



# MASTER THESIS

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## Chapter 1: Introduction

The numbers of refugees in Austria and especially those with Muslim backgrounds have been increasing. Even though Islam is recognized as an official religion in Austria, Muslims are nevertheless targeted by a rhetoric stressing that they will not comply with “European values” and the discursive. Integrating into Austrian culture is conceived of as a unilateral requirement on the part of the immigrant, rather than as a two-way process involving adaptation on both sides.

The issue of integration entered the Austrian political agenda as late as in the 1990s in the context of strong anti-immigrant sentiment. The mainstream perception was that there was an “integration problem” linked to cultural estrangement, ethnic difference and socio-economic marginalisation which led to rise of the far right.

The thesis is aiming to provide contextual information on the history, demography and broader current situation of Bosnian and Syrian refugees in Austria. The main focus of this thesis will be mapping and examination of integration policies, measures and efforts of various actors, such as state, regional and local authorities as well as NGOs, in Austria with a special focus on the city of Vienna, directed to integration of refugees, especially those of Bosnian and Syrian origin. “Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.”<sup>1</sup>

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<sup>1</sup> European Commission, “Integration of third country nationals” <[http://europa.eu/rapid/press-release\\_MEMO-05-290\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-05-290_en.htm?locale=en)>accessed 29 June 2018.

<sup>2</sup> Ibid.

The two groups of war refugees have not been randomly chosen. Both groups demonstrate similarities and parallels. While the Bosnian civil war occurred in the 1990s and the Syrian civil war sadly is still ongoing. Both wars were triggered by ethnic and religious tensions as well as by the struggle of its religiously as well as ethnically diversified populations for democracy and human rights. Both wars escalated into conflicts with international involvement and attracted large numbers of foreign fighters from groups such as the mujahideen and al-Qaida in Bosnia and the so-called Islamic state, among others, in Syria. Both groups of refugees were predominantly of Muslim faith, however, accustomed to living in multi-ethnic and multi-religious society. Both refugee groups reached Austria in great numbers. Based on these similarities and parallels, it is interesting to observe the process and circumstances of their integration into Austrian society.

### **1.1. Research Questions**

This thesis asks the following questions:

General research question:

How does Austria as a host country fulfil its responsibility to provide integration assistance to Muslim refugees?

Specific research questions:

- What integration policies, measures and initiatives are in place in Vienna, Austria?
- To what extent is Austria, and Vienna as an autonomous federal province, prepared to accommodate Syrian war refugees and the diversity they bring with them?
- What lessons can be learned from the experience of integrating the Bosnian Muslims in the 1990s?

### **1.2. Research Objectives**

To answer the questions raised above, this research has the following objectives:

General research objective:

To examine the existing policy framework for the integration of Muslim refugees from a human rights perspective;

Specific research objectives:

To identify the policies relevant to refugee integration;

To evaluate Austria's capacity to integrate Syrian refugees in society;  
To compare Austria's experience integrating Bosnian refugees with its current efforts to integrate Syrian refugees;  
To identify applicable lessons - good or bad - based on Austria's extensive history dealing with Muslim refugee integration with a view to advocating for integration as a human right in the case of refugees.

### **1.3. Methodology**

This thesis examines the laws and policies in the different aspects of integration and compares the policies and the general approach in Austria's experience of integrating Muslims.

It should be noted that this thesis does not offer a quantitative evaluation of integration. Rather, it is a qualitative comparison of the content and underlying approach to integration reflected in the policies legislated and enacted as a response to the entry of Bosnian and Syrian Muslim refugees.

The information presented in this thesis was gathered through desk research. Some materials were in German, and they are presented here in English with the original German in the footnotes. The data is presented comparatively, to reflect on Austria's experiences and efforts to integrate Muslim refugees in the past and in the present. Finally, the data is analysed from a human rights perspective: it looks at refugees as a group of rights-holders in a vulnerable position and seeks to evaluate the policies that apply to them. Specifically, this paper looks at the following: the legal dimension of integration (such as residency rights and family reunification), the socioeconomic dimension of integration (employment and housing) and the sociocultural dimension (education, language-learning) of integration.

## Definition of Terms<sup>3</sup>

**Table 1. Terminologies on Integration**

integration	In the EU context, a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.
migrant	A migrant is as any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. <sup>4</sup>
recognized refugee/beneficiary of international protection	A person who has been granted refugee status or subsidiary protection status.
asylum seeker	In the EU context, a person who has made an application for protection under the Geneva Convention in respect of which a final decision has not yet been taken.
applicant for international protection	A third-country national or a stateless person who has made an application for international protection in respect of which a final decision has not yet been taken

Integration has legal (residence and the right to remain, and support for accessing services) socioeconomic (employment, housing, and health) and sociocultural (language learning, education, and social capital) dimensions. For this thesis, the following definitions were applied:

- Residence and the right to remain: This covers the fair and expedient processing of one's application for protection, including policies related to their right to remain in the host country.<sup>5</sup>
- Support for accessing services: A key obstacle to accessing support and assistance may not necessarily be an issue of the relevant laws; rather that persons in need of protection are less likely to be aware of their rights, needs, and the ways through which they can avail of assistance.<sup>6 7</sup> In this thesis, the

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<sup>3</sup> EMN, "The Changing Influx of Asylum Seekers in 2014—2016 – Austria's Responses" (2018) <[https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a\\_germany\\_changing\\_influx\\_en\\_0.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/11a_germany_changing_influx_en_0.pdf)> accessed 14 August 2018.

<sup>4</sup> IOM, "Who is a migrant?" <<https://www.iom.int/who-is-a-migrant>> accessed 29 June 2018.

<sup>5</sup> Victoria Crawford, '10 ways countries can help refugees integrate' (2016) World Economic Forum <<https://www.weforum.org/agenda/2016/05/10-ways-countries-can-help-refugees-integrate/>> accessed 29 June 2018.

<sup>6</sup> Katharina Bürkin, Thomas Huddleston and Alin Chindea, "Refugee Integration and the Use of Indicators: Evidence from Central Europe Refugee" (2013) <[http://www.migpolgroup.com/wp\\_mpg/wp-](http://www.migpolgroup.com/wp_mpg/wp-)

term is used to refer to efforts that help refugees navigate bureaucratic processes in order to access services.

- Employment: This aspect of integration has several components, including the following: recognition of skills and qualifications that is uniformly accepted by employers and educational institutions,<sup>8</sup> <sup>9</sup> helping refugees find employment opportunities, and other similar policies.<sup>10</sup>
- Housing:<sup>11</sup> Securing housing can be difficult for refugees, especially with private property owners who typically require a deposit, references, and documents that prove financial security and the ability to pay rent, such as banks statements, work contracts, etc.<sup>12</sup> This term refers to services that aid refugees in acquiring private housing, and/or allocating housing for them in the social system. The evaluation of housing policies should also account for efforts to prevent the creation of ghettos.<sup>13</sup>
- Health:<sup>14</sup> This includes primary health care as well as mental health services, especially given the harrowing experiences that most refugees undergo. They have been forced to flee their homes, may have survived dangerous journeys, and may have been subject to torture and/or cruel, inhuman or degrading

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content/uploads/2013/12/Refugee\_Integration\_and\_the\_use\_of\_indicators\_evidence\_from\_central\_europe\_CONFERENCE-VERSION.pdf> accessed 02 Aug 2018.

<sup>7</sup> McKinsey Global Institute, 'Europe's new refugees: a road map for better integration outcomes' (2016) McKinsey & Company

<[http://www.regionalmms.org/images/sector/a\\_road\\_map\\_for\\_integrating\\_refugees.pdf](http://www.regionalmms.org/images/sector/a_road_map_for_integrating_refugees.pdf)> accessed 29 June 2018.

<sup>8</sup> Bürkin, Huddleston and Chindea (2013).

<sup>9</sup> In the Refugee Convention, this is discussed in art 22 (2) under public education, where refugees are to receive treatment as favourable as that 'accorded to aliens generally in the same circumstances ... as regards ... the recognition of foreign school certificates, diplomas and degrees...'

<sup>10</sup> Various forms of employment are covered under Refugee Convention art 17, 18 and 19.

<sup>11</sup> Housing is discussed under art 21 of the Refugee Convention.

<sup>12</sup> McKinsey Global Institute (2016).

<sup>13</sup> Tommaso Virgili, 'Refugee integration in Europe: good practices and challenges' (16 May 2018) *The Parliament Magazine* <[https://www.theparliamentmagazine.eu/articles/partner\\_article/european-foundation-democracy/refugee-integration-europe-good-practices-and](https://www.theparliamentmagazine.eu/articles/partner_article/european-foundation-democracy/refugee-integration-europe-good-practices-and)> accessed 29 June 2018.

<sup>14</sup> There is no express provision for health in the Refugee Convention; however, it may be operationalized under art 24 which covers Labour Legislation and Social Security, including 'legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme. This is true in the case of Austria, where healthcare is covered by a system of socialised/adjusted contributions.



treatment. Many refugees may suffer from post-traumatic stress, depression, anxiety, among others, and therefore need comprehensive health services to help them cope with the loss and rebuild in a new environment.<sup>15</sup>

- **Language learning:** Language learning is a necessary component of integration: its absence may lead to feeling isolated and protracted difficulties. Courses should accommodate the needs of different groups such as children or parents in need of childcare.<sup>16</sup>
- **Education:** Many refugee children arrive in their host countries having had little or no formal education, and may require further support in order to catch up with their peers.<sup>17</sup> <sup>18</sup>Refugees should have access to education at different levels, including relevant assistance such as scholarships, tutoring, among others.
- **Social capital:** Given an unfamiliar environment, refugees are more likely to flock to the familiar and keep among themselves. However, effective integration requires breaking through these barriers and helping refugees and the local community interact with each other. Direct contact is often with neighbours is often helpful, as well as encouraging extracurricular activities among children.<sup>19</sup> It is important to emphasize that building social capital is a two-way process that:

‘succeeds only when it is embraced by refugees and the national population alike. ... Getting local citizens on board for the integration process and encouraging interaction in settings such as sport clubs, cultural associations, and festivals can help to build a more inclusive community where refugees can gain a sense of identification and belonging.’<sup>20</sup>

#### **1.4. Scope and Delimitation**

This thesis focuses on integrating refugees and not asylum-seekers. Where asylum-seekers are discussed, it is done to offer a comprehensive view of integration; i.e. where efforts to integrate those needing protection begin. It also discusses persons

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<sup>15</sup> McKinsey Global Institute (2016).

<sup>16</sup> Ibid.

<sup>17</sup> Crawford (2016).

<sup>18</sup> It is worth noting that with respect to public elementary education, refugees are to receive the same treatment as is accorded to nationals. Secondary and tertiary education is to be accorded to refugees ‘as favourably as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.’ This can be found in art 22 of the Refugee Convention.

<sup>19</sup> McKinsey Global Institute (2016).

<sup>20</sup> Ibid.

granted subsidiary protection, but only to the extent that they are *de facto* refugees; i.e. they are not, for various reasons, subject to deportation by the Austrian government.

This thesis compares the experience of integrating Bosnian Muslim refugees and Syrian Muslim refugees in Austria. Not all refugees from Bosnia are Muslim; likewise, not all refugees from Syria are Muslim. Further, the data collected at the time did not require refugees to identify their religious affiliations; distinguishing between ethnicity of those fleeing the former Yugoslavia may be even more challenging. Refugees, however, were required to state their country of origin. Among the countries of the former Yugoslavia, Bosnia was known for being Muslim, and that Muslims were subject to persecution because of their faith. The number of Muslim refugees from Syria are also estimates. Given the delicate political climate, Syrian refugees may not be willing to disclose their religious affiliations. Syria has a large Christian minority, though the majority remains Muslim. This thesis focuses on the supposed tensions arising from religious differences; that is, integrating Muslims in predominantly Catholic Austria. As such, it may suffice to use the number of refugees who identified themselves as Bosnians and Syrians as an estimate for the number of Bosnian and Syrian Muslims, respectively, who came to Austria seeking protection.

It must further be clarified that there are, to be sure, Muslim refugees from other countries as well, such as Kosovo, and Iraq and Afghanistan, but this research limits itself to Muslim refugees from Bosnia and from Syria. However, the largest numbers still originate from Bosnia and Syria. Additionally, it is useful to focus on refugees originating from these two countries as they are quite similar in terms of both countries having significant minorities and more mixed societies. Syrian and Bosnian nationals may thus be more accustomed to living with ethnic, religious, and cultural diversity. They are thus better equipped to integrate themselves in a new setting, and therefore provide an opportunity to examine the preparedness of the host country to accommodate them over the long term. Finally, it must be established that this thesis focuses on policies pertaining to integration, and not on other related social phenomena such as hate speech and incendiary rhetoric from the far-right political party in Austria. They

are briefly discussed in the text, but only as far as providing context, and are not the subject of the analysis itself.

## Chapter 2: Refugee integration in relevant human rights frameworks

### 2.1. Who Is a Refugee?

The United Nations Convention Relating to the Status of Refugees defines as a refugee a person:

[who] owing to [a] well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.<sup>21</sup>

Persons in need of international protection are particularly vulnerable in the State-based international system. Ordinarily, people must be under a State or regime to have access to the human rights structure. Outside of their States of origin, however, ‘there is no obvious entity to protect them.’<sup>22</sup> Protection from States other than one’s country of origin can be obtained through the granting of asylum. Asylum is the right to access another State’s territory, either temporarily or as a more permanent arrangement.<sup>23</sup> In this regard, refugee rights can be seen as ‘a substitute for the protection that should come from a person’s state of nationality of habitual residence.’<sup>24</sup> Moreover, ‘being a refugee means being an alien’: that is ‘living in exile and depending on others for basic needs.’<sup>25</sup>

The rights of refugees are enshrined in the 1951 Convention Relating to the Status of Refugees,<sup>26</sup> whose geographical and temporal scope was later broadened through its Optional Protocol.<sup>27</sup> These rights are built on the principle of *non-refoulement*,<sup>28</sup> where receiving States are obliged not to return an individual to places where they are at risk of persecution.

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<sup>21</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Henceforth referred to as the Refugee Convention, along with its Optional Protocol).

<sup>22</sup> Daniel Warner, ‘The Refugee State and State Protection’ in Francis Nicholson and Patrick Twomey (eds), *Refugee Rights and Realities: Evolving International Concepts and Regimes* (Cambridge University Press 1999) 263.

<sup>23</sup> Betts (2015).

<sup>24</sup> Nathalia P. Berkowitz, ‘Refugees and ESC Rights’ in *Circle of Rights Economic, Social and Cultural Rights Activism: A Training Resource*

<<http://www1.umn.edu/humanrts/edumat/IHRIP/circle/modules/module7.htm>> accessed 06 June 2016.

<sup>25</sup> United Nations High Commissioner for Human Rights, ‘Human Rights and Refugees’ Fact Sheet No.20, UN High Commissioner for Human Rights 1993.

<sup>26</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Henceforth referred to as the Refugee Convention, along with its Optional Protocol).

<sup>27</sup> Optional Protocol Relating to the Status of Refugees (adopted 31 Jan 1961) 6223 UNTS 267. (Henceforth included in ‘Refugee Convention.’)

<sup>28</sup> Enshrined in art 33 of the Refugee Convention.

The term asylum-seeker pertains not only to those who have applied for a refugee status, as it ordinarily does under the 1951 Refugee Convention, but also include those who have applied for other forms of protection under the auspices of European Union law and the European Convention on Human Rights.<sup>29</sup> The term asylum-seeker communicates ‘the concept of unsettled residency,’<sup>30</sup> of someone whose access to rights and entitlements has been temporarily suspended,<sup>31</sup> and is therefore awaiting decision. In contrast, the term ‘recognized refugee’ suggests a longer-term arrangement in another country. A State’s territorial/jurisdictional approach (i.e. unilateralism) means that the provision of asylum is contingent upon a State’s recognition of the status of a *refugee*. This in effect differentiates the Refugee Convention from other human rights instruments since asylum-granting States have complete control over the conferral of the prerequisite status that grants access to the needed human rights machinery.<sup>32</sup> In this light, the Refugee Convention is more accurately, ‘a catalogue of rights assured to the successful claimant of the status of refugee.’<sup>33</sup>

The definition of a refugee in the 1951 Refugee Convention, and in further instruments that draw on the 1951 Convention, tends to be both exclusionary and exacting. By being exclusionary, it aims to protect the human rights of a very particular group of vulnerable people with ‘*a well-founded fear of being persecuted*’<sup>34</sup> for grounds such as race, religion, nationality, membership of a particular social group, or political opinion.<sup>35</sup> The last two grounds for persecution may be interpreted more openly than the others, hence allowing some flexibility in its application.<sup>36</sup> By being exacting, the definition of a refugee applies specifically to people who, because of this fear of persecution, are unable to avail of the protection of their State, and are outside of their

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<sup>29</sup> Liam Thornton, ‘Law, Dignity and Socio-Economic Rights: The Case of Asylum Seekers in Europe’ (European Database of Asylum Law Conference, 18-19 January 2014) <<http://dx.doi.org/10.2139/ssrn.2715957>> accessed 06 July 2016, pp.7-8.

<sup>30</sup> Ibid., p.8.

<sup>31</sup> Ibid.

<sup>32</sup> Nicholson and Twomey (1999) p.2.

<sup>33</sup> Ibid.

<sup>34</sup> Refugee Convention art 1A (2)

<sup>35</sup> Ibid.

<sup>36</sup> Nykänen, (2012) p.37.

country of origin.<sup>37</sup> All these elements build on each other to narrowly identify who qualifies as a refugee as a measure to prevent excessively burdening States.<sup>38</sup> To put it simply:

It is not the risk of any harm or abuses of the individual's rights- or human suffering per se – that would constitute a ground for qualifying as a refugee, but instead the risk of a carefully qualified harm.<sup>39</sup>

Despite efforts to cautiously limit the scope of who can receive, refugee status, defining persecution can present a challenge. Persecution as a concept is problematic because it “has not been defined in normative terms in International Refugee Law.”<sup>40</sup>

As it currently stands, the Refugee Convention's fundamentally restrictive definition means that there will be people in need of protection who will not meet such specific conditions. The interpretation and application of the existing definition will continue to be challenged and debated upon as the conditions that produce refugee flows changes with each international conundrum.<sup>41</sup> The refugee system ‘remains an incomplete legal regime of protection, imperfectly covering what ought to be a situation of exception.’<sup>42</sup>

A recalibration of existing complementary frameworks that aims to provide support and protection for those that do not meet the criteria of refugees listed in the present Convention remain to be imperative.<sup>43</sup> The system of offering subsidiary protection is one alternative where instead of granting asylum, States issue a temporary form of residence status to allow asylum-seekers to stay within their territories for a limited period of time, but leaves them outside the scope of the Refugee Convention and its human rights guarantees.<sup>44</sup>

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<sup>37</sup> Those who remain inside their State of origin are referred to as *internally displaced people* and remain outside the ambit of the Refugee Convention.

<sup>38</sup> Nykänen pp. 38-39.

<sup>39</sup> Ibid., p.36.

<sup>40</sup> José H. Fishel De Andrade, ‘On the Development of the Concept of ‘Persecution’ in International Refugee Law’ (2008), *Brazilian Yearbook of International Law*, 3(2): 123.

<sup>41</sup> Nykänen 39.

<sup>42</sup> Guy Goodwin-Gill 1996 cited in Warner 263.

<sup>43</sup> Nykänen 39.

<sup>44</sup> Berkowitz.

Long term guarantees to human rights are stipulated in Article 7(2) of the Refugee Convention, specifying ‘a period of three years’ residence,’<sup>45</sup> after which, all refugees could, regardless of the exemptions contracted between individual States, access these guarantees. This applies expressly to housing and movable and immovable property, among others.<sup>46</sup> This means that after basic needs are met, their needs will be subsequently dealt with towards a long-term perspective that envisions integration.

It is worth noting that the rights of refugees are not limited to those listed in the Refugee Convention. The ICCPR, for example, explicitly affirms that the State has obligations ‘to all individuals within its territory and subject to its jurisdiction the rights recognized in the [ICCPR].’<sup>47</sup> Non-nationals are explicitly mentioned in Article 2 (3) of the ICESCR:

Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognised in the present Covenant to non-nationals.

It can be assumed from Article 2(3) that receiving countries are expected to guarantee the economic, social and cultural rights of non-nationals more fully<sup>48</sup> under the banner of non-discrimination,<sup>49</sup> which guarantees the exercise of rights, without bias for or against one’s ‘race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The process of granting refugees’ rights in their receiving country is often a gradual one – this is the process of integration.

## **2.2. Refugee Integration at the level of the United Nations**

The Office of the United Nations High Commissioner for Refugees has identified three durable solutions for refugees: voluntary repatriation, local integration, and resettlement;<sup>50</sup> the UNHCR finds that an integrated approach that draws on all three ‘offers the best chances for success.’

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<sup>45</sup> Refugee Convention art 7(2).

<sup>46</sup> Ibid., art 7(5).

<sup>47</sup> ICCPR art 2.

<sup>48</sup> Berkowitz.

<sup>49</sup> As it appears in ICESCR art 2 (2).

<sup>50</sup> United Nations High Commissioner for Refugees, 10-point Plan. <http://www.unhcr.org/50a4c17f9.pdf> accessed 06.08.2018

Durable solutions are to be implemented with the aim of bringing refugee status to an end. The UNHCR has also asked that state parties and the international community ‘continue to respond to the asylum and assistance needs of refugees until durable solutions are found.’<sup>51</sup> This is mirrored in the UNHCR Statute<sup>52</sup> which stressed the need for permanent solutions.

The quest for solutions tends to be ‘impatient.’<sup>53</sup> the details of qualifying for protection and transitioning out of it are usually the focus of political discussions. This results in the treatment of refugee rights as ‘little more than a “second best” option, to be pursued only until a durable solution can be implemented.’ Such an approach risks diminishing the importance of refugee rights in favour of identifying a so-called durable solution. It should be noted however that this contradicts the Refugee Convention,<sup>54</sup> whose provisions makes an extensive range of rights available to persons whom refugee status is granted. Its provision on naturalisation<sup>55</sup> indicate its awareness of the transitory nature of refugee protection, but given the catalogue of rights therein,

rather than propelling refugees towards some means of ending their stay abroad, the Refugee Convention emphasises instead the right of refugees to take the time they need to decide when and if they wish to pursue a durable solution.<sup>56</sup>

The assumption of a protracted enjoyment of protection is built into the Refugee Convention. Should they not choose to pursue a durable solution immediately, or at all, refugees are to be protected by the provisions on employment, family reunification, and social security. Choosing to

establish a reasonably normal life in the state party where they sought protection [...] is a fully respectable alternative [...] which may not lawfully be interfered with.<sup>57</sup>

The reasoning provided is this:

Refugee rights are] the result of in the individual’s predicament and consequent status. ... [As such, the Refugee Convention affords] them a real measure of autonomy and security to devise

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<sup>51</sup> UNHCR Executive Committee Conclusion No. 89, “Conclusion on International Protection” (2000), at Preamble, available at [www.unhcr.ch](http://www.unhcr.ch) cited in Hathaway 2005.

<sup>52</sup> Statute of the Office of the United Nations High Commissioner for Refugees, UNGA Res. 428(V), adopted December 14, 1950.

<sup>53</sup> James Hathaway, *The Rights of Refugees under International Law*. Cambridge University Press 2005.

<sup>54</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention).

<sup>55</sup> Refugee Convention art 34.

<sup>56</sup> Hathaway 2005.

<sup>57</sup> Ibid.



the solutions which they judge most suited to their own circumstances and ambitions, and to vary those decisions over time.<sup>58</sup>

Thus, the pursuit of durable solutions must be held in balance with the respect for the rights of refugees *as refugees*. It is worth noting that except for some essential rights, the Refugee Convention sets the standard for compliance relative to the treatment of non-nationals residing in that country. The Refugee Convention also makes it clear that rights are made available to refugees over time. This means that upholding refugees' rights allows host states some flexibility that still ensures fairness: refugees are still protected by the non-discrimination, should not be expected to fulfil unreasonable expectations given their status, and they must retain their basic rights (such as rationing) in emergencies. All in all, the Convention considers the capacity of receiving states and refugees' basic needs and respects the process through which receiving countries and refugees adjust to the new circumstances.<sup>59</sup>

Local integration, one among the three durable solutions, is most aligned with the content and spirit of the Geneva Convention - it is the respect for simple refugee rights in the host country. The Statute of the Office of the United Nations High Commissioner on Refugees 'calls upon governments to co-operate with the UNHCR... especially by promoting the assimilation of refugees.' It is further clarified that the term 'assimilation' ... is to be understood in the sense of integration into economic, social and cultural life of the country and not as denoting any notion of forced assimilation or coercion. It is widely agreed upon that the Ad Hoc Committee responsible for drafting the Convention used the term assimilation with this intention. The international community rejects the idea that refugees, along with other existing cultural minorities, should be expected to abandon their culture in favour of the majority culture.<sup>60</sup> As such, the term integration ('assimilation') may be interpreted as referring to

the process of laying the foundations for the refugee to become familiar with the customs, language and way of life of the country of asylum, so that without any feeling of coercion, he/she may more readily be integrated into the different aspects of life in the country of refuge.'<sup>61</sup>

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<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> See for example the ongoing discussion on minority rights, the rights of indigenous peoples.

<sup>61</sup> Rosa da Costa, 'Rights of Refugees in the Context of Integration: Legal Standards and Recommendations' United Nations High Commissioner for Refugees [2006]. p. 24.

Following this, any definition of integration, and any policies intended to facilitate integration, should be built on an approach that ‘promotes acceptance and respect for the refugees’ way of life and culture, while also providing assistance for their functional and cultural adaptation in the host society.’<sup>62</sup> Moreover, Harrell-Bond (1986) as cited in Hathaway (2005)<sup>63</sup> pointed out that the concept of integration applies to both refugees and their host communities. Harrell-Bond proposed the working definition of integration as “a situation in which host and refugee communities are able to co-exist, sharing the same resources – with no greater mutual conflict than that which exists within the host community.”<sup>64</sup>

The UNHCR (2013)<sup>65</sup> recognises integration as a bi-directional process and defines integration as:

the end product of a dynamic and multifaceted two-way process. ... Integration requires efforts by all parties concerned, including preparedness on the part of refugees to adapt to the host society without having to forego their own cultural identity, and a corresponding readiness on the part of host communities and public institutions to welcome refugees and to meet the needs of a diverse population.

The duties of refugees are stipulated in Article 2 of the Refugee Convention:

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.<sup>66</sup>

Hathaway (2005) in citing passages from the “Memorandum by the Secretary-General to the Ad Hoc Committee on Statelessness and Related Problems” Chapter IV elaborated that:

The original draft of the Refugee Convention contained a chapter that imposed three kinds of obligation on refugees: to obey laws, pay taxes, and perform military and other kinds of civic service. The duty to respect the law was simply “a reminder of the essential duties common to nationals as well as to foreigners in general.” Liability to taxation and military conscription on the same terms as citizens was viewed as a fair contribution to expect from a refugee “residing in the country of asylum, enjoying a satisfactory status, and earning his living there.” Just as refugees should benefit from most of the advantages that accrue to nationals, so too should they assume reasonable duties toward the state that afforded them protection.<sup>67</sup>

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<sup>62</sup> Ibid.

<sup>63</sup> James Hathaway ‘The rights of refugees under international law’ (Cambridge: Cambridge University Press 2005) p.978.

<sup>64</sup> Ibid.

<sup>65</sup> UNHCR, ‘A new beginning: refugee integration in Europe’ (2013) p.14  
<<http://www.unhcr.org/52403d389.pdf>> accessed 21 June 2018.

<sup>66</sup> UNHCR, ‘Convention and protocol relating to the status of refugees’ (1951)  
<<http://www.unhcr.org/3b66c2aa10>> accessed 21 June 2018

<sup>67</sup> Hathaway (2005) p. 98.

The agency of the refugee suggests then that integration is not only something that happens to a passive individual over time, but is a process in which an individual may actively and selectively control certain aspects,”<sup>68</sup> as part of the refugees rebuilding their lives in their new country. This process involves three dimensions:<sup>69</sup> legal, economic, and socio-cultural. Integration as a legal process means that after the grant of asylum, refugees are to be granted a range of rights and entitlements that progressively widens until they are broadly commensurate with those enjoyed by its citizens. This includes the freedom of movement, access to education and the labour market, access to public services and assistance, the realisation of family unity, among others. At its broadest, this dimension grants permanent residence to refugees and, in most cases, citizenship in the host country.

The economic dimension of integration focuses on refugees steadily becoming self-reliant, able to pursue livelihoods and contribute accordingly to the host country. The economic dimension is highly intertwined with the socio-cultural, in that refugees are steadily acclimatised in the receiving culture. Acclimatisation is often facilitated by language and values courses, and by stimulating contact between refugees and the host population, among others. The ability to speak the dominant language of the receiving community has “consistently been identified as central to the integration process”.<sup>70</sup> Beyond language skills, “a major barrier to securing employment among refugees is the difficulty relating to the non-recognition of qualifications and previous work experience”. In addition, “many refugees are unable to produce proof of previous work experience.”<sup>71</sup> Additionally, not everyone can enter into the labour force of a society due to some socio-demographic constraints (e.g. extremes of age, presence of disabilities

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<sup>68</sup> UNHCR, ‘A new beginning: refugee integration in Europe’ (2013) p.13  
<<http://www.unhcr.org/52403d389.pdf>> accessed 21 June 2018.

<sup>69</sup> UNHCR, ‘Towards integration: the Syrian vulnerable persons resettlement scheme in the United Kingdom’ <<http://www.unhcr.org/uk/5a0ae9e84.pdf>> accessed 06 July 2018.

<sup>70</sup> Alastair Ager and Alison Strang, ‘Understanding integration: a conceptual framework’ (2008) 21(2) J.R.S. 166,182.

<sup>71</sup> Ager and Strang (2008) p. 170.

etc.). As a result, “degrees of unwantedness” often become evident whereby “students and people with professional skills emerge as most wanted”<sup>72</sup> among receiving States.

In citing Van Selm (2014), Ballard (2017) said that “public policy tends to focus on the first four domains: employment, housing, education, and health.”<sup>73</sup> Ballard further added that “while these domains reflect important aspects of integration into a new society, reliance on them alone to define and measure integration is incomplete” because employment requirements depend on “who has the legal right to work.”<sup>74</sup>

Besides language courses, the socio-cultural dimension captures the necessity of social connections and social capital.<sup>75</sup>

Social bonds refer to connections within a community defined by, for example, ethnic, national or religious identity; social bridges refer to social interactions with members of other communities; and social links pertain to interactions with institutions, including local and central government services.

Social capital warrants analysis because it can explain some of the motivations behind the actions of refugees in the process of integration. Losi & Strang (2008) as cited in Strang & Ager (2010)<sup>76</sup> noted that “refugees (with a different legal status than their relatives) would often move to poorer quality accommodation in order to be with their family.” Despite the positive impacts of a refugee’s social capital, there are instances where refugees who belong to “conflicting political factions” are not happy to come together.<sup>77</sup> Social relationships are essential to giving refugees a sense of safety and stability. Refugees often verbalize their feeling of positive integration if and only if they feel safe and secure in their new settlements as manifested by the “absence of conflict and toleration of different groups”.<sup>78</sup>

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<sup>72</sup> Alison Strang and Alastair Ager, ‘Refugee integration: emerging trends and remaining agendas’ (2010) 23(4) J.R.S. 589, 594.

<sup>73</sup> Megan J. Ballard, M., ‘Refugees, rights, and responsibilities: bridging the integration gap’ (2017) 39(1) U.Pa.J. Int’l L. 185, 205

<sup>74</sup> Ibid.

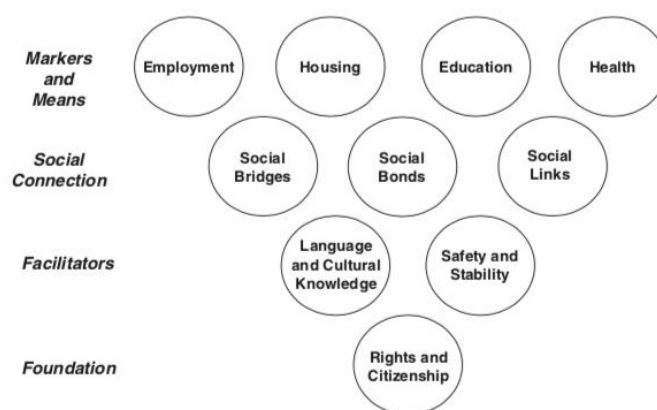
<sup>75</sup> Alastair Ager and Alison Strang, ‘Indicators of integration: final report’ (2004) p.4, Home Office Development and Practice Report 28. London: Home Office.  
<<http://webarchive.nationalarchives.gov.uk/20110218141321/http://rds.homeoffice.gov.uk/rds/pdfs04/dpr28.pdf>> accessed 26 June 2018.

<sup>76</sup> Strang and Ager (2010) p.596.

<sup>77</sup> Ibid.

<sup>78</sup> Ager & Strang (2008) p.177

The UNHCR (2013) acknowledges the fact that ‘there is no consensus on the definition of ... integration.’ However, there remains a consistent theme that across varying models: it is the idea that refugee integration begins only when a specific State recognizes an individual as a qualified refugee. In the conceptual framework presented by Ager & Strang (2008), they illustrated how successful refugee integration first begins in the recognition of rights and citizenship of refugees.



**Figure 1. The core domains of integration obtained from Ager & Strang (2008)<sup>79</sup>**

The concept of integration must not be solely associated to the duties and responsibilities of the State because various social institutions also play important roles.

It can be recalled that in the framework proposed by Ager & Strang, the role of social capital facilitates the local integration of refugees.

There remains no agreement as to what should happen after their recognition as refugees. The UN “Framework for Durable Solutions for Refugees and Persons of Concern” (2003) “urges all States to support the High Commissioner in his efforts to find durable solutions to refugee problems, primarily through voluntary repatriation, including assistance to returnees, as appropriate, or, wherever appropriate, through integration in countries of asylum or resettlement in third countries.”<sup>80</sup>

Article 34 of the Refugee Convention stipulates that

<sup>79</sup> Ager and Strang (2008) p.170 In this conceptual framework, Ager & Strang (2010:603) emphasized that the different domains do not have directional arrows because of their interdependency. In addition, the rights of refugees are regarded as the foundation for their integration.

<sup>80</sup> Hathaway (2005), p.913

the Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.<sup>81</sup>

Further, the Refugee Convention ‘shall cease to apply to any person ... if he re-avails of his nationality, or establishes himself in the country he has remained outside of due to his fear of persecution, or if...he has acquired a new nationality, and enjoys the protection of the country of his new nationality.’<sup>82</sup>

Foreigners, in the case of refugees who were granted asylum, have “a legal right to a residence permit” in reference to the 1951 Convention. By obtaining citizenship from the receiving State, refugees go beyond the right to remain in the receiving country and become entitled to the full actualization of their political rights because they are now “attached to their State by the special bond of citizenship.”<sup>83</sup> In the granting of citizenship, it must be noted that States are not independent in the procedure as there is still a need to recognize the agency of refugees who still envision returning to their countries of origin.<sup>84</sup>

### 1.3. Migrant Integration in Europe

The European Union approaches integration generally: integration is viewed as a process that must include refugees, asylum seekers, persons granted subsidiary protection, national minorities, regular migrants and second-generation migrants, among others. They have drawn on integration policies from the discourse around the Refugee Convention and have formed the Common Basic Principles<sup>85</sup> for Immigrant Integration Policy in the EU.

The Common Basic Principles stress respect for the basic values of the EU<sup>86</sup> alongside the practical aspects of integration: employment,<sup>87</sup> knowledge of the host country’s language and history,<sup>88</sup> education,<sup>89</sup> access to institutions and services;<sup>90</sup> and

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<sup>81</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Henceforth referred to as the Refugee Convention, along with its Optional Protocol).

<sup>82</sup> Ibid.

<sup>83</sup> Nowak (1996) in Hathaway (2005) p. 981.

<sup>84</sup> Ibid., 982.

<sup>85</sup> European Commission, Common Basic Principles for Immigrant Integration Policy in the EU, adopted by the Justice and Home Affairs Council in November 2004.

<sup>86</sup> Principle 2, Common Basic Principles.

<sup>87</sup> Principle 3, Common Basic Principles.

<sup>88</sup> Principle 4, Common Basic Principles.

interaction between them and the citizens of the concerned Member-States.<sup>91</sup> Finally, it requires Member-States to ‘mainstream integration policies and measures in all relevant policy portfolios and levels of government and public services as an important consideration in public policy formation and implementation.’<sup>92</sup>

The European Council Directive on Minimum Standards<sup>93</sup> contains the most direct and explicit reference to the concept of a ‘right to integration assistance’ for refugees. Article 33 reads as follows:

1) In order to facilitate the integration of refugees into society, Member States shall make provision for integration programmes which they consider to be appropriate or to create preconditions which guarantee access to such programmes.

2) Where it is considered appropriate by Member States, beneficiaries of subsidiary protection status shall be granted access to integration programmes.

The European Council has been clear about who is obligated to design and implement integration policies:

Successful integration policy must engage the local, regional and national institutions, with which immigrants interact, in both the public and private realms. The development and implementation of integration policy is therefore the primary responsibility of individual Member States rather than of the Union as a whole.<sup>94</sup>

Monitoring and evaluating these integration policies is stipulated in Principle 11 of the Common Basic Principles, which requires the development of ‘clear goals, indicators and evaluation mechanisms... to adjust policy, evaluate progress on integration and to make the exchange of information more effective.’ To implement Common Basic Principle 11, the European Commission formulated the Common Agenda on Integration, in which it summarized the specific steps needed to be taken by Member States in gathering necessary data. Indicators were chosen because of their relevance and potential contribution in the attainment of a Common European Asylum System.

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<sup>89</sup> Principle 5, Common Basic Principles.

<sup>90</sup> Principle 6, Common Basic Principles.

<sup>91</sup> Principle 7, Common Basic Principles.

<sup>92</sup> Principle 11, Common Basic Principles.

<sup>93</sup> European Council Directive 2004/83/EC of 29 April 2004 on Minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of protection granted, published in the Official Journal of the European Union No. L 304 of #0 September 2004 (entered into force 10 October 2004).

<sup>94</sup> Council of the European Union Press Release, 2618<sup>th</sup> Council Meeting, 14615/04 (Presse 321), Brussels 19 November 2004.

Indicators are often used to measure the outcomes and cost effectiveness of strategies that aim to promote integration. Specifically, they are meant to capture the complexity of the process of integration. Indicators do not exist independently; rather, they affect one another.<sup>95</sup> Refugees' inability to speak the language of the host country can significantly hamper them from finding employment, which in turn directly impacts their quality of life. In addition, they are often unfamiliar with how to access services such as healthcare, employment assistance and other forms of support. Refugees in Europe often lack familiarity with the rules and regulations of labour markets, for example, and there may not be a standardised system for the quick recognition of their qualifications to successfully enter the professional and educational sectors of their host communities.<sup>96</sup>

It is to reflect existing gaps related to refugee integration and to determine whether policy goals are met, thereby benefiting the governments of the concerned Member States, key stakeholders including the recipients of protection and the non-government organisations that work with them, and ultimately satisfy the standards set by the UNHCR and the Refugee Convention.<sup>97</sup>

The European Commission adopted an Action Plan on Integration for Third Country Nationals in 2016, which covers pre-departure and pre-arrival measures, education, employment and vocational training, access to basic services, and social inclusion. It is applicable to all third country nationals, but is specifically geared toward addressing the vulnerabilities of refugees.<sup>98</sup> It also offers tools to facilitate coordination between the different actors engaged in integration at national, regional and local level.

The EU Long-Term Residence<sup>99</sup> and the Family Reunification Directives<sup>100</sup> stipulate that civic integration is optional. Thus, the decision to introduce these into

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<sup>95</sup> Ibid.

<sup>96</sup> Ibid.

<sup>97</sup> UNHCR, 'Refugee Integration Evaluation Tool' <<http://www.unhcr.org/bg/wp-content/uploads/sites/18/2016/12/integrameter.pdf>> accessed 22 July 2018.

<sup>98</sup> The Action Plan on the integration of third-country nationals <<https://ec.europa.eu/migrant-integration/news/europe-integration-action-plan-of-third-country-nationals-launched>> accessed 06 August 2018.

<sup>99</sup> Council of the European Union, *Council Directive 2003/109/EC of 25 November 2003 Concerning the Status of Third-Country Nationals Who are Long-Term Residents*, 23 January 2004, OJ L. 16-44; 23. 1. 2004, 2003/109/EC <<http://www.refworld.org/docid/4156e6bd4.html>> accessed 06 August 2018.



national jurisdiction lays upon individual member states. Between 2003 and 2007, thirteen European Union Member States chose to introduce some aspect of compulsory integration prerequisites.<sup>101</sup>

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<sup>100</sup> Council of the European Union, *Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification*, 3 October 2003, OJ L. 251/12-251/18; 3.10.2003, 2003/86/EC, <<http://www.refworld.org/docid/3f8bb4a10.html>> accessed 06 August 2018.

<sup>101</sup> Mourao - Permoser (2012) p.174.

## Chapter 3: Integration in Austria

### 3.1. Brief modern history of immigration and integration in Austria

Austria has been for a long time an immigration and emigration country. Austria's immigration history is marked by a tradition of helping and assisting refugees. A key phenomenon to understanding the general Austrian attitude towards immigration, integration and xenophobia (*Fremdenfeindlichkeit*) was mass migration within the Austro-Hungarian Empire to Austria and especially Vienna in the late 19th century. The most dominant *Leitbild*, or approach, for accommodating foreigners in Austria at the time was forcible assimilation, self-denial and total denial and suppression of one's own origins.

Due to the progressive disintegration of the weakened Ottoman Empire, Austro-Hungary was able to occupy Bosnia and Herzegovina in 1878 and annexed it in 1908. Thus, a significant portion of the Muslim population became part of the military and civilian sectors of the Empire. The recognition of Islam as a religious community with equal rights within the Austrian half of the Empire occurred in 1912.

The Islam Law of 1912 attempted to integrate Bosnian Muslims into the Habsburg Monarchy. Despite the extensive accommodation of Islam, obstacles to integration soon became evident. With only a few years left before the dissolution of the Habsburg Monarchy, the full actualization of the Islam Law was deemed to be insufficient. Muslim communities became minimal in Austria after the collapse of the monarchy and only increased in number from the 1960s onwards due to the arrival of guest worker immigrants in connection with the shortage of unskilled labour during the post-war economic boom.

In the 1960s after the Raab-Olah Agreement was reached and Austria signed bilateral agreements about recruitment of foreign workers with Yugoslavia among other countries. In 1969, migrant workers also from poorer rural areas of former Yugoslavia, including Bosnia-Herzegovina, arrived in Austria. The establishment of a Bosnian guest worker community later proved crucial during the later arrival of Bosnian war refugees who either decided to stay in Austria based on whether they had relatives or friends among the guest worker community or concluded to move on to other countries. The Bosnian war refugees contacts to Bosnian guest workers in Austria played an important

role in their decision to stay. The oil crisis of 1973 marked by the onset of an economic recession halted the guest worker recruitment altogether. Hostility towards foreign workers significantly increased. As economy recovered, many former guest workers from Yugoslavia returned and other forms of migration such as family reunification and spontaneous labour migration came to the forefront.

Austria and other European countries were overwhelmed by the surging inflow of legal as well as irregular migrants after the dissolution of the Communist Bloc and fall of the Iron Curtain in 1989. Surging inflow of migrants accompanied by a stagnating economic growth was a perfect breeding ground for xenophobia. The support for the traditional right-wing Freedom Party of Austria (*Freiheitliche Partei Österreichs*, FPÖ) increased exponentially.

The political crisis in the disintegrating Yugoslavia after 1990 led to civil wars and ethnic cleansing in Croatia (1991), Bosnia-Herzegovina (1992-1993) and Kosovo (1998-1999) and mass flight of Yugoslav war refugees to Austria and other European countries.

Since the 1990s this far-right political party has openly led an anti-immigration campaign. In reaction to increased immigration, the government launched legislative reforms leading to restrictions in the fields of immigration, asylum, residence and employment.

Migrants were clearly structurally disadvantaged due to the absence of proactive integration efforts, increasingly restrictive legal framework as well as the groups' economic marginalization, cultural estrangement and the existing ethnic differences.<sup>102</sup> Due to the combination of these factors migrants were increasingly perceived as either unable or unwilling to integrate. The strain of the inflow of migrants generated claims of the exhaustion of the receiving capacity of the country. Refugees were frequently equalled to "economic migrants" who strived to abuse the welfare state.<sup>103</sup> This resulted

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<sup>102</sup> James Frideres and John Biles, *International Perspectives: Integration and Inclusion* (Queen's Policy Studies, 2012) p. 45.

<sup>103</sup> Julia Mourão Permoser and Sieglinde Rosenberger, 'Integration Policy in Austria. 39-58' in James Frideres and John Biles (eds) *International Perspectives: Integration and Inclusion* (McGill-Queen's University Press 2012) p. 46, <[http://www.governing-integration.at/fileadmin/user\\_upload/Mourao-Permoser\\_\\_Rosenberger\\_2012\\_-\\_Integration\\_policy\\_in\\_Austria.pdf](http://www.governing-integration.at/fileadmin/user_upload/Mourao-Permoser__Rosenberger_2012_-_Integration_policy_in_Austria.pdf)> accessed 16 July 2018.

in an environment of increased anti-foreigner atmosphere which in some cases led to violent incidents, for which has Austria been criticized by the European Commission against Racism and Intolerance (ECRI),<sup>104</sup> and even the policy of zero immigration.<sup>105</sup>

In 1995 Austria acceded the EU and in 1997 the Schengen agreement came into force. Due to increased immigration in the 1990s, EU member states sought to put new requirements and restrictions, such as “safe country of origin” or “safe third country,” in place to limit the scope of the 1951 Geneva Convention. Due to the democratization process in Eastern Europe, EU member states began to regard the region as “safe.” The formalisation of such policies led to reduction of protection opportunities for individuals in need.

The immigration inflow into Austria continued to rise in the aftermath of the Bosnian War (1992 - 1995) from countries such as Kosovo and from Asian and African countries. After 9/11, the so-called „War on terror “strategy brought about numerous wars and armed conflicts, such as the NATO-led involvement in Afghanistan (2001 - 2014), the Iraq War (2003 - 2011), War in North-West Pakistan (2004 - present) and the International campaign against the so-called Islamic State (2014 - present), displacing many civilians and forcing them to flee, often to Europe. Numerous civil wars have also broken out in the aftermath of the Arab Spring protests in the Middle East and North Africa. The ongoing civil wars in Libya, Yemen, Afghanistan and Syria resulted in the migration crisis of 2015 which overwhelmed the European continent.

Reaching the doorstep of Austria in August 2015, hundreds of thousands of migrants entered the country. Most migrants used Austria only as a transit country, however, 88.340 migrants did apply for asylum in Austria in 2015, accounting for 45% of all immigrants. Among the applicants were 24.547 Syrians alongside Afghans, Iraqis and Chechens, who made up for 56 % of all asylum applications.<sup>106</sup> These figures made Austria with a small population of 8.5 million one of the highest recipients of migrants

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<sup>104</sup> European Commission against Racism and Intolerance: Report on Austria, ECRI (99) 7, 1998, p. 7

<sup>105</sup> Fassman and Münz (1992) p. 4.

<sup>106</sup> Ministry of Interior, “Asylstatistik 2015, available at: Bundesministerium Inneres, ‘Asylstatistik 2015’ p.6<[http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl\\_Jahresstatistik\\_2015.pdf](http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2015.pdf)> accessed 06 July 2018.

per capita among European countries. The immigration and asylum institutions were completely overwhelmed. The migration crisis also proved to be very costly.

There was a great solidarity movement among the Austrian population and the welcoming culture could be equalled to that of the period of the war in Yugoslavia. The financial and organisational support and aid provided by great numbers of volunteers was vast and exemplary. Pro refugee rallies were organized. However, not all Austrians were in favour of migration which showed in a significant increase of support for the right wing.

During the migrant crisis of 2015, the former Minister of Europe, Integration and Foreign Affairs and the current Chancellor of Austria, Sebastian Kurz, promoted the idea of a more adequate regulation and oversight of the EU external borders and presented a 50-point plan towards integration of refugees and beneficiaries of subsidiary protection with special focus on the areas language and education, labour and job market, rule of law and values.<sup>107</sup>

### **3.2. Evolution of Austrian legal framework concerning migrants and refugees**

Austria has ratified all major international and European human rights and refugee protection instruments. The Geneva Refugee Convention<sup>108</sup> was signed in 1954 and New York Protocol of 1967<sup>109</sup> relating to the status of Refugees in 1973 and the UN Convention on the Rights of the Child in 1990<sup>110</sup>. The European Convention on Human Rights<sup>111</sup> was ratified in 1958 and it enjoys constitutional rank in Austria, with direct applicability in front of all courts.<sup>112</sup> The ECHR provisions and case-law serve as the foundations of the national human rights framework pertaining to the protection of refugees. The articles 2 (right to life) and 3 (prohibition of torture) of ECHR in the light

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<sup>107</sup> BMEIA: 50 points towards successful integration, < <https://www.bmeia.gv.at/en/the-ministry/news/50-points-towards-successful-integration/> > accessed 01 July 2016.

<sup>108</sup> *Convention Relating to the Status of Refugees* (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

<sup>109</sup> *Protocol Relating to the Status of Refugees*, (adopted 31 January 1967, entered into force 04 October 1967) 606 UNTS 267.

<sup>110</sup> *Convention on the Rights of the Child* (adopted 20 November 1989, entered into force 02 September 1990) 1577 UNTS 3.

<sup>111</sup> *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14* (adopted 04 November 1950, entered into force 03 September 1953) ETS 5.

<sup>112</sup> Ludwig Boltzmann Institut für Menschenrechte, 'Report on identification of best practices in Austria' <<http://bim.lbg.ac.at/files/sites/bim/Austria%20Country%20Report.pdf>> accessed 01 July 2016.

of non-refoulement as well as the article 8 ECHR (right to respect for private and family life) are of significance in relation to refugees. Several EU Directives and measures of the Common European Asylum System (CEAS) have been transposed into national legislation.

**Table 2. Evolution of Austrian Legal Frameworks Concerning Migrants and Refugees**

Year	Changes in Austrian Legislation
1961	The Raab-Olah Agreement was set in place for trade unions and entrepreneurs to fix “annual contingents of temporary workers mainly coming from Turkey and former Yugoslavia.” <sup>113</sup>
1968	Enactment of Austria’s first Asylum Act in response to the flow of refugees during the Cold War. <sup>114</sup>
1969	Establishment of the Passport Act which led to the “reduction of foreign workforces.” <sup>115</sup>
1975	The Act Governing the Employment of Foreigners was introduced since formerly emigrated Austrians returned home and caused competition in the labour sector. <sup>116</sup>
1987	The Federal Ministry of Social Affairs was replaced by the Federal Ministry of the Interior in handling responsibilities related to the aliens policy. <sup>117</sup>
1990	A quota system, intended to limit the share of the foreign workforce, was introduced. <sup>118</sup>
1991	The Asylum Act of 1991 was passed which brought “restrictions to residence permits” and established the notions of “safe third-countries and safe countries of origin.” <sup>119</sup> The Federal Care Act of 1991 introduced the concept of reception facilities for asylum seekers in Austria. The federal care comprising accommodation, subsistence and provision of health care. In order to receive the care, the asylum seeker must be in need of assistance, meaning unable to provide for his own basic needs and fulfil the condition of cooperation during the asylum procedure.
1993	The Aliens Act of 1993 introduced stricter regulations concerning the entry and residence of aliens. The Residence Act of 1993 forwarded an annual quota of immigrants and “introduced the division of new immigrants according to their country of origin.” <sup>120</sup>
1995	“[A]ccession of Austria to the EU.” <sup>121</sup>
1997	The Aliens Act 1993 and the Residence Act 1993 were merged to become the Aliens Act 1997 (known as the “Integration Package”). <sup>122</sup> In this year, the Asylum Act was revised to integrate the Schengen Agreement and the 1990 EU Dublin Convention. The 1997 Asylum Act ( <i>Asylgesetz</i> ) <sup>123</sup> was amended due to harmonization with a consequence of EU-wide harmonization of asylum procedures. Further major amendments to the asylum legislation in 2003, 2005 and 2009 were a consequence of the

<sup>113</sup> International Organization for Migration ‘The Organization of Asylum and Migration Policies in Austria’ International Organization for Migration, Country Office for Austria (2015) p.19  
<[https://www.emn.at/wp-content/uploads/2017/01/organisation-study\\_AT-EMN-NCP\\_2016.pdf](https://www.emn.at/wp-content/uploads/2017/01/organisation-study_AT-EMN-NCP_2016.pdf)>  
accessed 06 July 2018.

<sup>114</sup> Ibid.

<sup>115</sup> Ibid., p.20

<sup>116</sup> Ibid.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

<sup>120</sup> Ibid., p.21

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> FLG I. No. 76/1997.

	same procedure.
<b>1998</b>	Amendment of the Citizenship Act which forwarded the principle of “ <i>integration before citizenship</i> .” The amendment “stipulated a test in German language skills and basic knowledge of Austrian history and culture as prerequisite for ...Austrian citizenship.” <sup>124</sup>
<b>1999</b>	Entry into force of the Amsterdam Treaty which demanded harmonization on the “minimum standards for the reception of asylum-seekers.” <sup>125</sup>
<b>2003</b>	Amendment of the Aliens Act and the Asylum Act which adopted “restriction of labour migration to key-labour forces, facilitation of employment of seasonal workers, compulsory integration courses for third-country nationals and those who have been living in Austria since 1998, acceleration of the asylum procedure, and introduction of the asylum-seeker’s duty of cooperation.” <sup>126</sup>
<b>2004</b>	The Basic Welfare Agreement ( <i>Grundversorgungsvereinbarung</i> ) of 2004 changed the federal care system by transferring part of the institutional responsibility from the federal state to the nine provinces under Article 15a of the Federal Constitution regarding the provision of the temporary basic welfare support of aliens in need of help and protection. Basic Welfare Support Act of 2005 ( <i>Grundversorgungsgesetz</i> ) regulated the Basic Welfare Support Agreement between the Federal Government ( <i>Bund</i> ) and the provincial governments ( <i>Länder</i> ) under article 15 of the Federal Constitution regarding joint measures for granting temporary basic welfare to refugees, asylum seekers, displaced persons and persons whose deportation is not viable due to legal and practical concerns. The welfare support will be terminated if the asylum seeker commits a crime, a violent assault or jeopardizes good order.
<b>2005</b>	Aliens Law Package 2005 was introduced in “anticipation of the deadlines for the transposition of a number of EU directives.” Aliens Law Package 2005 resulted into the splitting of the Aliens Act 1997 into the Aliens Police Act 2005 and the Settlement and Residence Act, the latter providing distinction between short-term residence and long-term settlement. <sup>127</sup> It introduced the concept of German prior to immigration ( <i>Deutsch vor Zuzug</i> ) obliging family members of third country nationals to obtain a minimum elementary knowledge (A1) of the German language in their country of origin. In addition, “the Asylum Act was revised and became the Asylum Act 2005.” <sup>128</sup> It awarded recognized refugees unrestricted access to the labour market and to social welfare. Asylum seekers became eligible for financial and material support during the entire asylum procedure through Basic Welfare Support Act ( <i>Grundversorgung</i> ). Those with a high probability of being granted a positive decision were entitled to integration assistance limited and access to the labour market.
<b>2007</b>	An Integration Platform was created “to coordinate efforts in the area of integration policy among different government levels.” In addition, an Asylum Court was established “to accelerate the asylum procedure and replace the Independent Federal Asylum Review Senate as of 01 July 2008.” <sup>129</sup>
<b>2009</b>	The Aliens Law Reform of 2009 which took force on 1 January 2010 led to the adoption of rules which involves “registration requirement for asylum-seekers during the admission procedure, documentation of residence rights of EU citizens, introduction of an identity card for third-country nationals, suspension of the protection from deportation in case of subsequent applications in asylum procedures, and issuance of Aliens and Convention Passports for stateless persons and beneficiaries of subsidiary protection.” <sup>130</sup>

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid., p.22

<sup>127</sup> Ibid.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid., p. 25

<sup>130</sup> Ibid., p. 23

<b>2010</b>	Adoption of the National Action Plan for Integration. <sup>131</sup> Introduction of Minimum Needs-Based Welfare Support <sup>132133</sup> was aimed at replacing a system of social aid regulated individually by each of the provinces.
<b>2011</b>	Aliens Law Package 2011 introduced “a quota system for third-country nationals by a catalogue of criteria and the so called Red-White-Red Card for highly qualified immigrants or key workers, ...a language requirement for third-country nationals prior to entry to Austria..., free legal advice in asylum and return proceedings, tightening of detention pending removal, and an obligation to cooperate, which demands from asylum-seekers to stay one week at the respective initial reception centre.” <sup>134</sup>
<b>2012</b>	Adoption of a major administrative reform which created the Federal Office for Immigration and Asylum as a replacement to the Federal Asylum Office. <sup>135</sup>
<b>2013</b>	The Act Amending the Aliens Authorities Restructuring Act 2013 introduced the following amendments: “expansion of the term ‘family member’ in the Asylum Act by including legal representatives of minor non-married refugees; extension of the period of validity of the residence permit of beneficiaries of subsidiary protection from one to two years in case of renewal; unrestricted access to the labour market for family members of third-country nationals; possibility for particularly highly qualified third-country nationals to apply for a Red-White-Red Card from abroad; details on the appeal procedure against written decisions of the Federal Office for Immigration and Asylum; and reorganization of the obligation to cooperate for unaccompanied minors in cases of family tracing.” <sup>136</sup>
<b>2014</b>	The Federal Ministry for European and International Affairs was renamed as the Federal Ministry for Europe, Integration and Foreign Affairs. <sup>137</sup>
<b>2015</b>	The Act Amending the Aliens Law 2015 entered into force on 20 July 2015 and introduced the following changes: “amendment of the asylum admission procedures and the presentation procedure before the Federal Office for Immigration and Asylum; recast of the regulations regarding the detention pending removal; legal anchoring of an accelerated asylum procedure for third-country nationals from safe countries of origin; [c]hanges of the conditions regarding the suspensive effect of appeals; [l]egal obligation to make use of return counselling in certain cases; extension of legal advice before the Federal Administrative Court; reduction of the maximum period for issuing decisions in deprivation procedures of the Federal Administrative Court; and the possibility of initial assessment of asylum-seekers in a regional directorate of the Federal Office for Immigration and Asylum,” <sup>138</sup> transposed the EU Reception Conditions Directive (Directive 2013/33/EU) and the recast Procedures Directive (Directive 2013/32/EU) into Austrian national law. Amendment of the Islam Law <sup>139</sup> FLG I. No. 39/2015, in German <i>Islamgesetz</i> ). Federal Constitutional Act concerning the Accommodation and Allocation of aliens in need of aid and protection ( <i>Bundesverfassungsgesetz Unterbringung und Aufteilung von hilfs- und schutzbedürftigen Fremden</i> ). <sup>140</sup> in the light of the acute migration crisis and lack of capacities of the asylum system the Federal government created accommodation facilities for refugees through an extraordinary procedure even in municipalities which

<sup>131</sup> Ibid., p. 25

<sup>132</sup> FLG I. No. 96/2010

<sup>133</sup> in German: *Vereinbarung zwischen dem Bund und den Ländern gemäß Art. 15a B-VG über eine bundesweite Bedarfsorientierte Mindestsicherung*).

<sup>134</sup> Ibid., p. 23

<sup>135</sup> Ibid., p. 26

<sup>136</sup> Ibid., p. 24

<sup>137</sup> Ibid., p. 26

<sup>138</sup> Ibid., p. 25

<sup>139</sup> FLG I. No. 39/2015

<sup>140</sup> FLG I. No.120/2015.



	were opposed to reception of refugees. The government designated eight military premises to serve as care facilities for asylum seekers. Additional seven federal distribution centre were set up for the purpose of enabling the decision-making process concerning international protection directly in the provinces and in the place of application.
<b>2016</b>	The Asylum Act of 2005, Aliens Police Act of 2005 and BFA Procedures Act were reformed in 2015 and entered into force on June 1, 2016 <sup>141</sup> introducing the concepts of emergency ordinance, the upper limit ( <i>Obergrenze</i> ) of 37.500 asylum applications as well as temporary asylum ( <i>Asyl auf Zeit</i> ). <sup>142</sup> This rule applies to all asylum seekers that applied for asylum after November 15, 2015. Family reunifications were further restricted. In the case of individuals entitled to asylum, their spouses and minor children must report to an Austrian embassy within 3 months from the positive asylum decision and will be provided with visas. If they fail to meet this deadline they will have to show a proof of sufficient financial means and a health insurance. No special provisions are foreseen regarding particularly vulnerable individuals, unaccompanied minors, traumatized or gravely ill persons. <sup>143</sup> It led to harsh criticism on the part of the UN and European Commission. The Recognition and Assessment Act <sup>144</sup> was introduced aimed to simplify the complicated procedure of qualification recognition of education and academic degrees, professional and vocational training obtained abroad by third-country nationals.
<b>2017</b>	Introduction of Integration law ( <i>Integrationsgesetz</i> ) <sup>145</sup> and providing Integration Year Act ( <i>Integrationsjahrgesetz, IJG</i> ) <sup>146</sup> providing central framework conditions for persons legally residing in Austria in order to ensure social cohesion and concrete integration measures.

The 1993 Aliens Act<sup>147</sup> and the 1993 Residence Act (*Aufenthaltsgesetz*)<sup>148</sup> was accompanied by efforts to integrate foreigners who already resided in Austria for a longer period of time and were likely to remain. This policy was named integration before new immigration (*Integration vor Neuzuwanderung*). The 1993 Aliens Act also made a reference to integration in article 20 stating that a residence ban could not be imposed if it would violate the right to private and family life. In such cases degree of

<sup>141</sup> FLG I. No. 24/2016, “Asylkoordination: Infoblatt”

<[http://www.asyl.at/infoblaetter/infoblatt\\_rechtl\\_aenderungen\\_0616.pdf](http://www.asyl.at/infoblaetter/infoblatt_rechtl_aenderungen_0616.pdf)> accessed 03 July 2018.

<sup>142</sup> FLG I Nr. 24/2016.

<sup>143</sup> Asylkoordination <[http://www.asyl.at/infoblaetter/infoblatt\\_rechtl\\_aenderungen\\_0616.pdf](http://www.asyl.at/infoblaetter/infoblatt_rechtl_aenderungen_0616.pdf)> accessed 03 July 2016.

<sup>144</sup> FLG I. No. 55/2016.

<sup>145</sup> FLG I. No. 68/2017

<<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009891>> accessed 25 June 2018.

<sup>146</sup> FLG I. No. 75/2017.

<sup>147</sup> FLG I. No. 838/1992 (Original German: *Erlassung des Fremdenengesetzes und Änderung des Asylgesetzes 1991 sowie des Aufenthaltsgesetzes*)

<[https://www.ris.bka.gv.at/Dokumente/BgblPdf/1992\\_9\\_0/1992\\_9\\_0.pdf](https://www.ris.bka.gv.at/Dokumente/BgblPdf/1992_9_0/1992_9_0.pdf)> accessed 20 July 2016.

<sup>148</sup> FLG I. No. 466/1992 (Original German: *Regelung des Aufenthalts von Fremden in Österreich*)

<[https://www.ris.bka.gv.at/Dokumente/BgblPdf/1992\\_466\\_0/1992\\_466\\_0.pdf](https://www.ris.bka.gv.at/Dokumente/BgblPdf/1992_466_0/1992_466_0.pdf)> accessed 17 July 2018.

integration was to be taken into consideration. However, the precise definition of integration was not specified in the law.

The article 11 of the Residence Act stipulated that “integration support” (*Integrationshilfe*) shall be provided to foreigners with a residence permit if there is a need for it. Integration support should help refugees to fully participate in Austrian economic, social and cultural life and to acquire chances equal to Austrian citizens. Integration support referred here particularly to language and further education courses, events teaching about Austrian culture and history, events organized to support exchange among immigrants and Austrian nationals and provision of information about the housing market. It, however, took time to implement these measures.<sup>149</sup> Integration support was to be provided by private, humanitarian or church organisations and by volunteers.<sup>150</sup> The Federal Government provided substantial financial support and covered up to 50% of the costs in subsidies for the obligatory German-Integration courses under the condition that the course was completed within the set time frame. The German-Integration course consisted of the provision of basic German knowledge including topics of everyday life comprising nationality, citizenship elements and the instruction of basic European democratic values.

The 1997 Aliens Act (*Fremdengesetz FRG*)<sup>151</sup> also called the “Integration Package” (*Integrationspaket*) was the first step towards a more pro-active integration policy in Austria and became the first Austrian legal text concerning migrant integration. The change of terminology from *Integrationshilfe* to *Integrationsförderung* was a sign of increasing urgency of integration of immigrants. The text of the “integration” article has been expanded compared to the 1992 legislation. It claimed that integration of foreigners residing in Austria shall be prioritized over further inflow of immigrants, the so-called integration before new immigration (*Integration vor Neuzuwanderung*). This was the slogan of the reform. The bill improved the legal status of long-term residents in Austria, especially war refugees from Bosnia-Herzegovina,

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<sup>149</sup> Edda Currle, *Migration in Europa: Daten und Hintergründe* (Lucius and Lucius Verlag Stuttgart, 2004) p. 241.

<sup>150</sup> Barbara Franz, 'Uprooted and Unwanted: Bosnian Refugees in Austria and the United States' (Texas A&M University Press 2005).

<sup>151</sup> FLG I No. 75/1997.

including their spouses and their minor children, even if they were unemployed. The term “integration” was discursively used to justify the restriction of immigration.<sup>152</sup> The efforts of integration took place only in the cultural aspect of integration, leaving out the social and structural sphere. Attention was paid only to language instruction and very basic civic integration. The existence of Integration Advisory Council (*Integrationsbeirat*) whose task was to assist the government in integration matters was mentioned in the law.

The article 50 of the 1997 Aliens Act required third-country nationals (TCNs) who settled in Austria after 1 January 1998 and possessed either an initial settlement permit to comply with an integration agreement and to attend a German language integration course. The objective was acquisition of basic knowledge of German language which would enable immigrants to participate in social, economic and cultural life in Austria. It must be noted that the integration agreement at this time existed rather as a symbolic policy rather than a restrictive practice. The act obliged private, humanitarian and religious organizations and voluntary welfare or local authority institutions to aid with provision of such integration support, to the extent possible, if it was requested by the government. The costs of the services furnished by these organisations were to be reimbursed by the government.

The 1998 Citizen Act<sup>153</sup> was amended and the principle of “integration before citizenship” was introduced. A German language test and basic knowledge of Austrian history and culture were a prerequisite in obtaining Austrian citizenship. Ten years of continuous residence as well as the proof of sufficient German language skills and economic independence were required to obtain Austrian citizenship.

The major amendment of the Aliens Act<sup>154</sup> and Asylum Act,<sup>155</sup> of 2003 introduced the highly controversial Integration Agreement (*Integrationsvereinbarung*)

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<sup>152</sup> Julia Mourão Permoser and Sieglinde Rosenberger (2012). ‘Integration Policy in Austria. 39-58’ in James Frideres and John Biles (eds) *International Perspectives: Integration and Inclusion* (McGill-Queen’s University Press 2012)

p. 46, <[http://www.governing-integration.at/fileadmin/user\\_upload/Mourao-Permoser\\_Rosenberger\\_2012\\_-\\_Integration\\_policy\\_in\\_Austria.pdf](http://www.governing-integration.at/fileadmin/user_upload/Mourao-Permoser_Rosenberger_2012_-_Integration_policy_in_Austria.pdf)> accessed 16 July 2018.

<sup>153</sup> FLG I. No. 311/1985, FLG I. No. 104/2014.

<sup>154</sup> FLG I. No. 134/2002.

<sup>155</sup> FLG I. No. 126/2002.

for third country nationals. The so-called “agreement” introduced the obligation to take up compulsory language and integration instruction for TCNs and to accomplish a basic level of the German language skills within a specified time frame to be proven in a regulated exam. The failure to comply with this integration measure entailed financial and legal sanctions. The purpose of the integration agreement is to facilitate the integration of permanently settled TCNs and to enable them to participate in social, economic and cultural life in Austria.

However, asylum seekers and recognized refugees do not have to fulfil the integration agreement. Until recently the government understood integration as a process which could not begin before a migrant has been granted a form of residence status. By the virtue of being granted asylum, the recognized refugees automatically fulfil the conditions of the integration agreement. Asylum seekers and migrants whose asylum applications were rejected are not residing in Austria legally and therefore are not entitled to any integration assistance. They receive no governmental subsidies for German-Integration courses, although they may choose to attend them.<sup>156</sup>

The much-scrutinized integration ‘agreement’ is not an agreement as such. It is not a result of any negotiations, it was strictly dictated by law. The non-fulfilment of this obligation will be punished by sanctions and can lead to expulsion. The term ‘agreement’ is thus highly questionable and controversial.<sup>157</sup> The Integration Agreement evolved from a symbolic policy into a restrictive practice.<sup>158</sup> A successful completion of language exams and tests of Austrian societal values became a precondition of acquiring residence rights, such as freedom of movement, protection against deportation, and socio-economic rights, essentially the access to labour market and social benefits.<sup>159</sup>

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<sup>156</sup> Bernhard Perchinig, “The Integration Agreement in Austria - from symbolic policy to restrictive practice” in Pasconau, Y. and Strik, T. (eds.): *Which Policies for Migrants? Interaction between the EU and its Member States* (Nijmegen, Wolf Legal Publishers 2012) pp. 229-255.

<sup>157</sup> Magdalena Pöschl, *Die Integrationsvereinbarung nach dem österreichischen Fremden-gesetz: Lässt sich Integration erzwingen?* in Sahlfeld ua (Hrsg), *Integration und Recht* (2003) 197 <[https://staatsrecht.univie.ac.at/fileadmin/user\\_upload/i\\_staatsrecht/Poeschl/Publikationen/Die\\_Integrationsvereinbarung\\_nach\\_dem\\_OEsterreichischen\\_Fremdengesetz.pdf](https://staatsrecht.univie.ac.at/fileadmin/user_upload/i_staatsrecht/Poeschl/Publikationen/Die_Integrationsvereinbarung_nach_dem_OEsterreichischen_Fremdengesetz.pdf)> accessed 06 August 2018.

<sup>158</sup> Perchinig (2012).

<sup>159</sup> Mourao - Permoser (2012) p.173.

The conditions set out in the integration agreement grew stricter by time as the alien law became increasingly restrictive. The level of German language skills was gradually increased, the time frame for the achievement of the skills shortened and financial aid decreased. Integration Agreement Regulation of 2011<sup>160</sup> required third country national to acquire level A2 CEFR of German within 2 years as a condition for the renewal of temporary residence permit and level B1 was further obligatory for the attainment of permanent residence. As of 2017 the conditions of the integration agreement remained more or less the same.

The so-called Alien Law Package (*Fremdenrechtspaket*)<sup>161162</sup> of 2005 referred to integration support (*Integrationshilfe*) in the Article 68 and introduced the sequential module system of the integration agreement.

The Asylum Act 2005<sup>163 164</sup> specified that recognized refugees were entitled to almost equal rights as Austrian citizens, unrestricted access to the labour market and to social welfare. Persons entitled to subsidiary protection were granted temporary right to residence which had to be extended on annual basis. A temporary permit was to be issued to individuals claiming their rights under Art. 8 ECHR (right to respect for one's private and family life).

In 2015 the original Austrian Islam Law of 1912, which recognized Islam as an official religion in Austria, was amended to better suit contemporary needs. Reforms to the Islam Law expanded certain rights for Muslims in Austria such as: leave from occupation during Islamic holidays, provision of spiritual care as well as halal food in hospitals, establishment of a theological program for imams at the University of Vienna 'where instruction will reinforce European social values.'<sup>165</sup> The law also regulates the version of the Quran for use in Austria (in German) and requires imams to speak German for the sake of 'professional sustainability.'<sup>166</sup> More controversially, the

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<sup>160</sup> FLG I No. 86/2017.

<sup>161</sup> FLG I. No. 100/2005.

<sup>162</sup> Original German: *Fremdenrechtspaket 2005*.

<sup>163</sup> FLG I. No. 100/ 2005.

<sup>164</sup> Original German: *Asylgesetz*.

<sup>165</sup> Soeren Kern, "Austria's Islamic Reforms" *New York Times* (07 April 2015)

<<https://www.nytimes.com/2015/04/08/opinion/austrias-islamic-reforms.html>> accessed 10 July 2018.

<sup>166</sup> Ibid.

amendments restrict foreign funding of mosques in Austria as well as granting leadership positions to foreign clerics in local mosques. This was done in an attempt to ‘promote a moderate ... Islam compatible with democratic values ... and to combat extremism while protecting religious liberties.’<sup>167</sup> The amendments led to the closure of some mosques in Vienna in 2018. While some supported the move, others argue that the policy was discriminatory, since other religious minority groups were not subject to the same regulations, even though they may likewise receive funding from abroad.

Integration law (*Integrationsgesetz*)<sup>168</sup> was introduced in June 2017 with the aim to provide central framework conditions for persons legally residing in Austria in order to ensure social cohesion. The main principle of this law is that people shall not be judged by their country of origin but by their performance and their effort to contribute to Austria. The law regulates a consistent and binding system for German language and Austrian and European values courses by a mandatory integration declaration. A regularized integration exam must be passed. The law also bans full-body veils (*burqa* or *niqab*) and the distribution of pamphlets by Muslim extremists. Muslims residing in Austria as well as Muslim Austrians claim that the law disproportionately targets the Muslim population and generates Islamophobic sentiments in Austrian society. Whoever disobeys the full-face veil, will receive a fine of 150 Euro. The introduction of integration monitoring and a research coordination office will bring about more transparency and a better exchange of data. The integration law is complemented by an Integration Year Act. Both laws are interrelated.

Integration Year Act (*Integrationsjahrgesetz, IJG*)<sup>169</sup> makes the performance of community-based activities in the public interest compulsory for persons entitled to asylum or subsidiary protection and asylum seekers with a high probability to be granted asylum. This is meant to ensure long-term integration into the labour market. It lays out clear rules and responsibilities for recognized asylum seekers and refugees who were granted legal residence in Austria. An assessment of competence (*Kompetenz-Check*) as well as German language and values courses are part of this one year of

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<sup>167</sup> Ibid.

<sup>168</sup> FLG I. No. 68/2017.

<sup>169</sup> FLG I. No. 75/2017.

integration. The Act restricts the target group to persons entitled to asylum and subsidiary protection, who received their status after 31.12.2014, or asylum seekers who have been admitted to the asylum procedure after 31.03.2017 for at least three months. This law also specified changes in the integration agreement as of 2017. Third country nationals are obliged to participate in German-Integration courses in order to attain A2 level of CEFR. The knowledge of German at A1 level is already required prior to immigration. TCNs also need to become familiar with Austrian values and democracy in a 2 years period. If they fail to meet the target in the specified time frame they can receive fines up to 500 Euro, or two weeks of imprisonment, and are denied access to social welfare.<sup>170</sup>

The Recognition and Assessment Act<sup>171172</sup> came into force in July 2016 aimed to simplify the complicated procedure of qualification recognition of education and academic degrees, professional and vocational training attained abroad by third-country nationals. The article 8 of this law elaborates on special provisions in place concerning recognized refugees and holders of subsidiary protection status. In case of inability to provide required documents to support their qualification recognition claim, the authorities are obliged to perform practical and theoretical examinations in order to establish migrant's factual ability to perform the occupation claimed. This provision greatly facilitates the integration into the labour market as well as the society as a whole.

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<sup>170</sup> Soeren Kern, "Austria: Integration Law Goes into Effect: Integration through performance" Gatestone Institute (03 October 2017) available at: <<https://www.gatestoneinstitute.org/11104/austria-integration-law-burqa>> accessed 26 July 2018.

<sup>171</sup> FLG I. No. 55/2016

<sup>172</sup> In German: Annerkennungs und Bewertungsgesetz, full title: Bundesgesetz über die Vereinfachung der Verfahren zur Anerkennung und Bewertung ausländischer Bildungsabschlüsse und Berufsqualifikationen (Anerkennungs- und Bewertungsgesetz – AuBG)

### 3.3. The Concept of Integration in Austria

#### Background information

The concept of integration of migrants entered the Austrian political discourse as late as in 1990s. Between 1960s and 1990s Austria had no coherent ideas for promoting integration at the national level and adequate institutions did not exist at the national level to ensure or develop integration measures. The fact that Austria has for a long time been country of immigration and emigration has greatly been ignored. The context of exclusionary discourse towards migrants and the country's self-denial over being a country of immigration<sup>173</sup> explains the belated concern with integration. Integration in Austria has been until recently largely perceived in terms of cultural adaptation to the Austrian value system and in the context of an "integration problem." Integration is often linked with negative connotations.<sup>174</sup> Still in the year 2000 integration measures concentrated on restriction of immigration. Austria ignored the need to introduce proactive integration policies although it was very well aware of the structural disadvantage migrants were experiencing.<sup>175</sup> This rather negative context has shaped the development of immigration and integration policies in Austria. In 2011 migrant integration was finally institutionalized as a policy field by the creation of the office of State Secretary for Integration (*Staatssekretär für Integration*) under the Ministry of Interior.

The word integration didn't appear in federal legislation on migration before 1990. The term integration support was for the first time used in in the Residence Act of 1992<sup>176</sup> and it applied to migrant workers residing legally in Austria, their families and recognized refugees. The concept of integration was in the Austrian context frequently used to justify restrictive immigration legislation as was the case in 1997<sup>177</sup> as well as 2005 legal reforms. The reform of immigration laws in 2005 aimed at reducing migrant influx was explained in terms of the need for "integration before new immigration"

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<sup>173</sup> Fassman and Münz (1992) p. 4.

<sup>174</sup> Frideres and Biles (2012) p. 46.

<sup>175</sup> Borkert, Bosswick, Heckmann, Lüken-Klassen (2007).

<sup>176</sup> FLG I. No. 466/1992.

<sup>177</sup> FLG I No. 75/1997.



(*Integration vor Neuzuzug*). Wide-spread allegations about lack of integration among certain communities were, and still are, being linked, with religion, especially Islam.<sup>178</sup>

The debate on integration in Austria has been marked by inconsistencies in positions between federal and provincial level as well as within ministries. In early 2000s, some provinces began to develop mission statements on integration. The city and province of Vienna proved itself to be the most welcoming as far as integration is concerned and established Department of Diversity and Integration within the City administration.<sup>179</sup>

### **National Action Plan on Integration**

In 2007 an Integration Platform was established to coordinate efforts in the area of integration policy among the various levels of government. In 2008, the Austrian government announced that it was developing a National Action Plan on Integration (NAP.I) to enhance the cooperation for successful integration measures in Austria. This effort resulted in the development and adoption of the National Action Plan for Integration (*Nationaler Aktionsplan für Integration*, NAP.I.) in 2010. This was a milestone in Austrian integration policy. The same year, an Advisory Board on Integration<sup>180 181</sup> was established parallel to Expert Council for Integration<sup>182</sup> modelled after the Steering Group of the National Action Plan for Integration<sup>183</sup> which was responsible for the development of common measures for the NAP.I. and the general work coordination. Federal ministries, provincial governmental institutions, associations of local authorities and cities, labour, industrial and agricultural organisations, trade unions as well as prominent NGOs, such as Caritas Austria, Volkshilfe Austria, Austrian Red Cross and others, are represented in the advisory and supportive bodies. The Expert Council for Integration provides a platform for research, exchange of know-how, networking, cooperation and coordination of all stakeholders leading up to and

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<sup>178</sup> Frideres and Biles (2012) p. 46.

<sup>179</sup> Mourão Permoser and Rosenberger (2012).

<sup>180</sup> Original German: Integrationsbeirat.

<sup>181</sup> Federal Ministry for Europe, Integration and Foreign Affairs “Advisory Board on Integration” <<https://www.bmeia.gv.at/integration/integrationsbeirat/>> accessed 12 July 2018.

<sup>182</sup> Original German: *Expertenrat für Integration*

<sup>183</sup> Original German: *NAP.I-Steuerungsgruppe*

during the implementation of the NAP.I.<sup>184</sup> The Expert Council is a centre of competence. It makes recommendations on the implementation of NAP.I., identifies viable measures and publishes the annual Integration Report.

**Integration report** (*Integrationsbericht*)<sup>185</sup> offers an comprehensive overview of integration in Austria. The Integration Report has been published annually since 2011. It is based on the **integration indicators**<sup>186</sup> enabling continuous analysis of the integration process developed by Professor Heinz Fassmann from the University of Vienna, who currently serves as the Minister of Education and who is also the chairman of the Expert Council on Integration.

The National Action Plan on Integration put forth measures to promote the integration of migrants, refugees, beneficiaries of subsidiary protection as well as EU citizens, who do not speak German. NAP.I. helped to bring together all integration policies of the federal government, the provincial governments, local authorities, cities and various social partners.

Eight fields of action are defined by the National Action Plan on Integration<sup>187</sup> language and education, employment and occupation, constitutional state (rule of law) and values, intercultural dialog, sport and leisure, housing and regional dimension of integration and overall structural measures. The NAP.I. defines integration as an interdisciplinary, cross-cutting subject to be considered in all areas of life. Always two experts from the Expert Council on Integration are allocated to one field of action.

The National Action Plan on Integration targets the entire society not only foreign nationals residing in Austria but also Austrian citizens who were born or whose

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<sup>184</sup> Federal Ministry for Europe, “Integration and Foreign Affairs: Steering Group of the National Action Plan for Integration“ <<https://www.bmeia.gv.at/integration/nationaler-aktionsplan/die-steuerungsgruppe-des-nationalen-aktionsplans-fuer-integration/>> accessed 13 June 2018.

<sup>185</sup> Federal Ministry Republic of Austria, “Integration Report” <<https://www.bmeia.gv.at/en/integration/integration-report/>> accessed 06 August 2018.

<sup>186</sup> European Website on Integration, “Integrationsindikatorenbericht des Nationalen Aktionsplans für Integration” <<https://ec.europa.eu/migrant-integration/index.cfm?action=furl.go&go=/librarydoc/integrationsindikatorenbericht-des-nationalen-aktionsplans-fur-integration>> accessed 06 August 2018.

<sup>187</sup> Federal Ministry for Europe, Integration and Foreign Affairs “*Nationaler Aktionsplan für Integration, NAP.I*” <[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Integration/Publikationen/Integrationsplan\\_final.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Publikationen/Integrationsplan_final.pdf)> accessed 15 June 2018.

parents were born abroad.<sup>188</sup> The Action plan also targets asylum beneficiaries and beneficiaries of subsidiary protection. It points out that their integration is particularly challenging due to their vulnerability.

The NAP.I. defines integration as, a reciprocal process, based on mutual appreciation and respect, with clear rules ensuring societal cohesion and social peace. Successful integration is obtained, when there is a sufficient knowledge of the German language for work, for further training as well as the contact with public institutions and economic independence is present as well as the respect for the basic Austrian and European legal- and value order on which the constitutional state is based.<sup>189</sup> It further specifies that integration as an individual as well as societal process, which is to be achieved through individual commitment and governmental framework.<sup>190</sup> It also stresses that integration is responsibility of each and every individual. Only if all parties show corresponding willingness, can integration be successful.

The Austrian definition of integration is in line with CBP1 of the Common Basic Principles for Immigrant Integration Policy in the EU which stipulates that “*Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.*”<sup>191</sup>

The National Action Plan on Integration makes several references to human rights and non-discrimination. It puts forth that “respect for democracy, fundamental and human rights, human dignity as well as equal treatment of men and women are indispensable basis for integration and societal participation”<sup>192</sup>

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<sup>188</sup> Federal Ministry for Europe, Integration and Foreign Affairs: Bericht zum Nationalem Aktionsplan für Integration, p. 7. (Own translation)

<sup>189</sup> Federal Ministry for Europe, Integration and Foreign Affairs: Bericht zum Nationalen Plan für Integration, p. 2.

<[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Integration/NAP/Bericht\\_zum\\_Nationalen\\_Aktionsplan.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/NAP/Bericht_zum_Nationalen_Aktionsplan.pdf)> accessed 15 July 2016, English translation available at:

<[http://research.icmpd.org/fileadmin/ResearchWebsite/Project\\_material/PROSINT/Reports/AT\\_WP2\\_Final.pdf](http://research.icmpd.org/fileadmin/ResearchWebsite/Project_material/PROSINT/Reports/AT_WP2_Final.pdf)> (16. 07. 2016)

<sup>190</sup> Federal Ministry for Europe, Integration and Foreign Affairs: Bericht zum Nationalem Aktionsplan für Integration, p. 3. (Own translation)

<sup>191</sup> European Website on Integration, “CBP” available at: <<https://ec.europa.eu/migrant-integration/the-eu-and-integration/eu-actions-to-make-integration-work>> accessed 15 July 2016.

<sup>192</sup> Federal Ministry for Europe, Integration and Foreign Affairs, “Bericht zum Nationalem Aktionsplan für Integration” p. 25. (own translation)

In the field of education NAP.I. points out that the range of teaching materials shall develop and fortify the awareness of integration. The school education shall actively contribute to democracy committed to human rights. In the area of non-discrimination, NAP.I. stresses that the creation of a "we-feeling" which is mutually supported by the majority and the migrants, is a crucial objective of integration policies. In this context measures against racism and discrimination are vital.<sup>193</sup>

Against the background of the migration crisis in 2015, the structure defined by NAP.I. proved to be an efficient approach for the integration of recognized refugees. In November 2015, in the light of the migration crisis, the Expert Council on Integration published a study called 50 Action Points: A Plan for the Integration of Persons entitled to Asylum or Subsidiary Protection in Austria<sup>194</sup> (*50 Punkte zur erfolgreichen Integration: 50 Punkte – Plan zur Integration von Asylberechtigten und subsidiär Schutzberechtigten in Österreich*). 50 measures for the integration of recognized refugees and beneficiaries of subsidiary protection are set forth in seven fields of action defined by the NAP.I. in this expert report. This report states that integration is a very demanding process, especially that of refugees. However, it can be structured, managed and monitored. It puts forth that the integration endeavour must be shouldered by the society as a whole in serving public interest.

In promoting inclusion and self-sustainability (*Selbsterhaltungsfähigkeit*), individuals must have the willingness to work, participate in a German language course and attend values orientation courses as part of the 50-point plan. Measures for the accomplishment of inclusion and self-sustainability include the right of residence and work for at least 3 years among recognized refugees and the right of residence and work for at least 12 months among individuals granted with subsidiary protection. In the labour market, specific measures include: (a) a comprehensive survey of available skills and qualifications, (b) vocational guidance and job-specific language tuition, (c) making

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<sup>193</sup> Federal Ministry for Europe, Integration and Foreign Affairs, "Bericht zum Nationalem Aktionsplan für Integration" p. 3. (Own translation)

<sup>194</sup> Federal Ministry for Europe, Integration and Foreign Affairs "50 Action Points: A Plan for the Integration of Persons entitled to Asylum or Subsidiary Protection in Austria" available at: <https://www.bmeia.gv.at/en/the-ministry/news/50-points-towards-successful-integration/> accessed 20 July 2018.

increased use of existing structures, and (d) accompanying measures, such as proactive person-organization fit programs, mentoring programs by mentors from the business sector, etc.

From the onset of the migration crisis of 2015, the so-called “integration through achievement” (*Integration durch Leistung*) became the motto of the integration process. People shall not be judged based on their country of origin, mother tongue, religion or their cultural background, but by their will and effort to contribute to Austrian society.<sup>195</sup> It is thus essential to promote migrant integration, provide initial and complimentary integration assistance and enable aliens to fully integrate into the society. It is also indispensable to acknowledge migrants’ positive contribution to Austrian society, as diversity generates innovative ideas and as a consequence enriches the society as a whole.

The Federal Ministry for Europe, Integration and Foreign affairs has been cooperating with the Austrian Integration Fund (Österreichischer Integrationsfonds, ÖIF), the Expert Council for Integration and the Advisory Committee on Integration in order to define integration policies and measures and to implement them for the purpose of facilitating migrant integration. Important alterations to the alien legislation in recent years took place, for example the adoption of Integration Act, the controversial amendment to the Islam law of 1912, amendment of asylum law introducing a limit to annual asylum applications’ number and introduction of temporary asylum. These changes are clearly aimed at restriction of immigration. However, positive measures have also been introduced such as simplification of the recognition of qualification attained in a foreign country through the new Recognition and Assessment Act.<sup>196</sup>

The adoption of the Austrian Integration Act, the implementation of Values and Orientation Courses, simplified recognition procedures for qualifications acquired abroad through the Recognition and Assessment Act, the promotion of German language-learning in early childhood, the adoption of the Austrian Islam Law, the amendment of the Citizenship Act, to name just a few. All these integration measures

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<sup>195</sup> Federal Ministry for Europe, Integration and Foreign Affairs, “Integration in Austria” <<https://www.bmeia.gv.at/en/integration/>> accessed 20 July 2018.

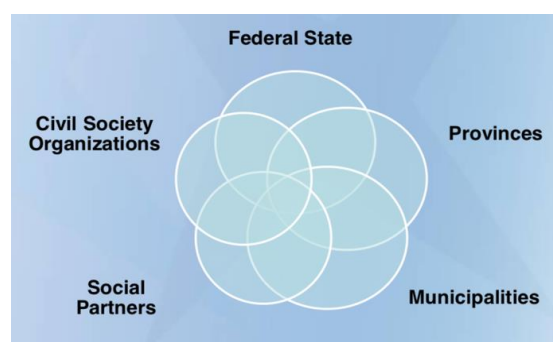
<sup>196</sup> FLGI No. 55/2016, in German *Anerkennungs- und Bewertungsgesetz*

are based on the principle that integration is a reciprocal process that demands efforts from both migrants as well as the majority society. As integration affects all of us, it is a challenge addressed to society as a whole, to ensure our peaceful, shared existence in a society at ease with its diversity.

Integration policies in Austria primarily target foreigners with a permanent residence or are at least granted subsidiary protection. Asylum seekers are thus excluded from numerous integration measures.

### 3.4. Structural organization of integration

The Austrian integration structure is described by Koppenberg as a “cross-sectional and multi-stakeholder task.”<sup>197</sup> The structural organization of integration in Austria involves the Federal State, provinces and municipalities, social partners, and civil society organizations.



**Figure 2. The Structural Organization of Integration Actors in Austria (Koppenberg, 2016)**

Other actors within the level of the Federal State include the Federal Ministry of the Interior (*Bundesministerium für Inneres*, or *Innenministerium*, *BM.I*). and the Federal Office for Immigration and Asylum (*Bundesamt für Fremdwesen und Asyl*, *BFA*)<sup>198</sup>. By April 2011, the Federal Ministry of the Interior established the State

<sup>197</sup> Saskia Koppenberg, “Support Structures for Refugee Integration in Austria” 26 October 2016 < [http://www.iomvienna.at/sites/default/files/Refugee%20Integration%20in%20Austria\\_KOPPENBERG.p](http://www.iomvienna.at/sites/default/files/Refugee%20Integration%20in%20Austria_KOPPENBERG.pdf) df> accessed 28 July 2018.

<sup>198</sup> Since January 1, 2014, the Federal Office for Immigration and Asylum has been under the responsibility of the Federal Ministry of the Interior. Other responsibilities of the Federal Office for Immigration and Asylum includes: “granting and withdrawal of refugee status and subsidiary protection status; imposing return decisions, entry bans and enforcement orders; granting residence permits in cases of exceptional circumstances; issuance of documents related to asylum proceedings; decisions on detention pending removal and more lenient measures; procurement of return certificates; execution of the Federal Basic Welfare Support Act 21 as federal authority; and provision of voluntary returns (Federal Office for Immigration and Asylum, n.d.)” (IOM, 2015:14).

Secretariat for Integration<sup>199</sup> which was entrusted to Sebastian Kurz from Austrian People's Party (ÖVP). When Kurz was appointed foreign minister in 2013, (*Außenminister*) with a portfolio the policy field of integration shifted under the authority of Federal Ministry for Europe, Integration and Foreign Affairs.<sup>200</sup> Since 2011, the Expert Council for Integration has published yearly a comprehensive Integration Report<sup>201</sup> to provide a sound insight into the state of integration in Austria.<sup>202</sup> The Federal Ministry of the Interior initiated the establishment of the Migration Council for Austria (*Migrationsrat für Österreich*) in 2014 which is made up of academic experts who provide assistance in the development of migration strategies and policies.<sup>203</sup>

At the provincial and municipal level, police authorities (under the leadership of the Federal Ministry of the Interior) play an equally significant role in the integration of migrants. By virtue of Art. 2 (2) of the Aliens Police Act, the aliens' police are responsible for prevention of irregular entries of aliens, surveillance of the residence of aliens, issuance of certificates of non-objection, implementation of repatriation and transit of aliens, and prevention and termination of criminal offences under the Aliens Police Act.”<sup>204</sup>

Social partners refer to actors involved in the creation of labour market policies, researches<sup>205</sup>, and immigrant community associations<sup>206</sup>. Other specific social partners include the European Union Agency for Fundamental Rights (FRA) and various NGOs.<sup>207</sup> Other important social partners are the United Nations High Commissioner for

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<sup>199</sup> Original German: *Staatssekretariat für Integration, SSI*.

<sup>200</sup> Original German: *Bundesministerium für Europa, Integration und Äußeres, BMEIA*.

<sup>201</sup> Original German: *Integrationsbericht*.

<sup>202</sup> The Expert Council for Integration, “Integration report 2017”

<[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Integration/Integrationsbericht\\_2017/Integration\\_Report\\_2017.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Integrationsbericht_2017/Integration_Report_2017.pdf)> accessed 13 June 2018.

<sup>203</sup> IOM (2015).

<sup>204</sup> IOM (2015) p.14.

<sup>205</sup> Examples of research organizations include the “Ludwig Boltzmann Institute of Human Rights, the Austrian Human Rights Institute, the UNHCR, the International Organization for Migration and various universities” (IOM, 2015:17).

<sup>206</sup> Limited data exists on the extent and composition of immigrant community association although they help immigrants become cognizant of their rights (IOM, 2015).

<sup>207</sup> Examples of NGOs are “Asyl in Not, Asylkoordination, Caritas, Diakonie Flüchtlingsdienst, Flüchtlingsprojekt Ute Bock, helping hands, Integrationshaus, Austrian Red Cross, Verein menschen.leben, Verein Menschenrechte Österreich, Volkshilfe Österreich” etc. (IOM, 2015:17).

Refugees (UNHCR), the International Organization for Migration (IOM), and the International Centre for Migration Policy Development (ICMPD).

Established in 1960 by the UNHCR and the Federal Ministry of the Interior, the ÖIF is an important partner of the Federal Ministry for Europe, Integration and Foreign Affairs. It provides recognized refugees and migrants with assistance in their integration process. It “aims at providing language, professional and social integration of asylum beneficiaries and migrants on the basis of their respective rights and obligations in Austria.”<sup>208</sup> Other responsibilities of the ÖIF include implementation of the Integration Agreement, certification and evaluation of course providers and reimbursement of course fees, as well as management of projects financed by Asylum, Migration and Integration Fund (AMIF) on behalf of the Federal Ministry for Europe, Integration and Foreign Affairs (BMEIA).<sup>209</sup>

### 3.5. Integration in the City of Vienna

The city of Vienna is well-known for its long history of immigration. During the Austro-Hungarian Empire almost 25% of Viennese were Czech-speaking. From the 1960s onwards, Vienna experienced influx of guest workers from Yugoslavia and Turkey. Since the 1990s diverse groups of migrants came to Vienna from Eastern European, African and Asian countries. Vienna thus has a long experience of accommodating migrants and refugees. It is also under pressure to effectively integrate these persons in order to sustain social cohesion and to avoid high costs of non-integration. A combination of all these factors contributed to Vienna’s pioneering role in the field of integration in Austria.

In 1992, the municipality of Vienna acknowledged the need for introduction of integration policies and established the Viennese Integration Fund (*Wiener Integrationsfond*). It was the first organisation for inclusion of immigrants in Austria on municipal level. Between 2003 and 2005, the city and province of Vienna proved itself to be the most hospitable towards migrants in Austria as far as foreigner integration is concerned. The City of Vienna established the Department of Diversity and Integration

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<sup>208</sup> Federal Ministry for Europe, Integration and Foreign Affairs: The Austrian Integration Fund 2018 <<https://www.bmeia.gv.at/en/integration/the-austrian-integration-fund/>> accessed 30 July 2018.

<sup>209</sup> Ibid.



(*Abteilung Integration und Diversität*) within the municipal administration, *Magistratabteilung 17 (MA 17)*, as well as the post of City Council for Integration (*Stadtrat für Integration*)<sup>210</sup> and developed its own concept of integration, the so-called Vienna Integration Concept (*Wiener Integrationskonzept*,)<sup>211</sup> and works hard on its implementation.

The city of Vienna defines integration as a process “where the host society and migrants face a number of challenges and tasks. Integration aims at achieving equality and equal opportunities. Showing respect and acknowledging each other are vital factors in a successful integration process.”<sup>212</sup>

Vienna integration concept is based “integration from day one” and on five pillars: German language and multilingualism, education and work, living together and participation, objectivity, assessment and information and human rights. The city offers prompt and comprehensive assistance to migrants in the above specified areas in order to facilitate integration.

The Department for Integration and Diversity developed numerous projects related to information services, social interaction, creation of networks, conflict solving, safety and security measures. Vienna municipality provides information to migrants, asylum seekers and refugees also through internet in many different languages.

### **3.5.1. Integration Monitoring**

The City of Vienna has been monitoring integration and diversity for the past ten years. The Integration and Diversity Monitor scheme was introduced in 2007 and launched in 2010. It serves as a tool which allows for continuous monitoring of the integration level among the city population by means of indicators and shows the level of effectiveness of the city administration’s integration and diversity management. It enables the development of concrete policies and measures based on analysis of indicators, benchmarks, data collections and surveys of Viennese municipal

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<sup>210</sup>Stadt Wien, “The Vienna Integration Concept” <<https://www.wien.gv.at/menschen/integration/daten-fakten/konzept-integration.html>> accessed 06 August 2018.

<sup>211</sup>City of Vienna, “The Vienna Integration Concept” <<https://www.wien.gv.at/english/social/integration/basic-work/integration-concept/>> accessed 06 August 2018.

<sup>212</sup>City of Vienna, “Integration and Diversity” <<https://www.wien.gv.at/english/social/integration/>> accessed 06 August 2018.

departments and institutions. The results retrieved are presented in reports called the Integration and Diversity Monitor, which has been published four times so far. These reports serve as a check of the objectivity of public and constitute a part of the development in political and administration policies in Vienna.<sup>213</sup> The integration monitor concentrates on key dimensions of integration such as basic demographic information; immigration, integration and legal status; education; employment and labour market; income and social security; housing; health; societal and political participation; subjective integration climate, social cohesion and security.<sup>214</sup>

### 3.5.2. Vienna City of Human Rights

The City of Vienna has committed itself to complying a high standard of human rights. In 2013 the process of generating a city which permanently guarantees its citizens fundamental rights was commenced. The process has been implemented and overseen by the Department of Integration and Diversity (MA 17) a steering group and the Ludwig Boltzmann Institute for Human Rights. The City of Vienna declared itself a city of Human rights in 2014<sup>215</sup> by obliging itself to raise awareness of human rights and to devise concrete measures to comply with the human rights-based approach. It strives to become an international role model for human rights. A 2013 study of Manfred Nowak which analysed the human rights situation in the capital served as a basis for the declaration called "Vienna - city of human rights."<sup>216</sup> The Human Rights office in Vienna was established in 2015 and its agenda is outlined on the basis of the

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<sup>213</sup> Stadt Wien, "4th Vienna Monitor: Monitoring Integration and Diversity (2013-2016)" <<https://www.wien.gv.at/menschen/integration/pdf/monitor-2016-kurzfassung.pdf>> accessed 08 July 2018.

<sup>214</sup> Measuring and monitoring immigrant integration in Europe <[https://www.researchgate.net/profile/Mattia\\_Vitiello/publication/236584690\\_Measuring\\_integration\\_in\\_a\\_reluctant\\_immigration\\_country\\_the\\_case\\_of\\_Italy/links/57fcd49508aeb857afa089c0/Measuring-integration-in-a-reluctant-immigration-country-the-case-of-Italy.pdf](https://www.researchgate.net/profile/Mattia_Vitiello/publication/236584690_Measuring_integration_in_a_reluctant_immigration_country_the_case_of_Italy/links/57fcd49508aeb857afa089c0/Measuring-integration-in-a-reluctant-immigration-country-the-case-of-Italy.pdf)> accessed 08 July 2018.

<sup>215</sup> Stadt Wien, "Deklaration Wien –Stadt der Menschenrechte" <<https://www.wien.gv.at/menschen/integration/pdf/deklaration-menschenrechte.pdf>> accessed 08 July 2018.

<sup>216</sup> Manfred Nowak, "Studie zum Thema-Wien Stadt der Menschenrechte" <<https://www.wien.gv.at/menschen/integration/pdf/menschenrechte-studie-2013-bf.pdf>> accessed 08 July 2018.

declaration. The Human Rights Office cooperates on various topics in areas indicated as needing action with various municipal departments, NGOs, civil society and experts.<sup>217</sup>

It needs to be noted that political right of third country nationals in Austria are limited. They are not entitled to exercise the right to vote with the exception of the city of Vienna which granted the right to vote in municipal elections to TCNs in 2002. The prerequisite is that the foreigner resided in Vienna for the past 5 years. This is a good example of the pioneering role the city of Vienna plays in the field of human rights.

### **Vienna Charter for Refugees**

The Vienna Charter describes what the Viennese consider essential for good neighbourly relations and which rules are particularly important. Charter talks are offered for adults as well as for young people. Charter talks for refugees are held regularly and in several languages, including Arabic, at the CORE Centre (CORE Zentrum). The contents of the Vienna Charter<sup>218</sup> were drawn up in the framework of a citizen participation project. The basic document includes information about democracy and rule of law, human and basic rights as well as women's and children's rights, i.e. all the important values that are shared by all the people who live in Vienna. All these topics are discussed in the Vienna Charter talks.

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<sup>217</sup> Stadt Wien, "Human Rights Office of the City of Vienna" <<https://www.wien.gv.at/english/social/integration/project-work/human-rights-city/office.html>> accessed 08 July 2018.

<sup>218</sup> Stadt Wien, "Die Wiener Charta" <<https://charta.wien.gv.at/site/die-wiener-charta-2/>> accessed 08 July 2018.

## **Chapter 4: Integrating Bosnian war refugees in Austria**

The 1992 - 1995 Bosnian War was a part of the process of violent disintegration of former Yugoslavia. Since 1992, ethnic cleansing and systematic mass rape were a phenomenon of this war. Persistent attempts to ethnically cleanse mixed regions of Bosnia-Herzegovina and rid the country of Bosniaks (Bosnian Muslims) took place. Such cold-blooded strategy inevitably led to a large-scale genocide.

In July 1995, 8.000 Bosniak men and boys were shot before the eyes of UNPROFOR by the Bosnian Serb army under the command of Ratko Mladic. The ICTY recognized the case as genocide based on sufficient evidence. However, extermination of Bosniaks had been occurring also in other areas of the country. Bosniaks were either forced to flee or were killed. The war displaced many people and forced them to flee resulting in a mass influx of Bosnian War refugees to European countries. Since 1992 there were ongoing efforts to ethnically cleanse mixed regions of Bosnia-Herzegovina. The continuous efforts to rid certain regions of the country of Bosniaks inevitably led to large-scale genocide. Bosniaks thus suffered from the conflict the most and also were the most numerous group of Bosnian war refugees.

### **4.1. Background information**

After the fall of the Iron Curtain, Austria, just like other European countries, attempted to limit the enormous immigration influx through increasingly restrictive immigration legislature, policies and measures. Austria was one of the first European countries confronted with the migration wave due to the armed conflict in disintegrating Yugoslavia.

Between April 1992 and mid-1995 around 100,000 refugees fled to Austria from the war-torn ex-Yugoslavia.<sup>219</sup> The figures regarding the number of incoming Bosnian war refugees to Austria vary greatly from source to source. The exact number of Bosnian war refugees in Austria is unknown as many were accommodated and provided for by their families already residing in the country and were not officially registered with the government assistance scheme.

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<sup>219</sup> Biffl (2014) p. 29.

In early 1992, Austrian government was gravely concerned with the possibility of influx of vast numbers of Bosnian war refugees. The Austrian hospitality towards war refugees lessened having previously and very generously aided Croatian war refugees through the Croats Support Scheme (*Kroaten-Aktion*).<sup>220</sup> The government had already gained experience with the complicated and costly task of accommodating large numbers of war refugees. Private resources were already drained by the time Bosnian war refugees began to arrive in great numbers in summer 1992.<sup>221</sup> Bosnian war refugees thus encountered little acceptance in the West.<sup>222</sup> In late 1992, some restrictive measures were taken by the Ministry of Interior in order to limit the mass influx of Bosnians.

Prior to the creation of temporary protected status in Austria,<sup>223224</sup> Bosnians were entitled to 3 months stay, for which no visa was compulsory, in accordance with the 1965 Austrian-Yugoslav Agreement on Visa Policies. The Austrian government proceeded with granting another 3 to 6 months visa extension to Bosnians due to a very liberal interpretation of the Alien Act of 1993.<sup>225</sup> In reaction to the surging inflow of Bosnian refugees, the Austrian government initiated increasingly restrictive policies as the care and provision for war refugees proved to be very costly and difficult to coordinate. At the same time, German authorities tightened the arrival measures for this target group. Persons with Yugoslavian passport were practically denied entry to Germany. Only holders of a valid residence permit were allowed to cross the German border. Refugee accommodation facilities in the neighbouring province of Salzburg were became flooded by Bosnian war refugees.<sup>226</sup> Problems with accommodation of refugees were also experienced at other local levels. Epidemic broke out in Messe-

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<sup>220</sup> Original German: *Kroaten-Aktion*.

<sup>221</sup> Sitzungsprotokoll der Bund-Ländergruppe 28 April 1992

<sup>222</sup> Fassman and Münz (1992) p. 24.

<sup>223</sup> In German: *vorübergehende Schutz*.

<sup>224</sup> FLG No. 466/1992.

<sup>225</sup> Barbara Franz, 'Uprooted and Unwanted: Bosnian Refugees in Austria and the United States' (Texas A&M University Press 2005).

<sup>226</sup> Helmut Kodydek, "*Der Balkankonflikt und die Bosnien-De-Facto-Unterstützungsaktion in Österreich 1992 - 1998*" (in English: The Balkan Conflict and the de-Facto Croatian support scheme in Austria, 1992-1998) p.69, Universität Wien, 2011.

Prater in Vienna as the facilities were overcrowded. Politicians had to find a suitable solution for this humanitarian crisis.<sup>227</sup>

The Federal minister Löschnak presented a report in 1992 about the armed conflict in Bosnia-Herzegovina and the need for another aid programme similar to the previous Croatians support scheme. Subsequently, the security forces in the border provinces of Styria and Carinthia eased the restrictive arrival measures in the case of Bosnia-Herzegovina war refugees, such as accepting arrivals without travel documents, if they had close relatives in Austria.<sup>228</sup>

Provided the circumstances at the time regarding the non-existing Common European Asylum System, European Refugee Fund, Frontex or a European Asylum Support Office, the European governments had to apply ad-hoc measures to be able to deal with this migration crisis. The Austrian authorities lacked judicial and administrative norms to process such a vast number of refugees. In the light of this refugee crisis and contrary to the otherwise restrictive immigration policies, Austria created a special legal basis for the accommodation of Bosnian war refugees, the so-called temporary protected status (TPS). The long-term stay of Bosnian war refugees in Austria resulted in a wide-range of support measures and permanently altered the alien law provisions.

#### **4.2. Demographic information**

According to the 1991 Yugoslavian census, the population of Bosnia and Herzegovina amounted to 4.37 million. 1.9 million were Bosniaks or Bosnian Muslims, making up 43.48% of the country's total population.<sup>229</sup> Geographically, Bosniaks were concentrated in certain regions of Bosnia-Herzegovina.<sup>230</sup>

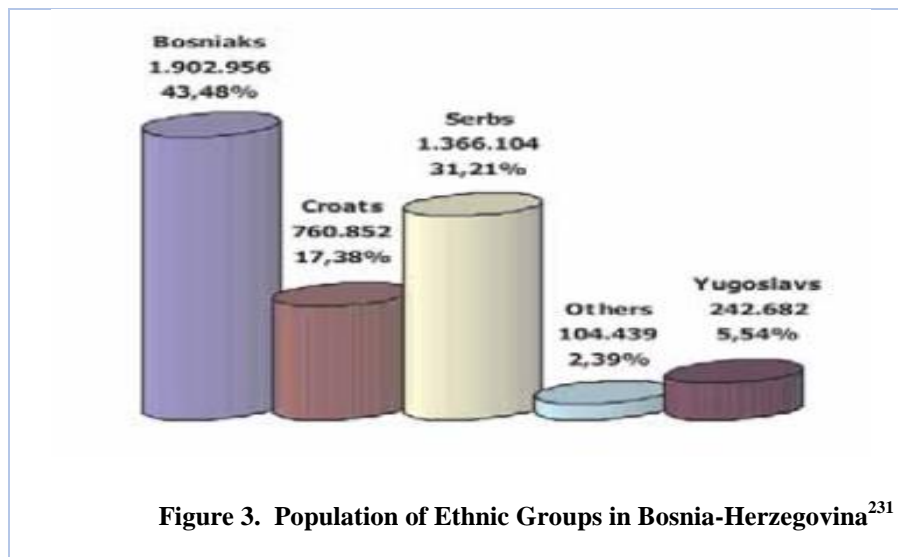
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<sup>227</sup> Ibid.

<sup>228</sup> Erlass BMI, ZL: 70.443/13-III/16/92 vom 30. April 1992, p.2, in Kodydek, H.: Der Balkankonflikt und die Bosnien-De-Facto-Unterstützungsaktion in Österreich 1992-1998, p. 69, Wien, 2011.

<sup>229</sup> Bosnia and Herzegovina Ministry for Human Rights and Refugees, "Comparative Analysis on Access to Rights of Refugees and Displaced Persons on Access to Rights of Refugees and Displaced Persons" Sarajevo, 2005, p. 43. <<http://www.mhrr.gov.ba/pdf/default.aspx?id=283&langTag=bs-BA>> accessed 05 July 2016.

<sup>230</sup> Ibid., p. 31.



In 2001, the total population of Bosnia-Herzegovina was only 3.36 million. This indicates that the population decreased almost by 1 million inhabitants.<sup>232</sup> The data on the overall number of Bosnian war refugees which arrived in Austria due to the civil war varies from source to source. The most common estimate lays at 90.000 persons.

According to the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, half of the population of Bosnia-Herzegovina was displaced as a result of the war. Austria along with Serbia, Montenegro, Croatia and Germany took up 80% of all Bosnian war refugees. During the 1992 – 1995 war period, Austria took up 7% of the total number of Bosnian war refugees.<sup>233</sup> For the majority of Bosnian war refugees, Austria was only a transit country on their way to their desired destination, often where their relatives already resided. Many Bosnian War refugees settled in Germany, USA, Canada, New Zealand or Australia.

The major inflow of Bosnian war refugees into Austria occurred in 1992 with 50.000 Bosnians, followed by 20.000 in 1993, 10.000 in 1994 and 4.000 until mid-1995. Almost half of the Bosnian war refugees were Bosniaks (Bosnian Muslims).<sup>234</sup>

<sup>231</sup> Bosnia and Herzegovina Ministry for Human Rights and Refugees (2005).

<sup>232</sup> Ibid., p. 79.

<sup>233</sup> Ibid., p. 33.

<sup>234</sup> Franz (2005).

By 1998, about 65.000 Bosnian refugees managed to integrate into the Austrian labour market and thus gain a residence permit.

#### 4.3. Types of protected status in Austria

##### Asylum

Most Bosnian war refugees did not attempt to apply for asylum in the sense of 1951 Geneva Convention as they still hoped to return home after the war's end and because the chances of being granted asylum were very slight at the time.<sup>235</sup> Stating the generally bad conditions prevailing under the circumstances of war were not deemed sufficient by the authorities and asylum seekers had to prove individual fear of persecution. Restrictive interpretation and application of the 1951 Convention definition of persecution led to the assumption that flight from armed conflicts was not brought about by individualized persecution.<sup>236</sup> Selm-Thorburn argues that: *"The lack of definition of persecution undefined ... provides scope for politically or ideologically influenced interpretations as each state formulates its own criteria for eligibility."* the author, however, also puts forward that if the membership of a persecuted group during civil conflict would be sufficient ground for granting asylum, the number of asylum seekers would be overwhelming and impossible to proceed under individual analysis.<sup>237</sup> Bosnian war refugees were thus in general not granted the Convention refugee status, although they were certainly eligible for it according to international human rights law. This invites to the view that a redefinition of a "refugee" might be necessary to adjust it to the reality of modern times and thus provide people fleeing during mass refugee movements with international protection.

Because of the efforts to limit the scope of the 1951 Refugee Convention, a brand-new legal base was created instead to manage the vast influx of Bosnian war refugees. The so-called temporary protection status or TPS effectively made Bosnians to de-facto refugees, protected for only a limited period of time.

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<sup>235</sup> Humanitarian Issues Working Group, "Survey on the Implementation of Temporary Protection" 8 March 1995, <<http://www.refworld.org/docid/3ae6b3300.html>> accessed 01 August 2018.

<sup>236</sup> Joanne van Selm-Thorburn, *"Refugee Protection in Europe: Lessons of the Yugoslav Crisis"* Kluwer Law International, The Netherlands, 1998, p. 33.

<sup>237</sup> Ibid., p. 34.



Citizens from former Yugoslavia who were not eligible for temporary protection, but claimed to be in need of protection, were obliged to apply for asylum. During the period 1992 - 1994, however, 98% of these applications were rejected.<sup>238</sup> In other words, the Convention status was practically denied to Bosnian war refugees, often survivors of violence, persecution, torture, expulsion and rape by paramilitary groups.

UNHCR considered Bosnians to be a textbook example of the 1951 Convention definition.<sup>239</sup> However, it did express its support for the temporary protection scheme during the International Meeting on Humanitarian Aid for Victims of the Conflict in Former Yugoslavia in 1992. UNHCR's position was put forward as "*persons fleeing from former Yugoslavia who are in need of international protection should be able to receive it on a temporary basis.*"<sup>240</sup> A person granted with temporary protection becomes a so-called de-facto refugee (*de-facto Flüchtling*). A de-facto refugees are "*those persons who are refugees in a broader sense than that allowed by the Refugee Convention, but who cannot be returned to their countries of origin for humanitarian reasons.*"<sup>241</sup>

Mr. Horekens of UNHCR stated:

"UNHCR has no problem with these different legal statuses, so long as the beneficiaries are protected against the greatest danger - refoulement to their countries of origin, where their lives would be in danger. But unfortunately, the associated legal and social rights afforded these people vary widely from country to country and are often far less generous than those given to recognized refugees. That is a gap that needs filling."<sup>242</sup>

By means of a strict interpretation of the article 1 of the 1951 Geneva Convention, the Austrian Federal Asylum Office declined numerous cases of Bosnian war refugees. It stated that the persecution was carried out by non-state agents and they could not

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<sup>238</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 8 March 1995 <<http://www.refworld.org/docid/3ae6b3300.html>> accessed 01 August 2016.

<sup>239</sup> UNHCR Refugees Magazine Issue 101 (Asylum in Europe), "*Asylum under threat: Measures imposed by European governments to stem the tide of illegal immigrants are threatening the very foundations of asylum, 1995*" <<http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&skip=45&docid=3b543cb84&query=turkey>> accessed 07 July 2016.

<sup>240</sup> UNHCR, "*International meeting on Humanitarian aid for victims of the conflict in former Yugoslavia*" Geneva, 1992.

<sup>241</sup> Johan Cels, "Responses of European States to de facto Refugees" in Gil Loescher and Laila Mohanan (eds), *Refugees and International Relations*, Clarendon Press, Oxford, 1990, p. 187.

<sup>242</sup> UNHCR Refugees Magazine Issue 101 (Asylum in Europe), "*Asylum under threat*" 1995.

substantiate individual threat from the state,<sup>243</sup> as is often the case with victims of civil wars and human rights abuses.

### **Temporary protection**

According to UNHCR: *“Temporary protection offers a means of affording protection to persons involved in large-scale movements that could otherwise overwhelm established procedures for the determination of refugee status while privileging safe return as the most desirable solution to refugee problems.”*<sup>244</sup>

The basis of temporary protection lays in the principle of non-refoulement - it entails the minimum protection guaranteed by it and requires the notion of burden sharing among individual states. The protection guaranteed within the scope of the concept of temporary protection is non-durable and limited, it remains fundamental.

Article 33(1) of the 1951 Convention puts forward that: *“No contracting state shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”* The principle of non-refoulement is one of the cornerstones of customary international law for de-facto and Convention refugees.

Since the beginning of the 1960s many European countries introduced a secondary protection status for refugees, also called the humanitarian residence or the B-status, besides the Convention status. Its aim was to provide displaced persons from non-EU countries and unable to return to their country of origin, with immediate and temporary protection. It applies in particular when there is a risk that the standard asylum system is struggling to cope with demand stemming from a mass influx which risks having a negative impact on the processing of claims.<sup>245</sup>

### **Temporary Protection Status (TPS)**

TPS is a legal status entitling refugees to state assistance. Unlike Convention refugees, persons under temporary protection are not entitled to integration assistance

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<sup>243</sup> Franz (2005).

<sup>244</sup> UNHCR, Background Note, Comprehensive response to the Humanitarian Crisis in Former Yugoslavia, Informal Meeting on Temporary Protection, Geneva, 1993, p.7, Section III, Note 21.

<sup>245</sup> Council Directive 2001/55/EC.

such as language and vocational training, accommodation allowances and other financial support. They are also not allowed to work without a work permit. They, however, can benefit from an assistance scheme set up and jointly financed by the federal and provincial governments. As a result of this, persons under temporary protection generally enjoy a more favourable social situation than most asylum seekers.<sup>246</sup> However, not all Bosnian war refugees with TPS status were entitled to the assistance provided under the Bosnian Support Scheme (*Bund-Länder Aktion*). Those who had relatives in Austria had to be accommodated and taken care of by them.<sup>247</sup>

TPS was initiated by the article 12 of the 1993 Residence Act.<sup>248</sup> This article enabled the introduction of a special category of residence status in the times of heightened international tension and became the legal basis for introduction of temporary protected status (TPS) granted to Bosnian war refugees. The article 12 (1, 2) of the 1993 Residence Act claimed that

during times of heightened international tension, armed conflict or other circumstances that endanger the safety of entire population, the Federal Government order that directly affected groups of aliens who can find no protection elsewhere shall be accorded a temporary right of residence in the federal territory. In the order referred to in paragraph 1, the entry of the aliens and the duration of their residence shall be regulated in a manner that takes into account the circumstances of the particular case.<sup>249</sup>

By means of the temporary protection status, Austria, just like other European states, tried to circumvent the 1951 Geneva Convention to limit refugees' access to economic and social rights guaranteed by it. On the other hand, Austria had no official strategy or directives in place to process the overwhelming number of refugees. TPS thus eased the complex situation and allowed for speedy aid and support of often traumatized Bosnian war refugees.

The Austrian government enacted several decrees pertaining to Bosnian refugees to manage the refugee inflow. These ordinances allowed for flexibility and swift

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<sup>246</sup> Fabrice Liebaut, "Legal and Social Conditions for Asylum seekers and Refugees in Western European Countries" p. 27 <<http://edz.bib.uni-mannheim.de/daten/edz-k/gdj/00/legalsoc.pdf>> accessed 06 August 2018.

<sup>247</sup> Bernhard Hadolt, Barbara Herzog-Punzenberger and A. Sitz, *Die österreichische de facto-Aktion für Flüchtlinge aus Bosnien-Herzegowina. Bericht an die Magistratsabteilung 18 der Stadt Wien*, 1999.

<sup>248</sup> FLG No. 466/1992.

<sup>249</sup> van Selm-Thorburn (1998) p. 190.

readjustment of measures according to the needs. This, however, led to inconsistent treatment of Bosnian refugees.<sup>250</sup>

Temporary protection beneficiaries were not obliged to undergo an eligibility procedure. Bosnian war refugees eligible for TPS were those who came to Austria before July 1st, 1993 and those who entered after this date but passed through an official border control, were registered by border guards and granted entry in compliance with international standards.<sup>251</sup> A decree from 1994 provided for a temporary residence permit also for residents of towns bordering with Bosnia-Herzegovina, regardless of nationality.<sup>252</sup> After the latter date, Bosnians could enter Austria only with valid travel documents and sufficient financial means. Since April 1995 they had to obtain an entry visa. These conditions were very difficult to fulfil.<sup>253</sup>

The government extended the temporary residence of Bosnian war refugees on annual basis since 1993 through several ordinances. The ordinance “Number of Residence Permits in compliance with Residence Act”<sup>254255</sup> determined the number of residence permits granted to Bosnian war refugees and guaranteed the duration of temporary residence right until June 30, 1994. The Regulation on Bosnians<sup>256257</sup> extended this residence right until 30 June, 1995 and finally in 1997 the Regulation on Bosnians<sup>258</sup> was issued, which let them stay until July 31, 1998. In 1998 the well-integrated Bosnian refugees were granted unlimited residence permission. TPS was, however, an uncertain category as the de-facto-refugees were not accorded full rights, such as unlimited access to labour market and social benefits. Without the enactment of this special category of protection, Bosnian de-facto refugees would have been legally obliged to leave the country as they did not qualify for asylum, due to the overly strict

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<sup>250</sup> Franz (2005).

<sup>251</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 8 March 1995.

<sup>252</sup> Humanitarian Issues Working Group, *Survey on the Implementation of Temporary Protection*, 8 March 1995.

<sup>253</sup> Franz (2005).

<sup>254</sup> FLG I No. 402/1993.

<sup>255</sup> FLG I No. 402/1993.

<sup>256</sup> FLG I No. 1038/1994.

<sup>257</sup> Ibid.

<sup>258</sup> FLG I No. 215/1997 <[https://www.ris.bka.gv.at/Dokumente/BgblPdf/1997\\_215\\_2/1997\\_215\\_2.pdf](https://www.ris.bka.gv.at/Dokumente/BgblPdf/1997_215_2/1997_215_2.pdf)> accessed 06 August 2018.

interpretation of “agents of persecution” in the article 1 of 1951 Geneva Convention. The reasons behind the enactment of TPS were international human rights obligations in the sense of non-refoulement.

The preferred Austrian solution to this crisis was repatriation of refugees after the end of conflict. The Austrian political debate at the time perceived immigrants mainly as a burden on economy and society. Discussion revolved around problems of integration, the alleged over-use of the welfare system by immigrants and the negative impact they allegedly have on the labour market.<sup>259</sup>

De facto refugees or persons safeguarded under temporary protection are persons who would legally be obliged to leave the country, but for whom deportation is not enforced because their repatriation would constitute a considerable danger to them in their country of origin. They have either not applied for asylum or have been granted a negative decision. Therefore, the term refugee can be distinguished in two ways. On the one hand, refugees are the people who have legal residence as refugees who have been granted a residence permit in Austria in accordance with legal procedure. On the other hand, the term may also refer to people who are legally not considered refugees, but are allowed to remain in Austria due to the principle of non-refoulement.

#### 4.4. Legislation concerning Bosnian war refugees

The status of Bosnian war refugees in Austria was further determined by a series of ordinances until the so-called Bosnians Law (*Bosniergesetz*)<sup>260 261</sup> was passed in 1998 granting permanent residence directly in Austria by the means of one final residence permit extension (art. 2). This applied to all Bosnian war refugees who arrived in Austria prior to October 1, 1997 and continuously resided on its territory and fulfilled one of the following preconditions: possession of a confirmation of guaranteed work, employment permit, exemption certificate, work as self-employed, a residence permit

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<sup>259</sup> Jan Niessen, Yongmi Schibel, and Cressida Thompson, Current Immigration Debates in Europe: A Publication of the European Migration Dialogue, 2005, p. 4, <[http://www.migrant.at/EMD\\_Report\\_Austria\\_2005.pdf](http://www.migrant.at/EMD_Report_Austria_2005.pdf)> accessed 07 July 2016.

<sup>260</sup> FLG I. No. 85/ 1998

<<https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10006073/Sicherung%20des%20weiteren%20Aufenthaltsrechtes%20-%20Bosnien-Herzegowina%2c%20Fassung%20vom%2018.11.2016.pdf>> accessed 06 August 2018.

<sup>261</sup> National Law Securing the Right of Residence to Integrated War Refugees from Bosnia-Herzegovina.

for private persons, or perform a job not regulated by Foreigner Employment Law, currently draw unemployment benefits. The law gave the right of residence without employment permission to family members of Bosnian war refugees who were previously granted a residence permit. Persons who had no intention to work could acquire a residence permit for private persons.<sup>262</sup>

**Table 3. Summary of legislations concerning Bosnian war refugees.**

Legislation	Description
The article 12 (1, 2) of the 1993 Residence Act	enabled the introduction of a special category of residence status in the times of heightened international tension and became the legal basis for introduction of temporary protected status (TPS) granted to Bosnian war refugees.
Ordinance No. 402/1993	Guaranteed the temporary residence right to war refugees who arrived in Austria before July 1st, 1993 and had already been residing there for a longer period of time with their families, for the time frame of July 1st, 1993 until June 30th, 1994.
Ordinance number 368/1994	“The Right of Residence of War Refugees from Bosnia-Herzegovina” which fortified the entitlement of attainment of a temporary residence right to those Bosnian-Herzegovina war refugees who arrived in Austria before July 1st, 1993 and extended the duration of temporary residence permit from July 1st, 1993 until December 31, 1994.
Ordinance number 72/1994	“The Number of Permits in Compliance with the Residence Act for 1994” which provided for further 14.900 residence permits for the year 1994 and specified the availability of 7.000 work permits for that calendar year.
Ordinance number 1038/1994	“The Right of Residence of War Refugees from Bosnia-Herzegovina” which prolonged the temporary right of residence of war refugees in the border of Bosnia-Herzegovina in Austria.
Ordinance number 389/1995	“The Right of Residence of War Refugees from Bosnia-Herzegovina” which extended the temporary residence right of Bosnian-Herzegovina war refugees and war refugees from cities bordering with Bosnia-Herzegovina until June 30, 1996.
Residence Act 1996	Exempted the Austrian born children of foreigners legally residing in the country from residence permit quotas.
Ordinance 299/1996	“The Right of Residence of War Refugees from Bosnia-Herzegovina” which further extended the right of temporary residence of Bosnian-Herzegovina war refugees as well as those from the neighbouring cities until August 31st, 1997.
Ordinance number	“The Right of Residence of War Refugees from Bosnia-Herzegovina” which extended the stay of Bosnian-Herzegovina war refugees including

<sup>262</sup> Original German: *Niederlassungsbewilligung für Private*.

215/1997	their spouses and minor children in Austria, who have not yet acquired a regular right of residence, until July 31, 1998.
Federal law number 85/1998	“National Law Securing the Right of Residence to Integrated War Refugees from Bosnia-Herzegovina” entitled Bosnian-Herzegovina war refugees with temporary residence to be granted permanent residence directly in Austria by the means of one final residence permit extension (art. 2), Bosniergesetz.
Aliens Act 1997	“Integration Package” (see Table 2 on p.27)

#### 4.5. Integration of Bosnians in Austria

In comparison to the overall number of refugees in Austria, only very few Bosnian applied for asylum in Austria. Only a very small number of Bosnian war refugees were granted asylum and thus were able to from special integration programmes, notably language and vocational training, accommodation allowances and further financial support.

Bosnian de-facto-refugees registered under temporary protection scheme were not accorded the full extent of economic and social rights compared to Convention refugees, who have almost equal rights as citizens, except the right to vote.

#### 4.6. Federal level integration policies

##### **Bosnians Support Scheme (Bosnier Aktion, Bund-Länder Aktion or De-Facto Aktion)**

The Bosnians Support Scheme took effect in July 1993 and was legally based on the article 12 of the 1993 Residence Act.<sup>263</sup> This article provided for the initiation of a particular type of residence status in the times of heightened international tension and served as a judicial foundation for the initiation of temporary protected status (TPS). TPS was envisaged as a temporary aid and support of war refugees from Bosnia-Herzegovina with the aim of their repatriation after the end of the war. However, the situation in the country did not improve as expected and forced repatriation remained unthinkable even after the end of the civil war. The support scheme thus unintentionally led to permanent residence of Bosnians in Austria. The Bosnian support scheme aimed to assist exclusively Bosnian war refugees and persons from towns situated at border

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<sup>263</sup> FLG I. No. 466/1992

between Bosnia-Herzegovina and other former Yugoslavian republics as well as Muslims from mixed areas in Serbia and Montenegro, who arrived in Austria, prior to July 1995, in the time frame of 1992 and 1998.<sup>264</sup> However, only Bosnian war refugees without relatives residing in Austria were accepted into the support scheme. Thus, an unknown number of Bosnian war refugees were accommodated, taken care of and provided for by their relatives or various NGOs.

According to BMI, around 95.000 Bosnians were supported by the de-facto Aktion. Around 30.000-35.000 eventually managed through integration into the Austrian labour market to attain a permanent residence for themselves as well as for their family members. 65.000 of former Bosnian de facto refugees were viewed as integrated in 1999. About 11.000 resettled to other countries and 12.000 were repatriated.<sup>265</sup>

27.000 Bosnians were economically assisted by this scheme in 1992<sup>266</sup> Around 72.000 Bosnians were registered with the temporary protection scheme between April 1992 and December 1994. The majority came from the Northern and Eastern parts of Bosnia as well as Sarajevo. The highest number of persons assisted under this scheme was in 1993 with 47.150 registered persons. 34.915 Bosnians were accommodated in private housing (*Privatquartiere*) while 12.235 were provided for in public housing (*Grossquartiere*).<sup>267</sup> In 1994, 24.241 Bosnians were still registered under the special assistance scheme. 14.256 were accommodated in private housing and 9.985 in public facilities rented by the government. By the end of December 1997, 5.800 Bosnians were still financially supported by the federal government and the provinces.<sup>268</sup> At the beginning of 1998 still about 5.743 Bosnians were registered with TPS and by the end of 1998, 1.716 Bosnians remained under the scheme.<sup>269</sup>

The Bosnians Support Scheme was an aid programme coordinated by the Federal government and the individual provinces. Two types of contractual agreements

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<sup>264</sup> van Selm-Thorburn (1998) p. 191.

<sup>265</sup> Hadolt, Herzog-Punzenberger and Sitz (1999).

<sup>266</sup> Fassman and Münz (1992) p. 12.

<sup>267</sup> Ibid.

<sup>268</sup> Biffl (2014) p. 29 - 30.

<sup>269</sup> Currie (2004) p. 265.



were in place between the government and the provinces. The agreements between federal state and the provinces were modelled on the basis those existing already under the Croatian Support Scheme (*Kroaten-Aktion*). The Ministry of Interior initially insisted that the contractual accommodation agreements between federal and provincial governments shall apply only to lodging provided by private persons, preferably families. Tourism facilities were no more utilized comparing with the case with the Croatian Support Scheme.

The first type of agreement was concluded between the Republic of Austria, Ministry of Interior, provinces and the organisations the Red Cross and Caritas. It concerned private accommodation (*Privatquartiervertrag*). Its original duration was set to April 1<sup>st</sup> until May 31<sup>st</sup> 1992. The Federal Government closely followed the events in Bosnia-Herzegovina through contact with on-site organisations, the Austrian military, so that the contract could be terminated or extended according to the needs. Due to the continuing demand the agreements' duration was extended from October 1992 until December 1993.

The Ministry of Interior decided to reach a second form of agreement (*Grossquartiervertrag*) which would guarantee the possibility of accommodation beyond the private sphere, in so-called large housing establishments (*Grossquartiere*). The contracting parties were the Ministry of Interior, the Ministry of Finance and the provincial governors. The care and support of the refugees was entrusted to Caritas Austria and The Red Cross as contractors by the Federal Ministry of Interior. 2/3 of total costs were covered by the federal government and 1/3 by individual provincial government. Certain NGOs, private persons and humanitarian and church organisations were also involved in support of the scheme.<sup>270</sup>

The support scheme involved measures for the provision of accommodation, food and health insurance, which were determined during a meeting of federal state working group on April 27<sup>th</sup>, 1992. This working group was created with the aim of clearing questions regarding costs, accommodation, health insurance, education and so

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<sup>270</sup> Ibid.

on. Refugees were cared for and received training and integration assistance according to the availability of local facilities.<sup>271</sup>

Around 60% of the Bosnian temporary protection beneficiaries in Austria were accommodated in private housing.<sup>272</sup> Private housing was the preferred solution according to the Federal Care Act.<sup>273 274</sup> This act also specified that the provision of care was to be provided in preference by private, humanitarian, church establishments and provincial welfare institutions. The refugee accommodation had to meet a common minimum standard in all of the nine Austrian provinces.

The refugees' hosts in case of private housing received a monthly payment of ATS 1.500. ATS 1.000 came from the federal government and ATS 500 from the provincial governments. Thus 2/3 of costs were covered by the federal government and 1/3 by individual provinces. The support provided was uniform all over Austria to avoid movement of refugees. The accommodation was contracted between federal and provincial governments for lodging with families and no more with tourist accommodations, as was the case with the Croatian Support Scheme.

In case of insufficient availability of accommodation, which proved to be the greatest challenge of the Bosnians support scheme, refugees were accommodated in public housing (*Grossquartiere*) such as military barracks, university buildings, gyms, large housing projects, etc.<sup>275</sup> Under *Grossquartiervertrag* the costs covered by the Bosnian Support Scheme were 500 ATS for care, 200 ATS for personal hygiene articles and laundry and a 100 ATS per person as pocket money. Refugees received either three meals per day or an equivalent amount in cash.<sup>276</sup> The rest of the costs was covered by the federal care in compliance with the Federal Care Act of 1991.<sup>277</sup>

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<sup>271</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 8 March 1995.

<sup>272</sup> Ibid.

<sup>273</sup> FLG I. No. 405/1991.

<sup>274</sup> Original German: *Bundesbetreuungsgesetz*.

<sup>275</sup> Original German: *Grossquartiere*.

<sup>276</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 1995.

<sup>277</sup> FLG I. No. 405/1991, in German *Bundesbetreuungsgesetz*

The cost of public housing was ATS 200 on a monthly basis as well as a 10% extra heating payment in the winter season. Refugees received either three meals per day or an equivalent amount in cash.<sup>278</sup>

Accommodation of refugees was an uneasy task. An outbreak of an epidemic among refugees in the exhibition centre Prater (*Messe Prater*) in Vienna brought about deficiency in the accommodations provided by private persons. The Ministry of Interior came to the decision that refugees had to be evenly distributed throughout the provinces in order to avoid overcrowding. The government attempted to restrict the inflow of the refugees by not accepting those who came to Austria through Slovenia or Croatia and by generally tightening the conditions of the Bosnian Support Scheme, such as not raising the amount of subsidies, by accepting only urgent cases (*Härtefälle*) into the support scheme and intensifying the involvement of alien police. If Bosnian war refugee could present sufficient plight reasons, he/she was taken into federal care.<sup>279</sup>

All temporary protection beneficiaries were given state health insurance. Health insurance was to be provided by means of Social and Health Insurance Certificates,<sup>280</sup> which were also funded in the ratio of 2/3 by federal government to 1/3 by provincial governments. Social assistance was also jointly financed by the federal and provincial governments. However, only so-called hardship cases, those who could not provide for themselves and without relatives in Austria, were granted social assistance.

War refugees were awarded access to free education and free transportation.<sup>281</sup> Education is in Austria compulsory for children from 6 to 15 years of age, irrespective of nationality. Bosnian war refugee children were thus entitled to attend state schools and were able to obtain bilingual education if possible and required. Approximately 200 language courses were organized for adults. The federal government conducted several vocational training courses for beneficiaries of temporary protection together with provincial governments.<sup>282</sup> The free transportation made available to Bosnian children was also financed by the Bosnian Support Scheme.

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<sup>278</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 1995.

<sup>279</sup> Kodydek (2011) p. 69.

<sup>280</sup> Original German: *Sozialkrankenscheinen*.

<sup>281</sup> Humanitarian Issues Working Group, Survey on the Implementation of Temporary Protection, 1995.

<sup>282</sup> Ibid.

Family reunification with core family members, spouses and minor children, was allowed under the temporary protection regime if the majority of the family was already residing in Austria. In some cases, extended family members were also accounted for humanitarian reasons.<sup>283</sup>

There were several prerequisites for admission into this scheme. In order to ensure that the individual's plight occurred genuinely due to the armed conflict, only those who arrived in Austria after April 1<sup>st</sup> 1992 were accepted into the scheme. Another precondition for receipt of this financial and material aid was that no asylum application was submitted by the individual. Legal residence, thus possession of temporary protected status was a prerequisite. The de-facto refugee then had to prove that he had no financial means to provide for himself/herself and also that he did not have any relatives previously legally residing in Austria. Those with relatives in Austria had to be accommodated and provided for by them. This put an incredible strain on such families.<sup>284</sup>

### **Access to labour market**

Bosnian de-facto refugees were not granted free access to the labour market in the initial phase of TPS in the years 1992 and 1993. As the duration and extent of devastation and ethnic cleansing in Bosnia increased, repatriating refugees became increasingly difficult. The Ministry of the Interior and the Ministry of Social Affairs eventually decided to open the labour market for refugees. In this way, the need for financial support was greatly reduced. A decree issued on 19<sup>th</sup> of July 1993 by the Minister for Labour and Social Affairs allowed temporary protection beneficiaries to work. They were listed as a third priority category after unemployed Austrians and migrant workers who resided in Austria for a longer period of time.<sup>285</sup> They were obliged to obtain work permits to hold a job. However, most Bosnian de-facto refugees were able to attain one.<sup>286</sup> In 1994 the access of Bosnian de facto refugees to the labour market was further simplified. Refugee care facilities began to cooperate with labour

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<sup>283</sup> Ibid.

<sup>284</sup> Hadolt, Herzog-Punzenberger and Sitz (1999).

<sup>285</sup> Humanitarian Issues Working Group, *Survey on the Implementation of Temporary Protection*, 8 March 1995.

<sup>286</sup> Hadolt, Herzog-Punzenberger and Sitz (1999).

market service (AMS) in order to convey available job openings to Bosnians. At the end of September 1994, 7.844 Bosnian beneficiaries held work permits, although some only for seasonal work. The integration of Bosnian refugees into the labour market led to reduction of their need for state assistance.<sup>287</sup> At the end of 1996, an estimated 26.000 Bosnian war refugees managed to gain a work permit. As of October 1998, up to 35.000 de facto refugees obtained a work permit.<sup>288</sup>

In 1998 an ordinance put Bosnians - who previously resided on the territory of Serbia and thus had no possibility of return - into a preferential position concerning the access to the labour market. Thanks to numerous governmental policies implemented with the help of aid organisations and centres providing advice to de facto refugees, most Bosnians managed to secure a residence permit as part of the Bosnians Law (*Bosniengesetz*) passed in 1998 governing the shift from temporary protected status into a permanent residence. It must be noted that Bosnian de-facto refugees were mainly able to gain access to less popular professional areas such as agriculture, cleaning, nursing, care for elderly, etc.<sup>289</sup> Due to the complicated process of qualification recognition as well as the lack of language skills, de-facto refugees often found themselves overqualified.

### **Professional Association of Austrian Psychologists**

The Professional Association of Austrian Psychologists<sup>290</sup> provided counselling for Bosnian war refugees since August 1992. It was financed by the Ministry of Interior. The target group was severely traumatized war refugees.

## **4.7. Vienna local level integration policies**

### **Vienna Integration Fund**

In the light of the mass influx of war refugees from the disintegration Yugoslavia, the municipal government of the city of Vienna recognized the pressing necessity for introduction of effective integration policies and measures. It thus established the Viennese Integration Fund (*Wiener Integrationsfonds*) which is the first

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<sup>287</sup> Humanitarian Issues Working Group, *Survey on the Implementation of Temporary Protection*, 8 March 1995

<sup>288</sup> Hadolt, Herzog-Punzenberger and Sitz (1999).

<sup>289</sup> Ibid.

<sup>290</sup> Original German: *Berufsverband österreichischer Psychologinnen und Psychologen*.

of its kind on municipal level. It is an institution of the city of Vienna. It became significant in planning, coordinating and financing numerous integration policies and measures, such as German language courses, vocational training, psychological counselling or assistance with finding a job.

### **Integrating Bosnian children to state schools in Vienna**

The City of Vienna reported the highest numbers of de facto refugees. There were 2.000 Bosnian children to be integrated into the school system in the school year 1992/1993. Special bilingual classes, each with one Bosnian and one Austrian teacher, were established in order to teach Bosnian children the German language. An entire school in the Viennese 10<sup>th</sup> district served this purpose. Children could attend these classes for as long as deemed necessary before they were integrated into regular classes.<sup>291</sup>

### **Helping Hands**

Helping Hands was an initiative financed by the City of Vienna and the Vienna Integration Fund. It offered legal advice to Bosnian war refugees, published information material and since fall 1992 offered German-Integration courses (*Deutsch Integrations Kurse*) and vocational training. Since 1993 the organisation organized the so-called “Summer in Vienna” (*Sommer in Wien*) and provided free entrance to cultural, sports and leisure activities and enabled Bosnian children to attend summer camps free of charge.<sup>292</sup> It continues to assist refugees.

### **Integrationshaus**

This institution financed by the city of Vienna offered several occupational orientation and vocational guidance courses which helped many Bosnian war refugees with finding a job. It provided accommodation, care and integration to many Bosnian families.<sup>293</sup>

### **Project Dobro Došli**

This project was financed by the Vienna Integration Fund as well as the Ministry of Interior. It was coordinated by Volkshilfe Österreich and provided

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<sup>291</sup> Ibid.

<sup>292</sup> Ibid.

<sup>293</sup> Ibid.

temporary start-up apartments to employed Bosnian refugees, who live in public housing (*Grossquartiere*) of the province of Vienna or the federal state or were threatened with acute homelessness. The project was in place since October 1994.<sup>294</sup> During the project time, the refugees are cared for by social workers. An essential part of this support is the joint development of a personal savings plan for the purchase of their own apartment after the temporary tenancy. As of July 1996, 54 apartments were provided as part of the project, supplying 171 people with housing. The target group of the project were employed Bosnian refugees who intend to stay permanently in Austria. Those Bosnians who come from the Serbian Republic and for whom a return option seems unlikely in the longer term, are preferred in the project. This project was recognized by the European Union as worthy of support.

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<sup>294</sup> Offenes Parlament, Schriftliche Anfrage betreffend Förderung des Flüchtlings-Projektes "Dobro Dosli," <[https://offenesparlament.at/gesetze/XX/J\\_01011/](https://offenesparlament.at/gesetze/XX/J_01011/)> accessed 30 July 2018.

## Chapter 5: Integrating Syrian war refugees in Austria

### 5.1. Background information

The Syrian Civil War officially began in March 2011 as peaceful protests against the Alawite dominated Syrian Ba'ath government hoping for reforms in the light of the Arab Spring were violently crushed by the Syrian security forces. Many opposition groups formed in reaction to the extreme violence administered by the government. However, they were unable to unite in the fight against the government. As the armed conflict intensified, Syrians began fleeing their country mainly to the neighbouring countries of Lebanon and Jordan hoping to be soon able to return. As the conflict escalated other countries as well as foreign militias became involved. The Syrian war turned into an international conflict and has been raging for 7 years now. According to UNHCR, currently Lebanon is home to 976.000 thousand registered Syrian refugees.<sup>295</sup> Over 3.5 million Syrian refugees are currently hosted by Turkey.<sup>296</sup>

The migration crisis reached Europe at the end of 2014 and reached its peak in autumn 2015. 1 million refugees reached Europe in 2015. Thousands of refugees arrived at the Greek shores every day risking their lives at the sea. In 2015 many refugees reached Austria. Germany was the first EU country to suspend the Dublin Convention, which obliged refugees to apply for asylum in the first EU member state they reach. This decision exacerbated the refugee influx. 89.098 refugees applied for asylum in Austria solely in 2015, out of which 24.547 were Syrian nationals.<sup>297</sup> In order to manage the migrant crisis, the city of Vienna set up a Refugee Coordination Centre and many emergency shelters. Traiskirchen reception centre was so overcrowded that most refugees had to sleep outside. Austrian government was thus condemned for such miserable admission and accommodation conditions. The receiving capacity of the state was completely exhausted. The initial welcome culture was soon replaced by restrictive immigration and alien law policies. As numerous highly controversial fences were erected and additionally the EU - Turkey deal was signed, the influx of refugees subsided. All of these measures were sadly implemented in total disregard of the

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<sup>295</sup> Ibid.

<sup>296</sup> Ibid.

<sup>297</sup> Ibid.



desolate situation in Syria which is fully devastated by the many years of armed conflict.

## 5.2. Demographics and statistics

As a result of the armed conflict in Syria and the inactivity of the world community, 5.1 million Syrians fled the country. Currently, 13.1 million Syrians are in need of aid in Syria which amounts to 71.6% of the entire Syrian population of 18.3 million.<sup>298</sup> In 2010 and the beginning of 2011, the population of Syria was at its highest with 21 million. 6.6 million of Syrians are internally displaced and 2.98 million reside in hard to reach areas.<sup>299</sup> In Austria 88.340 asylum applications were filed in 2015,<sup>300</sup> while “only” 42.285<sup>301</sup> asylum applications were lodged in 2016 as a direct result of the implementation of restrictive measures. The number was effectively cut to half.

The high number of asylum applications in Austria overwhelmed and exhausted the capacities of the asylum and reception system in 2015. A crisis board was created under the auspices of the Federal Ministry of Interior in order to manage the reception system. The acute lack of facilities for accommodation and care for asylum seekers led to restructuring of the refugee accommodation and allocation system in order to meet the demand. However, the newly created facilities were still not sufficient which led to conclusion of an agreement with the World Food Programme in order to accommodate refugees in the winter season. Large number of heated tents and containers thus became available in case of acute crisis.<sup>302</sup>

In the chart below, the trend of asylum applications and positive decisions in asylum proceedings can be observed.

**Table 4. Number of asylum applications and grants of**

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<sup>298</sup> World Population Review, “Syria” <<http://worldpopulationreview.com/countries/syria-population/>> accessed 21 July 2018.

<sup>299</sup> UNHCR, “Syria emergency” <<http://www.unhcr.org/syria-emergency.html>> accessed 21 July 2018.

<sup>300</sup> Federal Ministry of Interior, 'Yearly Asylum Statistics 2015' (Original German: Jahresstatistiken - Asylstatistiken) <[https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl-Jahresstatistik\\_2015.pdf](https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl-Jahresstatistik_2015.pdf)> accessed 06 July 2018.

<sup>301</sup> Federal Ministry of Interior, 'Yearly Asylum Statistics 2016' (Original German: Jahresstatistiken - Asylstatistiken) <[https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl-Jahresstatistik\\_2016.pdf](https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl-Jahresstatistik_2016.pdf)> accessed 06 July 2018.

<sup>302</sup> EMN (2015).

### refugee status from Syrian nationals in Austria<sup>303</sup>

	2011	2012	2013	2014	2015	2016	2017	2018 1.1.-30.6.
Asylum applications from Syrian nationals <sup>304</sup>	422	915	1.991	7.730	24.547	8.773	7.356	1.829
Recognised refugees – Syrian nationals <sup>305</sup>	360	542	838	3.604	8.114	15.528	11.827	2.714

According to a Pew Research study from 2017, 80% of Syrian asylum applicants in the EU were awarded the Convention or other international protection status, a percentage much higher than in the case of other groups.<sup>306</sup> Syrians filed more than twice as many asylum applications as any other origin group during Europe's extraordinary migrant influx in 2015 and 2016. Some European countries prioritized the review of Syrian asylum applications above other nationalities of asylum seekers and approved a greater share of them. More than half a million asylum seekers from Syria received permission to stay in Europe, at least temporarily, by the end of 2016, according to Pew Research Centre estimates of data from Eurostat.

### 5.3. Legislation concerning Syrians refugees

#### Humanitarian Admissions Programme (HAP)

Resettlement is defined as “the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them as refugees with permanent residence status.”<sup>307</sup> Humanitarian admission on the other hand

<sup>303</sup> Statistik Austria, 'Applications for Asylum in Austria 2000- 2016 by Citizenship, <[https://www.statistik.at/web\\_en/statistics/PeopleSociety/population/migration/asylum/index.html](https://www.statistik.at/web_en/statistics/PeopleSociety/population/migration/asylum/index.html)> accessed 09 July 2018.

<sup>304</sup> Statistik Austria, 'Applications for Asylum in Austria 2000- 2016 by Citizenship, <[https://www.statistik.at/web\\_en/statistics/PeopleSociety/population/migration/asylum/index.html](https://www.statistik.at/web_en/statistics/PeopleSociety/population/migration/asylum/index.html), (Citizenship' <[https://www.statistik.at/web\\_en/statistics/PeopleSociety/population/migration/asylum/index.html](https://www.statistik.at/web_en/statistics/PeopleSociety/population/migration/asylum/index.html)> accessed 09 July 2018).

<sup>305</sup> Ibid.

<sup>306</sup> Philip Connor, “After record migration, 80% of Syrian asylum applicants approved to stay in Europe” Pew Research Center <<http://www.pewresearch.org/fact-tank/2017/10/02/after-record-migration-80-of-syrian-asylum-applicants-approved-to-stay-in-europe/>> accessed 06 August 2018.

<sup>307</sup> Katerina Kratzmann, “Resettlement and the Humanitarian Admission Programme in Austria” June 2016 p.15 <<https://www.emn.at/wp-content/uploads/2017/01/Resettlement-and-the-Humanitarian-Admission-Programme-in-Austria.pdf>> accessed 04 August 2018.

“refers to schemes which are similar to resettlement but for varying reasons do not fully match the definition of resettlement. For example, resettlement may be a permanent solution for the people benefiting from it, while humanitarian admission may be temporary. Also, whilst a precondition for resettlement is the eligibility to international protection, (determined by the UNHCR), humanitarian admission could be available to a wider range of potential beneficiaries.”<sup>308</sup>

Registered Syrian refugees who are residing Turkey or Jordan are covered under the Humanitarian Admission Programme (HAP)<sup>309</sup>. According to the UNHCR<sup>310</sup>, “Syrian refugees in other countries cannot be covered under this Programme” and “[t]he final decision on who will be admitted to Austria lies solely with the Austrian authorities.”<sup>311</sup> The UNHCR further adds that:

religion or ethnic background are no specific qualifications for admission. Persons with family links to Austria may only be considered if they also fulfil the other criteria of the Admission Programme (particular vulnerability, registration as refugees, residence in Jordan or Turkey). Particularly vulnerable refugees may include women and girls at risk, survivors of violence and/or torture, older refugees at risk, refugees with physical protection needs, and children and adolescents at risk.

Upon the initiation of HAP I in 2013, 500 Syrians were resettled in Austria. HAP II in 2014 provided an additional of 1000 resettlement places.<sup>312</sup> The Federal Ministry of the Interior provides the final decision in the selection process while the IOM organizes the transfer of refugees to Austria and delivers Cultural Orientation Trainings in the pre-arrival stage.<sup>313</sup> 387 Syrian refugees were relocated as part of the Humanitarian Resettlement Programme in 2014.<sup>314</sup> 756 Syrians were relocated in

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<sup>308</sup> Ibid.

<sup>309</sup> Original German: *Humanitäres Aufnahmeprogramm*

<sup>310</sup> UNHCR, “Resettlement to Austria – English information” <<http://www.unhcr.org/dach/at/was-wir-tun/resettlement/resettlementnachoesterreich/resettlement-to-austria-english-information>> accessed 04 August 2018.

<sup>311</sup> The UNHCR has no absolute authority as to who will be admitted in Austria.

<sup>312</sup> IOM Country Office for Austria, “The Austrian Humanitarian Admission Programme – Austria’s response to the Syrian refugee crisis” Newsletter Issue No. 18 March 2015 <[https://www.iom.int/sites/default/files/migrated\\_files/Country/docs/IOM-Country-Office-for-Austria-Newsletter-18th-issue.pdf](https://www.iom.int/sites/default/files/migrated_files/Country/docs/IOM-Country-Office-for-Austria-Newsletter-18th-issue.pdf)> accessed 04 August 2018.

<sup>313</sup> Ibid.

<sup>314</sup> BM.I., “Asylstatistik 2014”

<[http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl\\_Jahresstatistik\\_2014.pdf](http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2014.pdf)> accessed 01 August 2018.

2015.<sup>315</sup> In 2016 200 Syrians were relocated as part of HAP.<sup>316</sup> The total number of Syrian citizens which were relocated to Austria in 2017 accounted for 381 persons.<sup>317</sup>

**Table 5. Number of Syrian nationals relocated to Austria through in Austria Humanitarian Admissions Programme (HAP)<sup>318</sup>**

	2014	2015	2016	2017
Number of Syrian refugees relocated to Austria through HAP	387	756	200	381

HAP I is divided into two parts. With the assistance of civil and religious organizations, 250 individuals were admitted in Austria in the form of family reunification.<sup>319</sup> The admission of the other half (consisting of 250 individuals from Jordan) was done in collaboration with the UNHCR.<sup>320</sup> The implementation of HAP II became imperative due to the continued conflict in Syria. Under HAP II, the first group of 400 individuals were admitted to Austria due to proposals from the Archdiocese of Vienna and from family members who utilized available forms on the web.<sup>321</sup> The second group consisting of 600 individuals were admitted under joint procedures with the UNHCR.<sup>322</sup> Refugees are registered and are made to undergo a mandatory health examination upon arrival in Austria. By virtue of Art. 3a of the Asylum Act, they are granted an asylum ex officio status:

A foreigner shall be granted asylum status or subsidiary protection status ex officio and without any additional procedure where Austria has undertaken to do so under international law.<sup>323</sup>

<sup>315</sup> BM.I., “Jahresstatistiken 2015” <[http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl\\_Jahresstatistik\\_2015.pdf](http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2015.pdf)> accessed 01 August 2018.

<sup>316</sup> BM.I., “Jahresstatistiken 2016” <[http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Jahresstatistik\\_Asyl\\_2016.pdf](http://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Jahresstatistik_Asyl_2016.pdf)> accessed 01 August 2018.

<sup>317</sup> BM.I., “Jahresstatistiken 2017” <[http://www.bmi.gv.at/301/Statistiken/files/JahrJahresstatistik\\_2017.pdf](http://www.bmi.gv.at/301/Statistiken/files/JahrJahresstatistik_2017.pdf)> accessed 01 August 2018.

<sup>318</sup> BM.I., “Asyl statistiken 2018” <[http://www.bmi.gv.at/301/Statistiken/start.aspx#pk\\_2018](http://www.bmi.gv.at/301/Statistiken/start.aspx#pk_2018)> accessed 01 August 2018.

<sup>319</sup> Kratzmann (2016).

<sup>320</sup> Ibid.

<sup>321</sup> Ibid.

<sup>322</sup> Ibid.

<sup>323</sup> Art. 3a of the Asylum Act as cited in Kratzmann (2016) p.10

Individuals who arrived in Austria as part of the family reunification process of HAP I were accommodated with members of their families. Those who could not be accommodated by their relatives due to insufficiency of space were provided with living quarters under the basic welfare support.<sup>324</sup> The radical increase of asylum-seekers in Austria in 2015 prompted the creation of new procedures to accommodate UNHCR cases. ARGE Resettlement provided dwelling spaces, whether intermediary or long-term, for individuals under a mandate of the Austrian Federal Ministry for Europe, Integration and Foreign Affairs. Individuals who arrived as part of family reunification received regular support system in addition to other provisions of NGOs, the ÖIF and the Austrian Public Employment Service. Individuals who arrived in Austria as part of the joint procedure with the UNHCR received integration benefits from ARGE Resettlement which included “specific initial counselling and advice, literacy and language acquisition, care for school-age children, educational and vocational counselling, childcare, housing advice and support for women travelling alone with enhanced childcare needs.”<sup>325</sup> HAP III provided a continuity of the procedures implemented under HAP I and HAP II.<sup>326</sup>

### **Basic Welfare Support (*Grundversorgung*)**

While asylum-seekers await a decision on their application, they are entitled to stay in the country provisionally. At this time, host countries are obligated to provide a minimum of basic services to respond to their immediate needs. The provision of basic services to asylum-seekers in Austria is regulated in accordance with the Basic Welfare Support Agreement (*Grundversorgungsvereinbarung*)<sup>327</sup> dated 15 July 2004 contracted

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<sup>324</sup> Kratzmann (2016).

<sup>325</sup> Ibid., p.11.

<sup>326</sup> Ibid.

<sup>327</sup> FLGI.I. No. 80/2004. See also the following:

Agreement between the federal state and provinces under Article 15a of the Basic Care Act concerning the raise of selected maximum cost rates of Article 9 Basic Care Agreement (Grundversorgungsvereinbarung) FLG I. 46/2013 *Amended by*: Agreement between the federal state and states under Article 15a concerning the raise of selected maximum cost rates of Article 9 Basic Care Agreement FLG I. 48/2016.

Federal Constitutional Act concerning the Accommodation and Allocation of aliens in need of help and protection (Bundesbetreuungsgesetz Unterbringung und Aufteilung von hilfs- und schutzbedürftigen Fremden) FLGI 120/2015 Federal Act concerning the Implementation of Identity Checks at the instance of Border Crossings FLGI 435/1996 Federal Act on Citizenship 311/1985.

between the federal government and the 9 individual provinces under Article 15a of the Federal Constitution regarding the provision of the temporary basic welfare support of aliens in. The agreement provides for the granting of basic care (*Grundversorgung*), to third country nationals in need of protection and assistance in Austria, including asylum seekers, persons having entitlement to asylum, displaced persons and other persons who may not be deported for legal or practical reasons.

The conditions of basic care are not uniform all over Austria anymore since January 1<sup>st</sup> 2017<sup>328</sup> as politicians were unable to reach an accord prior to expiry of the Austrian-wide statute.<sup>329</sup> As defined by the article 2 (7) of the Basic Welfare Support Act, asylum-seekers are only entitled to basic care if they have insufficient resources to provide for their subsistence or with the support of third parties. Asylum seekers which arrived to Austria with a Schengen Visa are deemed as having sufficient resources to provide for themselves and are thus excluded from basic care, even if their sponsor is unable to provide for them.<sup>330</sup>

The coverage differs depending on the situation of the asylum seeker. The basic care program incorporates health insurance, food, pocket money, money for clothing and accommodations in suitable facilities. Refugees can be accommodated in organized facilities where food is provided, organized facilities with self-catering or in private rooms such as rented apartments. Thus, basic welfare support can be supplied in three distinct fashions.

The federal authorities are exclusively responsible for basic welfare during the first part of asylum proceedings, the admissions procedure (*Zulassungsverfahren*), the provincial authorities are responsible for the second part. After the admissions procedure is finalized, it is essential that asylum seekers are, in compliance with article

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<sup>328</sup> Arbeiterkammer, “Bedarfsorientierte Mindestsicherung” <[https://ooe.arbeiterkammer.at/beratung/arbeitsrecht/arbeitslosigkeit/Bedarfsorientierte\\_Mindestsicherung.html](https://ooe.arbeiterkammer.at/beratung/arbeitsrecht/arbeitslosigkeit/Bedarfsorientierte_Mindestsicherung.html)> accessed 20 July 2018.

<sup>329</sup> Asylum Information Database (AIDA), “Basic Care may be provided in three different forms” <<http://www.asylumineurope.org/reports/country/austria/reception-conditions/access-and-forms-reception-conditions/forms-and-levels>> accessed 20 July 2018.

<sup>330</sup> AIDA, “Country Report Austria 2017” <<http://www.asylumineurope.org/reports/country/austria>> accessed 20 July 2018.

1 of this act, informed as soon as possible about the designated location where they can profit from the basic care.

The operators of reception centres receive 21€ per person and day, or 630 € per month. Asylum seekers collect about 5 to 6€ per day and person, in pocket money depending on the province, amounting to about 40€ per month. This amount is to be deducted from the 630€. <sup>331</sup> The total amount of 630 Euro is significantly lower than the level of subsidies received by Austrian citizens, however the care provider must still provide salaries for his staff and meet administrative costs.

However, when the responsibility of care and accommodation is transferred to the provinces, the situation becomes more complex. There are two types of accommodation available at the provincial level. The first type is organized by the individual provinces or NGOs with self-catering while the other one is private rented accommodation. In case of the former type of accommodation adult asylum seekers receive between 150-200 Euro per month mostly in cash for food and board, minors 100€ and a family 300€. Thus, a family with one child would be entitled to 830€ in subsidies. <sup>332</sup> <sup>333</sup> In case of the latter type of accommodation asylum seekers receive between 320Euro and 365 Euro in cash per month. Asylum seekers in private rented flat are entitled to mere 43% of the basic care allowance for Austrian citizens in need of social welfare. <sup>334</sup> All asylum seekers get a supplementary contribution of 150 Euro for clothing in vouchers. School children are entitled annually to a supplemental 200 Euro for school equipment, such as books, pencils, etc. <sup>335</sup> 60% of the costs of Basic Welfare or *Grundversorgung* is covered by the Federal Government. The provinces are obliged to finance 40% of the total expenses.

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<sup>331</sup> der Standard, “Wie viel Flüchtlinge in der Grundversorgung bekommen”  
<<https://derstandard.at/2000068157547/Wie-viel-Fluechtlinge-in-der-Grundversorgung-bekommen>>  
accessed 20 July 2018.

<sup>332</sup> AIDA, “Basic Care may be provided in three different forms”  
<<http://www.asylumineurope.org/reports/country/austria/reception-conditions/access-and-forms-reception-conditions/forms-and-levels>> accessed 20 July 2018.

<sup>333</sup> der Standard, “Wie viel Flüchtlinge in der Grundversorgung bekommen”  
<<https://derstandard.at/2000068157547/Wie-viel-Fluechtlinge-in-der-Grundversorgung-bekommen>>  
accessed 25 July 2018.

<sup>334</sup> AIDA, “Basic Care may be provided in three different forms”  
<<http://www.asylumineurope.org/reports/country/austria/reception-conditions/access-and-forms-reception-conditions/forms-and-levels>> accessed 20 July 2018.

<sup>335</sup> Ibid.

Applicants who are deemed eligible to apply for asylum in Austria are issued a white card and can avail of state-provided services under the Basic Welfare Support System.

Approximately 75.000 asylum seekers availed of basic welfare in 2015. In 2016 over 80.000 were provided for under Basic Welfare system. In 2017 the number of persons in Grundversorgung decreased to 63.356.<sup>336</sup> The most foreigners in need of protection and assistance are traditionally provided for in the city of Vienna which is the only province that fulfils the quota. The quota was actually exceeded in Vienna by 46.7% in 2017. This had to do with migration of asylum seekers to Vienna from other provinces.

Financial support is distributed through civil society organisations, including ‘humanitarian, ecclesiastical or private establishments, ...which act on behalf of the Federal Minister of the Interior and report to him upon request.’<sup>337</sup> The Federal Minister of the Interior may ‘...with the involvement of the provincial police authorities and the tax authorities, carry out in situ checks on the extent to which the welfare support actually provided meets the objectives of the Basic Welfare Support Agreement.’ This provision can be found in Article 9a of the Agreement, on Control measures. The use of ‘may’ suggests that a visit to monitor care centres through which support is provided is within the capacity of the Minister but is not necessarily an obligation. It should be noted that providing services through establishments outside of government offices should also be subject to monitoring and evaluation to ensure that the human rights of asylum-seekers are respected, and, if this is not the case, to act accordingly.

According to article 7 of the Basic Welfare Support Act (*Grundversorgungsgesetz*),<sup>338</sup> which was last amended in October 2017,<sup>339</sup> asylum seekers have permission be employed or to pursue an occupation as self-employed after 3 months from the admission into the asylum procedure. The authorization to work shall

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<sup>336</sup> der Standard, “Wie viel Flüchtlinge in der Grundversorgung bekommen”  
<<https://derstandard.at/2000068157547/Wie-viel-Fluechtlinge-in-der-Grundversorgung-bekommen>>  
accessed 25 July 2018.

<sup>337</sup> Federal Law Regulating Basic Welfare Support (unofficial consolidated version) Article 4  
<<http://www.refworld.org/pdfid/46adc8c22.pdf>> accessed 16 July 2018.

<sup>338</sup> FLG I. No. 405/1991.

<sup>339</sup> FLG I. No. 145/2017.



be issued by employment market service (AMS) which has to run a labour market test (*Ersatzkraftverfahren*) in order to establish whether an Austrian or EU citizen or a legally residing third country national aren't available to take up the vacancy. An employment permit can only be granted if the employer requests for a permit from the provincial Labour Market Service (*Arbeitsmarktservice*, AMS) in the district where the employment is to take place. The AMS provides a variety of services including vocational training courses and support for those looking for work. To avail of these services, one has to be registered as unemployed. However, asylum seekers are not registered, and as such cannot access these services. They must therefore seek employment on their own, which can be difficult given their own limitations – they may not have the money to travel for job interviews, for example; may not speak the language, etc.

Since April 2004 the Decree Implementing the EU Enlargement Adjustment Act<sup>340</sup> regulates the access to the labour market for asylum seekers. Work permits for asylum seekers can only be issued within quotas specified in compliance with Art 5 of the Act governing Employment of Foreigners. Asylum seekers may only perform seasonal work in tourism, agricultural, gastronomic or forestry sector and that for a period of 6 months with the possible extension to maximum of 12 months.<sup>341</sup> Asylum seekers may obtain work permits if they begin an apprenticeship in shortage occupations. Recognized refugees and beneficiaries of subsidiary protection have legally free access to the labour market (Art 1 (2) of the Act Governing Employment of Foreigners).

Asylum seekers accommodated in federal care facilities can perform non-profit (auxiliary) work directly linked to their accommodation or for federal, provincial or municipal offices. Government created a whole catalogue of auxiliary activities<sup>342</sup> ranging from administration aid, translation, landscape maintenance, help in schools, kindergartens, hospitals, animal shelters, theatres, sports areas, etc. Asylum seekers may receive a nominal contribution for their work in compliance with Art 7(5) of the Basic

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<sup>340</sup> FLG I. No. 28/2004.

<sup>341</sup> IOM (2015).

<sup>342</sup> Bundesministerium für Inneres, 'Grundversorgung: Unterbringung und Betreuung,' <<https://www.bmi.gv.at/303/start.aspx>> accessed 23 July 2018.

Welfare Support Act. This contribution shall not be considered remuneration and is not subject to tax.<sup>343</sup>

However, there is a limit to how much an asylum-seeker can earn. If it should be found that the asylum-seeker is able to provide for himself during the time he receives financial support under the Basic Care Agreement, the asylum-seeker ‘shall be ordered by the authority to reimburse the necessary costs of care.’<sup>344</sup> As such asylum-seekers are less likely to engage in substantial work, with the fear of being disqualified from basic care.

The law does not specify the quantity of resources below which a person is entitled to Basic Care, in praxis, if the asylum seeker receives a salary amounting to 1.5 times the sum of Basic Welfare Support benefits (€547), he/she will no longer be entitled to the support. Should an asylum-seeker apply for readmission into the Basic Care Programme after employment, they would also be required to make contributions toward the provision of Basic Care. Contributions are required to be made in cash.

The Basic Care system provides financial support up to 4 months after the grant of refugee status to an asylum-seeker. In contrast, beneficiaries of subsidiary protection are entitled to basic care if they need it: there is no time-related limit to their eligibility.

Since 1 April 2018, asylum seekers who have been admitted in the regular procedure for longer than 3 months can seek employment such as gardening, child care or cleaning. They are eligible for compensation through vouchers (original German: *Dienstleistungsschecks*, DLS) which are available at the post office or online.<sup>345</sup> Entitled to this kind of income are also persons entitled to asylum and beneficiaries of subsidiary protection.

Service voucher law was introduced in 2005<sup>346</sup> regulating remuneration of temporary (up to one month in duration) domestic work such as cleaning, babysitting,

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<sup>343</sup> Federal Law Regulating Basic Welfare Support, Article 7, Section 5.

<sup>344</sup> AIDA, “Access to labour market” <<https://www.asylumineurope.org/reports/country/austria/reception-conditions/employment-and-education/access-labour-market>> accessed 20 July 2018.

<sup>345</sup> Bundes Ministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, “Informationen für ArbeitgeberInnen zum Dienstleistungsscheck (DLS)” <<https://www.dienstleistungsscheck-online.at/dienstleistungsscheck-webapp/about/arbeitgeber.jsf?conversationContext=1>> accessed 20 July 2018.

<sup>346</sup> FLG I. No. 45/2005.

shopping assistance, simple garden work and care for the elderly. According to the *Dienstleistungsscheckgesetz* (DLSG), or Service Voucher Law,<sup>347348</sup> the hourly rate ranges from about 12 to about 16 Euro. The monthly income may not exceed the marginal wages threshold which currently lays at 600,07 Euro.

There are several other conditions that allow for the withholding and withdrawal of basic care in the law beyond the receipt of a sufficient income through employment. Most repetitively cited is non-cooperation with the authorities and non-observance of rules in care facilities. Asylum-seekers may also be subject to fines, imprisonment, or both for administrative infractions. Conversely, in the event of repatriation, cooperation may be used as a basis for providing the asylum-seeker with continuing financial support. The Austrian law providing for basic welfare support mirrors the EU legal framework for asylum and migration, which concerns itself primarily with preventing and punishing irregular (illegal) migration, stopping ‘asylum shopping’ (i.e., applying for asylum in several EU Member-States) and facilitating deportation.<sup>349</sup>

#### **Minimum needs-based Welfare Support (*Mindestsicherung*)**

After 4 months after the recognition of their status recognized refugees will no more avail of basic care, they can however apply for financial support under the minimum-security system, or Minimum Needs-based Welfare Support (*Mindestsicherung*). Beneficiaries of subsidiary protection may apply for this benefit, there is, however, no time limit set as to when the basic care will be terminated. Since July 1<sup>st</sup> 2016 new conditions apply to refugees which hold a temporary residence permit as well as to beneficiaries of subsidiary protection. Excluded from the new conditions are those individuals who actively try to integrate into the labour market, such as persons participating in the voluntary Integration Year (*Integrationsjahr*), individuals attending education in order to obtain compulsory education certificate, persons taking part in an initial vocational training or participating in vocational qualification program

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<sup>347</sup> Own translation.

<sup>348</sup> FLG I. No. 30/2014.

<sup>349</sup> Margit Ammer, ‘The EU Asylum and Migration Policy’ in Nowak M./Januszewski K.M./Hofstätter T. (eds) *All Human Rights for All: Vienna Manual on Human Rights* (Vienna/Graz: Intersentia, Neuer Wissenschaftlicher Verlag, 2012) 198-203.

lasting for at minimum 3 months or participating in other employment promotion measures.<sup>350</sup>

Recognised refugees may avail of the Minimum Needs-based Welfare Support. However, in many cases, the financial support granted to them is not enough. There are many organisations whose counselling services are designed to assist refugees in searching for flats, reviewing contracts, and sometimes advocating for them with property owners. However, securing housing has become more challenging for most people in recent years, especially in Vienna. Rents in the private housing market have risen sharply, and most recipients of Basic Care are unable to find housing that they can afford with the € 150 subsidy provided to them for this purpose. Families receive € 300. Those who are covered by the Mindestsicherung receive better support: the amount is adjusted to consider the size of the family and in some cases may completely subsidise the costs of rent.<sup>351</sup>

Refugees may also apply for social housing. However, refugees are not given priority, and there are many people on the waiting list. Further, the conditions for eligibility, such as those in Vienna for example, require a minimum of 2 years of residence in Vienna. The social housing system privileges those who have lived in Vienna longer, or meet a certain criterion (those with disabilities for example); this makes it particularly difficult for refugees to access affordable social housing. Co-operative flats (*Genossenschaftswohnung*) are also an option, and while monthly rents may be affordable, they require a lump sum contribution towards construction in the beginning. Most refugees cannot provide this amount, and so are seldom able to benefit from the system. Recognized refugees and beneficiaries of subsidiary protection may claim this financial assistance from the government, through the *Sozialamt*, or Social Welfare Office. This system was previously used only to provide social assistance to the unemployed, homeless, or persons with drug use disorder. Through an agreement with the Public Employment Service (*Arbeitsmarktservice*) this system was expanded to

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<sup>350</sup> Arbeiterkammer, “Bedarfsorientierte Mindestsicherung” <[https://ooe.arbeiterkammer.at/beratung/arbeitundrecht/arbeitslosigkeit/Bedarfsorientierte\\_Mindestsicherung.html](https://ooe.arbeiterkammer.at/beratung/arbeitundrecht/arbeitslosigkeit/Bedarfsorientierte_Mindestsicherung.html)> accessed 20 July 2018.

<sup>351</sup> AIDA, “Housing” <<https://www.asylumineurope.org/reports/country/austria/content-international-protection/housing>> accessed 20 July 2018.

include refugees in 2005. This agreement stipulates that refugees can avail of financial support from the Social Welfare Office as they register under for employment support under the AMS. The refugee status shall guarantee that they are entitled to the full host of services available to locals. However, recently there have been efforts to regulate their access to such benefits more strictly. This was an attempt to make asylum in Austria less attractive to potential asylum-seekers. In addition to limiting family reunification, new policies made refugees' receipt of financial support conditional on their attendance of language and values courses. Other services such as applying for socialized housing prioritize applicants according to the number of years they have resided in Austria or in Vienna, putting refugees at a disadvantage. All in all, their cooperation with efforts to facilitate integration is necessary for them to access this financial support. Non-cooperation can result in a reduction or complete withdrawal of financial support.<sup>352</sup>

Since January 2017, the needs-based minimum welfare support is not uniform throughout Austria. Some provinces provide higher benefits than others. Some provinces grant lower benefits to persons entitled to asylum and no benefits to persons granted subsidiary protection or lower benefits from the title of guaranteed minimum resources, such as the province of Upper Austria.

However, minimum standards have been determined and must be obeyed. Each individual province can decide upon the conditions and amount of benefits it will provide. The *Mindestsicherung* consists of two parts: the cost of living and the cost of housing. This subsidy is paid out once a month, twelve times in a year. Persons who are granted this benefit, also receive an E-card and are exempt from prescription fees.

In 2017 adults availing of this support received at minimum 844.47 Euro, persons living in a shared household 633.36 Euro per individual and children at least 152.01 Euro.<sup>353</sup> The current minimum standard of subsidy provision through the

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<sup>352</sup> German translation: "Einschränkung von Sozialleistungen (Prüfung einer Reduktion des Taschengeldes, Anpassung der Mindestsicherung nach Asylgewährung, u.a. mit Pflicht zum Besuch von Deutsch- und Wertekursen verbinden), Reform der Mindestsicherung, Kooperationspflicht bei Integrationsmaßnahmen, andernfalls Kürzung Mindestsicherung."

<sup>353</sup> European Commission, "Austria - Guaranteed minimum resources"

<<http://ec.europa.eu/social/main.jsp?catId=1101&intPageId=4409&langId=en>> accessed 20 July 2018.

*Mindestsicherung* valid from the beginning of the year 2018 amounts to 921,30 Euro for single persons or single parents of legal age, 649,10 Euro for adult persons living in a shared household, but only 212 Euro if they are entitled to family allowance. From a third adult in a shared accommodation the amount of subsidy is reduced to 450.70 Euro. For minor children the amount of support accounts for 212 Euro, however from the fourth child on it is decreased to only 184 Euro. If the minor's parents are not entitled to family allowance, they receive a support of 450.70 Euro per child. As of October 10<sup>th</sup> 2017, the province of Upper Austria introduced the concept of "*Deckelung der Mindestsicherung*," which amounts to setting of an upper limit to the amount of basic welfare subsidies one family as a unit can receive. This amount was set to 1.512 Euro as of 2018. In Upper Austria adult refugees or persons granted subsidiary protection receive only 560 Euro altogether as part of the special provisions for persons entitled to asylum and beneficiaries of subsidiary protection, whereas an Austrian citizen is entitled to 844 Euro.<sup>354</sup> The amount of 560 Euro is composed of four parts 215 Euro for food and board, 150 Euro for rent, 40 Euro of pocket money and 155 Euro as benefits accrument (*Steigerungsbetrag*). Single parents receive an additional amount of 100 Euro for the first child, 75 Euro for the second, 50 Euro for the third and every other child 25 Euro in subsidies.<sup>355</sup> The amount of benefits available to the above-mentioned aliens in this province is also bound to compliance with the Integration Agreement.<sup>356</sup> The provision of the 155 Euro in benefits accrument is bound to signature of the Integration Agreement.

The benefits provided by the city and province of Vienna are slightly higher than the minimum standards, taking into consideration the costs of living and accommodation in the capital. A person of legal age is entitled to 863.04 Euro monthly, 647.28 Euro for food and board and 215.76 Euro for accommodation. Persons living in a shared household receive a maximum of 1.294,56 Euro altogether. The subsidy for children currently accounts for 233.02 Euro.

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<sup>354</sup> Arbeiterkammer, "Bedarfsorientierte Mindestsicherung" <[https://ooe.arbeiterkammer.at/beratung/arbeitsrecht/arbeitslosigkeit/Bedarfsorientierte\\_Mindestsicherung.html](https://ooe.arbeiterkammer.at/beratung/arbeitsrecht/arbeitslosigkeit/Bedarfsorientierte_Mindestsicherung.html)> accessed 20 July 2018.

<sup>355</sup> Ibid.

<sup>356</sup> Ibid.

There has been a heated debate on the reform of the minimum needs-based welfare support. The FPÖ suggested in November 2017 that the support be provided in non-cash benefits and the possibility of individual accommodation shall be abolished. Asylum seekers shall be able to receive exclusively material rather than financial support. Recognized refugees shall be able to obtain only so-called “*Mindestsicherung light*” with more benefits in kind and less money.<sup>357</sup> The provinces of Lower Austria and Burgenland introduced regulations determining that only those persons who have lived in Austria for at least the past 5 years out of 6 are entitled to the full amount of the minimum needs-based benefit. This automatically excludes persons who have been granted asylum or subsidiary protection.<sup>358</sup>

### **Integration Year Act**

The Integration Year Act (*Integrationsjahrgesetz, IJG*)<sup>359 360</sup> in force since January 1<sup>st</sup> 2018, aims at facilitation of labour market integration of recognized refugees, beneficiaries of subsidiary protection as well as of asylum seekers who are very likely to be granted the international protection by means of various integration measures designed to accelerate their German language acquisition, promote social integration and enable labour market integration leading to their economic independence. The participants of the integration year must prove German language skills at A1 level prior to inclusion into the integration measures which are implemented by Public Employment Service (AMS). The integration year last basically 1 year but can also be shortened if the participant shows potential for faster sustainable integration into the labour market. The unemployment rate at the time was one of the highest in Austria’s history. This complicated the labour market integration of refugees gravely as

<sup>357</sup> G Oswald, “ÖVP und FPÖ verkünden erste Einigungen im Sicherheits- und Asylbereich” [ard.at/2000068019145/OeVP-und-FPOe-verkuenden-erste-Einigungen-im-Sicherheitsbereich](http://ard.at/2000068019145/OeVP-und-FPOe-verkuenden-erste-Einigungen-im-Sicherheitsbereich), accessed 20 July 2018.

<sup>358</sup> G Oswald, “Wie viel Flüchtlinge in der Grundversorgung bekommen” <https://derstandard.at/2000068157547/Wie-viel-Fluechtlinge-in-der-Grundversorgung-bekommen> accessed 20 July 2018.

<sup>359</sup> FLG I. No. 75/2017

<sup>360</sup> In German: Bundesgesetz, mit dem ein Bundesgesetz zur Arbeitsmarktintegration von arbeitsfähigen Asylberechtigten und subsidiär Schutzberechtigten sowie AsylwerberInnen, bei denen die Zuerkennung des internationalen Schutzes wahrscheinlich ist, im Rahmen eines Integrationsjahres (Integrationsjahrgesetz –IJG) erlassen wird und das Arbeitsmarktpolitik-Finanzierungsgesetz geändert wird (Arbeitsmarktintegrationsgesetz)

there was high competition for job openings. Many newly recognized refugees and holders of subsidiary protection found themselves unemployed and the AMS was not able to arrange a job for them.

### **Family reunification**

Article 35(5) of the Asylum Law provides for reunifying family members and specifies which family members are eligible: parents of minor children are very clearly included. Spouses and registered partners are eligible if the marriage or partnership was contracted before fleeing the country of origin. If the union was contracted in another country, it must be legally valid in the country of origin. It is worth noting that the Asylum Law does not consider siblings eligible for family reunification.<sup>361</sup> This indicates that children who have at the time of application for family reunification come of age, or children of deceased siblings, which the family decided to care for, must be left behind.<sup>362</sup>

A much-disputed draft law concerning the Alien law amendment in 2017<sup>363</sup>, aimed to further restrict family reunification by erecting hurdles which would make reunifications unsuccessful. It obliged family members in case of beneficiaries of subsidiary protection to prove family ties through DNA tests whose costs they had to cover. The draft law was not adopted.

Since June 2016, family members of refugees seeking reunification, are obliged to apply for a visa at an Austrian embassy or consulate within 3 months from the status recognition. However, if they do not manage to apply for a visa within the designated 3 months period, they must additionally provide proof of sufficient income, health insurance and accommodation according to article 35(1) of Asylum law (*Asylgesetz*).<sup>364</sup>

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<sup>361</sup> *Ra 2016/20/0231*, Austria: Supreme Administrative Court (Verwaltungsgerichtshof), 26 January 2017 <[http://www.refworld.org/cases,AUT\\_AHAC,5a0db5df4.html](http://www.refworld.org/cases,AUT_AHAC,5a0db5df4.html)> accessed 06 August 2018.

<sup>362</sup> Statement of Diakonie to Amendment of Alien Act 2017 (in German: *Stellungnahme der Diakonie: zur Fremdenrechtsänderungsgesetz 2017*) <[https://diakonie.at/sites/default/files/diakonie\\_oesterreich/pdfs/stellungnahme\\_fraeg2017\\_diakonie\\_final.pdf](https://diakonie.at/sites/default/files/diakonie_oesterreich/pdfs/stellungnahme_fraeg2017_diakonie_final.pdf)> accessed 20 July 2018.

<sup>363</sup> In German: *FrÄG 2017*

<sup>364</sup> The Austrian embassy in Syria is located in the municipal district of Mezzeh (مزة) which is strategically over-looked by the presidential palace of Bashar al-Assad (قصر الشعب) and is fully under control of pro-government troops. Austrian consulate is located in Aleppo (حلب). However, here the infamous battle of Aleppo was taking place between the years of 2012 and 2016, when the Syrian



The Administrative High Court ruled that family reunification visas for persons entitled to protection should be granted pursuant to the right to private and family life.<sup>365366</sup>

It must be noted that applying for a visa in war-torn Syria might be very dangerous if not impossible. Those Syrian who were able to flee Turkey, Lebanon or Syria stand much better chances of meeting the 3 months application period. No language skills prior to entry are required for family reunification. Syrian family members seeking reunification often possess only copies of official documents such as birth certificates, as originals are with the family member who has been granted protected status.<sup>367</sup>

The family members of persons who are under subsidiary protection can only apply for family reunification 3 years after protection is granted. The standard requirements – sufficient income, health insurance and accommodation – apply as well. The only exception that the Asylum Law provides is for unaccompanied minors who are under subsidiary protection.<sup>368</sup> Family members are entitled to at least the same status as the sponsor. However, upon arrival in Austria, they submit an application to the police to obtain such protection, and an assessment is carried out to inquire whether they may have their own reasons for seeking international protection.

The Federal Office for Immigration and Asylum (*Bundesamt für Fremdwesen und Asyl, BFA*) has processed 7,612 family reunification applications in 2017. In 2016, 9,494 applications were submitted. Over 50% of applications came from Syria accounting for 6,928.

### **Access to education**

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government regained control of the devastated city. It is thus very obvious how dangerous if not impossible such a visa application would be. Many Syrian refugees have fled to the neighboring countries of Lebanon, Turkey and Jordan, where undertaking such an administrative process is much more viable.

<sup>365</sup> Administrative Court Decision, Ra 2013/22/0224, 11 November 2013.

<sup>366</sup> The right to private and family life is also enshrined in : ICCPR Article 17, ECHR Article 8; Article 7 of the EU Charter for Fundamental Rights.

<sup>367</sup> Statement of Diakonie to Amendment of Alien Act 2017 (in German: *Stellungnahme der Diakonie: zur Fremdenrechtsänderungsgesetz 2017*), available at: [https://diakonie.at/sites/default/files/diakonie\\_oesterreich/pdfs/stellungnahme\\_fraeg2017\\_diakonie\\_final.pdf](https://diakonie.at/sites/default/files/diakonie_oesterreich/pdfs/stellungnahme_fraeg2017_diakonie_final.pdf), (20.07.2018).

<sup>368</sup> Asylum Law art 35(2).

Since school attendance is mandatory for all children living permanently in Austria according to Law on Compulsory Education (*Ausbildungspflichtgesetz*),<sup>369</sup> last amended in 2018, asylum seeking children are obliged to attend school upon completion of admission procedure. They are admitted to regular Austrian school under the condition that they reside in other housing than reception centre (*Erstaufnahmestelle, EAST*). Thus, children in federal care are not provided access to education. To ease the transition for children, a preparatory class for children with little or no prior knowledge of German can be arranged. Should this not be possible, they can attend regular classes. In such cases the children are registered as *außerordentlicher Schüler*, or irregular pupils for up to 12 months.<sup>370</sup> During these 12 months they are either assisted by a second teacher or attend special German language courses to help them learn the language.

It can be more challenging for minors above the age of 15 to continue their education in Austria. The *Schulpflicht* applies only to children under the age of 15, and there may not be any support services to help children older than 15 attend school. Unaccompanied minors who have not completed the last year of compulsory education may attend supplementary courses for free; but these courses are not free of charge<sup>371</sup> for children who enter Austria with their families.

In order to be admitted to a vocational training, asylum seekers must be issued a work permit by the public employment service for the duration of the apprenticeship. The Aliens Employment Act restricts access to vocational training as the work permit could be issued for carrying out of seasonal work. Exceptions were introduced in case of shortage professions for minors up to age of 18 years as well as young adults up to 25 years of age.<sup>372</sup> However, very few apprenticeship places are available.<sup>373</sup>

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<sup>369</sup> FLG I. No. 62/2016.

<sup>370</sup> AIDA, “Access to education” <<https://www.asylumineurope.org/reports/country/austria/reception-conditions/employment-and-education/access-education>> accessed 20 August 2018.

<sup>371</sup> Ibid.

<sup>372</sup> AMS, “Beschäftigungsmöglichkeiten für Asylwerberinnen und Asylwerber” November 2015 <<http://bit.ly/1msi8SL>> accessed 20 July 2018.

<sup>373</sup> Migration Council for Austria Report, “Understanding Migration - Managing Migration” <[https://bmi.gv.at/Downloads/files/Bericht\\_des\\_Migrationsrats\\_PDF\\_komplett\\_ENG\\_23\\_3\\_17.pdf](https://bmi.gv.at/Downloads/files/Bericht_des_Migrationsrats_PDF_komplett_ENG_23_3_17.pdf)> accessed 20 July 2018.

Young people under the age of 18 who have completed the 9-year schooling and who are permanent residents in Austria are obliged to pursue education or training, Asylum seekers are exempt from this rule and thus not guaranteed access to education. This significantly complicates their integration into society. Lack of education places, long waiting periods, accommodation in remote areas, and restrictions of access to vocational training create hurdles in the face of integration.<sup>374</sup>

In order to make better use of refugees' qualifications acquired abroad, make recognition of foreign academic degrees and vocational training easier and quicker with the aim of facilitating labour market integration, The Recognition and Assessment Act,<sup>375376</sup> was adopted in the spring of 2016 in compliance with the 50 Point Action Plan on Integration as part of the measure of integration through performance (*Integration durch Leistung*).

The Recognition and Assessment Act<sup>377378</sup> came into force in July 2016 aimed to simplify the complicated procedure of qualification recognition of education and academic degrees, professional and vocational training attained abroad by third-country nationals. The article 8 of this law elaborates on special provisions in place concerning recognized refugees and holders of subsidiary protection status. In case of inability to provide required documents to support their qualification recognition claim, this category of migrants, the authorities are obliged to perform practical and theoretical examinations in order to establish migrant's factual ability to perform the occupation claimed.

#### 5.4. Types of protected status in Austria

**Table 6. Protection Statuses Granted in Austria**

<sup>374</sup> Der Standard, "Bildungshürde: Keine Ausbildungspflicht für junge Asylsuchende", <<https://derstandard.at/2000060503066/Keine-Ausbildungspflicht-fuer-junge-Asylsuchende>> accessed 20 July 2018.

<sup>375</sup> FLGI No. 55/2016

<sup>376</sup> In German: Annerkennungs und Bewertungsgesetz, full title: Bundesgesetz über die Vereinfachung der Verfahren zur Anerkennung und Bewertung ausländischer Bildungsabschlüsse und Berufsqualifikationen (Anerkennungs- und Bewertungsgesetz – AuBG

<sup>377</sup> FLGI No. 55/2016.

<sup>378</sup> In German: Annerkennungs und Bewertungsgesetz, full title: Bundesgesetz über die Vereinfachung der Verfahren zur Anerkennung und Bewertung ausländischer Bildungsabschlüsse und Berufsqualifikationen (Anerkennungs- und Bewertungsgesetz – AuBG

Protection Status	Description
Asylum	The granting of this status is regulated by the Asylum Act. An asylum status is granted to individuals who satisfy the criteria set forth by the Geneva Refugee Convention. <sup>379</sup> Temporary asylum (Asyl auf Zeit) <sup>380</sup>
Subsidiary Protection	This status is granted if the application for an asylum is dismissed. <sup>381</sup>
Temporary Protection	Granted in times of armed conflict as specified under Council Directive 2001/55/EC of 20 July 2001. <sup>382</sup> This status may be elevated into a settlement permit by virtue of a ministerial order if circumstances are prolonged and the need for permanent integration becomes imperative. <sup>383</sup>
Special Protection	A special residence permit applied upon by third country nationals who are present in Austria. This protection status is specified in the 2009 amendment of the Residence Act. <sup>384</sup>
Settlement Permit (Unrestricted)	This grant is regulated under art. 43 of the Residence Act. <sup>385</sup>
Settlement Permit (Restricted)	This grant is regulated under art. 44 (3) & (4) and art. 44a & art 44b of the Residence Act. <sup>386</sup> “[A] right to residence ex officio [is granted] in case the expulsion of a person has been prohibited for an unlimited period because it would lead to an unjustified interference with the right to private or family life according to Art. 66 Aliens’ Police Act or Art. 10 Asylum Act 2005.” <sup>387</sup>

Recognized refugees are currently granted full access to the job market and the right of temporary residence for 3 years. After 3 years, the grounds for international protection are re-examined. If the reasons for asylum still last, the person is then granted permanent residence. However, has the situation in the home changed, cessation proceedings will be started status.<sup>388</sup>

Subsidiary protection beneficiaries are issued a residence permit for the duration of 1 year. This residence permit can be extended for an additional period of 2 years, more than once, if the conditions under which it was granted continue to apply. Waiting periods for extension are lengthy.

<sup>379</sup> EMN, “The practices in Austria concerning the granting of non-EU harmonized protection statuses” p.13 <[https://www.emn.at/wp-content/uploads/2017/01/National-Report-Austria-EMN\\_Non-EU-Harmonized-Protection-Statuses\\_FINAL.pdf](https://www.emn.at/wp-content/uploads/2017/01/National-Report-Austria-EMN_Non-EU-Harmonized-Protection-Statuses_FINAL.pdf)> accessed 05 August 2018.

<sup>380</sup> FLG I Nr. 24/2016.

<sup>381</sup> Ibid.

<sup>382</sup> Ibid., p.12.

<sup>383</sup> Ibid.

<sup>384</sup> Ibid., p.20.

<sup>385</sup> Ibid., p.21.

<sup>386</sup> Ibid.

<sup>387</sup> Ibid. Contrary to an unrestricted settlement permit, an individual with a limited settlement permit is not obliged to comply with the integration agreement stipulated under art.14 of the Residence Act.

<sup>388</sup> FLG I Nr. 24/2016.

Beneficiaries of subsidiary protection have the right to reside in Austria, access the labour market, housing, public education, social security, health care, vocational training, and the right to freedom of movement within Austria. Grant of the status may be denied under some circumstances, such as when the beneficiary has committed a crime."<sup>389</sup> Holders of subsidiary protection, like others, are able to apply for Austrian citizenship after 10 years of residency.<sup>390</sup> After five years of continuous residence status or a continuous residence permit, both persons granted asylum and beneficiaries of subsidiary protection can obtain a permanent residence.

### 5.5. Federal level integration policies

Nowadays many integration policies and measures exist at federal as well as provincial or local levels. This proactive stance towards integration of refugees was initiated by the establishment of an Integration Platform in the Year 2007. Much development in Austria's integration policy occurred ever since. The migration crisis of 2015 with unprecedented influx of refugees forced Austria to act quickly and make swift improvements in the integration framework. Presented below is a non-exhaustive extract from some good practices in Austria, several recognized by the European Commission. Provided the alterations such as integrating asylum seekers or beneficiaries of subsidiary protection into the labour market, it must be noted that Austria is now significantly better prepared for integration of Syrian refugees compared with the earlier wave of war refugees from Bosnia.

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<sup>389</sup> UNHCR, 'Asylum or subsidiary protection' <<http://deinasyilverfahren.at/en/asyl-oder-subsidiaerer-schutz/>> accessed 09 July 2018. German translation: "Subsidiären Schutz erhalten Personen, deren Asylantrag zwar mangels Verfolgung abgewiesen wurde, aber deren Leben oder Unversehrtheit im Herkunftsstaat bedroht wird. Sie sind daher keine Asylberechtigten, erhalten aber einen befristeten Schutz vor Abschiebung. Subsidiär Schutzberechtigten kommt ein Einreise- und Aufenthaltsrecht in Österreich zu. Insbesondere dürfen sie sich in Österreich aufhalten, haben vollen Zugang zum Arbeitsmarkt und die Möglichkeit einen Fremdenpass zu beantragen, wenn kein Reisepass des eigenen Herkunftsstaates erlangt werden kann. Der Status der subsidiär Schutzberechtigten/des subsidiär Schutzberechtigten kann (unter Umständen auch mehrmals) verlängert werden, wenn bei Ablauf der Befristung die Voraussetzungen dafür weiterhin vorliegen. Bei der erstmaligen Erteilung wird der subsidiäre Schutz für ein Jahr erteilt, bei der Verlängerung für zwei Jahre. Unter bestimmten Umständen kann der Status aberkannt werden (z.B. wegen eines Verbrechens)."

<sup>390</sup> Austria, "The Austrian refugee protection system" <<http://www.refworld.org/docid/50b867052.html>> accessed 20 July 2018.

There is a vast amount of integration measures available in Austria. The Federal Ministry for Europe, Integration and Foreign Affairs<sup>391</sup> has published on its website the database of integration measures in Austria classified as good practices. Below is a non-exhaustive demonstration of some of these good practices.

### **Integration Year (Integrationsjahr)**

The integration year is a structured programme of integration which is compulsory for since September 2017 for all recognized refugees, beneficiaries of subsidiary protection as well as asylum seekers who are very likely to be granted a positive decision in their asylum process. It applies to persons entitled to asylum and subsidiary protection, who received their status after the 31st of December 2014, or asylum seekers who have been admitted to the asylum procedure after 31st of March 2017 for at least three months.

The Integration Year Programme requires above mentioned persons to attend German language courses, values and orientation courses, community-based activities, auxiliary work, job application training to work preparation programmes. The integration year is intended to facilitate integration in the labour market.

For the duration of the integration year, the persons affected receive support and assistance from the Austrian Public Employment Service (AMS). Refugees can also be legally employed in private households and numerous social projects, and can.

### **Recognition ABC brochure (Annerkennungs-ABC)**

The Recognition ABC brochure called Recognition of foreign professional and educational qualifications (*Anerkennungs-ABC - Anerkennung ausländischer Qualifikationen aus Beruf und Bildung*)<sup>392</sup> was published by the ÖIF together with the BMEIA in order to support migrants during the recognition process and to simplify it. It provides clearly structured information on recognition of educational and vocational qualifications attained abroad. Apart from the brochure the website

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<sup>391</sup> BMEIA: Datenbank "Integrationsprojekte in Österreich"

<<https://www.bmeia.gv.at/integration/datenbank-integrationsprojekte/>> accessed 20 July 2018

<sup>392</sup> Annerkennungs-ABC,

<[https://www.berufsanerkennung.at/fileadmin/content/Downloadmaterial/Anerkennungs-ABC\\_StandMai.pdf](https://www.berufsanerkennung.at/fileadmin/content/Downloadmaterial/Anerkennungs-ABC_StandMai.pdf)> accessed 06 August 2018.

www.berufannerkennung.at is an innovative online tool which provides information in a simple and user-friendly way in multiple languages.

### **Mentoring for migrants**

The very successful Mentoring for Migrants Programme<sup>393</sup> is as a joint initiative of Federal Economic Chamber (WKÖ) and the Public Employment which was chosen as a good practice by the European Commission. Qualified migrants, with a legal residence permit in Austria including recognized refugees and beneficiaries of subsidiary protection are supported by well-connected and experienced business players with social competence to facilitate their integration into the labour market. An apprenticeship and good command of the German language are a minimum qualification for the participation in this programme as a mentee. Mentee is supervised by the mentor about 5 hours per months and profits from his network of contacts and his expertise. The aim of this programme is gaining of valuable tools for a long-term labour market integration, rather than job placement. This programme has been extended to include refugees as a result of the migration crisis.

### **Mobile Support**

The ÖIF offers mobile integration support based on their integration centres and integration houses.<sup>394</sup> Integration counsellors regularly visit recognised refugees and people who are granted with subsidiary protection in the communities in which they live. This service includes support in a number of everyday issues (health, finances, children and family, language, work, housing, understanding Austrian values and legal system, empowerment, networking). The integration counsellors are local contacts for their clients and community residents. Mobile integration support is not a project, but rather an organisational concept of the integration centres and integration houses.

### **Hotline Against Discrimination and Intolerance**

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<sup>393</sup> Chamber of Commerce, “Mentoring for Migrants - project report”  
<[https://www.wko.at/site/Mentoring/WKoe\\_Mentoring-Projektbericht.pdf](https://www.wko.at/site/Mentoring/WKoe_Mentoring-Projektbericht.pdf)> accessed 10 July 2017.

<sup>394</sup> EC, “Migrant Integration Information and good practices: mobile support”  
<<https://ec.europa.eu/migrant-integration/intpract/mobile-support>> accessed 10 July 2018.

BMEIA has established this hotline against discrimination and intolerance<sup>395</sup> in order to make reporting of discrimination based on race, ethnicity and religion possible and effective. It also aims to provide information in the area of anti-discrimination such as an overview of related legislation and responsibilities and to raise awareness that discrimination is no minor delict. The hotline is currently part of the Citizen's service of the ministry. The hotline, among its many tasks, assists citizens - who have been victims of discrimination or wish to report a case or event of such a violation - by connecting them with a relevant anti-discrimination point (e.g. the Documentation Point for Islamophobia and anti-Muslim racism (*Dokustelle Islamfeindlichkeit und anti-Muslimische Rassismus*)<sup>396</sup> in case of Islamophobia). This leads to effective monitoring of discrimination in Austria. The Austrian governments recognizes the need to improve measures to prevent discrimination (racism, anti-Semitism, Islamophobia, etc.)

### **MORE Initiative**

MORE initiative refugees in Austria provides refugees access to Austrian state universities and to German language courses. They are exempt from student union fee and gain access to university libraries. Through a buddy system, local students assist refugees with their studies and other aspects of life. It is aimed at integration of young refugees into the society and provision of further education opportunities. However, it was noted that “many students sign up for MORE but never attend the courses” possibly due to the costs of commuting and unfamiliarity to the approaches rendered by higher educational institutions.<sup>397</sup>

### **5.6. Vienna Provincial and Local Level**

The city of Vienna provides multilingual free services and information to migrants as well as refugees (asylum seekers, Convention refugees and beneficiaries of subsidiary protection or humanitarian residence). The range of integration initiative in

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<sup>395</sup> BMEIA, “Hotline against Discrimination and Intolerance”

<<https://www.bmeia.gv.at/integration/hotline-gegen-diskriminierung/>> accessed 08 July 2018.

<sup>396</sup> Dokustelle Islamfeindlichkeit und anti-Muslimische Rassismus: <<https://www.dokustelle.at/>> accessed 10 July 2018.

<sup>397</sup> Daniel Kontowski and Madelaine Leitsberger, ‘Hospitable universities and integration of refugees: first responses from Austria and Poland’ (2018) 17(2): 249,) European Educational Research Journal.



the province and city of Vienna are abundant. Below is a brief, non-exhaustive selection of some of these initiatives.

### **Start Wien for Refugees**

The project Start Wien for Refugees offered by the municipal Department for Integration and Diversity (MA 17) since September 2015 provides comprehensive integration assistance for asylum seekers in Vienna from day one. These measures include orientation and support in the framework of primary care (*Grundversorgung*) and information on topics such as social affairs, housing, healthcare, education, and living together. Free information modules can be held in up to 25 languages.<sup>398</sup> The integration program has been chosen as a good practice by the European Commission.<sup>399</sup>

Information modules for adult asylum seekers provide information on Austrian healthcare system, housing, educational system, recognition of qualifications. Austrian values, customs, traditions and family life in the country. Modules specifically designed for youth also exist. Young refugees are advised on topics such as the Austrian healthcare system, prevention of drug addiction, family reunion, family allowance, the Austrian educational system, apprenticeships, Youth College, university instruction, gender roles, violence, racism, discrimination, leisure time facilities, youth protection as well as love and sexuality including how to treat other boys and girls.

Migrants and refugees receive individual advice, information and language vouchers when they schedule a 1-hour Start Coaching appointment which can be provided in up to 25 languages. They receive the Vienna education booklet (*Wiener Bildungspass*) that includes the Vienna language vouchers in worth of EUR 300 and EUR 150 which are valid for courses organized by providers certified by Municipal Department 17. Thus, the city of Vienna supports migrants financially in order to learn German. All education and further training measures that are important for integration such as German language courses and information modules are recorded in the Vienna

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<sup>398</sup> City of Vienna, “Start Wien for Refugees” <<https://www.wien.gv.at/english/social/integration/start-wien/info-module-refugees.html>> accessed 07 August 2018.

<sup>399</sup> Ibid.

education booklet.<sup>400</sup>

### **Vienna Education Hub (Wiener Bildungsdrehscheibe)**

The education platform called Vienna Education Hub (*Wiener Bildungsdrehscheibe*) is part of primary care (*Grundversorgung*). It provides refugees during the asylum procedure as well as recognized refugees with advice about education and training, helps them analyse their language skills and qualifications and advises them about German language and basic education courses. Asylum seekers are permitted to attend primary or further training during the asylum procedure. They can also attend literacy courses or to other educational services in order to complete the mandatory school-leaving qualification, to attend a higher educational institution or a university. The municipality supports asylum seekers as well as recognized refugees and beneficiaries of subsidiary protection financially in attending one of many German language courses in Vienna. Asylum seekers in organized accommodation are referred to *Wiener Bildungsdrehscheibe* directly by their councillor. Asylum seekers in private accommodation must contact the service point of basic care in Vienna (*Servicestelle der Grundversorgung Wien.*) Recognized refugees will be referred to *Bildungsdrehscheibe* by the Public Employment Service (*AMS*) or *ÖIF*. The services offered by the *Wiener Bildungsdrehscheibe* incorporates literacy, basic education and German courses of the levels A1, A2, B1.

### **Youth College (Jugendcollege)**

Youth college is a programme co-financed by the European Social Fund, the Department for Integration and Diversity, the Public Employment Service and Vienna Social Welfare Fund. It offers the possibility of education to minors and young adults who are either asylum seekers, recognized refugees or beneficiaries of subsidiary protection. The courses offered in the Youth College include basic modules such as maths, English and IT as well as German and specialised modules and support programmes. The maximum duration of the Youth College is nine months.

### **Mum learns German (Mama lernt Deutsch)**

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<sup>400</sup> Stadt Wien, "The Vienna education booklet" <<http://www.startwien.at/en-eu/the-vienna-education-booklet>> accessed 07 August 2018.

Mum learns German is a very successful model of German language which offers mothers with a migration background the possibility to attend German language courses directly at their children's kindergarten or school. While the children are provided for the mothers can participate in the course. Due to the financial burden of babysitting, these mothers would otherwise be unable to attend a regular German language course. The course takes place twice a week à 3 hours. It has been recognized as a good practice by the European Commission.

### **German in park (Deutsch im Park)**

Another successful scheme for German language instruction is German in Park which provides cost-free German courses in parks. It is organized by Wiener Volkshochschulen<sup>401</sup> and was recognized as a good practice by the European Commission.<sup>402</sup> It offers a relaxed atmosphere for learning. No prior registration for the course is required. Refugees and asylum seekers can just attend it spontaneously. This relaxed instruction scheme aims at overcoming the initial barrier or fears one might feel prior to beginning with language skills acquisition.

### **Department against Discrimination**

Department against Discrimination<sup>403</sup> was set up in the municipality of Vienna in 2004. This department is responsible for complaints about discrimination of any kind. The main duties of this department are to support discriminated persons by advice and information, to mediate between persons and groups in all kinds of conflicts for finding a problem solution to which all persons involved can agree.

### **CORE Integration Centre**

CORE, an EU-funded corporation project of Municipal Department 17 – Integration and Diversity and other social partners, serves as a platform for pioneering creative practices in the field of integration of refugees. CORE provides its premises and organizational infrastructure to various organisations, associations, civil society

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<sup>401</sup> VHS, “Deutsch in Park” <<https://www.vhs.at/de/b/2018/07/05/deutsch-im-park>> accessed 07 July 2018.

<sup>402</sup> Deutsch im Park, “Kostenloses Sprachenlernen im öffentlichen Raum” <<https://ec.europa.eu/migrant-integration/intpract/deutsch-im-park-kostenloses-sprachenlernen-im-offentlichen-raum>> accessed 07 July 2018.

<sup>403</sup> EC, “Department against discrimination” <<https://ec.europa.eu/migrant-integration/intpract/department-against-discrimination>> accessed 08 July 2018.

initiatives but also to refugees who are able to implement integration offers themselves. The aim is to improve and accelerate the integration process of refugees.

The project aims to prepare refugees for the labour market in Austria while they are still undergoing the asylum procedure. A database was set up in order to efficiently record abilities and talents with the aim of putting them into use. Refugees receive support with the choice of suitable profession or prepared for entrepreneurship. Information events are organized for refugees who wish to set up a business of their own. Selected refugees receive training to become mentors supporting and become able to support other refugees.

The project is closely associated with the implementation of the concept of Integration from Day 1 (*Integration ab Tag 1*) of the city of Vienna.<sup>404</sup>

### **Magda's Hotel**

Magda's hotel is a project initiated in 2015 by Magda's Social Business under the auspices of Caritas.<sup>405</sup> It is a hotel located in Vienna which is run by refugees with the support of tourism professionals. Magda's addresses the problem of labour market integration for refugees by providing refugees with training and employment in the hospitality sector. Magda's proactively promotes the idea of staying open-minded within the staff and to guests. Refugees encounter significant difficulties in finding employment in Austria often lacking the necessary certifications to continue their previous professions in a new country, and potential employers may be unwilling to hire refugees or find that they lack necessary experience. During the asylum procedure, which can be lengthy, asylum seekers might also lose previously acquired skills or their skills might become outdated. The result can be poverty and social isolation. At the same time, there is a shortage of labour in the tourism industry. Magda's Hotel therefore works to solve both problems by providing on-the-job training in the hospitality industry to individuals entitled to asylum and subsidiary protection.

### **Kontaktepool Sprachencafé**

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<sup>404</sup> Refugees.Wien, "CORE - Integration im Zentrum", available at:

<<https://www.refugees.wien/en/footer/core-integration-im-zentrum/>> accessed 08 July 2018.

<sup>405</sup> Sarah Johnstone, "The Vienna hotel where refugees welcome the guests" *The Guardian* (21 May 2015) <<https://www.theguardian.com/travel/2015/may/21/vienna-madgas-hotel-staffed-asylum-seekers>> accessed 08 August 2018.

The Sprachencafé is a weekly event for everybody interested in languages, taking place every Wednesday from 5 to 8 p.m. Every table at Sprachencafé is dedicated to a different language and visitors are free to join in, no matter whether they already master the language or not. The aim of the project is to provide a space for getting to know new languages and new people, improving language skills and also for sharing one's own mother tongue(s). The Sprachencafé, thus, appreciates multilingualism and invites everybody to join in and experience Vienna's linguistic and cultural diversity. Sprachencafé is funded by the European Integration Fund (EIF), the Federal Ministry of Interior (BMI) as well as by respect.net. The first "Sprachencafé" in Vienna took place in September 2012. "Sprachencafé" is based on the belief that there are many social and linguistic resources in Vienna, which are highly valuable to the community. The weekly event offers a platform for making these resources visible and accessible. Thereby, individuals get into touch and learn from each other regardless of their origin, mother tongue, age or social background. We particularly encourage migrant women to join our meetings and facilitate their participation by providing child care free of charge.

Category/ indicators	Bosnians	Syrians
Legal dimension	<p>TPS was initiated by the <b>article 12 of the 1993 Residence Act</b>,<sup>406</sup> the act was legal basis for <b>TPS</b> -by its means attempt to circumvent the Geneva Convention</p> <p><b>1995 Residence Act</b> Amendment<sup>407 408</sup> provided for preferential treatment of Bosnian and other foreign-born children concerning residence permit quota as in their case immediate integration was possible</p> <p><b>The federal law number 85/1998, National Law Securing the Right of Residence to Integrated War Refugees from Bosnia-Herzegovina or Bosnians Law (Bosniergesetz)</b>,<sup>409 410</sup> access to permanent residence under the one of the following preconditions: possession of a confirmation of guaranteed work, employment permit, exemption certificate, work as self-employed, a residence permit for private persons, or perform a job not regulated by Foreigner Employment Law, currently draw unemployment benefits.</p> <p><b>Bund-Länder Aktion</b></p> <p>In order to ensure that the individual's plight occurred genuinely due to the armed conflict, only those who arrived in Austria after April 1st 1992 were accepted into the scheme. Another precondition for receipt of this financial and</p>	<p>The initiation of HAP I in 2013 and HAP II in 2014 facilitated the resettlement of Syrians in Austria. HAP, however, covered only Syrian refugees who resided in Turkey or Jordan.</p> <p>National Action Plan on Integration (2010)</p> <p>Article 7 of the Basic Welfare Support Act (Grundversorgungsgesetz), amended in October 2017, states that asylum seekers have the permission to be employed or to pursue an occupation as self-employed after 3 months from the admission into the asylum procedure.</p> <p>Integration Law<sup>411</sup> and Integration Year Act<sup>412</sup> (Integrationsjahrgesetz, IJG) facilitated the labour market integration of recognized refugees, beneficiaries of subsidiary protection as well as asylum seekers.</p> <p>The Recognition and Assessment Act of 2016 helped simplify the complicated procedure of qualification recognition of education and academic degrees, professional and vocational training earned abroad by third-country nationals.</p> <p>50 Action Points: A Plan for the Integration of Persons entitled to Asylum or Subsidiary Protection in Austria<sup>413</sup> - with special focus on the areas language and education, labour and job market, rule of law and values. In promoting inclusion and self-sustainability (Selbsterhaltungsfähigkeit), individuals must have the willingness to</p>

<sup>406</sup> FLG No. 466/1992.

<sup>407</sup> FLG I. No. 351/1995 Original German: *Aufenthaltsgesetz*.

<sup>408</sup> Ibid.

<sup>409</sup> FLG I. No. 85/ 1998 <<https://www.ris.bka.gv.at/GeltendeFassung/Bundesnormen/10006073/Sicherung%20des%20weiteren%20Aufenthaltsrechtes%20-%20Bosnien-Herzegowina%2c%20Fassung%20vom%2018.11.2016.pdf>> accessed 06 August 2018.

<sup>410</sup> Ibid.

<sup>411</sup> FLG I. No. 68/2017

<sup>412</sup> FLG I. No. 75/2017.

<sup>413</sup> BMEIA: 50 points towards successful integration, < <https://www.bmeia.gv.at/en/the-ministry/news/50-points-towards-successful-integration/> > accessed 01 July 2016.

	<p>material aid was that no asylum application was submitted by the individual. Legal residence, thus possession of temporary protected status was a prerequisite. The de-facto refugee then had to prove that he had no financial means to provide for himself/herself and also that he did not have any relatives previously legally residing in Austria. Those with relatives in Austria had to be accommodated and provided for by them. This put an incredible strain on such families.</p> <p>provision of accommodation, food, healthcare</p> <p>Thanks to numerous governmental policies implemented with the help of aid organisations and centers providing advice to de facto refugees, most Bosnians managed to secure a residence permit as part of the Bosnians Law (Bosniergesetz) passed in 1998 governing the shift from temporary protected status into a permanent residence.</p>	<p>work, participate in a German language course and attend values orientation courses as part of the 50-point plan. In the labour market, specific measures include: (a) a comprehensive survey of available skills and qualifications, (b) vocational guidance and job-specific language tuition, (c) making increased use of existing structures, and (d) accompanying measures, such as proactive person-organization fit programs, mentoring programs by mentors from the business sector, etc.</p> <p>New Islam Law 2015<sup>414</sup> - granting Muslim some extra rights but also curbing foreign funding and prohibition of sermons in other than German language, etc.</p> <p>Minimum Needs-Based Welfare Support<sup>415</sup> Federal Constitutional Act concerning the Accommodation and Allocation of aliens in need of aid and protection (Bundesverfassungsgesetz Unterbringung und Aufteilung von hilfs- und schutzbedürftigen Fremden,) in the light of the acute migration crisis and lack of capacities of the asylum system the Federal government created accommodation facilities for refugees through an extraordinary procedure (2015)</p> <p>The Asylum Act of 2005, Aliens Police Act of 2005 and BFA Procedures Act were reformed in 2015 and entered into force on June 1, 2016 introducing the concepts of emergency ordinance, the upper limit (Obergrenze) of 37.500 asylum applications as well as temporary asylum (Asyl auf Zeit). Extension of the Art. 15a Agreement on Basic Education / Alphabetisation<sup>416</sup></p>
Residence and family reunification	<p>Bosnians put under <b>temporary protection</b>; were later given <b>permanent residence</b> in 1998 on the basis of employment Only <b>very few granted Convention status</b>, many declined due to initially restrictive measures.</p> <p>Family reunification with core family members, spouses and minor children, was allowed under the temporary protection regime if the majority of the family</p>	<p>Under HAP I, 250 individuals were admitted in the form of family reunification due to the assistance of civil and religious organizations. Proposals from the Archdiocese of Vienna facilitated the admission of an additional number of individuals due to the persistence of conflict in Syria.</p>

<sup>414</sup> FLG I. No. 39/2015

<sup>415</sup> FLG I. No. 96/2010

<sup>416</sup> BMEIA: Integration report 2017

	was already residing in Austria. In some cases, extended family members were also accounted for humanitarian reasons.	
Access to services	<p>Bosnian war refugees with relatives residing in AT not provided for under Bund-Länder Aktion thus taken care of by relatives and NGOs -unknown number of Bosnian refugees</p> <p>non-Convention refugees - no access to special integration programs</p> <p>The care and support of the refugees was under Bund-Länder Aktion entrusted to Caritas Austria and The Red Cross as contractors by the Federal Ministry of Interior.</p> <p>The support scheme involved measures for the provision of accommodation, food and health insurance</p> <p>Refugees were cared for and received training and integration assistance according to the availability of local facilities.</p>	<p>Typically facilitated by NGOs; Province provides funding for NGOs in this field</p> <p>Start Wien - multilingual cost-free information, information modules provided by Department of Integration and Diversity of the city of Vienna</p> <p>Vienna App - helping refugees and others to orientate themselves in the city</p> <p>Mobile Support - <sup>417</sup> mobile integration support based on their integration centres and integration houses. This service includes support in a number of everyday issues (health, finances, children and family, language, work, housing, understanding Austrian values and legal system, empowerment, networking).</p>
Employment	<p>FLG I. No. 402/1993 provided 7000 work permits in compliance with article 2, 12 and 13 of the 1993 Residence Act</p> <p>Bosnian refugees not granted free access to labor market in initial phase of TPS 1992-93.</p> <p>1993 allowed to work-</p> <p>Later listed as third priority category after citizens and migrant workers with residence permit. - like today's refugees</p> <p>Obligated to acquire work permits on which there was a quota.</p> <p>In 1994 the access of Bosnian de facto refugees to the labour market was further simplified. Refugee care facilities began to cooperate with labour market service</p>	<p>Comprehensive competence checks of the AMS</p> <p>Competence clearings within the Integration Year Act</p> <p>Qualifikationspass [qualification pass] of the AMS Vienna and WAFF innovative online tools: <a href="http://berufsanerkennung.at">berufsanerkennung.at</a></p> <p>Own procedures for refugees without documents regulated by the Anerkennungs- und Bewertungsgesetz (Recognition and Assessment Act)(AuBG)</p> <p>ÖIF: provision of individual support for recognition and assessment procedures</p> <p>Mentoring for Migrants by AMS</p> <p>Recognition ABC brochure called Recognition of foreign professional and educational qualifications -published by the ÖIF together with BMEIA in order to support migrants during the recognition process <sup>418</sup></p>

<sup>417</sup> “Migrant Integration Information and good practices: mobile support” <<https://ec.europa.eu/migrant-integration/intpract/mobile-support>> accessed 10 July 2018.



	<p>(AMS) in order to convey available job openings to Bosnians. (most Bosnian de-facto refugees were able to attain work permit)</p> <p>In 1998 an ordinance put Bosnians - who previously resided on the territory of Serbia and thus had no possibility of return - into a preferential position concerning the access to the labour market.</p> <p><b>Due to the complicated process of qualification recognition as well as the lack of language skills, de-facto refugees often found themselves overqualified.</b></p>	
Housing	<p>Under Bund-Länder -Aktion - 2 types of contracts, accommodation in (preferred) Privatquartiere(private) - 60% Bosnians - and Grossquartiere (organized - barracks etc.)</p> <p>Under Bund-Länder -Aktion - 2 types of contracts, accommodation in (preferred) Private housing was the preferred solution according to the Federal Care Act.<sup>6 7)</sup> Privatquartiere (private) - 60% Bosnians - and Grossquartiere (organized - barracks etc.)</p> <p>Under Federal Act refugee accommodation had to meet a common minimum standard in all of the nine Austrian provinces.</p> <p>Private: ATS 1.500 monthly (2/3 federal, 1/3 provincial)</p> <p>public: 500 ATS for care, 200 ATS for personal hygiene articles and laundry and a 100 ATS per person as pocket money.</p> <p>Project Dobro dosli in Vienna provided temporary start-up appartments to employed Bosnian refugees, who live in public housing (Grossquartiere) of the province of Vienna or the federal state or were threatened with acute</p>	<p>Individuals who could not be accommodated by their relatives due to insufficiency of space (as part of family reunification) were provided with living quarters under the specifications of the basic welfare support.</p> <p>Resettlement provided housing spaces for both intermediary or long-term individuals under a mandate of the Austrian Federal Ministry for Europe, Integration and Foreign Affairs.</p> <p>2017: Start-up projects for persons entitled to asylum and subsidiary protection through BMEIA in the amount of 3.3 million euros - assistance in finding housing</p>

<sup>418</sup> Annerkennungs-ABC, <[https://www.berufsanerkennung.at/fileadmin/content/Downloadmaterial/Anerkennungs-ABC\\_StandMai.pdf](https://www.berufsanerkennung.at/fileadmin/content/Downloadmaterial/Anerkennungs-ABC_StandMai.pdf)> accessed 06 August 2018.

	<p>homelessness.</p> <p>FLG I. No. 402/1993 provided 20000 residence permits to foreign nationals distributed over the federal territory. Ordinance number 368/1994 extended the duration of temporary residence permit from July 1<sup>st</sup>, 1993 until December 31, 1994. An additional of 14900 residence permits were provided under ordinance number 72/1994. Other rights of Bosnian war refugees are enshrined in the ordinances of “The Right of Residence of War Refugees from Bosnia-Herzegovina”</p>	
Health	<p>Health insurance provided for under Bund-Länder Aktion provided by means of Social and Health Insurance Certificates,<sup>8</sup></p>	<p>Refugees who are admitted in the asylum procedure in Austria are insured under the common health insurance system. Mandatory initial health assessment within 72 hours upon admission to Austria focuses on acute and communicable diseases including a recommendation for vaccination in order to protect the refugees and the Austrian population at large from cross-border health threats.<sup>419</sup></p> <p>Mental health Counseling facilities for traumatised persons (MA 17, Diakonie, Peregrina and many others increasing range of training opportunities (intercultural competence, community interpreting, amateur interpreters etc.) in order to improve communication in health sector</p>
Sociocultural	<p>German language courses, vocational training, psychological counselling or assistance with finding a job.</p> <p>Viennese Integration Fund (Wiener Integrationsfonds) significant in planning, coordinating and financing numerous integration policies and measures, such as German language courses, vocational training, psychological counselling or assistance with finding a job.</p>	<p>(see language learning)</p>

<sup>419</sup> European Refugees-Human Movement and Advisory Network (EUR-HUMAN), “Health care for refugees in Austria” <<http://eur-human.uoc.gr/module-8-2health-care-for-refugees-in-austria/>> accessed 13 August 2018.

Language learning	<p>There were 2.000 Bosnian children to be integrated into the school system in the school year 1992/1993 in Vienna. Special bilingual classes, each with one Bosnian and one Austrian teacher, were established in order to teach Bosnian children the German language. An entire school in the Viennese 10th district served this purpose. Children could attend these classes for as long as deemed necessary before they were integrated into regular classes.</p> <p>Helping Hands was an initiative financed by the City of Vienna and the Vienna Integration Fund. It offered legal advice to Bosnian war refugees, published information material and since fall 1992 offered German-Integration courses (Deutsch Integrations Kurse) and vocational training. Since 1993 the organisation organized the so-called “Summer in Vienna” (Sommer in Wien) and provided free entrance to cultural, sports and leisure activities and enabled Bosnian children to attend summer camps free of charge</p>	<p>Migrants and refugees are provided with German courses under a project of the Austrian Integration Fund called the “Treffpunkt Deutsch.”<sup>420</sup> (meeting place German) (over 600 learning groups formed since project start)<sup>421</sup> and Deutsch-Lernbox (German learnbox)-facilitated by volunteers</p> <p>Kontaktetool Sprachencafé weekly -event for everybody interested in languages- improves language skills and intercultural dialog</p> <p>Mama lernt Deutsch Program - while children are taken care of at schools, mothers can attend German language courses on site second kindergarten year was made compulsory</p> <p>Coordinated language support strategy as well as obligations to cooperate and compulsory participation in German courses by the Integration Act: A1 for persons entitled to asylum and subsidiary protection through BMEIA/ÖIF; A2 for persons entitled to asylum and subsidiary protection through AMS, persons in basic care concentrate on attaining literacy/A1 level</p> <p>Article 68 Asylum Act allows language support for asylum seekers who are very likely to be granted international protection, taking into account existing experience</p> <p>ÖIF, AMS coordinate provision of vocation-specific technical language courses</p>
Education	<p>free education and free transportation</p> <p>6-15 yrs of age compulsory education in Austria – extension of Schulpflicht to asylum seekers and refugees</p> <p>Bosnian children integrated to state schools, sometimes access to bilingual</p>	<p>School children are entitled to 200 Euros for the purchase of materials needed in school such as books, pencils, etc.</p> <p>The amendment of the Law on Compulsory Education (Ausbildungspflichtgesetz) in 2018 enabled asylum seeking children to attend school.</p> <p>The <i>Schulpflicht</i> applies only to children under the age of 15, and there may not be any</p>

<sup>420</sup> Universität Wien, “Employees of the Centre for Translation Studies help refugees” <<https://transvienna.univie.ac.at/en/ztw-society/we-help-refugees/>> accessed 13 August 2018.

<sup>421</sup> BMEIA: Integration Report 2017

	<p>education</p> <p>Approximately 200 language courses were organized for adults. The federal government conducted several vocational training courses for beneficiaries of temporary protection together with provincial governments.<sup>9</sup></p> <p>training and integration assistance according to the availability of local facilities</p>	<p>support services to help children older than 15 attend school.</p> <p>MORE Initiative access to universities for refugees</p> <p>Internships for highly qualified refugees via ÖAW</p> <p>Expansion of the Zusammen:Österreich initiative with a focus on refugee integration</p> <p>Learning platform (learning materials and activities from kindergarten to upper secondary level)<sup>422</sup></p> <p>The education platform called Vienna Education Hub (Wiener Bildungsdrehscheibe) is part of primary care (Grundversorgung).</p> <p>Start Wien Jugend College-acquisition of skills by refugees who are no longer in age of compulsory education</p> <p>Youth College (Jugendcollege) offers the possibility of education to minors and young adults who are either asylum seekers, recognized refugees or beneficiaries of subsidiary protection. include basic modules such as maths, English and IT as well as German and specialised modules and support programmes.</p>
Social capital	(see family reunification)	(see family reunification)

<sup>422</sup> BMEIA Integration Report 2017

## Chapter 6: Conclusions and Recommendations

Austrian migration policy tends to be inward-looking: as can be seen in the case of the Bosnians, migration is allowed only when the labour market stood to benefit from it. This is an approach that is acceptable in regular migration but not for irregular migration: economic forces in the host country cannot be a basis for granting or denying asylum to persons in need of protection. In the 1990s, Austrian migration policy did not account for irregular migration. However, Austria is a State Party to the Refugee Convention and thus was bound by the non-refoulement principle. Pursuant to this obligation, they offered Bosnian Muslims temporary protection, allowing them to stay lawfully in Austria with the assumption that they would eventually return home. This meant that Bosnians were not given the rights that are otherwise granted with refugee status.

The UNHCR recognised Austria's respect of the non-refoulement principle through temporary protection. However, this approach goes against what some scholars argue is the very spirit of the Refugee Convention, which is to grant refugees the agency to *choose* a durable solution instead of having one (in this case, temporary residence and eventual repatriation) imposed upon them.

Bosnian Muslims sought refuge in Austria after the Croats came. Research in irregular migration tends to show that where an influx of persons in need of protection comes, the host community typically responds positively. People are swiftly organised to welcome them and provide immediate needs such as food, clothing and shelter. However, where there are many consecutive arrivals, a warm welcome may give way to fatigue. It is possible that this fatigue had begun to set in when the Bosnians arrived. These factors played into the hands of the Austrian right-wing party. It did not help Bosnian Muslims that many Croats eventually returned home when the situation calmed down, whereas Bosnians remained in need of protection and so stayed on in Austria under temporary protection.

Bosnian refugees were only offered the chance to enter the labour market after staying longer in Austria: the option to seek employment was made possible to reduce the financial support that the Austrian government needed to provide. Even so, Bosnians were relegated to a third priority category, i.e. they were to be considered after Austrians and other foreigners who had been there longer. It was also legally difficult to find employment as Bosnians were required to secure a work permit. Many, however, were able to secure one. This is likely due to the fact that prior to the war, many Bosnians had already migrated to Austria. This meant that many Bosnian Muslim refugees already had relatives and other social connections in Austria – they had the *social capital* that is often a critical factor in finding employment. This pre-existing condition may have contributed significantly to the ability of Bosnian refugees to comply with the requirements for a work permit. The Austrian government did not facilitate this directly. This same logic may also apply in accessing basic needs: those with social connections are often taken in by people in their social network. They are thus able to secure housing even when it would otherwise not be made available to them, and have food and water provided. Social connections, therefore, can play a role in providing for these needs and diminishing the strain on reception structures when there are larger numbers of people. In the long term, it is also likely that these social connections facilitated the integration process.

Residence permits were finally offered to those already in Austria on the basis of their *employment*, and not on their vulnerability as the Refugee Convention would otherwise provide. Thus, persons in need of protection were effectively turned into economic migrants, and it was through the structure of regular migration that Bosnian Muslims were finally granted access to the array of rights and services that should have otherwise been granted to them by the Refugee Convention. Austria was praised for respecting the non-refoulement principle and eventually granting Bosnians the right to remain. However, this approach cannot substitute for a proper asylum and integration policy, or for the grant of the protections stipulated in the Refugee Convention.

In contrast, Syrian Muslim refugees were granted refugee status. The Humanitarian Assistance Programme, for example, considers people with links in Austria among other criteria (residing in Turkey or Jordan, registration as refugees, and other vulnerabilities). HAP also provided for family reunification and was conducted through joint procedures with the UNHCR and IOM. There is also a more active facilitation of integration measures, such as Mentoring for Migrants from the WKÖ, and from different civil society actors, such as that seen in Magda's Hotel. Some initiatives such as Mentoring for Migrants reflect the EU's more general approach to integration and are not exclusively for refugees but also for other migrants.

Both the Austrian federal government and the local Viennese government provide funding, coordinate research and development of integration policies. The City of Vienna plays a more active role, declaring itself as a Human Rights City, producing a Charter for Refugees, and creating a Department for Diversity and Integration to run useful platforms like Start Wien that provide information and other forms of assistance. Other efforts that are not run by the local government directly receive financial support from the government.

The entry of Muslim refugees from Syria and Bosnia highlight the weaknesses of the respective asylum systems in place. Austria at the time had no policy to deal with irregular migration, leaving Bosnians to make do with emergency services (as opposed to access to rights) for an extended period of time. The entry of Bosnian refugees demonstrated the need for a proper asylum system. Today, Austria is a part of the Common European Asylum System. However, the CEAS does not reflect the lessons that may be gleaned from the Bosnian experience: that social capital is an enabler in the coping and integration process for persons seeking protection. Placing the responsibility for asylum on the first state that asylum seekers enter does not allow asylum policy to consider enabling factors such as social capital, and therefore prevents both refugees and concerned Member-States from benefitting from it. The CEAS reflects Austria's weakness from 20 years ago: focusing on the demands of the internal market and fears that outsiders will exploit the internal market leaves persons already in need of

protection more vulnerable, and puts more focus on short-term political demands such as identifying the State responsible for processing an asylum claim rather than on offering protection.

There remains a need for an asylum system that prioritises the protection of persons whose home countries are unable and unwilling to protect them. This system must consider their presence not as a threat to security and economic stability but instead account for their vulnerability with other factors that are likely to help them succeed: knowledge of a local language, social connections, among others. This should not be taken as a replacement for proactive measures to facilitate integration. The Bosnian and Syrian experiences in Austria show precisely the opposite: policies that build on refugees' inherent chances for successful integration are complementary efforts that will likely ease the strain on asylum systems and provide refugees with the best possible chance to rebuild their lives.



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## Abstract

During the recent migration crisis, great numbers of Syrian war refugees came to Austria. The country stands before an uneasy task of integrating them into their society. The majority of Syrian refugees are Muslims raised in a multi-ethnic and multi-religious society. This makes them comparable to Bosnian war refugees who arrived in Austria under similar circumstances in the 1990s. Bosnians, too, were predominantly Muslim yet stemmed from a society with cultural and religious plurality. This invites an assumption that Syrians, provided their background, are somehow better equipped for integration than other Muslim refugee groups and their integration will be achieved just like that of their predecessors. While 20 years ago the issue of integration was neglected, nowadays the concept has been institutionalized and its cross-sectoral nature realized. The divergence in reception circumstances and yet a comparability of both groups provide a sound base for analysis of Austrian integration policies' development over time as well as identification of transferrable good practices.

## Abstrakt

Während der jüngsten Migrationskrise kamen viele syrische Kriegsflüchtlinge nach Österreich. Das Land steht vor einer schwierigen Aufgabe, sie in ihre Gesellschaft zu integrieren. Die Mehrheit der syrischen Flüchtlinge sind Muslime, die in einer multiethnischen und multireligiösen Gesellschaft aufgewachsen sind. Damit sind sie vergleichbar mit bosnischen Kriegsflüchtlings, die in den 1990er Jahren unter ähnlichen Umständen in Österreich eintrafen. Auch die Bosnier waren überwiegend Muslime und stammten aus einer Gesellschaft mit kultureller und religiöser Vielfalt. Dies führt zu der Annahme, dass Syrer mit ihrem Hintergrund für die Integration besser gerüstet sind als andere muslimische Flüchtlingsgruppen, und ihre Integration wird genauso wie die ihrer Vorgängern erreicht. Während vor 20 Jahren das Thema Integration vernachlässigt wurde, wurde das Konzept heute institutionalisiert und sektorübergreifend umgesetzt. Die Divergenz der Aufnahmebedingungen und die Vergleichbarkeit beider Gruppen bilden eine solide Grundlage für die Analyse der Entwicklung der österreichischen Integrationspolitik im Laufe der Zeit und die Identifizierung übertragbarer guter Praktiken.