴ The employment of skilled workers who are admitted to take up a shortage job in a certain province is limited to the specified employer in that province (Art. 20d para 5 Act Governing the Employment of Foreign Nationals). In addition, the maximum numbers can be limited (Art. 20d para 5 and Art. 13 para 3 Act Governing the Employment of Foreign Nationals). This amendment became effective as of 1 January 2019. The media reported on the new option of defining shortage occupations for each province, as had been recommended by business and economic representatives. The opposition Social Democratic Party of Austria, however, raised the concern that this would also attract cheap labour to immigrate, and not only skilled workers.⁶⁵ A representative of the Chamber of Labour instead questioned the point of expanding the list of shortage occupations on the one hand while at the same time introducing a ceiling (SOS Mitmensch, 2019:7).

⁵⁹ Meaning (highly) qualified workers in further areas.

⁶⁰ For further information see Migration.gv.at, *Permanent immigration*, available from www.migration.gv.at/en/types-of-immigration/permanent-immigration/ (accessed 15 April 2019).

⁶¹ Shortage occupations are considered to be occupations for which a maximum of 1.5 employment seekers are registered per vacancy (applicant-to-vacancy ratio) (Art. 13 para 1 Act Governing the Employment of Foreign Nationals).

⁶² FLG II No. 377/2017.

⁶³ Parliament of the Republic of Austria, *Nationalrat beschließt Reform der Rot-Weiß-Rot-Karte samt Regionalisierung der Mangelberufsliste*, Parliamentary Correspondence No. 1509, 13 December 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1509/#XXVI_A_00504 (accessed 28 December 2018).

⁶⁴ FLG No. 218/1975, in the version of federal law FLG I No. 94/2018.

⁶⁵ See, for example, orf.at, *Fachkräftemangel: Regierung kündigt “Regionalisierung” an*, 12 September 2018, available from <https://orf.at/stories/3014101/> (accessed 25 March 2019).

Red-White-Red Card for other key workers:

An amendment to the Act Governing the Employment of Foreign Nationals⁶⁶ was adopted in December 2018 and became effective as of 1 January 2019. This included modifying the points system for granting a RWR Card for “other key workers”, by introducing English language proficiency as a criterion while giving more weight to the criterion of occupational experience and less to age (see annex C Act Governing the Employment of Foreign Nationals). The change was necessary as a result of a Constitutional Court ruling that had found certain provisions governing the RWR Card for other key workers to discriminate against persons based on age and thus to be unconstitutional and had subsequently repealed these parts of the legislation.⁶⁷ The amendment was widely supported but the Social Democratic Party voted against it. The party argued that, due to the changes in the points-based system, unqualified workers from third countries for whom there is no demand in Austria might be issued a RWR Card.⁶⁸

Seasonal workers:

The Settlement Regulation 2018⁶⁹ became effective as of February 2018. Among other things, the regulation defines the maximum numbers of work permits for temporarily employed foreigners and harvest workers for the year 2018. The numbers of such permits are accordingly limited, to a maximum of 4,000 work permits for temporarily employed foreign nationals (seasonal workers) and up to 600 work permits for harvest workers (Art. 1 and 2 Settlement Regulation 2018). The maximum numbers are thus unaltered from the previous year.

3.2.2 Students and researchers

The Students and Researchers Directive (EU) 2016/801,⁷⁰ has been implemented in national law largely through the Act Amending the Aliens Law 2018.⁷¹ To implement the Directive, changes were also made to the Settlement and Residence Act.⁷² Specifically, the terms of eligibility for a residence title for the purpose of research or study were amended, among other things by waiving the requirement for evidence of accommodation to local standards (Art. 43c para 1 and Art. 64 para 1 Settlement and Residence Act). The period allowed for job-seeking or starting a business was also extended to 12 months, so that third-country nationals who successfully complete a course of study or research in Austria and wish to obtain a Red-White-Red Card, EU Blue Card or Settlement Permit – Researcher can have their temporary residence permit for students or researchers renewed for a longer period (Art. 43c para 2 and Art. 64 para 4 Settlement and Residence Act). Previously, researchers were not granted an extension of residence. Students completing a course of study had already been able to extend their residence for 12 months to seek a job, and now this is also possible in order to start a business.⁷³

Another change was to introduce a Temporary Residence Permit – Researcher Mobility for third-country nationals who are entitled to right of residence as researchers in another EU Member State (Art. 61 Settlement and Residence Act). In accordance with the simplified mobility provisions set

⁶⁶ [FLG I No. 94/2018](#).

⁶⁷ Constitutional Court, 13 December 2017, [G281/2017](#).

⁶⁸ Parliament of the Republic of Austria, *Schlüsselarbeitskräfte: Punkteschema für Rot-Weiß-Rot-Karte wird adaptiert*, Parliamentary Correspondence No. 1408, 29 November 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1408/#XXVI_A_00504 (accessed 12 February 2019).

⁶⁹ [FLG II No. 23/2018](#).

⁷⁰ Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing, OJ 2016 L 132/21.

⁷¹ [FLG I No. 56/2018](#).

⁷² [FLG I No. 100/2005](#), in the version of federal law [FLG I No. 56/2018](#).

⁷³ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 1, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 4 February 2019).

out in the Students and Researchers Directive, a researcher can apply for a Temporary Residence Permit – Researcher Mobility and await the outcome of the procedure in Austria, provided their right of residence in another EU Member State is valid for a corresponding period (Art. 21 para 1 subpara 10 Settlement and Residence Act). Before, no special residence permit for mobile researchers existed in Austrian law, and such researchers had to apply for and obtain a residence permit from outside the Austrian territory.

3.2.3 *Trainees and volunteers*

As part of implementing Students and Researchers Directive, a long-stay visa D for trainees was instituted through the Act Amending the Aliens Law 2018. In accordance with the Directive, the maximum validity is for six months in this case (Art. 20 para 1 subpara 10 and para 2 subpara 1 Aliens Police Act 2005).⁷⁴

Also, as part of implementing that Directive, a new residence title was introduced through the Act Amending the Aliens Law 2018 for third-country nationals serving voluntarily within the framework of European Voluntary Service. The permit is referred to as the Temporary Residence Permit – Volunteers (Art. 67 Settlement and Residence Act)⁷⁵ and applies as a *lex specialis* to volunteers within the framework of the European Voluntary Service. Previously, they had to apply for the residence permit for special cases of gainful employment (Art. 62 Settlement and Residence Act in connection with Art. 1 para 2 Act Governing the Employment of Foreign Nationals) and had no legal claim to such a residence permit even if meeting the requirements.⁷⁶

3.3 “Social dumping”⁷⁷ and labour exploitation

In May 2018 the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection announced the continued funding for UNDOK (Association for Trade Union Support of Undocumented Workers). Opened in June 2014, UNDOK provides counselling and support to people who have been subjected to labour exploitation.⁷⁸ The ministry holds that strengthening the rights of irregularly employed persons at the same time helps all workers in Austria to assert their claims to fair working conditions. The project is correspondingly seen as helping to combat wage and social dumping and thus to enforce the Act to Combat Wage and Social Dumping,⁷⁹ the legislation to implement the EU Posting of Workers Directive (96/71/EC) (see also section 10.4).⁸⁰

⁷⁴ FLG I No. 100/2005, in the version of federal law FLG I No. 56/2018.

⁷⁵ Ibid.

⁷⁶ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, pp. 1–2, 10–11, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/00189/imfname_698465.pdf (accessed 4 February 2019).

⁷⁷ While there is no definition of the concept of “social dumping” in EU law, the term is generally used to point to unfair competition due to the application of different wages and social protection rules to different categories of worker (Parliamentary questions, 27 May 2015, E-008441-15). The European Commission described the practice as a situation ‘where foreign service providers can undercut local service providers because their labour standards are lower’, more info at Eurofound, *European Industrial Relations Dictionary*, available from www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/social-dumping-0 (accessed 20 December 2018).

⁷⁸ UNDOK, *Anlaufstelle für undokumentiert Arbeitende eröffnet*. Press Release, 4 June 2014, available from <http://undok.at/2014/06/anlaufstelle-fuer-undokumentiert-arbeitende-eroeffnet/> (accessed 21 February 2019).

⁷⁹ FLG I No. 44/2016, in the version of federal law FLG I No. 32/2018.

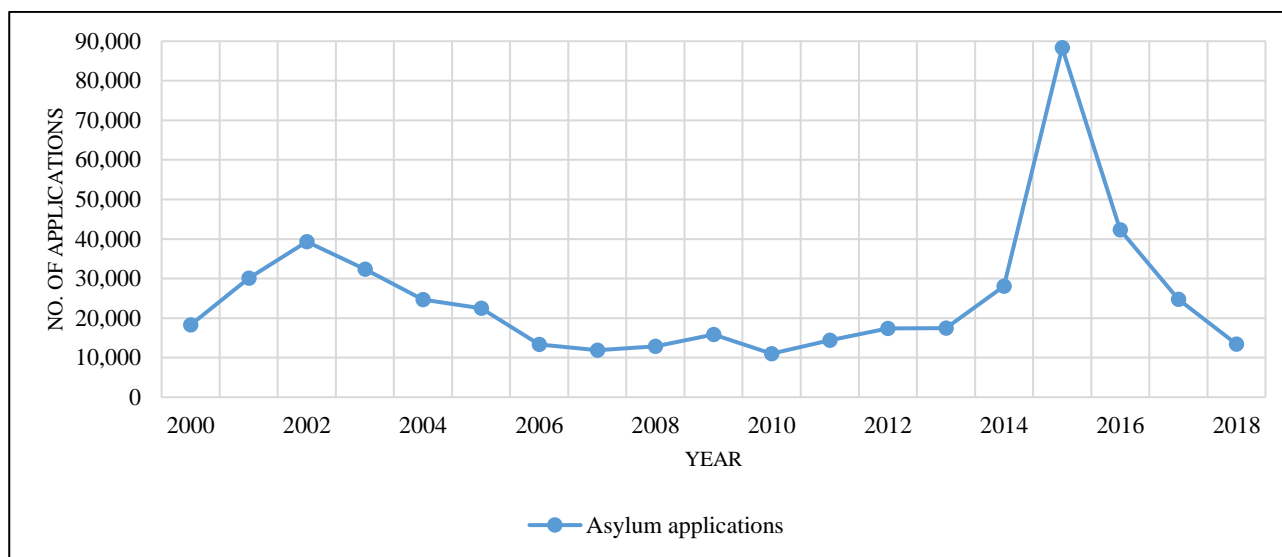
⁸⁰ Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, *UNDOK und MEN VIA Grünes Licht für Förderung gegen Menschenhandel*. Press release, Vienna, 18 May 2018, available from www.sozialministerium.at/site/Service_Medien/Presse/Presseausendungen/UNDOK_und_MEN_VIA_Gruenes_Licht_fuer_Foerderung_gegen_Menschenhandel (accessed 20 December 2018).

4 INTERNATIONAL PROTECTION INCLUDING ASYLUM

4.1 Statistical developments and trends

The number of people seeking asylum in Austria had peaked at 88,340 in 2015 and, after subsequently decreasing to 42,285 in 2016, continued to drop in 2018. With 13,400 asylum applications lodged in 2018, the figure dropped by 46 per cent compared with the previous year and by 68 per cent compared to 2014. The number of asylum applications reached a level comparable to the year 2006, when 13,349 applications were issued (see figure 1).

Figure 1: Asylum applications in Austria (2000–2018)



Source: Federal Office for Immigration and Asylum, 2019b; Statistics Austria, 2018d; representation by author.

In the years 2015 and 2016, Austria belonged to the top five countries in the EU in terms of first-time asylum applications received. In 2018 Austria still ranked among the top 10 receiving countries in the EU but only at tenth place, both in terms of total number of first-time asylum applications and per capita.⁸¹

Accounting for 25 per cent of all asylum applications in Austria, the Syrian Arab Republic (3,307) was the main country of origin in 2018, followed by Afghanistan (2,053 or 15%) and the Islamic Republic of Iran (1,097 or 8%).⁸² Compared with the previous year, the two most frequent countries of origin have not changed, while the Islamic Republic of Iran replaced Pakistan as the third main country.⁸³

In 2018 the number of positive final decisions on applications for international protection (granting asylum, subsidiary protection or humanitarian residence titles) dropped from 30,428 in 2017 to

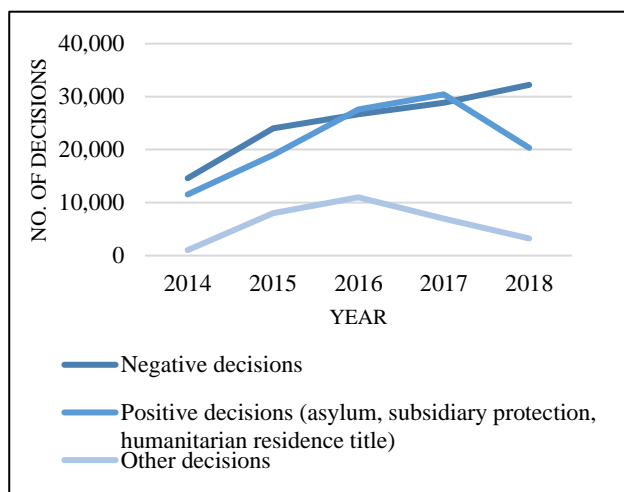
⁸¹ Eurostat, *Asylum and first time asylum applicants by citizenship, age and sex Annual aggregated data (rounded)*, available from http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en (accessed 19 March 2019); Eurostat, *Asylum in the EU Member States: 580 800 first-time asylum seekers registered in 2018, down by 11% compared with 2017*. News, 14 March 2019, available from <https://ec.europa.eu/eurostat/documents/2995521/9665546/3-14032019-AP-EN.pdf/eca81dc5-89c7-4a9d-97ad-444b6bd32790> (accessed 25 March 2019).

⁸² Federal Office for Immigration and Asylum, “2018 - Das Jahr der Neuausrichtung 2.0”, 6 January 2019, available from www.bfa.gv.at/files/Statistiken/BFA_Jahresbilanz_2018.pdf (accessed 28 February 2019).

⁸³ Federal Office for Immigration and Asylum, “2017 - Das Jahr der Aufarbeitung”, 8 January 2018, available from www.bfa.gv.at/files/Statistiken/BFA_Bilanz_2017.pdf (accessed 25 March 2019).

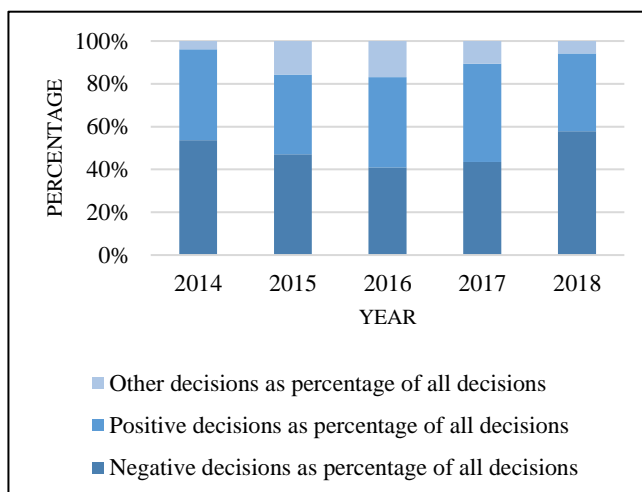
20,326 in 2018 (-33%), while the number of negative decisions continued to increase reaching 32,221 in 2018 (2017: 28,818, i.e. +12%). Hence, negative decisions accounted for the majority of all final decisions taken in 2018 (58%); that had last been the case in 2015 (see figures 2 and 3).

Figure 2: Final decisions on asylum applications in Austria, total (2014–2018)



Source: Federal Ministry of the Interior, n.d.a:14; n.d.b:14; n.d.c:32; n.d.d:30; n.d.e:24; representation by author.

Figure 3: Final decisions on asylum applications in Austria, per cent (2014–2018)



Source: Federal Ministry of the Interior, n.d.a:14; n.d.b:14; n.d.c:32; n.d.d:30; n.d.e:24; representation by author.

4.2 Institutional changes

In March 2018 the ninth branch office of the Federal Office for Immigration and Asylum took up its tasks. The branch office in the town of Leoben reports to the Regional Directorate of Styria.⁸⁴ Besides the branch offices, the Federal Office for Immigration and Asylum has headquarters in Vienna, a regional directorate in each of the provinces as well as initial reception centres in Eastern and Western Austria and at Vienna-Schwechat Airport.⁸⁵

4.3 Legislative developments

4.3.1 Access to the asylum procedure

An application for international protection made by a foreign national now also applies to each of the person's minor children residing in Austria who does not already directly have right of residence; the change to the Asylum Act 2005⁸⁶ was introduced through the Act Amending the Aliens Law 2018.⁸⁷ Where a child is subsequently born in Austria with third-country citizenship, any application for international protection for that child is deemed as having been applied for and submitted through the process of registering the birth, or by informing the Federal Office for

⁸⁴ Regional police directorate Styria, *BFA: Eröffnung der Außenstelle Leoben*, available from www.polizei.gv.at/stmk/start.aspx?nwid=4E69636543484337684A413D&ctrl=3734335266674D385951343D&nwo=8 (accessed 20 December 2018).

⁸⁵ Federal Office for Immigration and Asylum, *Standorte des BFA*, available from www.bfa.gv.at/bundesamt/standorte/start.aspx (accessed 20 December 2018).

⁸⁶ *FLG I No. 100/2005*, in the version of federal law *FLG I No. 56/2018*.

⁸⁷ *FLG I No. 56/2018*.

Immigration and Asylum of the birth (Art. 17a Asylum Act 2005). This change is aimed at improved efficiency of asylum procedures.⁸⁸

The Act Amending the Aliens Law 2018 also resulted in amendments to the Federal Office for Immigration and Asylum Procedures Act.⁸⁹ Officials of the public security service are now authorized to seize and analyse storage media in the possession of asylum seekers, where individuals' identities or travel routes cannot be established on the basis of the existing evidence (Art. 35a and Art. 39a Federal Office for Immigration and Asylum Procedures Act). The amendment is partly to implement the Federal Government's programme for 2017–2022 and aims at increasing the efficiency of Austrian asylum procedures and reducing costs for material reception conditions, by identifying additional Dublin-cases.⁹⁰ The Act Amending the Aliens Law 2018 – including the authorization to analyse asylum seekers' storage media – was endorsed by the ruling coalition parties (Austrian People's Party and Freedom Party Austria), while the opposition parties (Social Democratic Party of Austria, NEOS – The New Austria, JETZT – Liste Pilz) voted against it.⁹¹ The Social Democratic Party of Austria argued that the amendment would increase costs and efforts significantly, and lead to smugglers selling mobile phones with fake data.⁹² In comments submitted during the evaluation period, UNHCR stated that an arbitrary analysis of data from mobile phones might be disproportionate since stored data, while containing large amounts of personal and sensitive information, were largely of no relevance for identifying the asylum seeker's identity and travel route. Furthermore, mobile phones were in many cases used by different persons (including smugglers), which makes it difficult to attribute specific data to one asylum seeker in particular.⁹³ The Austrian Data Protection Authority deemed the analysis of asylum seekers' storage media as permissible, justified by frequent uncertainties regarding the identities and travel routes of asylum seekers.⁹⁴

The amendments became effective as of 1 September 2018.

4.3.2 Reception and detention of asylum applicants

Among the numerous acts affected by the Act Amending the Aliens Law 2018, changes were also introduced to the Federal Basic Care Act 2005⁹⁵ and the Federal Office for Immigration and Asylum Procedures Act. One of the amendments now requires asylum seekers under federal care to contribute to the costs of material reception conditions (Art. 2 para 1b Federal Basic Care Act 2005). To this end, officials of the public security service are now authorized to seize any cash in the possession of asylum seekers when they apply for protection, up to a maximum of EUR 840 per person. An individual must be allowed to retain at least EUR 120 (Art. 39 para 1 Federal Office for Immigration and Asylum Procedures Act). Even prior to the legislative amendment, asylum seekers

⁸⁸ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 24, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 4 February 2019).

⁸⁹ FLG I No. 87/2012, in the version of federal law FLG I No. 56/2018.

⁹⁰ Austrian People's Party and Austrian Freedom Party, *Zusammen. Für unser Österreich. Regierungsprogramm 2017–2022*, p. 34. Available from www.dieneuevolkspartei.at/download/Regierungsprogramm.pdf (accessed 6 March 2019); Parliament of the Republic of Austria, *Innenausschuss beschließt neuerliche Verschärfung des Fremdenrechts*, Parliamentary Correspondence No. 747, 21 June 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0747/#XXVI_I_00189 (accessed 6 February 2019).

⁹¹ Parliament of the Republic of Austria, *Nationalrat beschließt neuerliche Verschärfung des Fremdenrechts*, Parliamentary Correspondence No. 829, 5 July 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0829/#XXVI_I_00189 (accessed 4 February 2019).

⁹² Parliament of the Republic of Austria, *Fremdenrechtsänderungsgesetz 2018 hat Bundesrat passiert*, Parliamentary Correspondence No. 870, 12 July 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0870/#XXVI_I_00189 (accessed 6 February 2019).

⁹³ UNHCR, *Analyse des Entwurfs für das Fremdenrechtsänderungsgesetz 2018*, 9 May 2018, p. 2, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00872/imfname_693196.pdf (accessed 7 February 2019).

⁹⁴ Austrian Data Protection Authority, *Stellungnahme der DSB zum Entwurf eines FrAG 2018*, 16 May 2018, p. 2–3, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00999/imfname_694951.pdf (accessed 7 February 2019).

⁹⁵ FLG No. 405/1991, in the version of federal law FLG I No. 56/2018.

were obliged to reimburse costs if able to provide for their livelihood (Art. 3 para 2 Federal Basic Care Act 2005). However, no exact amount had been defined (Koppenberg, 2014:27). The opposition parties (Social Democratic Party of Austria, NEOS – The New Austria, JETZT – Liste Pilz) and various civil society stakeholders (for example, the Ludwig Boltzmann Institute for Human Rights)⁹⁶ called the seizure of cash from asylum seekers a violation of the fundamental right to property. The responsible minister responded with the argument that a contribution to costs was legitimate.⁹⁷ Other stakeholders argued that the administrative and personnel expenses would cancel any additional benefit (Knapp, 2018:12–17).⁹⁸

The Act Amending the Aliens Law 2018 also introduced a change to the Asylum Act 2005⁹⁹ relating to the obligation to reside at designated quarters. Asylum seekers can now be obliged, even during the admission procedure, to take up residence at accommodations provided by the Federal State (Art. 15b Asylum Act). This obligation had originally applied only to those admitted to asylum procedures. The requirements to be met before imposing such an obligation remain unaffected.¹⁰⁰ The amendment was introduced with the aim to speed up admission procedures by making asylum seekers more available to authorities for the various stages of procedures (e.g. identification).¹⁰¹ Concerns raised included the violation of the individual's freedom of movement.¹⁰²

In addition, the provisions governing detention pending removal were amended through the Act Amending the Aliens Law 2018. It is now again possible to detain asylum seekers whose stay represents a potential danger for public order or safety when there is a risk of absconding and detention is a proportionate measure (Art. 76 para 2 subpara 1 Aliens Police Act 2005).¹⁰³ The amendment was made after a ruling by the Supreme Administrative Court¹⁰⁴ in which the court found that Art. 76 of the Aliens Police Act 2005 in its previous form did not conform to the requirements for detaining individuals during international protection procedures as set out in the Reception Conditions Directive (2013/33/EU).¹⁰⁵ Thus, detention pending removal could not be ordered and imposed on foreign nationals during asylum procedures, except in Dublin-related cases and in the case where the individual was already in detention when applying for protection (Art. 76 para 6 Aliens Police Act 2005). By thus adapting the provision, Art. 8 para 3 (e) of the Reception Conditions Directive has been implemented in Austrian law while more clearly structuring the grounds for detention pending removal.¹⁰⁶

The amendments became effective as of 1 September 2018.

⁹⁶ Ludwig Boltzmann Institute for Human Rights, *Stellungnahme zum Entwurf betreffend das Fremdenrechtsänderungsgesetz 2018*, 14 May 2018, p. 3, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00905/imfname_693777.pdf (accessed 7 February 2019).

⁹⁷ Parliament of the Republic of Austria, *Innenausschuss beschließt neuerliche Verschärfung des Fremdenrechts*, Parliamentary Correspondence No. 747, 21 June 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0747/#XXVI_I_00189 (accessed 6 February 2019).

⁹⁸ UNHCR, *Analyse des Entwurfs für das Fremdenrechtsänderungsgesetz 2018*, 9 May 2018, p. 14, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00872/imfname_693196.pdf (accessed 8 February 2019).

⁹⁹ **FLG I No. 100/2005**, in the version of federal law **FLG I No. 56/2018**.

¹⁰⁰ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, pp. 22–23, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 17 January 2019).

¹⁰¹ *Ibid.*, p. 22.

¹⁰² Ludwig Boltzmann Institute for Human Rights, *Stellungnahme zum Entwurf betreffend das Fremdenrechtsänderungsgesetz 2018*, 14 May 2018, p. 2, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00905/imfname_693777.pdf (accessed 7 February 2019).

¹⁰³ **FLG I No. 100/2005**, in the version of federal law **FLG I No. 56/2018**.

¹⁰⁴ Supreme Administrative Court, 5 October 2017, **Ro 2017/21/0009**.

¹⁰⁵ Directive **2013/33/EU** of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, 29 June 2013, OJ 2013 L 180/96.

¹⁰⁶ Written input by the Federal Office for Immigration and Asylum, Directorate, 14 January 2019. See also Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, pp. 18–19, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 17 January 2019).

4.3.3 Asylum procedure

Art. 22 para 1 of the Asylum Act 2005 was revoked as of 31 May 2018. Consequently, authorities no longer have 15 months to decide on asylum applications. Instead, the generally applicable period of six months defined in Art. 73 para 1 of the General Administrative Procedures Act¹⁰⁷ now also applies to asylum procedures (Art. 1 subpara 23 Federal Act Amending the Asylum Act 2005, the Aliens Police Act 2005 and the Federal Office for Immigration and Asylum Procedures Act).¹⁰⁸

As of 1 June 2018, rulings on complaints against decisions by the Federal Office for Immigration and Asylum must be handed down within six months (Art. 34 para 1 Proceedings of Administrative Courts Act).¹⁰⁹ Art. 21 para 2b of the Federal Office for Immigration and Asylum Procedures Act had originally specified a 12-month period for such cases, but the paragraph was revoked as of 31 May 2018 (Art. 4 subpara 21 Act Amending the Aliens Law 2017).¹¹⁰

The Regulation on Countries of Origin was amended on two occasions in 2018. Armenia, Benin and Ukraine were additionally defined as “safe countries of origin” on 14 February.¹¹¹ Senegal and Sri Lanka were added to the list as of 20 June.¹¹² Accelerated asylum procedures can be conducted for individuals from safe countries of origin, while the suspensory effect of a complaint lodged against a negative asylum decision can be lifted in such cases. Thus, according to the Federal Minister of the Interior, the expansion of the list of safe countries of origin contributes to a restrictive, efficient and orderly asylum system.¹¹³

4.3.4 Access to employment

On 12 September 2018, the Council of Ministers decided to repeal a decree of the former Federal Ministry of Labour, Social Affairs and Consumer Protection,¹¹⁴ which had allowed young asylum seekers up to the age of 25 years access to apprenticeships in shortage occupations.¹¹⁵ Now, only those granted asylum or subsidiary protection may undertake an apprenticeship.¹¹⁶ With this repeal, the Federal Government aimed at making it impossible to circumvent asylum laws by entering an apprenticeship. The opposition parties, in contrast, opposed the repeal. The Social Democratic Party of Austria termed it contradictory to refuse asylum seekers access to apprenticeships while at the same time increasing immigration of workers from third countries through the regionalization of the shortage list (refer to section 3.2.1). The ministers responsible insisted that asylum seekers who are already participating in an apprenticeship are to be allowed to complete it. They also promised to review the legal options for allowing those receiving negative asylum decisions to complete their apprenticeships. They explained the repeal of the decree by referring to the number of recognized

¹⁰⁷ [FLG No. 51/1991](#), in the version of federal law [FLG I No. 58/2018](#).

¹⁰⁸ [FLG I No. 24/2016](#).

¹⁰⁹ [FLG I No. 33/2013](#), in the version of federal law [FLG I No. 57/2018](#).

¹¹⁰ [FLG I No. 145/2017](#).

¹¹¹ [FLG II No. 25/2018](#).

¹¹² [FLG II No. 130/2018](#).

¹¹³ Die Presse, *Regierung erweitert Liste der sicheren Herkunftsländer*, 14 February 2018, available from <https://diepresse.com/home/innenpolitik/5371784/Regierung-erweitert-Liste-der-sicheren-Herkunftslaender> (accessed 25 March 2019).

¹¹⁴ Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, *Lehrlingsbewilligung für jugendliche AsylwerberInnen*, BMASK-435.006/0009-VI/B/7/2015, 18 September 2015, available from www.wko.at/branchen/gewerbe-handwerk/gaertner-floristen/RS036_2015_Erlass_jugendl_Asylwerber_B1.pdf (accessed 3 January 2019).

¹¹⁵ Federal Chancellery, *Beschlussprotokoll des 27. Ministerrates vom 12. September 2018*, available from www.bundeskanzleramt.gv.at/-/beschlussprotokoll-des-27-ministerrates-vom-12-september-2018 (accessed 3 January 2019).

¹¹⁶ Federal Ministry for Digital and Economic Affairs and Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, *Joboffensive der Bundesregierung: Fachkräftebedarf sichern*, BMDW-10.070/0020-IM/2018 and BMASGK-434.001/0191, available from www.bundeskanzleramt.gv.at/documents/131008/993136/27_21_mrv.pdf/80d1f324-4e63-439d-8a0e-7a3ccb2300fd (accessed 3 January 2019).

refugees and other adolescents in Austria seeking apprenticeships.¹¹⁷ Previously, reports of forced removals of apprentices who received negative asylum decisions made headlines in the Austrian media. Among other things, the Austrian Federal Economic Chamber pointed out that asylum seekers trained in shortage occupations were urgently needed by businesses. A member of the Provincial Government of Upper Austria observed that allowing asylum seekers to complete their apprenticeships, besides making business sense, is shown by experience to be one of the most effective integration measures. Non-governmental organizations and the civil-society representatives also disapproved of the move to repeal the decree. The media reported on this topic extensively over several months.¹¹⁸

4.3.5 *Withdrawal of international protection*

Conditions relating to the withdrawal of asylum status were set out in the Asylum Act 2005 as amended by the Act Amending the Aliens Law 2018. A procedure for the withdrawal of asylum status is – since 1 September 2018 – to be initiated where specific indications exist that a person has voluntarily re-availed themselves of the protection of their country of origin, voluntarily reacquired their former citizenship or voluntarily settled in the country which they had left or avoided for fear of persecution. Such indications are defined in the Asylum Act 2005 as including, in particular, cases where persons granted asylum enter their countries of origin or apply for and are issued passports by those countries (Art. 7 para 2 Asylum Act 2005). Other possible indications are taking up gainful employment or starting a business in one's country of origin.¹¹⁹ The amendment is only of a procedural nature and does not represent an addition to existing grounds for status withdrawal.¹²⁰ The intention is to increase efficiency in the national asylum system as laid out in the federal government's programme for 2017–2022.¹²¹

The Federal Office for Immigration and Asylum reported the initiation of 6,000 withdrawal procedures in 2018, which is four times more than in the previous year, with asylum or subsidiary protection actually being withdrawn in 1,640 cases (three times more frequently).¹²² The national data do not differentiate by reason for withdrawal, however. The withdrawal of protection due to travel to a country of origin or contact with the authorities are not the only grounds for status withdrawal. Other reasons are set out in Art. 7 of the Asylum Act 2005, including the grounds for exclusion from asylum enumerated under Art. 6 of that act, among which are listed criminal conviction and posing a threat to the security of the Republic of Austria (Stiller, 2018:18).

4.4 **Quality insurance and effectiveness of the national asylum system**

A comprehensive evaluation, involving all regional organizational units of the Federal Office for Immigration and Asylum and a total of 500 official decisions, was carried out in 2018, examining in detail the evaluation of evidence and the phrasing of decisions. The evaluation revealed no

¹¹⁷ See, for example, Der Standard, *Lehre für Asylwerber: Opposition geschlossen gegen Abschaffung*, 10 September 2018, available from <https://derstandard.at/2000087049000/Lehre-fuer-Asylwerber-Opposition-geschlossen-gegen-Abschaffung> (accessed 25 March 2019); Wiener Zeitung, *Kritik nach Ende von Lehre für Asylsuchende*, 27 August 2018, available from www.wienerzeitung.at/nachrichten/politik/oesterreich/985162-Kritik-nach-Ende-von-Lehre-fuer-Asylsuchende.html (accessed 25 March 2019).

¹¹⁸ See, for example, Die Presse, *Asyl: Kneissl verteidigt Abschiebung von Lehrlingen*, 8 August 2018, available from https://diepresse.com/home/innenpolitik/5476923/Asyl_Kneissl-verteidigt-Abschiebung-von-Lehrlingen (accessed 25 March 2019); Salzburger Nachrichten, *Ende der Lehre für Asylbewerber fix*, 27 August 2018, available from www.sn.at/politik/innenpolitik/ende-der-lehre-fuer-asylbewerber-fix-39255745 (accessed 25 March 2019).

¹¹⁹ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 22, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 29 January 2019).

¹²⁰ Ibid.

¹²¹ Ibid., p. 2.

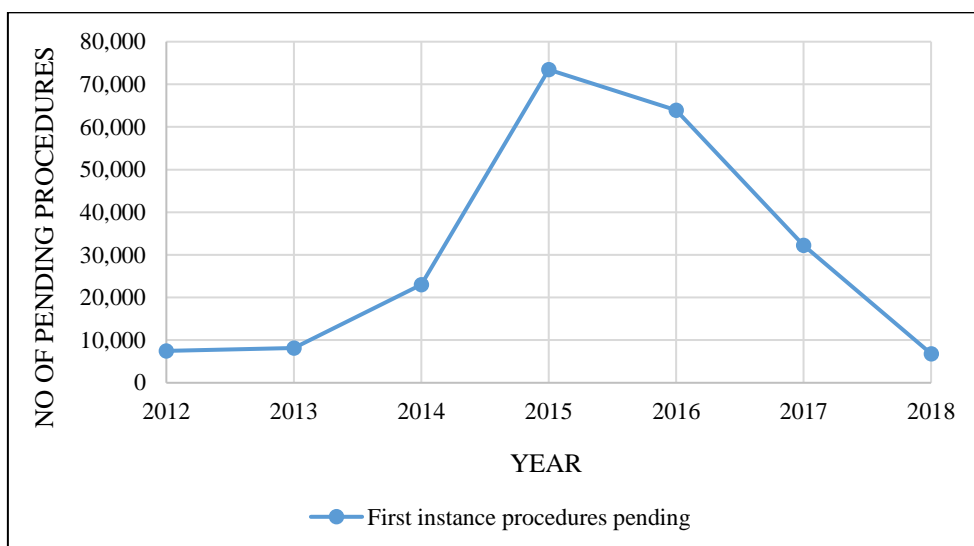
¹²² Written input by the Federal Office for Immigration and Asylum, Directorate, 25 January 2019; Federal Office for Immigration and Asylum, 2019.

structural weaknesses in general.¹²³ The media had previously revealed cases where asylum decision makers had used inappropriate phrasing, for which the Federal Office immediately apologized.¹²⁴

In addition to this scheduled evaluation, various quality-related measures are in place. A focus activity in 2018 was to define and adopt a general instruction regulating quality management, along with related action to ensure implementation. Specific emphasis was also placed on evaluating the language used in decisions and interviews, as well as on intensifying contacts among individuals responsible for quality assurance and on detailing advanced training for this group. Numerous training courses and workshops were also held to enhance the competencies of staff members. The Federal Office for Immigration and Asylum organized 90 such training sessions in 2018, with 1,536 staff members participating in a total of 2,954 training days.¹²⁵

Based on preliminary statistics published by the authority, in 2018 the Federal Office for Immigration and Asylum was able to cope with the backlog of 73,444 first instance procedures pending in the record year of 2015, reducing it to a mere 6,826 by the end of 2018 (-90%) and thus fully catching up with the workload (see figure 4).

Figure 4: Number of first-instance procedures pending in Austria as of 31 December (2012–2018)



Source: Federal Ministry of the Interior, 2018b:47; representation by author.

The time required for procedures at first instance was also shortened considerably. Asylum applications made since 1 June 2018 were processed within less than three months on average, as evaluated in January 2019.¹²⁶

¹²³ Federal Ministry of the Interior, *Stellungnahme des BFA zu Bescheiden, die nicht den qualitativen Standards entsprechen*. Press release, Vienna, 17 August 2018, available from www.ots.at/presseaussendung/OTS_20180817_OT0031/stellungnahme-des-bfa-zu-bescheiden-die-nicht-den-qualitativen-standards-entsprechen (accessed 20 December 2018).

¹²⁴ See, for example, Der Standard, *Höhnischer Ton in Asylbescheid sorgt für Kritik*, 25 May 2018, available from <https://derstandard.at/2000080436561/Hoehnischer-Ton-in-Asylbescheid-sorgt-fuer-Kritik> (accessed 25 March 2019); orf.at, *Internationales Aufsehen wegen Asylbescheides*, 16 August 2018, available from <https://noe.orf.at/news/stories/2930559/> (accessed 25 March 2019).

¹²⁵ Written input by the Federal Office for Immigration and Asylum, Directorate, 14 January 2019.

¹²⁶ Federal Office for Immigration and Asylum, *Rückstandsabbau erledigt, Verfahrensdauer unter drei Monaten, Abschiebungen gesteigert*. News, 24 January 2019, available from www.bfa.gv.at/presse/news/detail.aspx?nwid=72735962325769334A57773D&ctrl=794E752F6259564A344A437375564B796375373831364F486E38592F6A766152 (accessed 28 January 2019); Written input by the Federal Office for Immigration and Asylum, Directorate, 25 January 2019.

4.5 Relocation

In early 2018 Austria affirmed the commitment by the Federal Government, sworn in recently in December 2017, to relocate 50 individuals (preferably unaccompanied minors) from Italy to Austria. It was added, however, that no other persons would be accepted.¹²⁷

Relocation to Austria started already in August 2017 and took place within the framework of the Intra-EU Relocation Mechanism. This refers to an EU solidarity scheme through which persons in need of international protection are transferred from Greece and Italy to another EU Member State, where their asylum applications are processed. In total, the EU Member States as well as Liechtenstein, Norway and Switzerland committed to relocating 63,302 persons from Greece and 34,953 from Italy.¹²⁸

According to the Federal Office for Immigration and Asylum, by December 2018, a total of 47 individuals were transferred with the support of the International Organization for Migration (IOM); including 28 individuals in 2018. Security clearance interviews totalling 48 in number were held at various locations in Italy. Two individuals could not be interviewed, having either absconded or withdrawn their application for relocation. Of the 48 individuals interviewed, 47 were accepted and one rejected. The Federal Office for Immigration and Asylum, responsible for the programme, referred to collaboration with all parties involved as being highly positive. According to the Federal Office for Immigration and Asylum, challenges arose in arranging the security clearance interviews, particularly because applicants were housed at accommodations throughout Italy, which made organization very time-consuming.¹²⁹

¹²⁷ Federal Ministry of the Interior, *Innenministerium: Keine weiteren Zusagen für Relocation-Programm*. News, 1 February 2018, available from www.bmi.gv.at/news.aspx?id=62394F722F7A43305033383D (accessed 20 December 2018).

¹²⁸ IOM, *IOM's activities in the EU relocation scheme*, 30 April 2018, available from https://eea.iom.int/sites/default/files/publication/document/EU_Relocation_Info_Sheet_-_April_2018.pdf (accessed 7 February 2019).

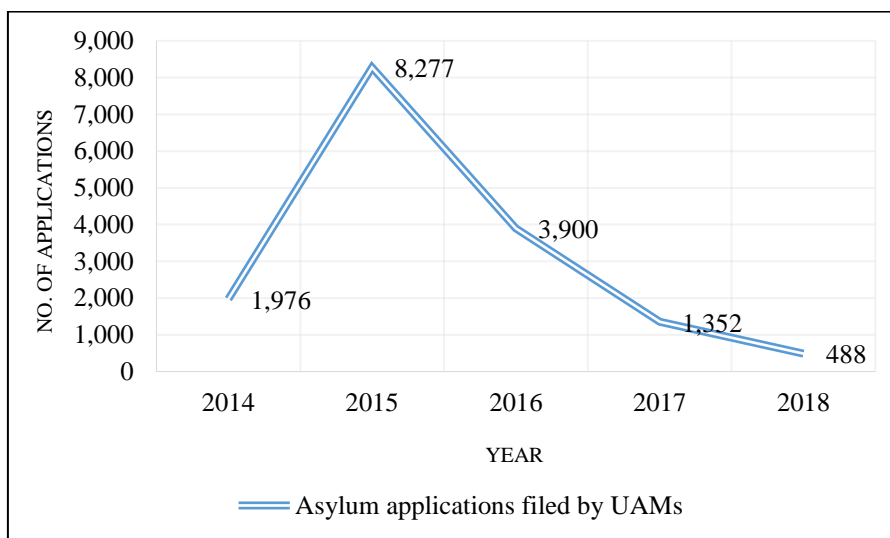
¹²⁹ Written input by the Federal Office for Immigration and Asylum, Directorate, 23 January 2019.

5 UNACCOMPANIED MINORS

5.1 Statistical developments and trends

Over the past five years, Austria has experienced a large increase in applications for international protection filed by unaccompanied minors (UAMs), peaking at over 8,000 applications in 2015 (more than four times as many as in 2017). Since then the number of applications has consistently declined to only 488 applications in 2018 (see figure 5).

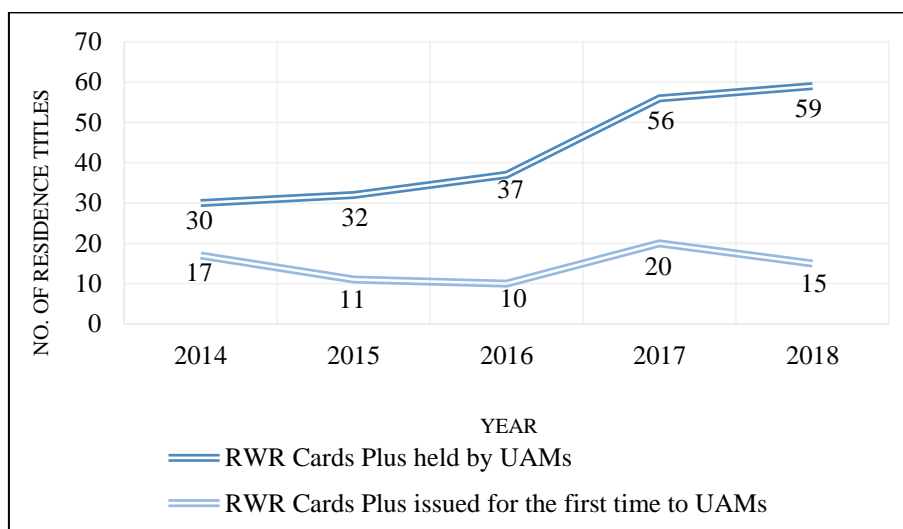
Figure 5: Asylum applications filed by unaccompanied minors (UAMs) in Austria (2014–2018)



Source: Federal Ministry of the Interior, 2018s; representation by author.

The number of valid Red-White-Red (RWR) Cards Plus held by UAMs represents the number of UAMs staying in Austria with a residence title; this number steadily increased over the past five years, reaching 59 in 2018. The number of RWR Cards Plus issued for the first time to UAMs, in contrast, decreased between 2014 and 2016 as well as between 2017 and 2018. Most recently, 15 residence titles were issued to UAMs in Austria (see figure 6).

Figure 6: Number of Red-White-Red Cards Plus (RWR Cards Plus) held by and issued for the first time to unaccompanied minors (UAMs) in Austria (2014–2018)



Source: Federal Ministry of the Interior, 2018t; representation by author.

Even though no comparative data is available on UAMs by residence status, the data presented show that most UAMs in Austria apply for asylum and do not stay under a residence permit.

5.2 Legislative developments

In December 2018 the National Council passed a constitutional amendment¹³⁰ reorganizing the distribution of competencies between the Federal Government and the provinces as of January 2020. The aim is to allow administrative changes to be made more quickly and efficiently.¹³¹ This applies to portfolios including child and youth welfare, which is primarily responsible for the care of UAMs below the age of 14 (UNHCR, n.d.:5 ff.). In future the provinces will be solely responsible for laws in the area of child and youth welfare. At present this portfolio is covered by a basic law of the Federal Government and nine provincial laws. In order to continue to ensure quality standards throughout Austria, an agreement pursuant to Art. 15a of the Federal Constitutional Act will be stipulated between the Federal Government and the provinces. Once the agreement goes into effect, child and youth welfare will become the sole responsibility of the provinces. The draft legislation was passed with the votes of the coalition parties (Austrian People's Party and Freedom Party Austria) and the Social Democratic Party of Austria. NEOS – The New Austria and JETZT – Liste Pilz opposed the draft legislation as they wanted to bundle the legislative competencies for this matter entirely with the Federal Government.¹³² As early as during the legislative procedure, the Austrian Green Party expressed its fear that the Federal Government could neglect its constitutional responsibility for the protection of children.¹³³ Civil society actors such as Netzwerk Kinderrechte Österreich also feared that the creation of nine child and youth welfare systems could lead to increasing differences among care practices in the provinces, jeopardizing previous achievements in implementing unified standards and ultimately impairing child protection.¹³⁴ Accordingly, the Social Democratic Party of Austria made the aforementioned agreement between the Federal Government and the provinces a precondition for its approval of the constitutional amendment, according to media sources.¹³⁵

¹³⁰ [FLG I No. 14/2019](#).

¹³¹ Parliament of the Republic of Austria, Federal Act amending the Federal Constitutional Law, the Transitional Law of 1 October 2019, in the version of federal law FLG No. 368 of 1925, the Federal Constitutional Law regarding the Principles for Establishing and Managing the Offices of the Provincial Governments except for Vienna, the Federal Forestry Law, the Data Protection Law, the Federal Law Gazette Law, the Settlement and Residence Act, and the European Investigation Order regarding Administrative Penal Matters, Government Proposal – Explanatory Notes, p. 1, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00301/fname_714489.pdf (accessed 8 April 2019).

¹³² Parliament of the Republic of Austria, *Länder erhalten alleinige Zuständigkeit für Kinder- und Jugendhilfe*, Parliamentary Correspondence No. 1514, 13 December 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1514/#XXVI_I_00301 (accessed 8 April 2019).

¹³³ Die Grünen, StellungnahmeEntwurf eines Bundesverfassungsgesetzes, mit dem das Bundes-Verfassungsgesetz, das Übergangsgesetz vom 1. Oktober 1920, in der Fassung des B. G. Bl. Nr. 368 vom Jahre 1925, das Bundesverfassungsgesetz betreffend Grundsätze für die Einrichtung und Geschäftsführung der Ämter der Landesregierungen außer Wien und das Niederlassungs-und Aufenthaltsgesetz geändert werden, p. 1, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_01485/imfname_704700.pdf (accessed 8 April 2019).

¹³⁴ Netzwerk Kinderrechte, Stellungnahme zum Entwurf eines Bundesverfassungsgesetzes, mit dem das Bundes-Verfassungsgesetz, das Übergangsgesetz vom 1. Oktober 1920, in der Fassung des B. G. Bl. Nr. 368 vom Jahre 1925, das Bundesverfassungsgesetz betreffend Grundsätze für die Einrichtung und Geschäftsführung der Ämter der Landesregierungen außer Wien und das Niederlassungs-und Aufenthaltsgesetz geändert werden; zu BMVRDJ-601.999/0014-V 1/2018, 13 July 2018, p. 2, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_01451/imfname_704627.pdf (accessed 8 April 2019).

¹³⁵ See, for example, Der Standard, *Landeshauptleute einigen sich auf 15a-Vereinbarung zur Jugendhilfe*, 23 November 2018, available from <https://derstandard.at/2000092108198/Landeshauptleute-einigen-15a-Vereinbarung-zur-Jugendhilfe-auf-Schiene> (accessed 8 April 2019).

5.3 Accommodation and care

Since summer 2015, various efforts have been made to provide UAMs with opportunities to stay with foster families instead of reception facilities (Heilemann, 2017:9). In 2018 it was possible in all of Austria's provinces to house UAMs with foster families (Glawischnig, 2017:45–46). To further promote, improve and support family-based care (FBC) for UAMs, the International Organization for Migration (IOM) started in January 2018 the project “FAB – Fostering Across Borders” in Austria, as well as in Belgium, Greece, Luxemburg, Poland and the United Kingdom. Existing trainings for FBC providers and service providers, as well as current best practices and needs and systemic gaps, have been mapped and a report drafted. A focus group discussion with (former) UAMs living in foster families has taken place, followed by a participative video workshop series during the summer, where young people received the opportunity to gain and practice new skills and share their views about FBC. In addition, various networking events have been conducted to foster exchange between practitioners and interest groups.¹³⁶ The project is funded by the European Commission.

¹³⁶ IOM Country Office for Austria, *FAB - Fostering Across Borders*, available from <https://austria.iom.int/en/fab-fostering-across-borders> (accessed 28 February 2019).

6 INTEGRATION

6.1 Statistical developments and trends

The most recent integration data were published in September 2018, in the statistical yearbook entitled *migration & integration*.¹³⁷ It presents figures from 2017, covering population, immigration, education and language, labour market, social issues and health, security, housing, family forms, naturalization as well as providing subjective impressions of integration.

6.2 Legislative developments

An amendment to the School Organization Act became effective in 2018, one part as of 15 June and another on 1 September 2018.¹³⁸ The amendment provides for separate remedial German classes beginning with the 2018–2019 school year for students at general compulsory schools who are unable to follow instruction due to inadequate language proficiency (Art. 8h School Organization Act).¹³⁹ Such students leave remedial German classes and attend regular instruction as soon as they are able to follow it. While attending regular instruction, they can continue to receive six hours of remedial German.¹⁴⁰ The amendment aims at facilitating language acquisition and allowing students to receive instruction as soon as possible in “normal” classes.¹⁴¹ The amendment was received with mixed feedback. While some stakeholders welcomed the government’s initiative to facilitate language acquisition,¹⁴² others criticized the amendment. The main areas of concern included the lack of flexibility to allow schools to organize German classes according to needs; scientific findings and practical experiences pointing to the advantages of language learning in mixed groups; as well as potential discrimination and segregation.¹⁴³ Teachers, linguists and parents’ representatives protested against the introduction of remedial German classes and stated in the media their preference for allowing schools to decide on the form of language support to provide to students.¹⁴⁴

The Act Amending the Aliens Law 2018¹⁴⁵ resulted in an amendment to the Asylum Act 2005¹⁴⁶ which entered into force as of 1 September 2018. As a result, language courses may be approved to

¹³⁷ Statistics Austria, *migration & integration – zahlen. daten. indikatoren 2018* (Statistics Austria, Vienna, 2018). Available from www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Integrationsbericht_2018/Statistisches_Jahrbuch_2018.pdf (accessed 8 February 2019).

¹³⁸ FLG I No. 35/2018.

¹³⁹ FLG No. 242/1962, in the version of federal law FLG I No. 35/2018.

¹⁴⁰ Federal Ministry of Education, Science and Research, *Aktuelle Projekte*, available from https://bildung.bmbwf.gv.at/schulen/service/schuljahr18_neues.html#heading_Deutschfoerderklassen (accessed 20 December 2018).

¹⁴¹ Federal Law amending the School Organization Act, the School Teaching Act and the Compulsory Education Act 1985, Ministerial Draft – Explanatory Notes, p. 1, available from www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00029/fname_685192.pdf (accessed 12 February 2019).

¹⁴² See, for example, Austrian Economic Chambers, *Bundesgesetz, mit dem das Schulorganisationsgesetz, das Schulunterrichtsgesetz und das Schulpflichtgesetz 1985 geändert werden; Begutachtungs- und Konsultationsverfahren*, 5 April 2018, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00650/imfname_689039.pdf (accessed 12 February 2019).

¹⁴³ SOS Mitmensch, *Kritische Stellungnahmen zu separaten Deutschförderklassen zusammengefasst*, 3 May 2018, available from www2.sosmitmensch.at/kritische-stellungnahmen-zu-separierungsgesetz (accessed 12 February 2019).

¹⁴⁴ See, for example, Salzburger Nachrichten, *Boykottüberlegungen rücken Deutschklassen wieder in Fokus*, 6 June 2018, available from www.sn.at/politik/innenpolitik/boykottueberlegungen-ruecken-deutschklassen-wieder-in-fokus-28851481 (accessed 25 March 2019).

¹⁴⁵ FLG I No. 56/2018.

support the integration of asylum seekers who have been admitted to asylum procedures, whose identities have been established and who will most likely be granted international protection, where funding and organizational resources are available (Art. 68 para 1 Asylum Act 2005). According to the government proposal, the “target” was changed to “may”. A legal entitlement to integration assistance is and was not granted to asylum seekers (before and after the amendment) since not even persons granted international or subsidiary protection status have a legal claim to integration support.¹⁴⁷ During the parliamentary procedure, several stakeholders considered regrettable the withdrawal of the supposed “legal right to language courses”. In view of the lengthy asylum procedures, for example, the United Nations High Commissioner for Refugees (UNHCR) stressed the positive impact of language acquisition on the future integration of those who are later granted protection status.¹⁴⁸

6.3 Policy developments

In April 2018 the Federal Finance Laws 2018¹⁴⁹ and 2019¹⁵⁰ were passed with the support of the governing parties. This was preceded by intense debate over the two-year budget for 2018–2019, both in the National Council and in the media. Among other things, a modification in integration funding was identified. The “Integration Special Fund” and the “Fund for Active Labour Market Integration” (both called “integration package”), established in 2016 to cope with the integration of refugees regarding language and values education and the promotion of the entry into the labour market, expired during the budget years 2018/2019. As a consequence, for instance, the education budget for language support, the labour and social budget for the mandatory integration year, and the funds earmarked for the Public Employment Service Austria towards the integration of persons granted asylum and beneficiaries of subsidiary protection were adapted. Among the reasons for the budget “cuts” given by the government parties (Austrian People’s Party and Austrian Freedom Party) was that the integration package was only a temporary measure to cope with immigration in 2015 and that the remedial German classes (see section 6.2.1) already represented a good condition for further integration.¹⁵¹ Furthermore, since 2018, integration measures are financed and provided through the regular budget. All legally binding offers under the Integration Act were covered by the regular budget in 2018.¹⁵² On the other hand, the opposition parties (Social Democratic Party of Austria, NEOS – The New Austria and JETZT – Liste Pilz) regretted the cuts in integration funding, as many people who had immigrated since 2015 were not yet integrated into society and the labour market, and thus integration continued to be one of the biggest challenges.¹⁵³ The Austrian media widely reported about these reductions in integration support.¹⁵⁴

¹⁴⁶ FLG I No. 100/2005, in the version of federal law FLG I No. 56/2018.

¹⁴⁷ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 26, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 6 February 2019); Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, Department VIII.1 (General Integration Affairs), 8 May 2019.

¹⁴⁸ UNHCR, *Analyse des Entwurfs für das Fremdenrechtsänderungsgesetz 2018*, 9 May 2018, pp. 12–13, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00872/imfname_693196.pdf (accessed 7 February 2019).

¹⁴⁹ FLG I No. 18/2018.

¹⁵⁰ FLG I No. 19/2018.

¹⁵¹ Parliament of the Republic of Austria, *Bildungsbudget: Treffsichere Zukunftsinvestition oder Innovationskürzung?* Parliamentary Correspondence No. 304, 22 March 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0304/#XXVI_I_00013 (accessed 9 April 2019).

¹⁵² Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, Department VIII.1 (General Integration Affairs), 8 May 2019.

¹⁵³ Parliament of the Republic of Austria, *Budgethearing: Start der Budgetdebatte 2018/2019*, Parliamentary Correspondence No. 357, 5 April 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0357/#XXVI_I_00013 (accessed 9 April 2019).

¹⁵⁴ See, for example, Kurier, *Türkis-blaue Devise fürs Budget: Weniger Geld für Migranten*, available from <https://kurier.at/politik/inland/tuerkis-blaue-devise-fuers-budget-weniger-geld-fuer-migranten/314.097.407> (accessed 9 April 2019).

6.4 Promoting integration of specific groups

In previous years, the focus was on supporting the integration of persons granted asylum and beneficiaries of subsidiary protection as well as – to some extent – asylum seekers (AT EMN NCP, 2017:28 ff.; Spiegelfeld, 2018:27 ff.). This changed in 2018. For example, the earmarked funds provided by the Federal Government to the Public Employment Service Austria were reduced. This included reduced funding for programmes aimed at the integration of persons granted asylum and beneficiaries of subsidiary protection. In 2018, EUR 50 million was available for this purpose. The figure in 2017 was EUR 155 million.¹⁵⁵ According to the Federal Minister of Labour, Social Affairs, Health and Consumer Protection, less budget is needed due to a decreasing number of refugees. Various stakeholders nonetheless criticized this step, according to media reports.¹⁵⁶

Promoting the integration of women with a migrant background was one of the main focuses of the Federal Ministry for Europe, Integration and Foreign Affairs in 2018.¹⁵⁷ Speaking at the opening of the biannual meeting of the Advisory Board on Integration on 29 November 2018, the Federal Minister for Europe, Integration and Foreign Affairs expressed a commitment to expand integration programmes for women.¹⁵⁸ For this reason, an additional special call was launched in December 2018 for measures against violence against women in the context of integration and female genital mutilation (FGM), for which the Austrian Integration Fund provides funding.¹⁵⁹

This topic is also the focus of the *2018 Integration Report*,¹⁶⁰ prepared by the independent Expert Council for Integration.¹⁶¹ Entitled *Figures, trends and analyses – A focus on the integration of women*, the report provides various data, disaggregated by gender, on immigration and asylum as well as migrants' socio-economic integration. The report identifies education as one of the main challenges for integration, showing considerable differences depending on country of origin and sex (Expert Council for Integration, 2018:46). In conclusion, a commitment was made to increase migrant women's participation in as many areas of society as possible and particularly in the labour market (ibid:77). However, the media reported about cuts by the Federal Minister for Women, Families and Youth in funding for women's support organizations in 2018.¹⁶² The opposition parties Democratic Party of Austria and NEOS – The New Austria similarly argued that the budget

2019); Der Standard, *Budgetmittel für Integration an Schulen werden 2019 halbiert*, 12 March 2018, available from <https://derstandard.at/2000075944183/Mittel-fuer-Integration-an-Schulen-werden-halbiert> (accessed 9 April 2019).

¹⁵⁵ Public Employment Service, *AMS-Verwaltungsrat hat Förderbudget für 2018 beschlossen*. News, 27 March 2018, available from www.ams.at/regionen/osterreichweit/news/2018/03/ams-verwaltungsrat-hat-foerderbudget-fuer-2018-beschlossen (accessed 3 January 2019).

¹⁵⁶ See, for example, News, *Regierung senkt Arbeitslosenbeiträge*, 28 February 2018, available from www.news.at/a/budget-regierung-senkt-arbeitslosenbeitraege-9220112 (accessed 25 March 2019).

¹⁵⁷ Federal Ministry for Europe, Integration and Foreign Affairs, Karin Kneissl: „Umsetzung des Integrationsgesetzes und die Förderung der Integration von Frauen mit Migrationshintergrund sind Prioritäten der Integrationsarbeit“. Press release, Vienna, 14 September 2018, available from www.bmeia.gv.at/das-ministerium/presse/aussendungen/2018/09/karin-kneissl-umsetzung-des-integrationsgesetzes-und-die-foerderung-der-integration-von-frauen-mit-migrationshintergrund-sind-prioritaeten-der-integrationsarbeit/ (accessed 20 December 2018).

¹⁵⁸ Federal Ministry for Europe, Integration and Foreign Affairs, Karin Kneissl: „Wir stärken die Teilnahme von Frauen mit Migrationshintergrund an der Gesellschaft“. Press release, Vienna, 29 November 2018, available from www.bmeia.gv.at/das-ministerium/presse/aussendungen/2018/11/karin-kneissl-wir-staerken-die-teilnahme-von-frauen-mit-migrationshintergrund-an-der-gesellschaft/ (accessed 20 December 2018).

¹⁵⁹ Written input by the Federal Ministry for Europe, Integration and Foreign Affairs, Department VIII.1 (General Integration Affairs), 8 May 2019.

¹⁶⁰ Expert Council for Integration, *Integration Report 2018*, available from www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Integrationsbericht_2018/Integration_Report_2018_English.pdf (accessed 26 February 2019).

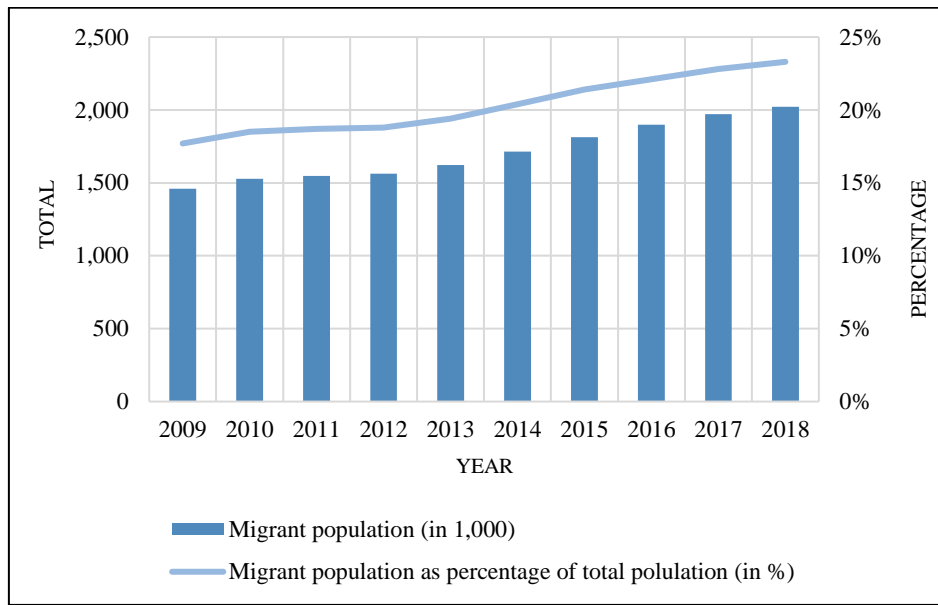
¹⁶¹ The independent Expert Council for Integration at the Federal Ministry for Europe, Integration and Foreign Affairs is the competence centre for integration and consists of experienced and respected public figures. Headed by Univ.-Prof. Dr. Katherina Pabel, its task is to provide expert know-how (Federal Ministry for Europe, Integration and Foreign Affairs, *Expert Council*, available from www.bmeia.gv.at/en/integration/expert-council/ (accessed 27 February 2019)).

¹⁶² See, for example, Der Standard, *Frauenprojekten in Österreich wird massiv das Budget gekürzt*, available from <https://derstandard.at/2000084071322/Frauenprojekte-in-Oesterreich-von-massiven-Budgetkuerzungen-betroffen> (accessed 9 April 2019).

for women and gender equality) – which according to the Austrian People’s Party had not been cut since 2009 – was not sufficient in 2018–2019 (see section 6.3). Funds were claimed to be especially lacking in the area of counselling, protection against violence and support to victims.¹⁶³

The change in focus of promoting the integration of specific groups corresponds to the latest immigration trends. While the number of asylum applications has decreased significantly during the past two years (see section 4.1), the number and share of the migrant population has steadily increased over the past 10 years, from 1.46 million (or 17.7% of the total population) in 2009 to 2.02 million (or 23.3%) in 2018 (see figure 10).

Figure 7: Migrant population of Austria (2009–2018)



Source: Statistics Austria, 2018c; representation by author.

Note: Figures represent the annual average.

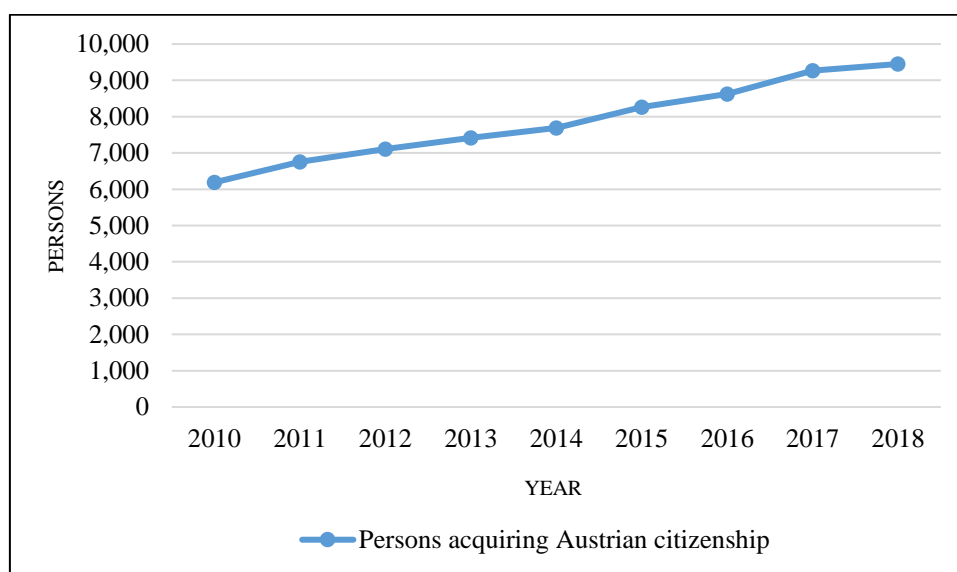
¹⁶³ Parliament of the Republic of Austria, *Bogner-Strauß: Frauenbudget wird trotz Sparkurs nicht gekürzt*, Parliamentary Correspondence No. 424, 18 April 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0424/#XXVI_I_00013 (accessed 9 April 2019).

7 CITIZENSHIP AND STATELESSNESS

7.1 Statistical developments and trends

In the 1980s, 7,800 persons acquired Austrian citizenship on average every year. The number rose in the mid-1990s and reached its peak in 2003, when 45,112 foreign nationals acquired Austrian citizenship. Starting in 2004, the number of naturalizations has been steadily declining, reaching its lowest point in 2010 (6,190).¹⁶⁴ Since then, naturalizations have again been increasing, reaching 9,450 in 2018 (+53%) (see figure 11). The naturalization rate has been stable since 2010 at 0.7 per cent (Statistics Austria, n.d.a).

Figure 8: Number of naturalizations in Austria (2010–2018)



Source: Statistics Austria, n.d.a; representation by author.

Most of the people acquiring Austrian citizenship in 2018 were between 30 and 44 years old (3,381 or 35.8%). In terms of original citizenship, the large majority of foreign nationals who acquired Austrian citizenship in 2018 were third-country nationals (78.7%); only 21.3 per cent were former EU citizens.¹⁶⁵ Among the naturalized persons, 1,086 had refugee status (11.5%) (see figure 12).¹⁶⁶

7.2 Legislative developments

The Citizenship Act 1985¹⁶⁷ saw changes as a result of the Act Amending the Aliens Law 2018,¹⁶⁸ which entered into force as of 1 September 2018. The major change is that, to be eligible for citizenship, persons granted asylum must have legally resided in Austria for 10 consecutive years (Art. 11a para 7 Citizenship Act 1985). Previously, persons granted asylum could be awarded Austrian citizenship after six years if general criteria were met. This was an exception from the

¹⁶⁴ Statistics Austria, *Einbürgerungen*, 21 February 2019, available from www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/bevoelkerung/einbuengerungen/index.html (accessed 6 March 2019).

¹⁶⁵ Ibid.

¹⁶⁶ Statistics Austria, *STATcube "Naturalisations – Reporting year by Refugee according to Geneva convention"*, available from www.statistik.at/web_de/services/statcube/index.html (accessed 6 March 2019).

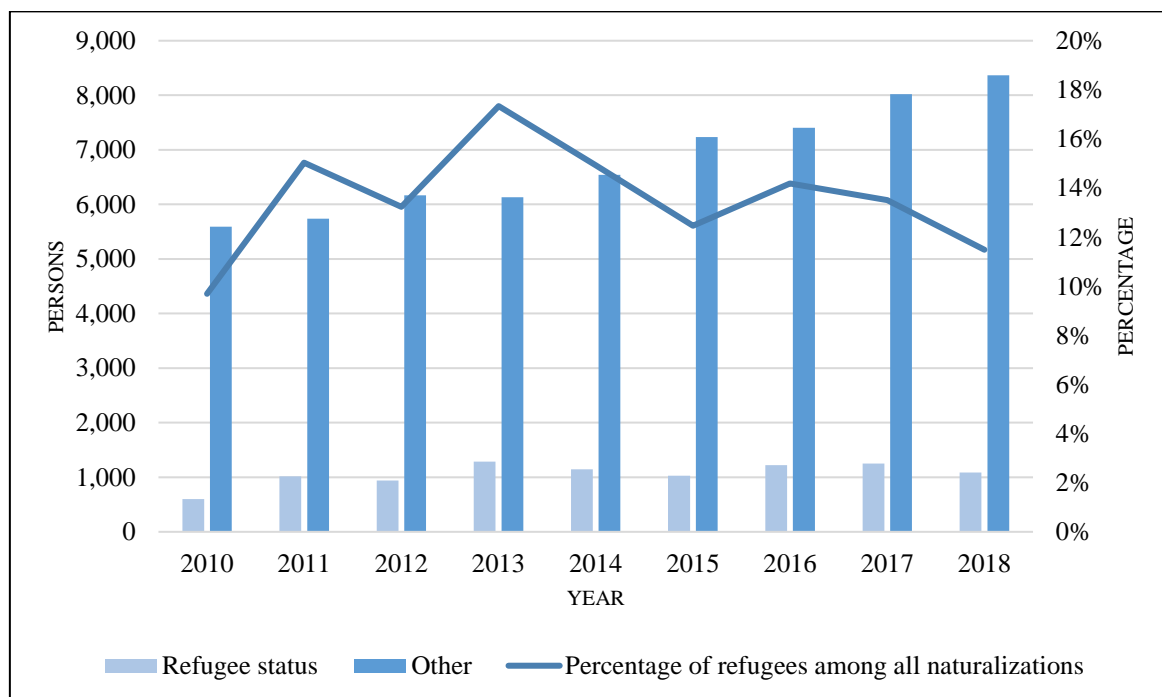
¹⁶⁷ FLG No. 311/1985, in the version of federal law FLG I No. 56/2018.

¹⁶⁸ FLG I No. 56/2018.

general provisions governing naturalization as set out in Art. 10 of the Citizenship Act 1985, according to which foreigners are eligible for citizenship after legally residing in the country for 10 consecutive years and being legally settled for at least five of those years. Persons granted asylum thus could previously obtain citizenship more easily, a privilege that is still available to spouses of Austrian citizens or of citizens of an European Economic Area member country, to foreigners born in Austria, and to persons displaying extraordinary achievements (Art. 11a para 1 and para 4 Citizenship Act 1985). The revised Citizenship Act 1985 does not, however, include the requirement for persons granted asylum to have been settled for at least five of the 10 years (Art. 11a para 7 Citizenship Act 1985). In this way, legislators argued, the provision would still be in line with Art. 34 of the 1951 Refugee Convention,¹⁶⁹ according to which the assimilation and naturalization of refugees should be facilitated as far as possible.¹⁷⁰ UNHCR, mandated to supervise implementation of the Convention, contradicted, saying that the legislative amendment opposed the spirit of Art. 34.¹⁷¹ During the evaluation period for the proposed legislation, other stakeholders, including the Ludwig Boltzmann Institute for Human Rights, argued similarly.¹⁷² It was also stressed that the legislative change would hamper integration of refugees.

The reasons behind the legislative amendment were not communicated. Looking at the number of naturalizations, there has been a slight increase in persons granted asylum who acquired Austrian citizenship between 2015 and 2017 (2015: 1,030; 2017: 1,252) and a slight decrease between 2017 and 2018 (2018: 1,086), while the percentage of refugees among all naturalizations has recently declined since 2016 (2016: 14.2%; 2018: 11.5%) (see figure 12).

Figure 9: Naturalizations in Austria by refugee status and percentage of all naturalizations (2010–2018)



Source: Statistics Austria, n.d.a; representation by author.

¹⁶⁹ UNHCR, *Convention and Protocol relating to the Status of Refugees*, available from www.unhcr.org/3b66c2aa10 (accessed 28 February 2019).

¹⁷⁰ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 40, available from www.parlament.gv.at/PAKT/VHG/XXVI/II_00189/imfname_698465.pdf (accessed 4 February 2019).

¹⁷¹ UNHCR, *Analyse des Entwurfs für das Fremdenrechtsänderungsgesetz 2018*, 9 May 2018, 9 May 2018, pp. 2–3, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00872/imfname_693196.pdf (accessed 7 February 2019).

¹⁷² Ludwig Boltzmann Institute for Human Rights, *Stellungnahme zum Entwurf betreffend das Fremdenrechtsänderungsgesetz 2018*, 14 May 2018, p. 4, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00905/imfname_693777.pdf (accessed 7 February 2019).

As of July 2018, administrative fees to be paid for acquiring citizenship were increased by 14 per cent. Previously, federal fees had ranged from EUR 60 to EUR 976.80 per person (depending on the kind of residence status) and were then increased to between EUR 68.50 and EUR 1,115.30. A fee defined by the respective province additionally has to be paid.¹⁷³

7.3 Grounds for revocation of citizenship

In December 2018, the Constitutional Court reviewed a case involving a man who, based on a decision by the Vienna Provincial Government in accordance with Art. 27 para 1 of the Citizenship Act 1985, had forfeited his Austrian citizenship by reacquiring Turkish citizenship. Initially, the Vienna Provincial Government had, on the basis of a purported list of persons eligible to vote in Turkey, ascertained that the individual concerned had again become a Turkish citizen. The individual objected, claiming not to have reacquired Turkish citizenship but to be unable to present proof, as records from the Turkish civil status register are only issued to Turkish citizens. The Vienna Provincial Government held that the individual concerned had forfeited his Austrian citizenship by again taking up Turkish citizenship. The man objected to the decision by the Vienna Provincial Government by lodging a complaint, which the Vienna Provincial Administrative Court subsequently rejected as unfounded, thereby upholding the Provincial Government's decision. The Constitutional Court ruled, however, that the purported list of persons eligible to vote in Turkey did not qualify as evidence for concluding that an individual had acquired foreign citizenship. The high court, consequently revoking the ruling by the Vienna Provincial Administrative Court that had rejected the complaint as unfounded, referred the case back to the lower court for a new decision.¹⁷⁴ The media reported about 40 similar cases in which Austrian citizenship was withdrawn. The purported list of persons eligible to vote in Turkey is supposed to have included the names of around 18,000 persons living in Vienna. The Vienna Provincial Government is checking the status of all persons concerned. How this is affected by the Constitutional Court ruling remained to be seen as of the end of 2018.¹⁷⁵

¹⁷³ FLG II No. 140/2018.

¹⁷⁴ Constitutional Court, 11 December 2018, E 3717/2018-42; Constitutional Court, VfGH: *Mindestsicherung und Nichtrauchererschutz auf Tagesordnung der Dezember-Session 2018*. Press release, Vienna, 23 November 2018, available from www.vfgh.gv.at/medien/VfGH_Mindestsicherung_und_Nichtraucher_schutz_auf_Ta.de.php (accessed 20 December 2018).

¹⁷⁵ See, for example, orf.at, *Doppelstaatsbürger: VfGH stoppt Aberkennung*, 12 October 2018, available from <https://wien.orf.at/news/stories/2941348/> (accessed 25 March 2019).

8 BORDERS, VISA AND SCHENGEN

8.1 Statistical developments and trends

In 2018 a total of 312,500 visas were issued by Austrian authorities, including 25,393 national visas (so-called D visas) and 287,107 (Schengen) short-stay visas (referred to as A and C visas, the latter including limited territorial visas). Most visas were issued to third-country nationals (TCNs) coming directly from a third country. Only two per cent and four per cent respectively were issued to TCNs resident in another EU Member State.¹⁷⁶ The total number of visas issued as well as the ratio between national and (Schengen) short-stay visas did not change significantly compared with the previous year (EMN 2018a:22).

8.2 Legislative developments

An amendment to the Border Control Act¹⁷⁷ became law with effect from 23 December 2018. The change authorizes the director of a provincial police administration to empower public employees not belonging to the public security service to issue orders and exercise force at Austria's international borders, provided such persons are qualified and specially trained (Art. 12b para 1 Border Control Act).¹⁷⁸ The amendment was adopted in response to the increased number of passengers at Vienna-Schwechat International Airport in recent years and, according to the Federal Ministry of the Interior, was necessary to alleviate the workload of the police officers carrying out border checks at the airport.¹⁷⁹ The parties of the ruling coalition (Austrian People's Party and Austrian Freedom Party) voted in favour of the amendment, while the opposition parties (Social Democratic Party of Austria, NEOS – The New Austria, JETZT – Liste Pilz) voted against it, arguing that the power to exercise force should be limited to police officers.¹⁸⁰ The topic was also covered by the media.¹⁸¹

The Act Amending the Aliens Law 2018¹⁸² also resulted in amendments to the Aliens Police Act 2005¹⁸³ that affected local jurisdiction in visa matters. This no longer depends on the “foreigner's place of residence” but on the “foreigner's place of lawful residence” (Art. 8 para 1 Aliens Police Act 2005). In the parliamentary process, several civil society stakeholders pointed out that the term “place of lawful residence” may have a negative impact on refugees in particular. The change also affects visas issued to relatives included in family procedures under the Asylum Act 2005, while relatives of refugees, often after having fled themselves, in many cases cannot establish a “lawful” residence in the host country; consequently, the requirement for a “lawful residence” can represent an impossible hurdle for family reunification.¹⁸⁴

¹⁷⁶ Data provided by the Federal Ministry of the Interior on 15 March 2019.

¹⁷⁷ [FLG I No. 93/2018](#).

¹⁷⁸ [FLG No. 435/1996](#), in the version of federal law [FLG I No. 93/2018](#).

¹⁷⁹ Federal Ministry of the Interior, *Kickl: Mehr Personal für Grenzkontrollen am Flughafen Wien-Schwechat*. News, 10 December 2018, available from www.bmi.gv.at/news.aspx?id=69657A464D49306E3034383D (accessed 28 December 2018).

¹⁸⁰ Parliament of the Republic of Austria, *Innenausschuss verabschiedet Zivildienstgesetz-Novelle*, Parliamentary Correspondence No. 1403, 29 November 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK1403/#XXXVI_A_00498 (accessed 12 February 2019).

¹⁸¹ See, for example, Die Presse, *Verwaltungsbeamte für Grenzkontrollen? Neos empört über Türkis-Blau*, 23 November 2018, available from <https://diepresse.com/home/innenpolitik/5535019/Verwaltungsbeamte-fuer-Grenzkontrollen-Neos-empuert-ueber-TuerkisBlau> (accessed 25 March 2019).

¹⁸² [FLG I No. 56/2018](#).

¹⁸³ [FLG I No. 100/2005](#), in the version of federal law [FLG I No. 56/2018](#).

¹⁸⁴ Agenda Asyl, *Stellungnahme von Agenda Asyl*, 15 May 2018, p. 2, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_00914/imfname_693786.pdf (accessed 28 February 2019); SOS

8.3 Schengen governance

In May 2018 the Federal Minister of the Interior issued a regulation as referred to in Art. 10 para 2 of the Border Control Act,¹⁸⁵ temporarily reintroducing border controls along the EU internal borders with Hungary and Slovenia. Temporary border controls were initially to be maintained until 11 November 2018.¹⁸⁶ Another regulation was then issued in early November, introducing temporary border controls until 12 May 2019.¹⁸⁷ According to the Federal Minister of the Interior, this was necessary as long as the external EU borders were not sufficiently protected.¹⁸⁸ The opposition parties, NEOS – The New Austria in particular, argued against internal border controls and in favour of free movement within the Schengen Area.¹⁸⁹ The Austrian media also reported on the extension of internal border controls in Denmark, France, Germany, Norway and Sweden.¹⁹⁰

One of the most important internal borders for Austria is the one with Germany. Accordingly, an agreement between Austria and Germany on cooperation at the joint centre at Passau became effective as of 1 February 2018. The centre is intended to enable closer cooperation between the competent police authorities, in combating criminal activity, in protecting public security and order, and in combating irregular migration. Cooperation includes mutual assistance in returning third-country nationals.¹⁹¹ Also, Border police cooperation between Austria and Germany was intensified as of 1 June 2018, with agreement reached over targeted activities and checks of passenger and freight trains in the border zone.¹⁹²

8.4 International cooperation on border management and control

8.4.1 European Border and Coast Guard Agency (Frontex)

Austrian police officers supported the European Border and Coast Guard Agency (Frontex) in various operations in 2018. They were deployed in a variety of roles, including border surveillance in areas without checkpoints, border control, as well as migrant registration and interviews. Some 5,000 experts from all over Europe, including 245 Austrian police officers, belong to the European Border and Coast Guard Teams. Of the Austrian contingent, an average of 35 officers were deployed with Frontex each month. Austrian officers were mainly posted along the Eastern Mediterranean route (Greece and Bulgaria), the Central Mediterranean route (Italy) and the Western Balkan route.¹⁹³

Kinderdorf, *Stellungnahme zum Entwurf betreffend ein Bundesgesetz, mit dem das Niederlassungs- und Aufenthaltsgesetz, das Fremdenpolizeigesetz 2005, das Asylgesetz 2005, das BFA-Verfahrensgesetz, das BFA-Einrichtungsgesetz, das Grundversorgungsgesetz-Bund 2005, das Staatsbürgerschaftsgesetz 1985, das Universitätsgesetz 2002 und das Ausländerbeschäftigungsgesetz [sic] (Fremdenrechtsänderungsgesetz 2018 – FrÄG 2018)*, 16 May 2018, p. 5, available from www.parlament.gv.at/PAKT/VHG/XXVI/SNME/SNME_01007/imfname_694958.pdf (accessed 28 February 2019).

¹⁸⁵ FLG No. 435/1996, in the version of federal law FLG I No. 93/2018.

¹⁸⁶ FLG II No. 98/2018.

¹⁸⁷ FLG II No. 274/2018.

¹⁸⁸ See, for example, Salzburger Nachrichten, *Salzburg droht der nächste Sommer mit Grenzkontrollen und Staus*, 15 February 2018, available from www.sn.at/salzburg/chronik/salzburg-droht-der-naechste-sommer-mit-grenzkontrollen-und-staus-24272008 (accessed 25 March 2019).

¹⁸⁹ See, for example, Kronen Zeitung, *Meinl-Reisinger: "Sie schotten Österreich ab!"*, 19 October 2018, available from www.krone.at/1792593 (accessed 25 March 2019).

¹⁹⁰ See, for example, Kleine Zeitung, *EU-Innenrat ohne Entscheidungen: Kickl dennoch zufrieden*, 12 October 2018, available from www.kleinezeitung.at/service/newsticker/5511976/EUInnenrat-ohne-Entscheidungen_Kickl-dennoch-zufrieden (accessed 25 March 2019). For further information see European Commission, *Temporary Reintroduction of Border Control*, available from <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen/reintroduction-border-control> (accessed 9 April 2019).

¹⁹¹ FLG III No. 18/2018.

¹⁹² Federal Ministry of the Interior, *Verstärkte grenzpolizeiliche Zusammenarbeit im bayerisch-österreichischen Grenzgebiet*. News, 29 May 2018, available from www.bmi.gv.at/news.aspx?id=496970466B786B757857593D (accessed 20 December 2018).

¹⁹³ Written input by the Federal Ministry of the Interior, Department V/6 (Integrated Border Management), 25 January 2019.

Furthermore, in October 2018 a status agreement for stronger involvement of Frontex was signed between Austria, on behalf of the EU, and Albania. It facilitates rapid deployment of European border and coast guard teams.¹⁹⁴

8.4.2 Salzburg Forum

At a ministerial conference held in Vienna in April 2018, Austria launched the “Vienna Process” at policy level. This new type of initiative is aimed at linking up Austria’s traditional Central European partners in the Salzburg Forum,¹⁹⁵ with former and future EU Presidency countries. The participants adopted a declaration pledging close cooperation towards the following five aims:

- 1) Strengthening the EU’s external border protection;
- 2) Developing a crisis-resistant EU asylum system;
- 3) Removing the breeding ground for violent extremism and terrorism;
- 4) Strengthening European police cooperation, with a particular focus inter alia on fighting human trafficking and migrant smuggling; as well as promoting Community Policing; and
- 5) Safeguarding digital security.¹⁹⁶

Within the framework of the Salzburg Forum, a Ministerial Conference was held in Bucharest, Romania, on 14 and 15 June 2018, also attended by Salzburg Forum friends from the Western Balkans.¹⁹⁷ During the conference, Austria promised to support the Western Balkan States by strengthening police cooperation for protecting international borders.¹⁹⁸

In a joint declaration adopted at the Salzburg Forum Ministerial Conference in Bratislava, Slovak Republic on 28 and 29 November 2018, the ministers agreed on the need to increase the staff of Frontex while simultaneously maintaining national sovereignty.¹⁹⁹

8.4.3 Police Cooperation Convention for Southeast Europe (PCC SEE)

Two Austrian police officers participated in the DRINO 2018 operation at the border between Albania and Greece in 2018. The operation was part of international cooperation towards combating irregular migration. The States participating included Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, North Macedonia, the Republic of Moldova, Serbia and Slovenia, along with Europol and Frontex. The officers participating acquired knowledge of migrants’ countries of origin and of the Balkan route.²⁰⁰

¹⁹⁴ Federal Ministry of the Interior, Kickl: EU muss Zusammenarbeit mit Westbalkan stärken - Frontex-Vereinbarung unterzeichnet [sic!]. News, 6 October 2018, available from www.bmi.gv.at/news.aspx?id=434D4761706870656E6C383D (accessed 20 December 2018).

¹⁹⁵ The Salzburg Forum is a Central European security partnership based on an initiative of the Austrian Federal Ministry of the Interior with nine Member States. These are Austria, Bulgaria, Croatia, Czechia, Hungary, Poland, Romania, Slovakia and Slovenia (Salzburgforum, available from www.salzburgforum.org/ (accessed 30 January 2019)).

¹⁹⁶ Federal Ministry of the Interior, *Innenminister Herbert Kickl startet “Wiener Prozess”*. News, 13 April 2018, available from www.bmi.gv.at/news.aspx?id=43734E44463148575A2B633D (accessed 20 December 2018).

¹⁹⁷ The Friends of the Salzburg Forum from the Western Balkans include Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia.

¹⁹⁸ Federal Ministry of the Interior, Kickl bei "Forum Salzburg"-Ministerkonferenz: Kontrolle der Balkanroute hat weiterhin hohe Priorität. News, 15 June 2018, available from www.bmi.gv.at/news.aspx?id=583961425574754272534D3D (accessed 20 December 2018).

¹⁹⁹ Federal Ministry of the Interior, *Generalsekretär Goldgruber bei Ministerkonferenz in Bratislava*. News, 3 December 2018, available from www.bmi.gv.at/news.aspx?id=716254507851734B32306F3D (accessed 20 December 2018).

²⁰⁰ Criminal Intelligence Service Austria, *Polizisten aus Österreich unterstützen bei Grenzschutz*. News, 6 August 2018, available from www.bundeskriminalamt.at/news.aspx?id=654A4151714B54595956593D (accessed 20 December 2018); Written input by the Federal Ministry of the Interior, Department V/6 (Integrated Border Management), 25 January 2019.

9 IRREGULAR MIGRATION INCLUDING MIGRANT SMUGGLING

9.1 Statistical developments and trends

The 2017 annual report on the smuggling of migrants was published by the Criminal Intelligence Service Austria in July 2018. The report, based on records of authorities' activities, reveals a renewed decrease for 2017 in the number of smugglers apprehended and persons smuggled. At the climax of the migration flows in 2015 – with migrants and refugees from the Middle East, South-East Asia and Africa crossing the Mediterranean for Europe – the number of smugglers apprehended in Austria had peaked at 1,108 and that of persons smuggled into Austria at 72,179. Since then the numbers have decreased, to 222 apprehended smugglers and 8,994 persons smuggled in 2017 (-80% and -88% respectively). Although more recent data from 2018 are not yet available, the 2017 annual report on the smuggling of migrants forecasts a decline in irregular migration from Iraq and the Syrian Arab Republic as well as continued migration from Pakistan and North Africa in 2018.²⁰¹

9.2 Institutional changes

A unit of the aliens and border police, referred to as “Puma”, was installed in each of the provinces' police administrations as of 1 September 2018. The tasks of such units include verifying whether foreigners are residing and being employed lawfully in Austria, processing asylum applications, carrying out checks at EU internal borders and, when required, at international airports, and participating in joint cross-border patrols with police officers from neighbouring countries. According to the Federal Minister of the Interior, the units play a key role in implementing the aliens law and combatting irregular migration (Federal Ministry of the Interior: 2018c).

9.3 Legislative developments

The Aliens Police Act 2005²⁰² also saw changes as a result of the Act Amending the Aliens Law 2018,²⁰³ entering into force as of 1 September 2018. Among the changes introduced is the possibility of imposing an administrative penalty on persons staying in Austria unlawfully in violation of a valid entry ban or exclusion order. Practical experience has shown imposing penalties to be unfeasible in certain cases because of the inability to determine the exact date of unlawful entry. To prevent such situations, the wording “unlawful stay” was included in the paragraph.²⁰⁴ Now, the authorities can impose a fine of between EUR 5,000 and EUR 15,000 or imprisonment for a maximum of six weeks in such cases (Art. 120 para 1c Aliens Police Act 2005). Administrative penalties, in the form of fines and substitute imprisonment penalties, had already applied in the past in cases of unlawful entry, unlawful stay and failure to comply with return decisions and entry bans (see Art. 120 para 1 to 1c Aliens Police Act 2005).²⁰⁵

²⁰¹ Criminal Intelligence Service Austria, *Lagebericht Schlepperei 2017*, pp. 6, 16 and 20, available from www.bundeskriminalamt.at/304/files/Schlepperei_17_web_082018.pdf (accessed 20 December 2018).

²⁰² FLG I No. 100/2005, in the version of federal law FLG I No. 56/2018.

²⁰³ FLG I No. 56/2018.

²⁰⁴ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 20, available from www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00189/imfname_698465.pdf (accessed 4 February 2019).

²⁰⁵ FLG I No. 100/2005, in the version of federal law FLG I No. 145/2017.

9.4 International cooperation in combating irregular migration and migrant smuggling

9.4.1 Balkan task force

At a special meeting of interior ministers in Sarajevo, Bosnia and Herzegovina on 7 June 2018, a Balkan task force was set up. The participating Balkan States as well as Germany, Italy and Austria agreed to share information and data, while the Joint Operational Office within the Criminal Intelligence Service Austria is responsible for coordination. The goal of the initiative is to step up efforts to combat migrant smuggling along the various Balkan routes.²⁰⁶

9.4.2 Conference on “Security and Migration – Promoting Partnership and Resilience”

On 13 and 14 September 2018 a ministerial conference on “Security and Migration – Promoting Partnership and Resilience” was held under Austria’s EU Council Presidency. Those in attendance included experts from the EU Member States and the European Commission, Eurojust, Europol, the European Border and Coast Guard Agency (Frontex) and Interpol, as well as from 20 third countries. On 13 September the focus was on sharing good practices for combating the smuggling and trafficking of human beings. The participating States declared their intention of working more closely together to combat the smuggling and trafficking of human beings, while also pledging to intensify information exchange.²⁰⁷ More precisely, four Western Balkan States (Albania, Montenegro, North Macedonia and Serbia), the Republic of Moldova and four EU Member States (Austria, Bulgaria, Hungary and Romania) signed an agreement along with a memorandum of understanding regulating automated information exchange. The agreements enable automated exchange of DNA data, dactyloscopic data and vehicle registration data. Austria is to assist Albania, Montenegro, North Macedonia and Serbia in technical implementation of the agreements (T.H., 2018:68). On 14 September 2018 the conference was dedicated to fostering cooperation with African partner States.²⁰⁸

9.4.3 SILK ROAD project

The Joint Operational Office within the Criminal Intelligence Service Austria began implementing the SILK ROAD project in 2018, with the goal of combating irregular migration and migrant smuggling along the Silk Road. Initial steps will be taken towards building trust, with cooperation in criminal investigations to follow at a later stage. Bulgaria, Interpol and Hungary are partners in the project, and Afghanistan, the Islamic Republic of Iran, Pakistan and Turkey are the countries at the project’s focus.²⁰⁹

9.5 Monitoring and identifying irregular migration routes

9.5.1 Task force for migration

The Federal Ministry of the Interior holds periodic meetings to monitor and assess migration, and also set up a task force in June 2018;²¹⁰ through these arrangements, information on migration flows is shared, measures are coordinated, and reports are presented to the Council of Ministers on a weekly basis. According to media reports, the task force on migration will enable the Federal

²⁰⁶ Written input by the Criminal Intelligence Service Austria, 14 January 2019.

²⁰⁷ Written input by the Criminal Intelligence Service Austria, 14 and 25 January 2019.

²⁰⁸ Federal Chancellery, *Conference on Security and Migration – Promoting Partnership and Resilience*, available from www.eu2018.at/en/calendar-events/political-events/BMI-2018-09-13-Security-Partnership.html (accessed 30 January 2019); Written input by the Federal Ministry of the Interior, Department I/4 (International Affairs), 21 January 2019.

²⁰⁹ Written input by the Criminal Intelligence Service Austria, 14 January 2019 resp. 25 January 2019.

²¹⁰ The Task Force Migration is under the direction of the Federal Ministry of the Interior and consists of representatives of the Federal Chancellery; the Federal Ministry of Defense, the Federal Ministry for Europe, Integration and Foreign Affairs; the Federal Ministry for Transport, Innovation and Technology; and the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice.

Government to be prepared for any future changes in migration movements.²¹¹ In November 2018 special attention was given to monitoring the border between Bosnia and Herzegovina and Croatia. The Federal Ministry of the Interior fears a new pull factor and migrant flows towards Austria, should migrants succeed in crossing the border.²¹²

9.5.2 Structural model to support the centralized control of asylum and aliens affairs (GAF)

The Federal Ministry of the Interior has implemented a structural model to support the centralized control of asylum and aliens affairs (GAF), as a means of analysing cause and effect relationships in the systems of basic care, integration, immigration and border management, and within the security police, and to coordinate information sharing in these areas. The centralized control system comprises one group for analysis and another for control. Delegates to the analysis group from the various organizations and specialist departments meet to mutually share information, which is also compared with information from the international level. This results in a “master document”, that is, a comprehensive picture of the overall situation including key figures, enabling proposals for alternative action as well as the evaluation of implementation outcomes. The analysis group submits its findings to the control group, which then defines a common strategy and advises the specialist unit heads responsible in each case. Objectives are stipulated for the lower-level authorities, organizational units and administrative offices, which are then tasked with corresponding implementation measures. The GAF system has additionally been installed in the federal provinces as “regional GAFs”, each serving to facilitate the sharing and coordination of information on border management and aliens police activities. The objective here is, like the GAF under the federal ministry, to prepare regional analyses and define matching coordinated measures.²¹³

9.6 Preventing irregular migration and migrant smuggling

Austria contributed EUR 35,000 in funding to the Aware Migrants information campaign, carried out by the International Organization for Migration (IOM) to support the Regional Development and Protection Programme in North Africa. The contribution was used to fund a total of 84 TV ads broadcast in February and March of 2018, with the aim of informing potential migrants about the risks involved in irregular migration.²¹⁴ Aware Migrants maintains a webpage²¹⁵ showcasing stories about migrants who arrived in Italy and travelled along routes in Africa. Furthermore, news is posted on the main countries of origin and transit, while information is also provided about regular migration channels and alternatives in Africa.

²¹¹ See, for example, Heute, *Regierung versichert: “Wir sind für Ernstfall gerüstet”*, 27 June 2018, available from www.heute.at/politik/news/story/Ministerrat-beschlie-t-Asyl-Taskforce-52584943 (accessed 25 March 2019).

²¹² Federal Ministry of the Interior, *Migrationslage am Westbalkan weiter angespannt, aber unter Kontrolle*. News, 8 November 2018, available from www.bmi.gv.at/news.aspx?id=413665775A4C367369736F3D (accessed 20 December 2018); Written input by the Federal Ministry of the Interior, Department V/6 (Integrated Border Management), 25 January 2019.

²¹³ Written input by the Federal Ministry of the Interior, Department V/6 (Integrated Border Management), 25 January 2019.

²¹⁴ Written input by the Federal Ministry of the Interior, Department V/8 (Asylum), 24 January 2019.

²¹⁵ Aware Migrations, *Aware Migrants*, available from <http://awaremigrants.org/> (accessed 29 January 2019).

10 COUNTERING TRAFFICKING IN HUMAN BEINGS

10.1 Statistical developments and trends

The Criminal Intelligence Service Austria published the 2017 status report on human trafficking and cross-border prostitution in November 2018. The report confirms what the Federal Ministry for Europe, Integration and Foreign Affairs has assumed in previous years: sexual exploitation – the focus of more than 70 per cent of the police investigations completed in 2017 – is the most common form of human trafficking in Austria. Roughly 57 per cent of the victims of sexual exploitation were third-country nationals, mostly from China or Nigeria.²¹⁶ More recent data were unfortunately not available when this report was compiled.

10.2 Legislative developments and policies

The Federal Ministry of the Interior issued a decree providing for assistance to trafficked persons anywhere in Austria, and for ensuring the rights of such individuals; the decree became effective as of 13 November 2018²¹⁷ and is binding for the police force.

On 10 October 2018 the Council of Ministers followed a motion to adopt the report on implementation of the fourth National Action Plan (NAP) on Combating Human Trafficking (2015–2017), at the same time adopting the new fifth NAP (2018–2020).²¹⁸ The new NAP is designed to reflect the changed situation since the immigration in 2015 and places specific focus on children. For example, the NAP (2018–2020) singles out unaccompanied minors as a group potentially at risk and provides for the expansion of existing programmes aimed at identifying and caring for trafficked children. Furthermore, within the Task Force on Combating Human Trafficking,²¹⁹ the Working Group on Child Trafficking has been commissioned with assessing the establishment of a national protection framework, including options for shelter for trafficked children.²²⁰

10.3 Awareness raising and training

On the occasion of the European Union Anti-Trafficking Day, the Task Force on Combating Human Trafficking in Austria organized a conference on 29 October 2018. The annual conference in 2018 discussed the topic of “Human trafficking and human rights – access to rights for trafficking victims”.²²¹ At the conference, the Director of the Criminal Intelligence Service Austria cited the identification of victims as being a focus of operations and referred to related training programmes

²¹⁶ Criminal Intelligence Service Austria, *Lagebericht Menschenhandel und grenzüberschreitender Prostitutionshandel 2017*, p. 11, available from www.bmi.gv.at/bmi_documents/2251.pdf (accessed 20 December 2018); Federal Ministry of the Interior, *Menschenhandelsbericht 2017: 121 Opfer, Ermittlungen gegen 141 Tatverdächtige*. News, 17 November 2018, available from www.bmi.gv.at/news.aspx?id=4A366B6B4757526C446D633D (accessed 20 December 2018).

²¹⁷ Written input by the Criminal Intelligence Service Austria, 14 January 2019.

²¹⁸ Parliament of the Republic of Austria, *III-216 der Beilagen XXVI. GP - Bericht - 03 Nationaler Aktionsplan 2018–2020*, p. 2, available from www.parlament.gv.at/PAKT/VHG/XXVI/III/III_00216/fname_721006.pdf (accessed 20 December 2018).

²¹⁹ In 2004, the federal government established a Task Force on Combating Human Trafficking in order to coordinate and intensify the Austrian measures against human trafficking. Its main task is to develop National Action Plans and monitor their implementation.

²²⁰ Written input by the Criminal Intelligence Service Austria, 14 January 2019.

²²¹ Federal Ministry for Europe, Integration and Foreign Affairs, *International cooperation to combat human trafficking is at the heart of the "Human Trafficking and Human Rights" conference*. Press release, Vienna, 30 October 2018, available from www.bmeia.gv.at/en/the-ministry/press/announcements/2018/10/international-cooperation-to-combat-human-trafficking-is-at-the-heart-of-the-human-trafficking-and-human-rights-conference/ (accessed 1 March 2019).

for police officers as well as information campaigns in victims' countries of origin.²²² The conference was held in cooperation with the Italian Chairmanship of the Organization for Security and Co-operation in Europe (OSCE), the office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, the Vienna Institute for International Dialogue and Cooperation (VIDC), the Country Office for Austria of the International Organization for Migration (IOM), the Global Initiative Against Transnational Organized Crime, and the International Centre for Migration Policy Development (ICMPD).

Besides the previously mentioned training programmes for police officers, in accordance with the NAP (2018–2020), various training courses on human trafficking and awareness-raising measures were held in 2018. For example:

- Training courses were included in the continuing education programme for employees of police detention centres;
- Annual workshops are held for representatives of labour inspectorates and tax authorities, with the involvement of the Criminal Intelligence Service Austria and victim protection organizations LEFÖ-IBF (Intervention Center for Trafficked Women) and MEN VIA (Support for Trafficked Men);
- The Federal Ministry of the Interior organized a workshop, focused specifically on the trafficking of children, for staff of the child and youth welfare authorities of the City of Vienna. Similar workshops were also held in the other federal provinces;²²³
- Under the Asyl-Train²²⁴ project, the IOM Country Office for Austria held training courses aimed at improving skills in identifying trafficked persons and at fostering intercultural competencies in asylum procedures. The participants were staff members of the Federal Office for Immigration and Asylum, the Federal Administrative Court, ORS Service GmbH (responsible for the care of asylum seekers at federal reception facilities) as well as legal counsellors from ARGE Rechtsberatung and Verein Menschenrechte Österreich; The trainings were held in cooperation with LEFÖ-IBF, MEN VIA, the Criminal Intelligence Service Austria, the Drehscheibe of the City of Vienna and the United Nations High Commissioner for Refugees (UNHCR);
- Under the Protecting Children²²⁵ project, the IOM Country Office for Austria held training courses on child protection in the context of migration, covering topics including the identification of trafficked children. Together with ECPAT Austria, training sessions were held for staff of the child and youth welfare authorities of Vorarlberg and Styria, for Caritas social and return counsellors and for staff of a Caritas shelter for homeless youth;
- Further training courses and awareness-raising measures were held for individuals working at reception centres and other institutions providing basic care.²²⁶

²²² Written input by the Criminal Intelligence Service Austria, 14 January 2019.

²²³ Ibid.

²²⁴ For further information, see IOM Country Office for Austria, *ASYL-Train*, available from <https://austria.iom.int/en/asyl-train> (accessed 15 January 2018).

²²⁵ For further information, see IOM Country Office for Austria, *Protecting Children*, available from <https://austria.iom.int/en/protecting-children> (accessed 22 March 2019).

²²⁶ Written input by the Criminal Intelligence Service Austria, 14 January 2019.

10.4 Cooperation between national authorities and non-governmental organizations

In May 2018 the Federal Ministry of the Interior and the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection jointly committed to provide funding for a cooperative project by UNDOK (Association for Trade Union Support of Undocumented Workers) and MEN VIA. Continuation of the project is planned under the NAP (2018–2020). The project is intended to contribute towards implementing the Employer Sanctions Directive (2009/52/EC),²²⁷ which defines measures to be taken against employers who employ third-country nationals not lawfully residing in a country.²²⁸ An agreement was signed in 2018 pledging base funding from the Federal Ministry of the Interior to enable MEN VIA to operate anonymous shelter accommodations for trafficked men.²²⁹

10.5 International cooperation

Numerous working meetings were held in 2018 in the context of the Joint Operational Office (JOO) within the Criminal Intelligence Service Austria. An example is an experts' meeting in Beijing, China, which JOO officers attended in April 2018 as part of the EMPACT Chinese THB project. Another example is an operational meeting held at Abuja, Nigeria in September 2018, to discuss options for investigation offered by technology, which was attended by an expert with the Criminal Intelligence Service Austria.²³⁰

The Twinning Serbia project was launched in Belgrade on 24 September 2018, with funding provided by the Internal Security Fund (ISF). The project serves to strengthen the competencies of institutions involved in combating human trafficking. The aims are to help individuals avoid becoming victims and to protect those that do, to improve the identification of victims, and to develop an efficient National Referral Mechanism.²³¹

²²⁷ Directive [2009/52/EC](#) of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, 30 June 2009, OJ 2009 L 168/24.

²²⁸ Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, *UNDOK und MEN VIA: Grünes Licht für Förderung gegen Menschenhandel*. Press release, Vienna, 18 May 2018, available from www.sozialministerium.at/site/Service_Medien/Presse/Presseaussendungen/UNDOK_und_MEN_VIA_Gruenes_Licht_fuer_Foerderung_gegen_Menschenhandel (accessed 20 December 2018).

²²⁹ Written input by the Criminal Intelligence Service Austria, 14 January 2019.

²³⁰ *Ibid.*

²³¹ *Ibid.*

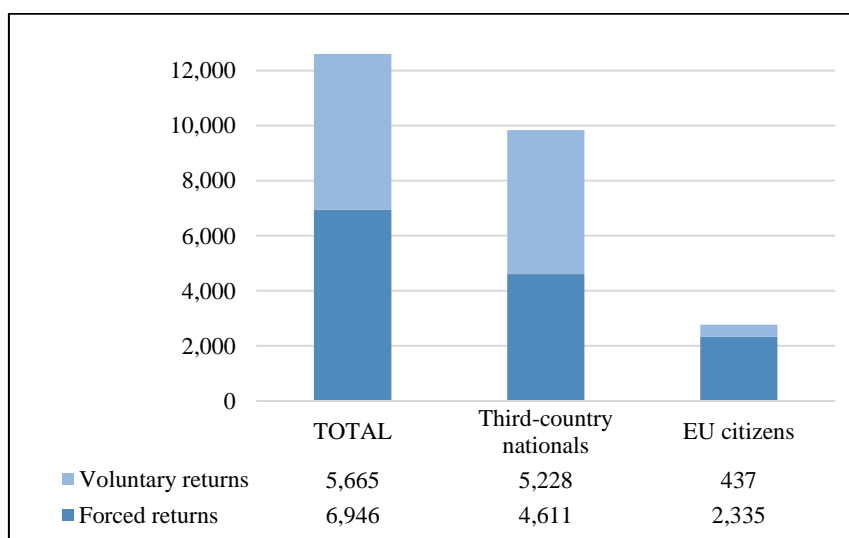
11 RETURN AND READMISSION

11.1 Statistical developments and trends

Overall, in 2018 the Federal Office for Immigration and Asylum increased the number of voluntary and forced returns as compared with 2017. Based on the office's preliminary figures, return increased by four per cent to a total of 12,611 in 2018. Of that number, 45 per cent or 5,665 individuals returned voluntarily and 55 per cent or 6,946 persons were forcibly removed. The rate of forced returns rose by 47 per cent (by 24% excluding Dublin transfers), while the voluntary return rate increased by nine per cent. Also, for the first time ever, charter flights were arranged to return individuals to Azerbaijan, Bangladesh, and Bosnia and Herzegovina with the assistance of the European Border and Coast Guard Agency (Frontex). In total, 72 charter flights for the purpose of forced return were organized to 17 destinations in 2018 (excluding Dublin transfers), equating to an increase of about 24 per cent over the previous year (Federal Office for Immigration and Asylum, 2019b).²³² These figures include both third-country nationals and EU nationals.

Of the 12,611 individuals who returned from Austria in 2018, 78 per cent (or 9,839) were third-country nationals (TCNs), while 22 per cent (2,772) were EU citizens. The majority (53%) of the 9,839 returning TCNs returned voluntarily. In comparison, among EU citizens, the majority (84%) were forcibly removed (see figure 13). According to Walter Obwexer, expert on European law, potential grounds for the forced return of EU citizens are a lack of sufficient financial resources and healthcare, or criminal offences that threaten public order and security. In such cases, Austria can forcibly remove EU citizens.²³³

Figure 10: Number of returns from Austria by citizenship category (2018)



Source: Federal Office for Immigration and Asylum, 2019b; Data provided by the Federal Office for Immigration and Asylum on 18 March 2019.

Note: Data on forced returns include Dublin transfers.

²³² Written input by the Federal Office for Immigration and Asylum, Directorate, 25 January 2019.

²³³ Heute, *Österreich schiebt am meisten Europäer ab*, 4 February 2019, available from www.heute.at/politik/news/story/Abschiebungen--sterreich-betreffen-am-meisten-Europaeer-Slowaken-auf-Platz-1--46195526 (accessed 25 March 2019).

11.2 Policy developments

In line with the Federal Government's programme for 2017–2022,²³⁴ the Federal Office for Immigration and Asylum focused in 2018 on returning 1) individuals staying irregularly in Austria, 2) persons convicted of a criminal offence and 3) rejected asylum seekers.

As a result of this special focus:

- 1) In more than 330 instances, targeted activities were jointly carried out at public gathering places with police administrations in the provinces. During the operations, 8,500 individuals were checked and more than 350 were arrested, with detention pending deportation imposed in 200 arrest cases (Federal Office for Immigration and Asylum, 2019b).
- 2) 42 per cent of those removed from Austria were convicted criminals (Federal Office for Immigration and Asylum, 2019b).
- 3) No data is available on the number of rejected asylum seekers who were returned or who returned voluntarily.²³⁵

Removals to Afghanistan were one of the main focuses of return policy in 2018. Since removal of such persons was first permitted in March 2017 (Heilemann, S. and R. Lukits, 2017:20), Afghan nationals became the second largest category of individuals to be forcibly returned from Austria in 2017 (EMN, 2018a:24) and the third in 2018.²³⁶ At a press conference in March 2018, the Federal Minister of the Interior, referring to recent criminal incidents involving Afghan nationals, stressed the importance of removals to Afghanistan, particularly in view of the high number of asylum applications from that country at a simultaneously lower recognition rate at that time.²³⁷ The recognition rate for Afghans was, in fact, 51 per cent at the end of 2018.²³⁸ Several stakeholders, including opposition parties and non-governmental organizations, argued that the country was not safe enough. In its *Eligibility Guidelines* published in August 2018, the United Nations High Commissioner for Refugees (UNHCR) also confirmed that the overall security situation has continued to deteriorate (UNHCR, 2018:12). Civil-society stakeholders subsequently launched a campaign under #sichersein,²³⁹ with the aim of raising awareness about the situation in Afghanistan and the stigmatization of Afghans in Austria.

11.3 Legislative developments

The Aliens Police Act 2005²⁴⁰ saw changes as a result of the Act Amending the Aliens Law 2018.²⁴¹ Art. 46 para 7 of the Aliens Police Act 2005 now obliges hospitals to inform the Federal Office for Immigration and Asylum on request where the hospital is soon to release an alien whose removal is pending. According to the Federal Office for Immigration and Asylum, the disclosure of information concerning the individual's date of release is necessarily subordinate to the interest in an orderly and efficient execution of asylum and alien matters. Yet, it is added, the details are at the

²³⁴ Austrian People's Party and Austrian Freedom Party, *Zusammen. Für unser Österreich. Regierungsprogramm 2017–2022*. Available from www.dieneuevolkspartei.at/download/Regierungsprogramm.pdf (accessed 6 March 2019), p. 34.

²³⁵ Federal Ministry of the Interior, *Beantwortung der parlamentarischen Anfrage betreffend „Abschiebungen und Rückführungen“ 923/AB vom 19. Juli 2018 zu 936/J (XXVI.GP)*, p. 35, available from www.parlament.gv.at/PAKT/VHG/XXVI/AB/AB_00923/imfname_705047.pdf (accessed 9 April 2019).

²³⁶ Data provided by the Federal Office for Immigration and Asylum on 18 March 2019.

²³⁷ Kurier, *Kickl will Asylrecht verschärfen: Afghanen im Fokus*, 13 March 2018, available from <https://kurier.at/politik/inland/kickl-will-asylrecht-verschaerfen-afghanen-im-fokus/313.764.731> (accessed 25 March 2019).

²³⁸ Federal Office of the Interior, *Vorläufige Asylstatistik Dezember 2018*. Federal Ministry of the Interior, Vienna. Available from www.bmi.gv.at/301/Statistiken/files/2018/Asylstatistik_Dezember_2018.pdf (accessed 25 March 2019), p. 6.

²³⁹ Asylkoordination Österreich, #sichersein, available from www.sichersein.at (accessed 25 March 2019).

²⁴⁰ FLG I No. 100/2005, in the version of federal law FLG I No. 56/2018.

²⁴¹ FLG I No. 56/2018.

same time limited to the minimum necessary, namely the date of release from hospital care.²⁴² During parliamentary debates, opposition party NEOS – The New Austria criticized this change as violating the principle of medical confidentiality. The Freedom Party Austria denied any violation, since the disclosure obligation applied to medical institutions and not doctors. The Federal Minister of the Interior claimed the measure was necessary to prevent persons from absconding after a hospital stay.²⁴³

The Federal Office for Immigration and Asylum Procedures Act²⁴⁴ was also amended as part of the Act Amending the Aliens Law 2018. Para 4 of Art. 9 Federal Office for Immigration and Asylum Procedures Act was dropped. Now, where the public interest outweighs other interests, a return decision can also be issued against individuals who have been lawfully settled in Austria for a long period. The amendment was intended to streamline the above-mentioned act, by no longer absolutely prohibiting removal in such cases since, in accordance with Art 8. of the European Convention on Human Rights,²⁴⁵ any return decision always requires a case-by-case assessment.²⁴⁶

The Act Amending the Aliens Law 2018 resulted in amendments to the Aliens Police Act 2005. The authorities can now impose a permanent entry ban on third-country nationals convicted with final effect when the unconditional prison sentence is for more than three years (Art. 53 para 3 subpara 5 Aliens Police Act 2005). The previous minimum sentence had been five years.

The amendments became effective as of 1 September 2018.

11.4 Readmission

The Federal Office for Immigration and Asylum is responsible for the implementation of readmission agreements. In this role, the office confers regularly with representatives of third countries to encourage and ensure implementation in accordance with the agreements. Worth mentioning in this regard are the talks held with the Russian Federation in 2018, in Austria as well as at the Migration Service in Moscow. The Federal Office for Immigration and Asylum also actively participates in EU expert groups (country working groups and joint working groups) which support implementation.²⁴⁷

The Federal Office for Immigration and Asylum undertook to work with additional countries in the area of pre-return management, i.e. to obtain return travel certificates. In the course of these efforts, contacts were established with countries including Côte d’Ivoire, Mongolia, Nepal, Sierra Leone and Uzbekistan.²⁴⁸ Also, Austria received delegations from four countries not represented in Austria by a consulate: Gambia, Guinea, Guinea-Bissau and Uganda. During their visits, the delegations participated in identification missions for the purpose of issuing return travel certificates for individuals purported to be citizens of their countries.²⁴⁹

²⁴² Written input by the Federal Office for Immigration and Asylum, Directorate, 14 January 2019.

²⁴³ Parliament of the Republic of Austria, *Innenausschuss beschließt neuerliche Verschärfung des Fremdenrechts*, Parliamentary Correspondence No. 747, 21 June 2018, available from www.parlament.gv.at/PAKT/PR/JAHR_2018/PK0747/#XXVI_I_00189 (accessed 6 February 2019).

²⁴⁴ [FLG I No. 87/2012](http://www.rgk.gv.at/FLG/FLG_I_No_87_2012), in the version of federal law [FLG I No. 56/2018](http://www.rgk.gv.at/FLG/FLG_I_No_56_2018).

²⁴⁵ European Court of Human Rights and Council of Europe, *European Convention on Human Rights*. Available from www.echr.coe.int/Documents/Convention_ENG.pdf (accessed 25 March 2019).

²⁴⁶ Act Amending the Aliens Law 2018, Government Proposal – Explanatory Notes, p. 27, available from www.parlament.gv.at/PAKT/VHG/XXVI/I_00189/imfname_698465.pdf (accessed 7 February 2019).

²⁴⁷ Written input by the Federal Ministry of the Interior, Department I/7 (EU Affairs), 24 January 2019.

²⁴⁸ *Ibid.*

²⁴⁹ Written input by the Federal Office for Immigration and Asylum, Directorate, 24 January 2019.

11.5 Assisted voluntary return and reintegration

11.5.1 National initiatives

On 1 September 2018 the Federal Office for Immigration and Asylum launched a new bonus programme to encourage the assisted voluntary return of (former) asylum seekers from the six most common countries of origin (Afghanistan, the Islamic Republic of Iran, Iraq, Nigeria, the Russian Federation and the Syrian Arab Republic). This is intended as a continuation of the campaign in 2016 and 2017 carried out under the motto of “Voluntary return – a new start with prospects” while providing new incentives to make voluntary return more attractive. Eligible returnees can receive a one-off bonus of EUR 1,000 per person or a maximum of EUR 3,000 for each family (with eligibility limits based on defined criteria). Running until 31 December 2018, the bonus offer is applicable depending on when individuals apply for voluntary return assistance. Eligible individuals include asylum seekers whose procedures are currently pending (having applied before 1 September 2018) and foreign nationals who received a final decision on asylum status within the previous six months and are citizens of one of the six most common countries of origin listed above.²⁵⁰

In 2018 a total of 3,214 third country nationals returned from Austria voluntarily as part of an assisted voluntary return programme.²⁵¹ The majority (93% or 2,986 persons) were assisted by the IOM Country Office for Austria.²⁵²

11.5.2 International cooperation

Since June 2018 Austria has been a partner in the recently established European Return and Reintegration Network (ERRIN). In addition to common reintegration activities – the first pillar of its predecessor ERIN – ERRIN now also comprises a second pillar entailing support for Member States in assisting returnees (including improved return counselling programmes as well as project development and innovation).²⁵³

Under Austrian leadership, representatives of Austria, Denmark, France, Germany, Sweden and the United Kingdom prepared an internal guideline and implemented a pilot project in early 2018, aimed at harmonizing forms and procedures and thus facilitating and improving conditions for individuals to return voluntarily to their countries of origin and become reintegrated. The initial phase of the pilot project was launched in the Russian Federation in May. ERRIN experts met in Vienna in September to evaluate the results after testing the new forms and procedures, and to prepare the second phase of the pilot project, launched in Morocco in November and allowing the revised instruments to be tested until April 2019.²⁵⁴

In September 2018 the Austrian Federal Ministry of the Interior and the French Office for Immigration and Integration launched a bilateral cooperation, with the aim of offering reintegration assistance to individuals returning to any of a total of 13 francophone States in Africa. This pilot

²⁵⁰ Written input by the Federal Office for Immigration and Asylum, Directorate, 23 January 2019; Federal Office for Immigration and Asylum, *Bonusaktion Plus 1.000 – Infoblatt*, available from www.bfa.gv.at/files/return/2018_Bonusaktion_Infoblatt.pdf (accessed 28 January 2019).

²⁵¹ Data provided by the Federal Office for Immigration and Asylum on 18 March 2019.

²⁵² Data do not include persons who were assisted in their voluntary return but who paid the costs of travel themselves.

²⁵³ Written input by the Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 21 January 2019.

²⁵⁴ Federal Ministry of the Interior, *Freiwillige Rückkehr und Reintegration*. News, 21 September 2018, available from www.bmi.gv.at/news.aspx?id=5A306E466A697A7A5359593D (accessed 20 December 2018); Written input by the Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 21 January 2019.

project is the first instance in which Austria is cooperating bilaterally with other EU Member States on reintegration.²⁵⁵

²⁵⁵ Written input by the Federal Ministry of the Interior, Department V/10 (Return, Reintegration and Quality Development), 21 January 2019.

ANNEXES

Annex A: List of Translations and Abbreviations

English term	English abbreviation	German term	German abbreviation
Act Amending the Aliens Law	–	Fremdenrechtsänderungsgesetz	FrÄG
Act Establishing the Federal Office for Immigration and Asylum	–	BFA-Einrichtungsgesetz	BFA-G
Act Governing the Employment of Foreign Nationals	–	Ausländerbeschäftigungsgesetz	AuslBG
Act to Combat Wage and Social Dumping	–	Lohn- und Sozialdumping-Bekämpfungsgesetz	LSD-BG
Aliens Police Act 2005	–	Fremdenpolizeigesetz 2005	FPG
Association for Trade Union Support of Undocumented Workers	UNDOK	Anlaufstelle zur gewerkschaftlichen Unterstützung undokumentiert Arbeitender	UNDOK
Asylum Act 2005	–	Asylgesetz 2005	AsylG 2005
Austrian Freedom Party	–	Freiheitliche Partei Österreich	FPÖ
Austrian Green Party	–	Die Grünen	–
Austrian People's Party	–	Österreichische Volkspartei (auch Neue Volkspartei)	ÖVP
Border Control Act	–	Grenzkontrollgesetz	–
Centralized control of asylum and aliens affairs	GAF	Gesamtsteuerung Asyl- und Fremdenwesen	GAF
Citizenship Act 1985	–	Staatsbürgerschaftsgesetz 1985	StbG
Constitutional Court	–	Verfassungsgerichtshof	VfGH
Country of Origin Regulation	–	Herkunftsstaaten-Verordnung	HStV
European Asylum Support Office	EASO	Europäisches Unterstützungsbüro für Asylfragen	EASO
European Border and Coast Guard Agency	Frontex	Europäische Agentur für die Grenz- und Küstenwache	Frontex
European Migration Network	EMN	Europäisches Migrationsnetzwerk	EMN
European Return and Reintegration Network	ERRIN	Gemeinsames europäisches Rückkehr- und Reintegrationsprogramm	ERRIN
European Union	EU	Europäische Union	EU
Family-based care	FBC	Unterbringung in Familien	–
Federal Basic Care Act 2005	–	Grundversorgungsgesetz - Bund 2005	GVG-B 2005
Federal Finance Law	–	Bundesfinanzgesetz	BFG
Federal Ministry for Digital and Economic Affairs	–	Bundesministerin für Digitalisierung und Wirtschaftsstandort	BMDW
Federal Ministry of Labour, Social Affairs, Health and Consumer Protection	–	Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz	BMASGK
Federal Ministry of the Interior	MoI	Bundesministerium für Inneres	BMI
Federal Office for Immigration and Asylum	–	Bundesamt für Fremdenwesen und Asyl	BFA
Federal Office for Immigration and Asylum Procedures Act	–	BFA-Verfahrensgesetz	BFA-VG
Fostering Across Borders	FAB	–	–
General Administrative Procedures Act 1991	–	Allgemeines Verwaltungsverfahrensgesetz 1991	AVG
Internal Security Fund	ISF	Interner Sicherheitsfonds	–
International Centre for Migration Policy Development	ICMPD	Internationales Zentrum für die Entwicklung von Migrationspolitik	ICMPD
International Organization for Migration	IOM	Internationale Organisation für Migration	IOM

Intervention Center for Trafficked Women	LEFÖ-IBF	Interventionsstelle für Betroffene von Frauenhandel	LEFÖ-IBF
Intra-corporate transfer	ICT	Unternehmensinterner Transfer	ICT
JETZT – Liste Pilz	–	JETZT – Liste Pilz	JETZT
Joint Operational Office	JOO	Gemeinsames operatives Büro	–
National Action Plan	NAP	Nationaler Aktionsplan	NAP
National Contact Point	NCP	Nationaler Kontaktpunkt	NKP
NEOS – The New Austria	–	NEOS – Das Neue Österreich	NEOS
Office of the United Nations High Commissioner for Human Rights	OHCHR	Hoher Kommissar der Vereinten Nationen für Menschenrechte	OHCHR
Organization for Security and Co-operation in Europe	OSCE	Organisation für Sicherheit und Zusammenarbeit in Europa	OSZE
Police Cooperation Convention for Southeast Europe	PCC SEE	Polizeikooperationskonferenz für Südosteuropa	–
Proceedings of Administrative Courts Act	–	Verwaltungsgerichtsverfahrensgesetz	VwGVG
Public Employment Service	–	Arbeitsmarktservice	AMS
Red-White-Red Card	RWR Card	Rot-Weiß-Rot – Karte	RWR – Karte
Regulation for Skilled Workers	–	Fachkräfteverordnung	–
Regulation on the Implementation of the Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz – Durchführungsverordnung	NAG-DV
Regulation: Temporary reintroduction of border control at internal borders	–	Verordnung über die vorübergehende Wiedereinführung von Grenzkontrollen an den Binnengrenzen	–
Regulation: Valorization of certain fixed Rates of Art. 14 of the Fees Act	–	Verordnung des Bundesministers für Finanzen über die Valorisierung von bestimmten festen Gebührensätzen des §14 Gebührengesetz	GebG-ValV
Salzburg Forum	–	Forum Salzburg	–
School Organization Act	–	Schulorganisationsgesetz	–
Settlement and Residence Act	–	Niederlassungs- und Aufenthaltsgesetz	NAG
Settlement Regulation	–	Niederlassungsverordnung	NLV
Social Democratic Party of Austria	–	Sozialdemokratische Partei Österreichs	SPÖ
General Social Assistance Act	–	Sozialhilfe-Grundsatzgesetz	–
Social Assistance Statistics Act	–	Sozialhilfe-Statistikgesetz	–
Support for Trafficked Men	MEN VIA	Unterstützung für Männer, die von Menschenhandel betroffen sind	MEN VIA
Third-country nationals	TCN	Drittstaatenangehörige	–
Trafficking in Human Beings	THB	Menschenhandel	–
unaccompanied minors	UAM	unbegleitete Minderjährige	–
United Nations	UN	Vereinte Nationen	VN
United Nations High Commissioner for Refugees	UNHCR	Flüchtlingshochkommissariat der Vereinten Nationen	UNHCR
Vienna Institute for International Dialogue and Cooperation	VIDC	Wiener Institut für Internationalen Dialog und Zusammenarbeit	VIDC

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