

# *1. Country Profile: Austria*

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## **1.1. Introduction**

The information gathered in this profile is based on three different sources of information:

- Responses given by the Austrian Ministry of the Interior in July 2000 to a questionnaire prepared by PLS RAMBOLL Management
- Background documentation (mainly statistics)
- Information gathered during visits and interviews with key actors in the Austrian asylum procedure.

The visits and interviews in Austria were carried out between the 19th and 20th June 2000.

The following persons and institutions were visited:

### **Ministry of the Interior:**

Director General, Dr. Wolf Szymanski

Head of Unit, Dr. Viktor Demel

### **CARITAS Austria:**

Ms. Andrea Huber

Mr. Michael Berger

### **UNHCR:**

Ms. Sabine Racketseder

Mr. Christoph Pinter

### **Other:**

Mr. Robert Schlesinger, political journalist (freelance)

## 1.2. Background information on Austria

### 1.2.1. Recent developments

The development in the number of asylum applicants from 1990-1999 in Austria has been as follows:

**Table 1.1: Trends in applications for asylum 1991-1999<sup>1</sup>**

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Applicants	22,789	27,306	16,238	4,744	5,082	5,920	6,991	6,719	13,793	20,096

The table shows that there was a significant drop in the number of applications between 1992 and 1993. This drop can mainly be ascribed to the new Austrian asylum legislation adopted in 1991.

As illustrated in the table, the latest figures from the Ministry of the Interior (1999) show a total of 20.129 persons applied for asylum in Austria in 1999. This included 13.472 men and 6.657 women.

Figures for the development in the number of asylum seekers granted asylum at the moment only available regarding Convention status for 1990 to 1998:

**Table 1.2: Development in number of asylum seekers granted Convention status 1991-1998<sup>2</sup>**

Year	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
Applicants	864	2,469	2,289	1,193	684	993	716	639	510	3,434

The figure shows that the number of asylum seekers granted Convention status dropped around 1992-93, and that the level has been relatively steady at approximately 500-700 positive asylum decisions in the most recent years.

Figures for changes in the country of origin of applicants and refugees are not complete at this time. However, we do have the following figures:

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<sup>1</sup> Sources: Danish Refugee Council: Legal and Social Conditions for Asylum Seekers and Refugees in Western European Countries (1991-1995 data); UNHCR (1990 and 1996); USCR Country Information (1997 and 1998 data); Statistics from the Austrian Ministry of the Interior Section III (1999 data).

<sup>2</sup> Sources: Danish Refugee Council: Legal and Social Conditions for Asylum Seekers and Refugees in Western European Countries (1991-1995 data); UNHCR (1990, 1996 and 1997 data); USCR Country Information (1998 data).

**Table 1.3: Trends by country of origin of applicants and refugees 1995, 1997 and 1998 (ranked by number of applicants)<sup>3</sup>**

1995		1997		1998	
Country	Applicants	Country	Applicants	Country	Applicants
Former Yugoslavia	1,371	Iraq	1,478	Former Yugoslavia	6,641
Bosnia-Herzegovina	1,050	Former Yugoslavia	1,084	Iraq	1,962
Iraq	659	Afghanistan	723	Iran	950
Turkey	509	Iran	502	India	472
Iran	485	Turkey	340	Afghanistan	467
India	189	India	253	Algeria	279
Afghanistan	141	Albania	240	Pakistan	241
Liberia	141	Algeria	235	Turkey	210

## 1.2.2. Expenditure

At the moment no totals are available regarding the expenditure for asylum seekers and refugees in Austria.

**Table 1.4: Total expenditures for asylum seekers and refugees (not available)**

Benefits	Costs (Euros)
Accommodation	
Means of subsistence	
Education	
Labour market related activities	
Health care	
Total cost	

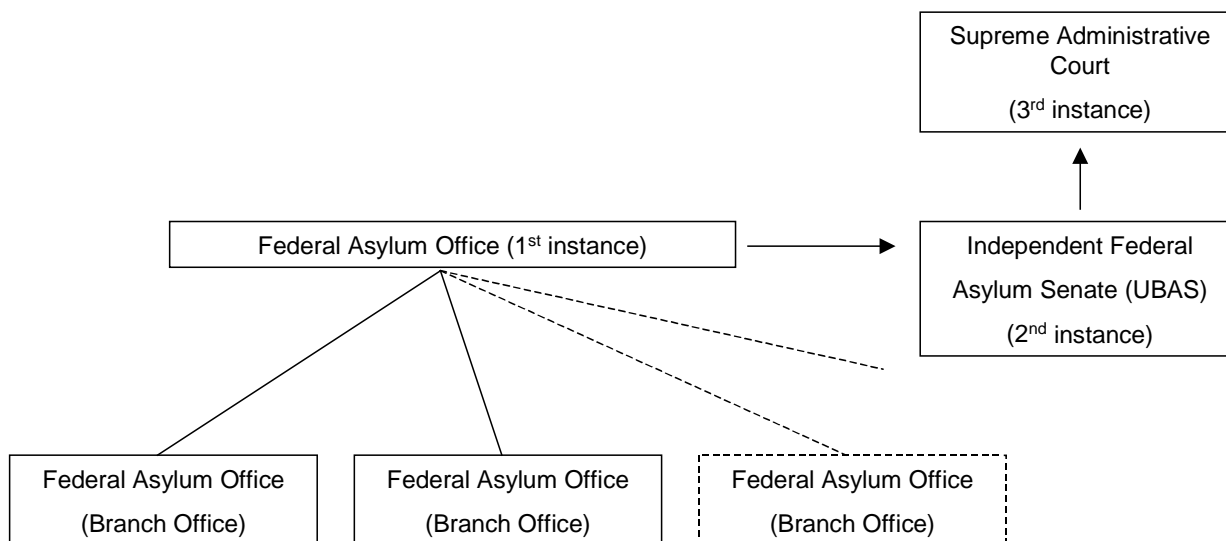
It can be mentioned, however, that the Ministry of the Interior states that the total 2001 budget for accommodation and means of subsistence for those asylum seekers placed in government care (bundesbetreuung) is 300-350 mill. ATS (21.8-25.4 mill. EUR). In 1998, the Ministry states that the total cost was 116 mills. ATS (8.43 mill. EUR).

## 1.3. Organisation of Asylum Procedure

### 1.3.1. Overall organisation

**Figure 1.1: Main official institutions and organisations involved in the asylum procedure**

<sup>3</sup> Sources: Danish Refugee Council: Legal and Social Conditions for Asylum Seekers and Refugees in Western European Countries (1995 data); ECRE Country Report (1997 data); Statistics from the Austrian Ministry of the Interior Section III (1998 data).



The organization chart shows the main organisations in the asylum procedure. Asylum seekers either register directly with one of seven regional branches of the Federal Asylum Office, or are referred there by the border authorities following an initial brief interview determining whether the asylum seeker can enter the normal asylum procedure.

The branches of the Federal Asylum Office are responsible for carrying out an in-depth interview with asylum seekers who are registering directly with the office or who have been referred by another authority.

Negative decisions, either by the border authorities or by the Federal Asylum Office branches, can be appealed to the Independent Federal Asylum Senate (UBAS).

### 1.3.2. Other organisations involved

Other organisations involved in the asylum procedure are mainly relevant in connection with reception conditions as such and include:

#### The UNHCR

The UNHCR undertakes monitoring of legislation and reception conditions. However, the UNHCR also has a special right of veto against decisions taken by the Federal Asylum Office in the asylum procedure. If the border authorities at the Vienna airport decide to deport an asylum seeker because the asylum application is determined as manifestly unfounded or inadmissible it can be done only in agreement with UNHCR.



All such decisions must be forwarded to the UNHCR, which determines within 2-3 weeks if the decision should be referred to the normal procedure. During this period asylum seekers are first placed in the transit zone and then in the special transit zone.

## **CARITAS**

This Catholic organisation undertakes a range of activities vis-à-vis asylum seekers in Austria, including:

- Campaigns to raise awareness about the conditions for asylum seekers and refugees
- Accommodation of asylum seekers who are not under federal care
- Legal assistance to asylum seekers and refugees

## **Regional authorities (Bundesländer)**

Some of the regional authorities of the nine federal provinces in Austria play a role in providing accommodation, social services and subsistence to asylum seekers not in federal care. However, the regional legislation and practices regarding social aid vary between the Bundesländer so that some regional authorities do not offer any care.

In addition, the regional authorities cooperate with the Ministry of the Interior regarding the temporary protection scheme established for refugees from the former Yugoslavia (Bosnia-Herzegovina) and, most recently, Kosovo. Around 90,000 persons have been granted temporary protection since 1992. The reception of these groups is 2/3 financed at the federal level while 1/3 of the reception is financed by the individual Bundesländer.

## **Other organisations**

Finally, a number of charitable organisations are involved in campaigning for the rights of asylum seekers and in providing accommodation on a limited scale. These organisations include the Roman Catholic Church, most parts of the Protestant Church, the Jewish Community, the organisations Asyl in Not and SOS Mitmensch, and others.

## **1.4. Legal Basis**

### **1.4.1. Main legislation**

The following main laws govern activities under the asylum procedure:

- **Asylum Act, 1997 (Bundesgesetz über die Gewährung von Asyl, BGBl. I Nr. 1997/76 idF. BGBl. I Nr. 1999/4)**

This Act entered into force on 1 January 1998 and replaced the former Asylum Act of 7 January 1992. The main provisions in this law concern the procedures, rights, and exclusions etc., which directly affect asylum seekers.

- **Aliens Act, 1997 (BGBl. I Nr. 1997/75 idF. BGBl. I 2000/34)**

This Act consolidated the former Residence Act of 31 July 1992 and the Aliens Act of 29 December 1995 into one item. The Aliens Act is concerned with rules for protection against deportation, with rules for temporary protection, and rules concerning detention and illegal entry.

- **Act Establishing the Independent Federal Asylum Senate (1997)**

This is a rather limited law, which specifies the establishment and composition of the new second instance, which replaced the Ministry of the Interior as the former second instance. The Senate (its Austrian acronym is UBAS) consists of appointed civilians with a legal background, who are provided with the same status as government officials. They decide individually on asylum cases, except for very difficult applications where three members of the UBAS may consider an application together.

- **Act on Federal Care, 1991 (Bundesbetreuungsgesetz, BGBl. Nr. 1991/405 idF. BGBl. Nr. 1994/314)**

This Act sets out the overall guidelines for the federal care programme for asylum seekers.

- **Aliens Employment Act (Ausländerbeschäftigungsgesetz)**

This Act is concerned with the rights of foreigners to obtain a work permit in Austria.

#### **1.4.2. Recent legislative changes**

Major changes in legislation regarding asylum seekers and refugees were introduced in 1991 (effective 1992). Before 1991, there was no formal immigration procedure. Austria was basically entirely open to asylum seekers, since such persons mainly came from the Communist Bloc, and this group was almost per definition viewed as comprising eligible asylum seekers. However, in 1989-90 there was a significant influx of especially Polish and Romanian immigrants who took up (illegal) work in Austria. Many of these immigrants applied for asylum in order to obtain a residence permit, and asylum was almost automatically granted.

The main purpose of the 1991 legislation was to limit this misuse of asylum, in particular since the number of people from Central and Eastern Europe working illegally in Austria had increased dramatically. The 1991 legislation is characterised by the Austrian Ministry of Interior as rather rigid and severe. While it was quite effective in limiting the number of refugee statuses granted, the Ministry assesses that it was perhaps not entirely equitable and fair in individual cases.

The most recent legislative changes were introduced in 1997, where the Asylum Act replaced the former Asylum Act of 7 January 1992. In addition, the Aliens Act consolidated the former Residence Act of 31 July 1992 and the Aliens Act of 29 December 1995 into one.

The purpose of the 1997 legislation was to keep the focus on limiting misuse of the asylum procedure while at the same time making the legislation more equitable. In particular, this was achieved by establishing the Independent Federal Asylum Senate (UBAS), which replaced the Ministry of Interior as the second instance. Another change in the 1997 law was the introduction of an accelerated procedure whereby application of the third country (inadmissibility) rule and the manifestly unfounded rule must be appealed already within 48 hours. However, in 1998 the Supreme Constitutional Court found that this accelerated procedure was unconstitutional, and the period for subjecting an initial negative decision for appeal was first extended to 10 days (December 1998).

Finally, an important change in the 1997 legislation was that asylum seekers, who enter legally, are now automatically granted a temporary residence permit for the entire period during which their application for asylum is being processed. Asylum seekers, who enter illegally, are granted a temporary residence permit only if the asylum application is not determined as manifestly unfounded.

#### **1.4.3. Planned changes**

Currently there are no changes planned for Austria's asylum legislation. Some NGOs and political parties are lobbying for extending the federal care program to all asylum seekers (however, this programme is not based on legislation but on a political decision). The argument for this change is that it would be more equitable and that sometimes errors are made so that persons in need are not given sufficient care. In addition, NGOs such as CARITAS are carrying much of the financial burden for those asylum seekers not in federal care. However, the general assessment by the persons interviewed in Austria is that there is no political majority behind such a proposal, mostly due to the costs involved in extending care.

#### **1.4.4. Types of Status Granted**

In Austria the legislation basically deals with three types of statuses:

- Convention status
- Temporary protection status
- B-status

Temporary protection status has been offered on the basis of independent political decisions to persons seeking protection from the former Yugoslavia (since 1992) and to persons seeking protection from Kosovo (since 1999).

There is a provision in §8 of the Asylum Law that allows for granting B-status.<sup>4</sup> There is in practice no difference between Convention status and B-status applicants during the asylum procedure (however, persons granted B-status have significantly limited rights as compared with Convention refugees after the conclusion of the asylum procedure). It may be added that according to the Ministry of the Interior, it is also possible to consider the temporary residence permits issued to asylum seekers whose applications are rejected, but who cannot be guaranteed a safe return, for B-statuses.

### **1.5. Arrangements Immediately Upon Arrival**

#### **1.5.1. Main procedures and arrangements**

The figures below illustrate in detail the procedures and arrangements immediately on arrival and after a person has been identified as a person seeking protection in Austria.

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<sup>4</sup> Sources: Ministry of the Interior, UNHCR. The Ministry states that during the first seven months of 2000, a total of 1.456 B-statuses were granted.

Figure 1.2: Overall presentation of the asylum procedure

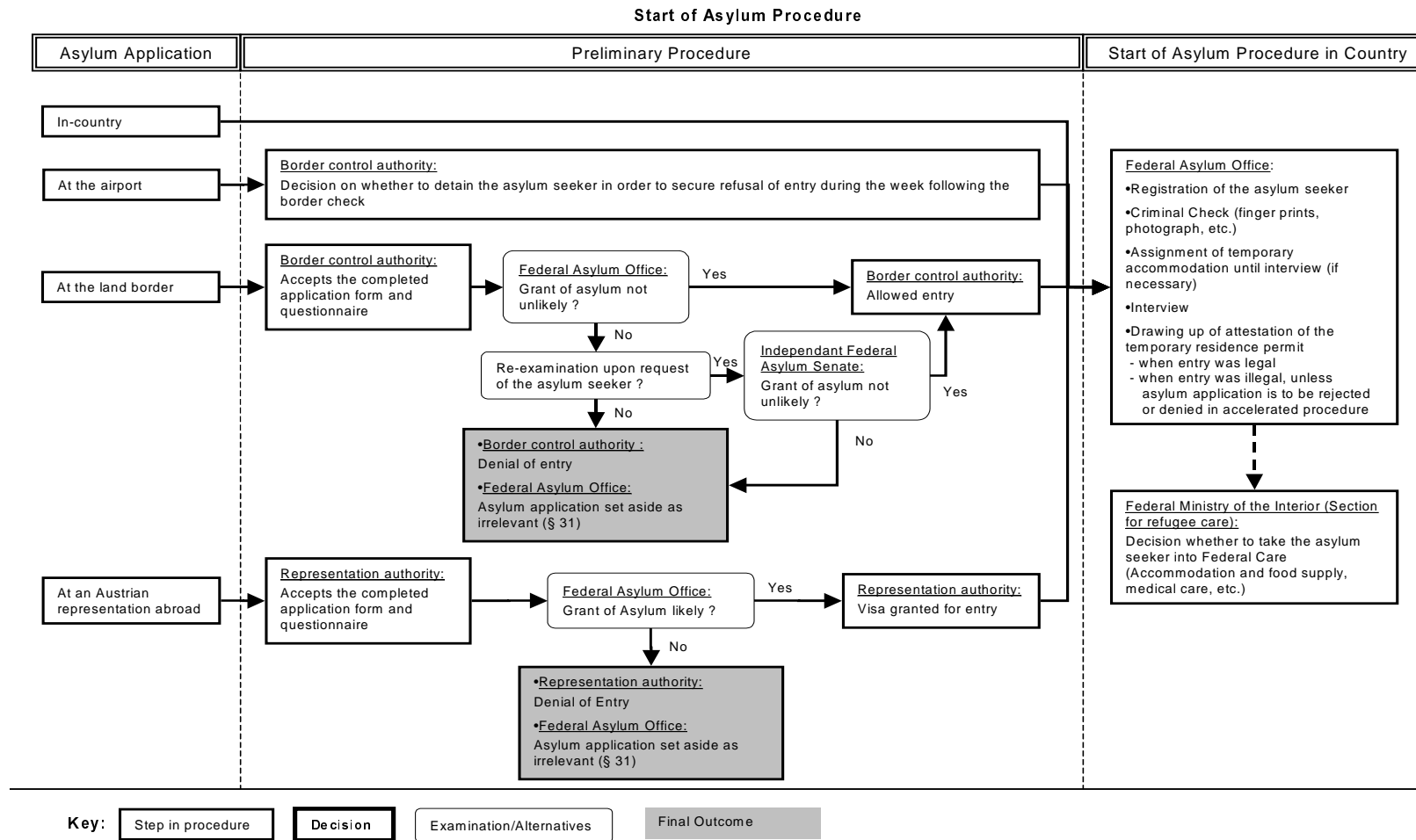
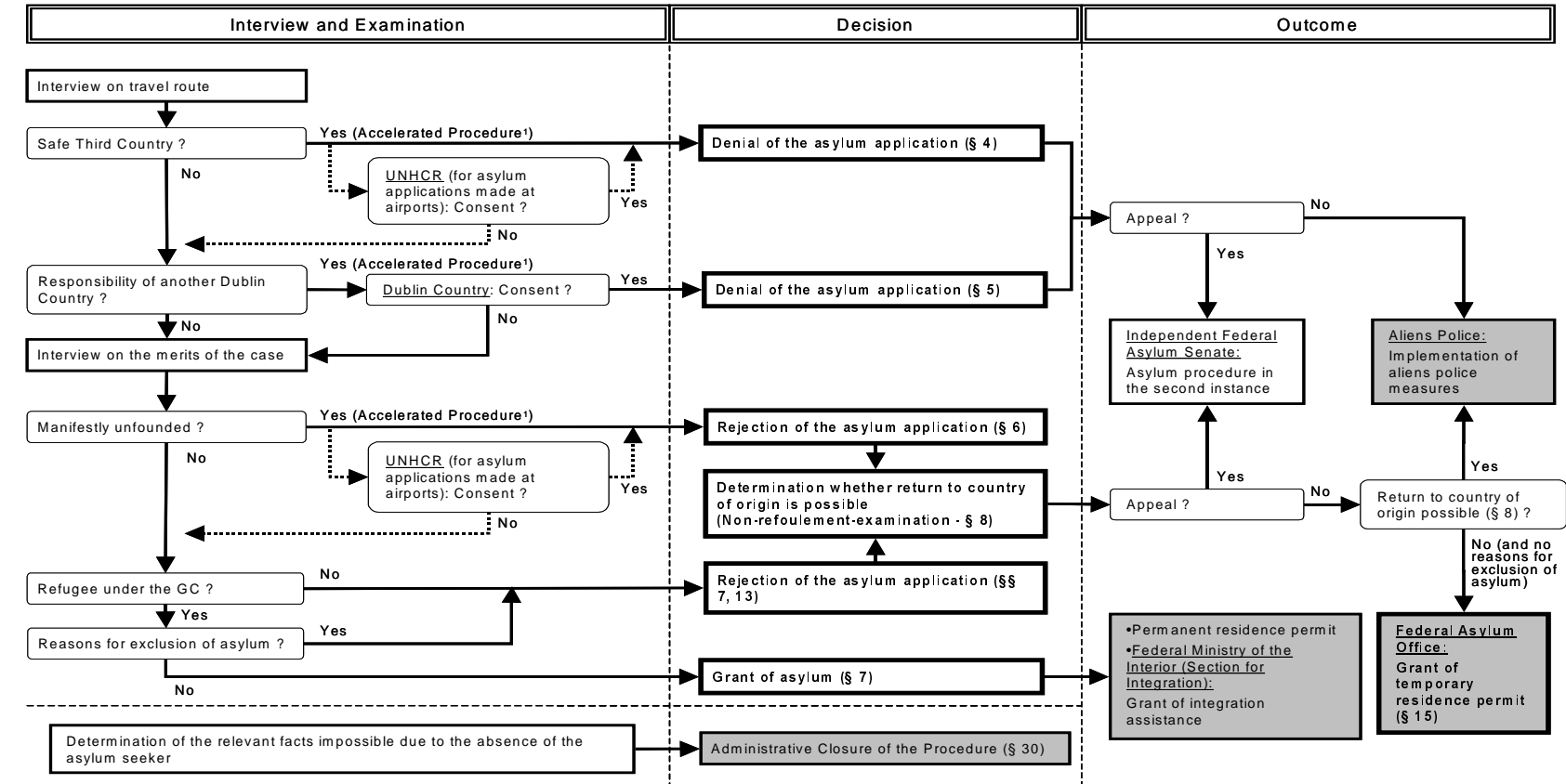


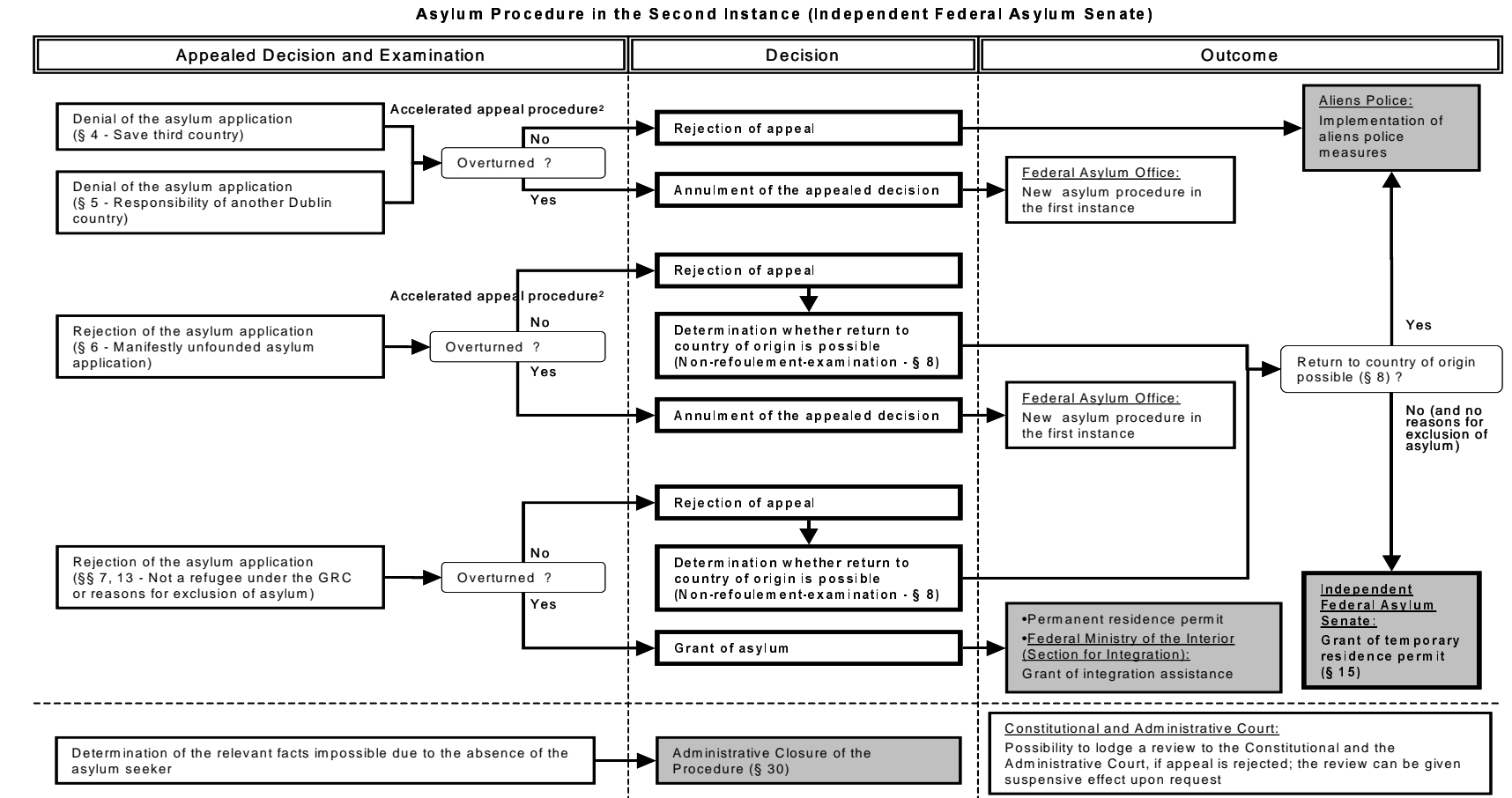
Figure 1.3: The asylum procedure in the first instance

Asylum Procedure in the First Instance (Federal Asylum Office)



<sup>1</sup> Accelerated Procedure:  
- Immediate decision by the Federal Asylum Office  
- For asylum seekers who made their application at airports detention is possible for more than a week  
- No temporary residence permit, if entry was illegal  
- The regulations of the aliens act on the application of the order to detain for removal are applied, if entry was illegal  
- Accelerated appeal procedure

Figure 1.4: The asylum procedure in the second instance



<sup>2</sup> Accelerated Appeal Procedure:  
 - Time limit for appeal: 10 (instead of 14) days  
 - Time limit for decision: 10 working days

As figures 1.1, 1.2 and 1.3 illustrate, the procedure varies somewhat depending on where the asylum seeker is first in contact with the Austrian authorities.

Generally, Asylum-claims are dealt in a two-instance procedure. The first instance, the Federal Asylum Office, is composed of a headquarters in Vienna and seven branch offices situated in the provinces of Austria. The Federal Asylum Office is closely linked to the Ministry of Interior. The whole Dublin-administration is handled through the Federal Asylum Office.

The Second Instance, the Independent Federal Asylum Senate, is a centralized tribunal-like authority, established through the Asylum Act 1997, that came into force on 1.1.1998. The members of the Senate are independent and not bound to any process of internal ordinances.

Every single decision of the Federal Asylum Agency can be appealed to the Independent Federal Asylum Senate.

In the case of rejection of a claim on the merits - stating the applicant is not a refugee within the definition of the 1951 Refugee Convention - the asylum authorities must rule out the question of refoulement (in the meaning of Art 3 ECHR).

If the second instance issues a negative ruling, the Supreme Administrative Court can reject further appeals and the asylum seeker can be prepared for deportation if a safe return is possible. Otherwise the asylum seeker can be permitted to stay temporarily in Austria for up to one year.

The foreigner who is not granted asylum, but is under protection of "non refoulement" in Austria can be permitted to stay temporarily in Austria. The first issued permission is up to one year, and after the second renewal of this permission the duration of the permission is up to three years (Art. 15 Austrian Asylum Law).

Approximately one third of the asylum seekers who enter the normal procedure or are awaiting their appeal process are placed in the federal care programme; the remaining asylum seekers are either held in some form of detention (in ordinary prisons designed for traffic felonies or in so-called milder measures), or are allowed temporary residence but without federal care.



It should be underlined that the procedures above relate to persons seeking Convention status only. For persons seeking protection under the Austrian temporary programmes for the former Yugoslavia and for Kosovo, the process typically leads to immediate reception. However, persons granted temporary status can submit a parallel application for asylum (Convention status).

## 1.6. Accommodation

Below follows a brief description of the system of accommodation.

### 1.6.1. Reception Figures

**Table 1.3: Reception for asylum seekers**

Number of reception centres	There are 8-9 detention facilities / reception camps
Capacity of reception centres	No figure available
Number of accommodation centres (in Austria called "Bundesbetreuungstellen").	6 accommodation centres at Thalham, Bad Kreuzen, Reichenau, Vorderbrühl, Traiskirchen and Vienna Nußdorferstraße. In addition, approximately 90 small pensions and hotels (for asylum seekers in federal care only)
Capacity of accommodation centres	Approximately 2,000 (centres) Approximately 1,500 in pensions and hotels
Total capacity of reception/accommodation centres	No figures available for reception centres Total capacity of accommodation centres (including pensions and hotels) approximately 3,300.
Number of persons accommodated in private housing	Approximately 1,500 (hotels and pensions; only those under federal care).

The physical infrastructure of the centres is such that they are located in different parts of the country. However, the largest centre (Traiskirchen) is near Vienna.

Generally, asylum seekers who are found particularly needy may be offered bundesbetreuung (federal care) including accommodation. This applies to approximately 1/3 of asylum seekers. According to the Ministry of Interior another 1/3 of the asylum seekers stay at relatives or pay for the accommodation themselves. The rest of the asylum seekers leave the country again or receive supply and accommodation from NGOs.

## 1.6.2. Names and addresses of reception and accommodation centres

Reception / Accommodation centre	Name and Address	Authority managing	Authority financing	Capacity
Accommodation	Betreuungsstelle Traiskirchen Otto-Glöckelstrasse 24-26 A-2514 Traiskirchen	Ministry of Interior	Ministry of Interior.	1000-1200
Accommodation	Betreuungsstelle Bad Kreuzen A-4362 Bad Kreuzen	Ministry of Interior	Ministry of Interior	250
Accommodation	Betreuungsstelle Vorderbrühl Jägerhausgasse 1 A-2340 Mödling	Ministry of Interior	Ministry of Interior	150
Accommodation	Betreuungsstelle Thalham A-4880 Thalham 80	Ministry of Interior	Ministry of Interior	250
Accommodation	Betreuungsstelle Nussdorferstrasse Nussdorferstrasse 23 A-1090 Wien	Ministry of Interior	Ministry of Interior	100
Accommodation	Betreuungsstelle Reichenau Kurpromenade 4 A-2651 Reichenau/Rax	Ministry of Interior	Ministry of Interior	60

The Ministry of Interior pays for accommodation in the accommodation centers as well as for the accommodation in private pensions and hostels.

## 1.6.3. Special Treatment

Special treatment in relation to reception and accommodation is provided for the following groups:

- Generally, asylum seekers who are found particularly needy may be offered *bundesbetreuung* (federal care). Approximately 1/3 of asylum seekers receive this care, which includes accommodation and food, allowances, and full medical insurance. Typical groups receiving federal care include pregnant women, babies, old persons and the handicapped.
- Women and unaccompanied children who are encountered as illegal immigrants and who would normally be placed in detention for the first period, are usually placed in so-called milder measures, which is private (hotel/pension) reception.
- There are no official special measures for victims of torture or organized crime (rape), religious and ethnic groups. However, persons identified by the authorities as subject to torture or organized crime will typically be offered assistance by psychologists or NGO groups.

#### **1.6.4. Standard of Accommodation**

It was not possible to arrange an on-site visit to an accommodation centre in Austria. However, the interviews with both officials and NGOs indicate that the general standard of the accommodation in the six centres under the federal care programme is good. However, it should be mentioned that the facilities are limited in the sense that there are no organised educational or social activities for adults (there is no day-time structure, for instance), and in the sense that it is not possible for the residents to cook their own food.<sup>5</sup>

The accommodation in private pensions and hotels as part of the federal care programme is generally acknowledged as somewhat inferior to the accommodation centres.<sup>6</sup> This is mostly because the private pensions and hotels are usually located in remote areas where there is little or no public transport, and where the communities are not used to interacting with foreigners (for instance, they may not speak English). Further, the managers of the pensions only have responsibility for food and lodging; they are not tasked with organising activities or handling other issues of concern to the asylum seekers.

The standard of accommodation for the 2/3 of asylum seekers not in federal care is difficult to assess. The standard varies quite a lot, since some asylum seekers find accommodation with family or friends already in Austria, some rent a room or an apartment, and some stay temporarily at churches or at CARITAS or other NGO facilities. There are no data regarding how many asylum seekers leave the country for their country of origin or a third country, or how many stay in the country without any form of accommodation.

### **1.7. Means of Subsistence**

#### **1.7.1. Rules and Practices of Means of Subsistence**

##### **Federal care (bundesbetreuung)**

As mentioned above, approximately 1/3 of the asylum seekers whose applications are being processed are placed in bundesbetreuung – federal care. Currently around 3,500 persons are placed under this programme.

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<sup>5</sup> Mobile social services are in some regions offered by CARITAS.

<sup>6</sup> As mentioned above, reception for asylum seekers in temporary protection is organised in private pensions and hotels as well. Kosovars (1999) have mostly been placed in government camps.

It should be underlined that the provision of federal care is not a right guaranteed under Austrian legislation. Rather, it is a political decision to offer assistance to some groups. Therefore it is not possible to appeal a decision not to provide federal care.

The criteria for determining which asylum seekers should receive federal care are not based on law, but on administrative practice. The decision to grant federal care is taken by a department in the Federal Ministry of the Interior after the first interview with asylum seekers. According to the Ministry of the Interior, asylum seekers are not eligible for federal care, if:

- they are from Council of Europe countries, except for Turkey and Albania
- they arrive in Austria without identity papers or other documents proving their identity
- economic difficulties were given as reason for submission of the asylum application
- they have their own means of subsistence (however, this criterion is almost never applied, since according to the Ministry of the Interior, asylum seekers usually have no means of subsistence).

As a matter of principle, pregnant women, babies, old persons and the handicapped are automatically offered federal care.

There have been no recent changes in the federal care system, except for a minor increase in the daily allowance in 1998.

### **Temporary Protection**

Persons under temporary protection (90,000 in total since 1992, of which 60,000 are now being integrated) are eligible to care which is comparable to federal care. The Ministry of the Interior states that the pocket money provided to persons under temporary protection is slightly less than that offered to persons seeking Convention status. While the first large influx of persons from the former Yugoslavia were provided with various private and pension housing, persons from Kosovo (who were far less numerous than those from ex-Yugoslavia) were mainly accommodated in camps set up by the government.

### **Other Accommodation (NGOs)**

As mentioned above, NGOs and churches offer temporary accommodation to those asylum seekers not placed in some form of federal care. Typically asylum seekers are

referred by the authorities to NGO's such as CARITAS who may be able to offer services, including:

- Temporary housing, in particular during winter
- Food
- Medical care by voluntary doctors
- A mobile ambulance service (offered in some regions by CARITAS to asylum seekers as well as to Austrian citizens without medical insurance)

The criteria used by CARITAS to determine assistance to individual asylum seekers are based on need, but generally include:

- Legal situation (probability that the asylum procedure will be positive)
- Does the asylum seeker have relatives in Austria?
- Special needs (children, handicapped, people who are ill).
- Capacity (CARITAS has approximately 400 accommodation places in Vienna, and approximately 800 in the rest of the country)

CARITAS typically offers accommodation for a maximum of 6 months (this is a general rule at the Vienna accommodation facilities).

### **1.7.2. Reasons / Principles Behind the System and Recent / Future Changes**

According to the Ministry of Interior, the main principle behind the system is to offer federal care to those asylum seekers who have a reasonable chance of being granted asylum, and who are also needy.

As mentioned above, the assessment is that it would be too costly to extend the federal care programme to all asylum seekers. In addition, it is the Ministry's experience that a rather large proportion of the asylum seekers not given federal care leave Austria either for their home country or to seek asylum in a third country.

### **1.7.3. Provision of Subsistence**

The table below illustrates the level of subsistence offered to asylum seekers under the federal care programme. Persons under temporary protection receive slightly less cash (no figures are available).

**Table 1.5: Means of subsistence (asylum seekers in federal care)<sup>7</sup>**

	Cash	Kind
Unaccompanied children	550 ATS / 40 Euros	
Families	Depending on number of family members according to the rules for individual allowances.	
Single adults	550 ATS/ 40 Euros	
Single adults with children	1100 ATS/ 40 Euros (if one child)	

No official data is available as to subsistence means provided in kind. However, asylum seekers who are in federal care are provided with shoes, clothing and articles needed for school. In addition, the federal government covers transportation costs to school.

## 1.8. Access to Education

### 1.8.1. Rules and Administrative Practices Regarding Access to Education

All asylum seekers in Austria between 6 and 15 years of age must attend school (this is also the compulsory school age for Austrian citizens).

Some mother tongue tuition may be available at individual public schools but only if the following conditions are met:

1. Sufficient number of pupils who enrol for a given language,
2. Trained teacher available,
3. Teaching post provided for in the annual budget.

However, the Ministry of the Interior states that there are generally language problems with regard to asylum seekers in the primary and secondary school system.

Reception classes:

Generally, pupils of asylum seekers, refugees and immigrations whose mother tongue is another than German are not taught in separate schools or classes. The setting-up of reception classes needs the consent of the federal Ministry for Education, Science and Culture (which is only given in special or emergency cases).

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<sup>7</sup> Source: UNHCR. Note: The figures are per person per month. Allowances are paid in bi-monthly instalments.

## Further education

In principle yes, if the general conditions are met. In practice no, since a certain competence in German is required in order to pass such entry exam. No other education is available for adult asylum seekers.

According to the available information, these rules regarding education for asylum seekers have not been changed at any point.

The table below summarises the rules:

**Table 1.6: Access to education for asylum seekers<sup>8</sup>**

	<b>Children</b>	<b>Adults</b>
Mother tongue tuition	In principle available in any language - if there are a sufficient number of pupils, a trained teacher available and a budget for it.	No
Language tuition	Not generally available – varies depending on school. Some schools have special “reception classes”	Not generally available <sup>9</sup>
Access to primary school	Yes	No
Access to secondary school	Yes	No
Access to vocational training	No	No
Access to further education	In practice no	In practice no

It can be mentioned that the main reason for not making education available to adult asylum seekers is that only 10% of the asylum seekers are eventually granted asylum; it is therefore considered that the provision of education would not represent an efficient allocation of public resources.

## 1.9. Access to the Labour Market

### 1.9.1. Rules and Practices Regarding Access to the Labour Market

In principle every asylum seeker is allowed to work in Austria. However, asylum seekers – just like immigrants and foreign workers – must obtain a work permit in order to work legally.

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<sup>8</sup> Sources: Interviews with Ministry of the Interior and the Danish Refugee Council.

<sup>9</sup> Some NGOs offer German language tuition, depending on available places.

According to the Ministry of the Interior as well as other sources, asylum seekers hardly ever manage to obtain a work permit in practice. The first priority is given to Austrian unemployed citizens, then to other foreigners residing in Austria. Work permits are therefore only provided to asylum seekers with highly specialised abilities.

However, it should be added that aliens whose asylum application has been dismissed by a final ruling on grounds other than those set forth in the asylum exclusion clauses may obtain a limited right of residence, and thereby be able to seek and take paid work. A requirement is that their deportation, forcible return or rejection at the border has been declared inadmissible, and that they fulfil the conditions of the Aliens Employment Act.

Asylum seekers who enjoy non-refoulement protection are granted a work permit.

## **1.10. Access to Health Care**

### **1.10.1. Description of the Rules and Practices Regarding Access to Health Care**

All asylum seekers are subjected to a health screening upon arrival. Pulmonary screening is a requirement.

In general, one can distinguish between those asylum seekers granted federal care or placed under temporary protection, and other asylum seekers:

- Asylum seekers in federal care or in temporary protection are covered by the same medical insurance as insured Austrian citizens.
- Other asylum seekers may receive basic medical treatment for urgent needs and chronic diseases. In addition, they may be offered medical checks and assistance by NGOs.

The table below illustrates the kind of services provided in Austria.



**Table 1.7: Access to health care<sup>10</sup>**

	Children	Pregnant women	Adults	Victims of torture or rape
Health screening on arrival	Yes	Yes	Yes	Yes
Psychological assistance	If necessary	If necessary	If necessary	If necessary
Enrolment in health care programme	Yes, usually	Yes, usually	Yes, if placed in federal care or under temporary protection	Yes, usually

## 1.11. Rules on Detention and Other Restrictions in Free Movement

### 1.11.1. Rules and Practices

There are basically two forms of detention or restriction in movement in Austria:

1. Detention at ordinary police prisons (usually designed for persons who have committed minor felonies)
2. House arrest in milder measures, for instance in pensions or hotels. This measure is usually applied to women and children who would otherwise be placed in regular detention.

Generally detention or restrictions in free movement are used in Austria when asylum seekers are identified under the following circumstances:

- During illegal entry via an external border
- If found by police within the country
- If persons request asylum while already in detention

According to the Ministry of the Interior, approximately 30% of asylum seekers are at some time – mainly in the beginning of their procedure – placed in detention. According to CARITAS and other NGO's, approximately 1.700 asylum seekers were at some stage in detention in 1999 for a longer or a shorter period<sup>11</sup>.

<sup>10</sup> Source: Interviews, not official data.

<sup>11</sup> UNHCR states that in 1999, approximately 600 minors were placed in detention. However, this category covers both asylum seekers and other foreigners residing in Austria.

Detention can usually be applied for up to two months. In special cases the period can be extended to six months.

The Ministry of the Interior states that detention is usually used for longer periods if:

- It is necessary to ensure the presence of the asylum seeker in order to carry out the asylum procedure, for instance if the asylum seeker does not hold identity papers (up to two months' detention)
- It is necessary to ensure deportation to the country of origin following a negative decision while travel documents are being prepared (up to six months detention)

If it becomes clear that it is not possible to deport the asylum seeker, a temporary residence permit valid for up to one year will usually be issued.

It can be mentioned that there is a joint NGO-government programme to ensure that basic legal aid is available at the detention facilities. The Ministry of the Interior funds this programme.

### **1.12. Differences in Treatment According to the Stage of the Asylum Procedure and the Type of Status Sought**

Generally there are some differences in the treatment depending on the progress of the asylum application – in particular between the first and later stages of the process.

Meanwhile, there are only minor differences in treatment depending on the type of status sought if one compares asylum seekers under federal care and persons given temporary protection. The only difference in treatment regarding status (Convention status or temporary protection) is that persons under temporary protection receive slightly less pocket money.

Persons seeking Convention status or B-status who are not granted federal care are not offered accommodation or medical insurance.

The table below summarizes these differences.

**Table 1.8: Differences in Treatment**

<b>Differences in treatment according to:</b>			
	<b>Stage of asylum procedure</b>	<b>Type of status sought</b>	<b>Vulnerable groups</b>
Accommodation	Under certain circumstances asylum seekers might be detained at the very early stage while their case is subject to a first scrutiny.  Later stages: Either no accommodation or federal care”	Convention or B-status: Either federal care or no accommodation  Temporary status: Accommodation	There is no official policy concerning unaccompanied children, but there is a possibility of concentrating minors in some regions of Austria. Asylum seekers who are found particularly needy (especially pregnant women, babies, old people and the handicapped) may be offered federal care, including accommodation.
Means of subsistence	Early stage: Basic subsistence provided while in detention or in milder measure  Later stage: Either no means of subsistence or federal care	Convention or B-status: Either federal care or no means of subsistence  Temporary status: Means of subsistence provided (slightly less than persons in federal care)	Either federal care or no means of subsistence. In principle, pregnant women, babies, old people and the handicapped are always automatically offered federal care.
Education	Compulsory for children aged 6-15	Compulsory for children aged 6-15	
Labour market related activities	None	None	None.
Health care	Early stage: Basic medical care available  Later stage: Either basic medical care or full health insurance if placed in federal care	Convention or B-status: Either basic medical care or full health insurance if placed in federal care  Temporary status: Full health insurance	Only asylum seekers placed in federal care are provided with full health insurance. Other asylum seekers receive basic medical care.

Note: Early stage can be between 14 days and up to two months (longer in special cases as detention can be extended to 6 months).

Generally, there are almost no B-status applications. However, such applicants would be treated the same as asylum seekers applying for Convention status.

It should be underlined that persons at a later stage in the asylum process, who are seeking Convention or possibly B-status, and are in federal care, may be denied further federal care if they receive a valid negative first or second instance decision.

## **1.13. Political Atmosphere Surrounding Refugees and Immigrants**

This section is concerned with the general political atmosphere surrounding refugees and immigrants in Austria.

### **1.13.1. Major Historical Changes in the Political Atmosphere**

The political atmosphere regarding refugees, immigrants and asylum seekers in Austria has changed fundamentally since 1991-92. Before this time there was hardly any political or public debate on the issue. However, following the fall of the Berlin Wall and the end of Communism in the Eastern and Central European countries, Austria experienced a significant influx of Polish and Romanian immigrants in particular. As mentioned earlier, there was no formal immigration procedure at this time, and most of the immigrants took up illegal (and eventually legal) work in Austria.

Because of the large influx, the public attitude towards immigrants and asylum seekers changed. It became more critical and possibly more subtle, with both negative and positive features. However, after implementation of the 1991 asylum legislation and the following decrease in the number of asylum requests granted, the political and public atmosphere stabilised.

During the period 1991-93 a range of NGOs, church groups and others began to raise the awareness in the public that the new legislation was not entirely equitable, in part because:

- the criteria for awarding asylum were viewed as very strict – e.g. through rigid application of the safe third country (inadmissible) rule
- asylum seekers' and immigrants rights were limited – for instance there was no right to a residence permit during the asylum procedure
- the second instance for appeal was not independent of the Ministry of the Interior.

In the summer of 1993 the Green Party conducted an information campaign on these issues, but this had limited impact in the public debate. However, since 1995 more of the larger newspapers have run stories regarding asylum seekers and refugees, and the issue has been more firmly fixed on the public and political agendas. In addition, the Austrian industry began to look more positively on increased immigration due to labour shortages.

Overall, the intensity of public debate is generally seen as higher in the second half of the 1990s than in the first half.

There was significant public and political attention regarding the 1997 legislative changes, since the issue had been debated at least since 1995-96.

### **1.13.2. Political Attention and Public Opinion Today**

Today there is not generally a high level of political or public attention given to the conditions of asylum seekers in Austria. Nonetheless, Austria's major mainstream newspapers relatively often pick up stories focusing on single issues.

The current assessment is that when there is public debate on this subject its nature varies considerably. The debate and the opinion is sometimes quite positive towards asylum seekers, for instance with regard to assistance to Kosovars following the NATO campaign in 1999. In this situation, Austrians were generally inclined to offer donations and assistance in terms of temporary protection. In addition, the human rights movement has grown in importance in the debate. At other times the public debate has been more critical towards asylum seekers, for instance when the statistics show that the number of asylum seekers is increasing, when there are examples of misuse of the asylum system, or when African asylum seekers are identified as drug dealers.

A general problem in the public debate is that asylum seekers and immigrants are often lumped in together.

### **1.13.3. Attitude Patterns and Political Groupings in the Debate**

According to several sources one can basically distinguish between four attitude patterns in the public debate in Austria:<sup>12</sup>

#### **Pattern 1: Austria as an Asylum Country**

In the view of many citizens, Austria has a long tradition for being a liberal asylum country. This understanding is mainly founded in the very open and liberal policies pre-1991, but still exists today.

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<sup>12</sup> UNHCR, CARITAS, political journalist

### **Pattern 2: A Will to Help**

The second attitude pattern is, as mentioned above, that Austrians are prepared to donate significant sums of money to needy refugees in periods of international crisis, such as the crises in the former Yugoslavia and in Kosovo.

### **Pattern 3: Austrian Asylum Legislation is Being Misused**

There is a rather widespread feeling in the population that asylum seekers are generally living passively on public finances, and that they are not contributing actively to society. This view is particularly strong in geographical areas with a large number of asylum seekers, where it is clear to the local population that the applicants do not work.

### **Pattern 4: There are Problems with Regard to the Reception of Asylum Seekers**

A growing minority in Austrian society – in particular that which is focused around the NGO community and religious organisations – is of the opinion that reception conditions for asylum seekers need improvement. Since the latest change in government, more persons have become active in this community.

#### **1.13.4. Attitude of the Country Concerning International Co-operation on Asylum Matters**

The issue of common EU policy and legislation in the area of immigration and asylum is hardly ever discussed by the Austrian public. In addition, it is not discussed to a very high degree within the government.

According to the data retrieved at this stage there is currently no official standpoint of the government towards common EU asylum policies. However, the Ministry of the Interior indicates that a prerequisite for establishing a common asylum procedure must be a common asylum concept shared by all EU Member States. The establishment of such a common concept would imply that it would not be necessary to discuss bilaterally who is competent to reach a decision on asylum, but rather to discuss which country is competent to accept or return the person in question if the application is manifestly unfounded. Thus, in the view of the Austrian administration it would be more effective to treat the asylum procedure and the procedure of establishing competencies as two parallel processes (rather than one after the other, as it generally is today).

The Austrian administration is sceptical of a general quota system for asylum seekers, but seems to prefer a strengthening of the European Refugee Fund. Meanwhile it

agrees that EU-wide quotas for distributing persons under temporary protection are a sensible solution.

#### **1.13.5. Other Kinds of International Co-operation**

As mentioned above, Austria co-operates with the UNHCR regarding the special airport procedure for receiving asylum seekers.

No additional information regarding Austria's international cooperation with other bodies than the EU is available at this stage.

#### **1.14. Other Information**

There is currently no additional information relevant to this country profile

