



IOM International Organization for Migration

National Contact Point Austria within the European Migration Network

ILLEGAL IMMIGRATION IN AUSTRIA

Austrian contribution to the European Research Study Project II
„Illegally Resident Third Country Nationals in the EU Member States:
State Approaches Towards Them and Their Profile and Social Situation“



Photography: Monika Sulc

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National Contact Point Austria
within the European Migration Network

Illegal Immigration in Austria

A survey of recent Austrian migration research

Austrian contribution to the European Research Study Project II:

“Illegally Resident Third Country Nationals in the EU Member States: State Approaches Towards Them and Their Profile and Social Situation”

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Foreword

In 2002, the Austrian Ministry of the Interior appointed the office of the International Organization for Migration (IOM) in Vienna to become the Austrian National Contact Point (NCP) within the European Migration Network (EMN). The overall aim of the EMN is to provide the public with objective and reliable data on migration and asylum in Europe. In addition, the NCPs are requested to undertake research and analysis and compare available data and material in order to improve the comparability of data and strengthen the overall migration research efforts at European level. The Austrian NCP has built a broad network of Austrian partners within various ministries and agencies, research institutions and NGOs and constantly updates its data and research collection (www.emn.at).

The present pilot study, *Illegal Immigration in Austria*, is the Austrian contribution to the European Research Study Project II on *Illegally Resident Third Country Nationals in the EU Member States: State Approaches Towards Them and Their Profile and Social Situation*, which is undertaken by the EMN within its preparatory phase.

The main body of the study was researched and written by the team of the NCP Austria. Sophie Hofbauer, who was responsible for the scientific coordination of the study, had the academic lead and undertook this task with great diligence, professionalism and accuracy. She was supported by the members of the NCP Austria, Brigitte Schütz and David Reisenzein, by the Researchers-in-Residence Tobias Pilz and Christoph Erlbacher, and further by the IOM staff Sonja Grabner, Alexander Dinhobl, Sonja Jell, Daria Huss and Alessandra Ferlesch.

Chapters 3.4.4 work, 4.2 economic situation, and 5.2-5.4 on the economic impact on the host society were out-sourced to Karin Mayr of the University of Linz, Department of Economics. Colonel Gerald Tatzgern, head of the Central Service Combating Alien Smuggling, provided consultation in chapter 3.1 on measures to prevent illegal immigration, and August Gächter of the Centre for Social Innovation reviewed the entire study for its accuracy and completeness. All of the above-mentioned persons took on their respective tasks with great professionalism and engagement. A warm thank you goes to all of them.

The network of researchers of the NCP Austria was partly involved through their responses to specific questions. For the first time, it was possible also to include NGOs and welfare

institutions to incorporate their knowledge and experiences in this respect. As published research material is scarce, especially with regard to the actual situation of illegally resident immigrants, a number of Austrian NGOs and welfare institutions were visited and asked to share their experience within their respective activities. At the same time information on the European Migration Network in general was provided, thereby establishing contacts for possible future cooperation. By this methodology, different sources were utilised in order to obtain a more comprehensive and appropriate picture of the reality.

In order to promote awareness of this study, the NCP Austria launched a photographic competition on Illegal Immigration in Austria and, among the many submissions received, the jury decided on one picture to be used as the cover for this pilot study. All pictures submitted will be shown at the launch of the second pilot study in autumn 2005.

Enjoy reading!

Erika Laubacher-Kubat

Project Manager for Austria – head of the National Contact Point Austria

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List of Abbreviations

ADHA	Verein für Menschenrechte und Demokratie in Afrika	Association for Human Rights and Democracy in Africa
AK	Bundeskammer für Arbeiter und Angestellte	Austrian Federal Chamber of Workers and Employees
AMBER	AM(B)ulanz – BERatung	Ambulance – Counselling
AMS	Arbeitsmarktservice Österreich	Public Employment Service
AsylG	Asylgesetz	Asylum Act
AUA	Austrian Airlines	Austrian Airlines
AuslBG	Ausländerbeschäftigungsgesetz	Law on the Occupation of Aliens
AVRAG	Arbeitsvertragsrechtsanpassungsgesetz	Employment Contract Law Amendment Act
BGBI.	Bundesgesetzblatt	Federal Law Gazette
BIVS	Berliner Institut für Vergleichende Sozialforschung	Berlin Institute for Comparative Social Research
BK	Bundeskriminalamt	Austrian Criminal Intelligence Service
BMAA	Bundesministerium für auswärtige Angelegenheiten	Federal Foreign Ministry
BMF	Bundesministerium für Finanzen	Federal Ministry of Finance
BMGF	Bundesministerium für Gesundheit und Frauen	Federal Ministry for Health and Women
BMI	Bundesministerium für Inneres	Federal Ministry of the Interior (MoI)
BMWA	Bundesministerium für Wirtschaft und Arbeit	Ministry of Economics and Labour
B-VG	Bundesverfassungsgesetz	Austrian Constitution
CCME	Kommission der Kirchen für MigrantInnenen in Europa	Churches' Commission for Migrants in Europe
CEEC	Mittel- und Osteuropäisch Staaten	Central and Eastern European Countries

CIS	Gemeinschaft Unabhängiger Staaten (GUS)	Commonwealth of Independent States
ECHR	Europäische Konvention zum Schutze der Menschenrechte und Grundfreiheiten	European Convention for the Protection of Human Rights and Fundamental Freedoms
EEA	Europäischer Wirtschaftsraum (EWR)	European Economic Area
EFDÖ	Evangelischer Flüchtlingsdienst Österreich	Protestant Refugee Service Austria
EMN	Europäisches Migrationsnetzwerk	European Migration Network
ERF	Europäischer Flüchtlingsfonds	European Refugee Fund
EURODAC	System für den Vergleich von Fingerabdrücken von AsylwerberInnen und illegalen Einwanderern	System for the comparison of fingerprints of asylum applicants and illegal immigrants (European dactyloscopy)
EUROPOL	Europäisches Polizeiamt	European Police Office
FIS	Fremdeninformationssystem	Alien Information System
FPÖ	Freiheitliche Partei Österreichs	Austrian Freedom Party
FrG	Fremdengesetz	Aliens Law
ICCPR	Internationaler Pakt über bürgerliche und politische Rechte	International Covenant on Civil and Political Rights
ICERD	Internationales Übereinkommen zur Beseitigung jeder Form von Rassendiskriminierung	International Convention on the Elimination of all Forms of Discrimination
ICESCR	Internationaler Pakt über wirtschaftliche, soziale und kulturelle Rechte	International Covenant on Economic, Social and Cultural Rights
ICMPD	Internationales Zentrum zur Entwicklung von Migrationspolitik	International Centre for Migration Policy Development
ILO	Internationale Arbeitsorganisation	International Labour Organization
INTERPOL	Internationale kriminalpolizeiliche Organisation	International Criminal Police Organisation
KIAB	Kontrolle illegaler Arbeitnehmerbeschäftigung	Central Taskforce for the Prevention of Illegal Employment
LEFÖ – IBF	Interventionsstelle für Betroffene des Frauenhandels	Intervention Centre for Women Affected by Trafficking

LGBL	Landesgesetzblatt	Provincial Law Gazette
MAIA	Medizinische Hilfe für alle – Netzwerk zur medizinischen Versorgung von Menschen ohne Krankenversicherung	Medical Aid For All – Network for the Medical Aid for Persons without Health Insurance
MAIZ	Autonomes Integrationszentrum von und für Migrantinnen	Autonomous Integration Centre by and for Migrant Women
MoI	Bundesministerium für Inneres	Federal Ministry of the Interior
MÜG	Mobile Überwachungsgruppe	Mobile Surveillance Task Force
NCP	Nationaler Kontaktpunkt	National Contact Point
NGO	Nichtregierungsorganisation	Non-Governmental Organisation
NLV	Niederlassungsverordnung	Settlement Regulation
OECD	Organisation für wirtschaftliche Zusammenarbeit und Entwicklung	Organisation for Economic Co-operation and Development
OEZA	Österreichische Entwicklungs- und Ostzusammenarbeit	Austrian Development Cooperation & Cooperation with Eastern Europe
ÖGB	Österreichischer Gewerkschaftsbund	Federation of Austrian Trade Unions
OLAF	EU Zollkriminalamt	EU Anti-Fraud Office
OSCE	Organisation für Sicherheit und Zusammenarbeit in Europa	Organization for Security and Co-operation in Europe
ÖVP	Österreichische Volkspartei	Austrian People's Party
PERCO	Plattform für Europäische Zusammenarbeit des Roten Kreuzes zu Flüchtlingen, AsylwerberInnen und MigrantInnen	Platform for European Red Cross Cooperation on Refugees, Asylum Seekers and Migrants
PICUM	Plattform für internationale Zusammenarbeit zu undokumentierten MigrantInnen	Platform for International Cooperation on Undocumented Migrants
RGBL	Reichsgesetzblatt	Imperial Law Gazette
SECI	Südosteuropäische Initiative zur Zusammenarbeit (Zentrum zur Bekämpfung von grenzüberschreitender Kriminalität)	Southeast European Cooperative Initiative (Transborder Crime Fighting Centre)
SEG-Bau	Sondereinsatzgruppe Bau	Special Task Force on Construction

SIS	Schengen Informationssystem	Schengen Information System
StGG	Staatsgrundgesetz	Federal Basic Law
UDHR	Allgemeine Erklärung der Menschenrechte	Universal Declaration of Human Rights
UNHCR	Hochkommissariat der Vereinten Nationen für Flüchtlinge	United Nations High Commissioner for Refugees
USG	Unterstützungsgruppe des Grenzdienstes	Operational Support Group Border Control
VfGH	Verfassungsgerichtshof	Austrian Constitutional Court
WCO	Weltzollorganisation	World Customs Organisation
WIFO	Österreichisches Wirtschaftsforschungs-Institut	Austrian Institute for Economic Research
ZBS	Zentralstelle zur Bekämpfung der Schlepperkriminalität	Central Service Combating Alien Smuggling

Legal Terms and Translations

Abschiebeaufschub	certificate of postponement of deportation
Arbeitserlaubnis	work permit
Aufenthaltserlaubnis	temporary residence permit
Aufenthaltsverfestigung	consolidation of residence
Befreiungsschein	certificate of exemption
Beschäftigungsbewilligung	restricted work permit
Meldebestätigung	confirmation of residence
Meldezettel	residence registration form
Niederlassungsnachweis	proof of settlement
Niederlassungsbewilligung	settlement permit
Niederlassungsverordnung	settlement decree

Executive Summary

1. Legal Framework and Policy Developments

Illegally resident immigrants are not a homogenous group. There are different ways to become an illegal resident, which are determined by the legal framework of a country. The Austrian Aliens Act on the entry, residence and settlement of aliens defines the lawful residence of a foreign national, but an illegally resident immigrant is not legally defined as such in Austrian legislation. Nevertheless, the Aliens Act outlines the consequences of unauthorised residence as well as aiding and abetting unauthorised residence for reward. The Austrian legal system does not explicitly refer to the rights of illegal residents. Yet, besides fundamental human rights, which apply to all persons within a country's territory, irrespective of their legal status, there are several rights in Austrian legislation that are neither explicitly granted to nationals nor to citizens of specific third countries; therefore such rights apply to illegally resident and/or working immigrants as well. Illegally resident immigrants have access to public health care in case of emergencies, they have also access to education services, such as language courses, but no access to the formal labour and the housing markets. While the Aliens Act 1992 contained some illegalisation traps, these were abolished with its amendment in 1997. In the same amendment, a system of consolidation of residence was established, which enhances the status of persons, who have been residing in the country for a certain period of time. Furthermore, the possibility of issuing a residence permit for humanitarian reasons was introduced. Through the ensuing amendment of the Aliens Act in 2003, humanitarian settlement permits are also made possible. These are, besides marriage, adoption and applying for Austrian citizenship, the possibilities for legalising illegal residence.

2. Stocks and Profiles

Data dealing directly with illegal immigration only shows a fragmentary picture of the real situation, as illegal immigration itself is undocumented. Data sources we have at our disposal include data on apprehensions of illegally entering or resident immigrants recorded by the MoI/Criminal Intelligence Services or client data of NGOs and welfare institutions working in the field of migration and asylum. Certainly, one has to bear in mind that these data cannot be considered representative for the total number of illegal immigrants entering or residing in Austria and therefore have to be interpreted carefully.

The total numbers of illegally entering and/or illegally resident persons can only be estimated. For this purpose, a variety of diverse methods and techniques have been developed. In the case of Austria, only few estimates following these techniques have been published. Of these few estimates, each refers to a particular group of illegally resident immigrants and not to the phenomenon as a whole, e.g. illegally resident pupils or illegally employed foreigners. To give an example, by comparing two different data sources, Biffel (2002) estimates that among six-15 year olds, some 5,000-7,000 children and adolescents are residing illegally in Austria.

Looking at apprehension data (such as smuggled persons or illegally entering and/or residing persons), the number has been declining since 2003. In 2004, 38,530 persons were apprehended, a fall of over 14% from the previous year. The most important countries of origin among smuggled persons are the Russian Federation, India, Moldova and Georgia; the main countries of origin among illegally entering and/or residing persons are Romania, Bulgaria, Moldova and Serbia and Montenegro.

Besides apprehension data, a variety of NGOs, welfare institutions and studies present interesting data on the profiles of illegally resident immigrants. Although not representative, these sources shed light on structures of illegal immigration and biographies of illegally resident immigrants. Data is available on women and children affected by trafficking, rejected asylum seekers, immigrants without health insurance and illegally employed domestic workers.

3. State Approaches

Austria implements a variety of policies in order to prevent, control, rectify, remedy or undo illegal immigration. The state approach that is most often applied is that of the prevention and exertion of domestic control, followed by the policy of undoing, which includes expulsion and deportation. The option of rectification/remedy, which would include legalisation programmes, is rarely implemented. While there has never been a legalisation programme in Austria, other options have been found in order to rectify a person's irregular residence status on a case-by-case basis.

The trafficking and smuggling of human beings plays an important role in Austria, which is considered both as a destination country as well as a transit country for immigrants on their way to other EU Member States. According to the Austrian Criminal Intelligence Service, the main points of entry of smuggled persons to Austria are Hungary, Slovakia, and the Czech Republic, with land or air routes used differing according to the nationalities of the immigrants. Central and Eastern Europe are the main countries of origin of persons (mainly women) affected by human trafficking.

During the last 15 years, external border control, international police cooperation and information exchange have constantly been improved. On the international level, so-called security partnerships were established with Austria's neighbouring countries in 2000, and a number of joint projects have been implemented to counter human smuggling and trafficking in the countries of origin. Austria has also concluded several readmission agreements on a bilateral level with countries of origin and transit of illegal immigration.

Concerning measures of domestic control, according to the Austrian Registration Law, all persons establishing their residence in Austria must register at the civil registry offices. Yet, the registration data are not shared with the Aliens Police, which is the authority dealing with illegally resident immigrants in the country. The Central Taskforce for the Prevention of Illegal Employment is in charge of tracking down illegally working immigrants by controlling work sites. In 2003, the so-called reverse-charge-system was introduced in the construction sector to combat the prevalence of fictitious companies, the stock of personnel of the Central Taskforce was doubled, their authority expanded and the number of controls increased.

In the area of forced return, enhancements such as the medical examination of the deportees, legal training for executive personnel and the accompaniment of human rights observers and doctors on charter flights were introduced in 1999. Assisted voluntary return is an option that has increasingly been used by persons who are kept in detention pending deportation, since the general awareness has been increased within the responsible state institutions and NGOs. There are currently several programmes of assisted voluntary return, which are implemented by the International Organization for Migration.

In general, there is no public social or medical support for illegally resident immigrants in Austria. Yet, they have access to social services such as health care, emergency health care, emergency shelter and legal support provided by NGOs and welfare institutions. Concerning employment, there are three different work permits for legally resident immigrants in Austria. In order to meet the needs of migrant labour, the amount of seasonal workers was increased and the concept of commuting was extended under the Aliens Act 2002. Further, the Government concluded bilateral agreements with Hungary and the Czech Republic, defining the numbers of both frontier workers as well as key professionals. However, there are no explicit provisions that would prevent immigrant workers from slipping into illegality after their work visa has expired.

4. Social and Economic Situation, Political Participation

In general, the daily life of illegally resident immigrants is characterised by the fear of being detected and consequently deported. This can cause psychological strains, which in turn can have a negative impact on their state of health. Loss of identity (especially for minors who live under false names), separation of families, insecure living conditions and lack of stability have been enumerated as problems of affected persons. Their precarious living-conditions can lead to extreme dependency on their employers, which is usually correlated to experiences of violence and exploitation, especially in insecure working conditions. Furthermore, even if ethnic networks play a pivotal role in helping to find accommodation and jobs, illegally resident immigrants tend to live in social isolation. There is no information available on whether illegally resident immigrants have found alternative ways to organise education and training either for themselves or for their children.

The limited data collected reveal that the branches most affected by illegal foreign employment are the sectors of construction, catering, agriculture and small-scale industry. Until 2002, the majority of illegally working immigrants came from the central European countries (e.g. Poland, Slovakia) and the successor states of the former Yugoslavia. The illegal employment of foreigners in sectors requiring higher qualifications is considered to be less common. Since mid-2002, data on the nationality of illegal foreign workers are not available. It is therefore usually not possible to determine whether there is a dominance of certain ethnic or national groups in particular niches, or the conditions under which they work. Moreover, information on the socio-economic characteristics of illegally resident immigrants is scarce and often relies on small and unrepresentative samples.

Political participation on an official level is impossible for illegally resident immigrants in Austria, and there is no current public discussion regarding the need for a political platform for their concerns. Nevertheless, different organisations have been active in supporting illegally resident immigrants by campaigns and platforms aimed at raising the awareness of the government and the general public.

5. The Impact of Illegal Immigration on the Host Country

For a clear and well-defined description of the impact of illegal immigration on the host society, there is insufficient information available. Yet, reflections of the topic within society can be taken as possible indicators. The main actors addressing the issue of illegal immigration in Austria are NGOs, welfare institutions, churches, and the media. Political parties and trade unions deal with the topic to a lesser extent, instead more generally focusing on migration and asylum. Among the general public, illegal immigration is perceived as a humanitarian challenge and as a general threat, as well as in terms of competition in the labour market.

As the data on illegally resident immigrants are necessarily poor, it is difficult to implement a proper cost-benefit analysis to estimate the impact of illegal immigration on the economy. Yet, according to the OECD (1999), the fiscal impact of illegal foreign workers and their families is generally insignificant. While most benefits of the social security system are only granted after five years of regular residence, direct cost is incurred by the use of services, which are not determined by the legality of residence status, such as the education of the children of illegally resident immigrants. Moreover, with regard to public order, a direct cost of illegally resident immigrants is the cost of entry control. However, as argued by OECD (1999), not all the costs incurred in entry control can be attributed to illegal immigration. It is not known how much fiscal revenue was lost due to the undeclared employment of illegally working immigrants in Austria.

It is not possible to enunciate the impact illegal immigration has on society in terms of integration, as no thorough research has been undertaken to date. Neither the regional concentration of illegal immigrants nor the consequences for local authorities can be determined due to the lack of data, statistics and research material. However, it can be assumed that the majority of illegal immigrants reside in larger cities, where there are better chances of find employment. Results of the work site controls have shown that most illegally working immigrants were detected in the capital, Vienna, and the province of Lower Austria.

Introduction

This pilot study, *Illegal Immigration in Austria*, is the contribution of the National Contact Point Austria within the European Migration Network (EMN), to the European Research Study Project II on *Illegally Resident Third Country Nationals in the EU Member States: State Approaches Towards Them and Their Profile and Social Situation*. It is an attempt to provide a survey of recent and relevant Austrian migration research by broadening the field of expertise. Different sources have contributed, such as the Central Service Combating Alien Smuggling that lies within the Austrian Federal Ministry of the Interior, the academic background of well-known Austrian migration researchers as well as the experiences of non-governmental organisations (NGOs) and welfare institutions active in the field. The National Contact Points of the EMN taking part in this research project (Ireland, Germany, Italy, Greece, Sweden, Belgium and the Netherlands) are following the same template of research questions, which was elaborated by the Berliner Institut für Vergleichende Sozialforschung (BIVS) (Berlin Institute for Comparative Social Research). This joint approach will make it possible to have a comparative European synthesis report at the end of the project (2005/06) compiling the findings of the respective country reports. This aims, among others, toward contributing an objective scientific perspective into the European debate regarding illegal immigration.

The challenge of this second pilot research study project is twofold: On the one hand the comprehensive content and the broad range of research questions to be answered, while on the other, the apparent invisibility of the subject matter itself. How to find material on persons, who officially have no right to reside and work in the country? They exist nevertheless and have to manage their lives along the thin line between legality and illegality. The report addresses three pillars: the social and economic situation of illegally resident immigrants, state approaches to illegal immigration and the impact of illegal immigration on the host society. Here the mass media play an important role in the question of how illegal immigration is perceived in all its different forms. Is the topic treated as a threat to society or is it the media coverage of human tragedies, such as the cases of trafficking in and smuggling of human beings, that most affect public perception?

The aim of this study is to shed a light on the diversity of the legal framework, administrative practices, the main actors involved, the profile of illegally resident immigrants and their social

and economic situation and the impact on the host society. In Austria, the topic has not been dealt with in such detail before. Although the focus of this study lies on the state approaches towards illegal immigration, the situation of an illegally resident immigrant in the country is considered as well. After all, it is human beings that migrate and it is humans who have to cope with the practice of the laws and policy decisions of a country. Do illegally resident immigrants in Austria have access to health services, to legal support, to education? Can they engage in politics? How is access to the labour market regulated and how many are working in the informal sector? These are some of the questions to be answered by analysing the existing research material in form of publications, statistics, and legislation, and by consulting organisations that are active in this field.

Terminology

It is interesting to observe how many terms are used to describe an ‘illegal immigrant’ among the different levels of discussion. While academics and practitioners have begun to revoke the expression of ‘illegal immigrant’ and replace it by the terms ‘undocumented’, ‘irregular’, ‘illegalised’ or ‘illegally resident/working immigrant’, at the political level and in the public debate these subtle distinctions are not always made. In the words of Nobel Peace Prize winner, Elie Wiesel, “*there is no such thing as an illegal human being*”, human beings can be tall, short, rich or poor, but not illegal. The term of illegal immigrant also subconsciously suggests a close linkage to criminality, which stokes fears among local populations. Although the overall title of the research project refers only to *illegally resident third country nationals*, the close linkage to illegal occupation cannot be negated. In cases where one cannot speak of an illegal residence status in Austria yet, such as the moment of apprehension at the border, we use the term ‘illegal immigrant’ but with inverted commas. In all other cases, the authors differentiated between illegally resident and illegally working immigrants.

Another term that requires some clarification is the term ‘human trafficking’, which is often used as synonym for ‘smuggling of human beings’.¹ In Austria, the German word

¹ According to the UN Office on Drugs and Crime, the most important differences between trafficking in and smuggling of human beings are the following: “*The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.*

Another major difference is that smuggling ends with the arrival of the migrants at their destination, whereas trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers. From a practical standpoint, victims of trafficking also tend to be more severely affected and in greater need of protection from re-victimization and other forms of further abuse than are smuggled migrants.

‘*Schlepperei*’ does not clearly differentiate between the existence or non-existence of the decisive factors of coercion, deceit, and exploitation, thus these two different terms are often used interchangeably by the media, but also by the police, constituting an important source of mistakes in the research material. As far as possible, the authors distinguished between trafficking and smuggling of human beings. Where it is unclear the term ‘smuggling’ is used.

Last but not least, a few words must be said about the usage of the term ‘victims of human trafficking’, which most often implies only women and neglects trafficked men and children. The victimisation of trafficked persons is another issue of note, as *“there is a stigma attached to the term ‘trafficking in women’ that is extremely problematic in itself. The risk that women will be viewed as incapable of taking action or decision on their own behalf is inherent in any victim-oriented approach.”* (Hutter 2000: 111). For this reason, the expression ‘persons affected by human trafficking’ is becoming more common in literature and practice.

Methodology

The nature of the topic makes a survey of existing research problematic for several reasons: On the one hand, only little reliable information is available, while on the other, it seems to be an area many researchers are reluctant to approach in significant depth. It must not be forgotten that behind every statistic stands a person with his or her individual history. Thorough research on this topic therefore often gives the feeling of ‘exposing’ persons, who willingly or unwillingly find themselves in a precarious situation. It goes without saying that any occupation with this topic implies appropriate caution and respect. Another problem that arises in this context is the research object itself: *“migrants living and/or working in receiving countries tend to have reason to be cautious so that very special circumstances are necessary in order to obtain meaningful information.”* (Çinar/Gächter/Waldrauch 2000: 16). The heterogeneity of illegality makes a quantitative measurement difficult. According to Matuschek (2002: 353), qualitative surveys are therefore a better method of obtaining information on causes, length of stay and forms of illegality.

This study is a compilation of current and available information in the form of publications, statistics, legislation and the practical experience of actors in the field. It was not our intention to undertake primary research or to estimate the stocks of illegally resident immigrants. The

Finally, smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.”
See http://www.unodc.org/unodc/en/trafficking_victim_consent.html (accessed in June 2005).

aim was rather to undertake a desk analysis of the recent and current data and research material at the national level in close cooperation with the partners of the network of the NCP Austria. Some information, which could not be located in the academic community, was gathered by asking relevant practitioners. The content of the study cannot be seen as exhaustive, but provides an impression of the actual migration research on illegal immigration in Austria and some examples of practice in the country.

A few general remarks on illegal immigration

Illegal immigration is a very complex and heterogeneous phenomenon and there are many different ways of becoming illegal. Çinar/Gächter/Waldrauch (2000: 11-12) write of three principal sources of illegality: 1) entry, 2) residence, and 3) employment, which can result in many different types of illegality depending to the respective combinations of the three sources. They furthermore point out that the possibility of being or becoming an illegally resident and/or working immigrant is strongly dependent on the legal framework of the country and that the level of law enforcement defines the extent to which illegalities occur (ibid. 11). *“Since the legal framework of immigration differs substantially between countries, to be in an irregular situation means very different things in different countries.”* (ibid. 13). Some immigrants even find themselves in a combination of legal and illegal situations, for example residing legally but working illegally. Furthermore, it is noteworthy that an illegal status is not necessarily a permanent status. In many cases, it is a transitional status, such as when immigrants are waiting for the issuance of their residence or work permits, or changing their visas due to a different purpose of stay.

Even immigrants, who are legally residing/working in the country, can unwillingly slip into illegality due to changes in national legislation, as it was the case in Austria with the Aliens Act 1992, which entered into force on 1 January 1993 and which brought a number of ‘illegalisation traps’, but which were abolished again in 1997. Immigrants could also slip into illegality by unemployment, divorce, criminal conviction, repeated administrative offences or even illness (Fronek 2000: 233). The problem is further compounded by legal and financial dependency, the majority being migrant women, who followed their husbands to a country. This legal trap has repeatedly been criticised by human rights and migrant organisations. In cases of divorce, death, illness or domestic violence, when the police is called for assistance, immigrants risk being deported, if they cannot prove their own health insurance and

livelihood and therefore not secure their legal situation (which is often not possible due to the restricted access to the labour market).

Fronek (2000) and Matuschek (2002) have enumerated the manifold ways of being or becoming illegal in Austria: illegalisation due to the restricted access to the labour market; illegalisation because of impeded family reunification; illegalisation of minors, when parents forget to reapply for their children's residence permit and the illegalisation of asylum seekers who receive a negative asylum decision and disappear underground or who can *de iure* and/or *de facto* not be deported to their country of origin.

Illegally resident immigrants are not a homogenous group of persons. The reasons for living in a country with an illegal status vary, yet, what all illegally resident immigrants have in common is a certain degree of legal and social exclusion and the fear of being detected and later deported. This can lead to psychological strain, illness and even identity problems. According to Messinger (2002: 157-158) minors are particularly vulnerable, e.g. in cases they live with false identities. A legal residence and work permit is the key to active participation, integration and a secure life, or as Karazman-Morawetz (2001: 317) writes: *“Living in a state of illegality, without legal citizenship, is a precarious way to live one's daily life and to conduct one's activities; there are resultant restrictions of civic freedom, but it affects the dimension of the future, too, in terms of the possibility to build a reliable, secure future existence.”*

Type of material collected and research gaps

Considering the nature of the topic of illegal immigration, it was clear from the outset that research would be problematic. Within the scientific community, it seems that migration researchers are reluctant to deal with the issue. Nevertheless, there exists more secondary literature than originally thought and, especially in the academic field, a handful of very recent publications are available. A trend has been observed that this topic has become a new field of interest at universities, in the form of master and doctoral theses (see Böhm 1998, Houben 1999, Sohler 1999, Messinger 2000, Rechling 2004, Tschernitz 2004). Some research projects are still in progress and were not yet published at the time this pilot study was compiled. However, beyond the universities, only little material could be found at the research institutions in Austria. Several of those publications available were written during the 1990s, and thus, due to the many legal changes, are in part no longer relevant for such a

dynamic area of migration. Aside from the published books, reports, articles, statistics and the data collected, a useful information source was the Internet. Websites provide useful information on different networks, supporting organisations and other relevant actors, their activities, campaigns, as well as implemented projects and general developments, many of which could not be found elsewhere. The publications by the Platform for International Cooperation on Undocumented Migrants (PICUM) in Belgium also proved to be a useful information pool, with research results also on the situation in Austria.

Yet, illegal immigration in Austria is a topic that has not been researched deeply enough, when compared to other topics related to migration, such as integration and asylum. According to a study by the Austrian Red Cross, illegal immigration and trafficking in human beings in general is not dealt with in the public sphere (Evrensel/Höbart 2004: 5). The main problem encountered in compiling this study was the lack of statistics and publications and relatively poor quality of some data. Sometimes data can be found, which are not differentiated according to the legal status of the immigrants. Moreover, although it was our objective to focus on third country nationals only, it is clear that the existing research data do not always utilise this breakdown of nationalities. Furthermore, new EU Member States which were third countries before 2004, and were typical countries of origin of illegally resident and/or working immigrants coming to Austria (such as Poland, the Czech Republic, Slovakia) complicate this delineation.

While compiling the study, significant research gaps were identified, notably the little information available on the economic and social situation of illegally resident/working immigrants. A few sociological studies deal with this topic, in particular a number of qualitative case studies. The disadvantage of these case studies is that it is not possible to generalise, although certain trends, developments and problems were revealed. Yet, in most cases it is not known how the illegal status came about, whether the residence status was illegal from the beginning or whether the immigrant became illegal during the stay and whether the person hoped that the illegal stay could turn into a legal stay. Other gaps concern the question of whether Austria is intentionally a destination country or why the immigrant decided to remain.

Further questions, for which there are currently no answers, but which deserve attention include the following: Does the person have family members in the country or elsewhere?

What is the legal status of these family members? Did the family exist already before the illegal entrance? What other social ties does the person have in Austria? Were debts incurred and are they already paid off? Were any debts paid to smugglers or relatives in the country of origin? What is the amount of remittances that are sent to family members?

Concerning preventive measures in the countries of origin and accompanying measures in cases of repatriation, it would be beneficial to know what other sources of income relatives have in their home communities. Finally, open questions remain in the field of the illegal employment of immigrants with an illegal residence status and the demand for such labour force without any rights.

In contrast, general information on the legal framework, policy developments, state approaches, border management and the like was easier to find in the official publications of the Austrian Ministry of the Interior (MoI), although it has not been compiled yet in regard to illegal immigration. An area where more information is available is the field of trafficking in human beings, due to the work of international organisations and joint projects on countermeasures in the countries of origin. However, this material only seldom deals specifically with the situation in Austria.

Research gaps are evident when it comes to the question of who these illegally resident immigrants are (age, sex, education, profession, nationality) and how they manage to survive without possessing the legal documents for residence and/or work. Very little information is available on the impact of illegal immigrants on the host society as clear indicators and the corresponding data are missing.

1. Legal Framework and Policy Developments

(With the collaboration of Sonja Grabner, IOM Vienna)

Chapter 1 Synopsis

In Austrian legislation, there is no legal definition of an illegal immigrant. However, § 31 (1,2) of the Aliens Act determines the cases in which a foreign national is residing legally or illegally.

The Austrian legal system does not explicitly refer to the rights of illegal residents. Nevertheless, besides fundamental human rights enshrined in universal conventions, there are several rights in Austrian legislation that can also apply to illegal immigrants, as they are neither explicitly granted to nationals nor to citizens of specific third-countries.

Since its entry into force, the Aliens Act 1992 has been amended several times, among others in order to implement the common European initiatives dealing with illegal immigration, but also to abolish existing illegalisation traps. In 1997, a system of consolidation of residence (*Aufenthaltsverfestigung*) was established; in 2003 also humanitarian residence permits became possible, and a long-term residence permit (*Niederlassungsnachweis*, proof of settlement) was established for aliens who have been living and working in Austria for more than five years and their dependents and for those who attended compulsory education at any time during a settlement period of five years.

Besides applying for a residence or settlement permit for humanitarian reasons, there are few legal possibilities for illegally resident immigrants to obtain a regular status, these include adoption, marriage or applying for citizenship after a certain number of years.

1.1 Legal definition of illegal residence in Austrian legislation

In comparison to the European Commission, which defines an illegal immigrant as “*any person who does not, or no longer, fulfil the conditions for entry to, presence in, or residence on the territory of the Member State of the European Union*”², Austrian law applies the following positive definition: According to § 31(1) of the Aliens Act 1997³, foreign nationals reside lawfully in the Austrian territory, if they

- entered the country in compliance with the provisions of part II of the Aliens Act on the entry and exit of foreigners, without circumventing the border control;
- have the right to residence on the basis of a residence title or a regulation concerning displaced persons;
- hold a residence title issued by one of the contracting states; or
- have the right to residence under the Asylum Act of 1997.

² Green Paper on a Community Return Policy of Illegal Residents. COM (2002) 0175 of 10/04/2002.

³ Until not otherwise quoted, we refer to the Aliens Act BGBl. I 76/1997, amended version BGBl. I 105/2003.

According to § 31(2), however, even if foreign nationals meet these requirements, they are *not residing legally* in the federal territory, if they

- have to be taken back under a readmission agreement or according to international practice;
- have entered Austrian territory under a transit declaration; or
- if a contracting state has announced a legal reason for a denial of entry.

All other forms of entry and residence constitute an act of unlawful entry or stay, which is punishable by administrative law. Articles 107 and, since 2002, 107a of the Aliens Act clarify the consequences of unauthorised residence as well as aiding and abetting unauthorised residence for reward:

Article 107.

(1) Any person who:

1. Fails to depart promptly following the imposition of a residence ban or deportation order, or
2. Without permission returns to the federal territory in contravention of a residence ban, or
3. Resides in the federal territory as an alien who is subject to the passport requirement but does not possess a valid travel document, or
4. Unlawfully resides in the federal territory (Article 31) shall be guilty of an administrative infraction and be liable to payment of a fine up to € 726 or to a term of imprisonment of up to 14 days in the cases referred to in subparagraphs 1 and 2 above, and to a fine of up to € 726 in all other cases.

Article 107a.

(1) Any person who wilfully procures or otherwise facilitates the unauthorised residence of an alien in the federal territory in return for a pecuniary advantage shall be guilty of an administrative infraction and be liable to payment of a fine up to € 3,600.⁴

The Platform for International Cooperation on Undocumented Migrants, PICUM, states that although there have been no court cases in which NGOs or humanitarian organisations have been penalised under Article 107a, the fact that this law exists creates an environment in

⁴ § 107a Aliens Act BGBl. I 75/1997 amended version 134/2002.

which those, who provide assistance to undocumented migrants could possibly be penalised, if anybody were charged and the court decided to interpret the law in this way (2003: 30).

There are no further specifications in national legislation defining an illegally resident immigrant as such.

1.2 Basic rights and minority rights of illegally resident immigrants in Austria

As all other countries within the European Union, Austria has committed itself to respect fundamental human rights by signing and ratifying international declarations, conventions and treaties such as the International Covenant on Civil and Political Rights (ICCPR)⁵ and the International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶, both ratified by Austria in 1978⁷, which apply to *all* human beings on a country's territory, irrespective of a person's legal status.

Only international legal instruments dealing specifically with migrants differentiate between the two groups of legal and illegal immigrants, where only the civil and basic social rights of illegal immigrants are considered (see Houben 1999). Austria has not signed either the UN Convention for the Protection of the Rights of All Migrant Workers and the Members of their Families⁸, or the ILO Convention No. 143 (Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers) of 24 June 1975. Since 2000, Austria is a signatory state to the UN Convention against Transnational Organized Crime and its first Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the second Protocol against the Smuggling of Migrants by Land, Sea and Air. Besides the second protocol, which was ratified in September 2005, the others have not yet been ratified.

⁵ Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966.

⁶ Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966.

⁷ BGBl. 591/1978.

⁸ Adopted by the General Assembly Resolution 45/158 of 18 December 1990.

The Universal Declaration of Human Rights (UDHR)⁹ contains besides its general non-discrimination clause,¹⁰ which applies to everyone, the right to social security,¹¹ the right to just remuneration¹² and the right to an adequate standard of living (including food, clothing, medical care and necessary social services)¹³. Austria ratified the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)¹⁴ in 1972 and enacted the Federal Constitutional Law on the Elimination of Racial Discrimination¹⁵ in order to comply with its international obligations. The *Bundesverfassungsgesetz* (B-VG)¹⁶ (Austrian Constitution) as well as the *Staatsgrundgesetz* (StGG)¹⁷ (Basic Law on the General Rights of Nationals) of 21 December 1867 provide for the equality of all Austrian citizens before the law.¹⁸ Furthermore, the StGG establishes the right to property and the freedom to choose one's gainful occupation.¹⁹

The ICESCR, which must be implemented progressively by respecting the minimum core obligation of each right, obliges state parties to use all resources available to ensure the respect, protection and fulfilment of these rights. Even in times of severe constraints, vulnerable members of society must be protected.²⁰ The ICESCR contains a list of rights, which are to be granted in a non-discriminatory way: the right to work²¹, right to just and favourable conditions at work²², right to social security²³, right to an adequate standard of living²⁴, right to the highest attainable standard of physical and mental health²⁵, and the right to education²⁶. Furthermore, it states that special attention should be given to families and children²⁷.

⁹ UDHR adopted and proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948.

¹⁰ Art. 2 UDHR.

¹¹ Art. 22 *ibid.*

¹² Art. 23 (2) *ibid.* To the contrary, concerning the right to work, Article 23 is said only to apply to workers ordinarily residing in a country (PICUM 2003: 14).

¹³ Art. 25 *ibid.*

¹⁴ Adopted and opened for signature and ratification by General Assembly Resolution 2106 (XX) of 21 December 1965.

¹⁵ BGBl. 390/1973.

¹⁶ B-VG BGBl. 1/1930 amended version BGBl. I Nr. 153/2004.

¹⁷ RGBl. Nr. 142/1867 amended version BGBl. 684/1988.

¹⁸ Art. 2 StGG. and Art. 7 B-VG.

¹⁹ Art. 5 and Art. 6 StGG.

²⁰ ICESCR General Comment No. 3.

²¹ Art. 6 ICESCR.

²² Art. 7 *ibid.*

²³ Art. 9 *ibid.*

²⁴ Art. 11 *ibid.*

²⁵ Art. 12 *ibid.*

²⁶ Art. 13 *ibid.*

²⁷ Art. 10 *ibid.*

As stated above, the principle of equality²⁸ of the ICCPR applies to all individuals, who stay within the territory of a state and are subject to its jurisdiction²⁹. It states the prohibition of forced or compulsory labour³⁰ and the right to legal personality³¹. The ICERD, which contains a broad definition of racial discrimination³², is to a certain extent restricted by allowing state parties to distinguish between citizens and non-citizens³³. The Convention commits the signatory states to abolish racial discrimination, particularly regarding the right to work, housing, medical care, social security and social services and the right to education and training.³⁴

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), which is incorporated into the Austrian legal system at constitutional level³⁵, states, in regard to social rights in Article 1 of its First Protocol, the right to property, which – according to the jurisdiction of the European Court of Human Rights³⁶ – includes the right to social security and social assistance. Yet, in order to be eligible for the – principally repayable – subsidies, i.e. loans, under the Austrian Social Welfare Laws, third country nationals must reside legally for a certain number of months (according to the different rules stated in the laws of the federal provinces) within the Austrian territory.³⁷

Social subsidies and health

In Austria, social insurance law covers risks such as unemployment, sickness, work-related accidents and ageing. General salary-replacement (welfare) and housing-specific services come under the authority of the federal provinces (IOM 2005: 15). In six of the nine federal provinces, social aid is a service that goes mainly to Austrian citizens, while third country nationals only have access to certain aspects of social aid (ibid. 16), which is dependent on

²⁸ Art. 2 (1) ICCPR.

²⁹ It is notable that Austria raised a reservation to Art. 26 of the ICCPR, which implies that differential treatment between Austrian and foreign nationals is not excluded (see Nowak 1993: 479).

³⁰ Art. 8 *ibid.*

³¹ Art. 16 *ibid.*

³² Stated in Art. 1 (1) ICERD.

³³ See Art. 1 (2) and (3) ICERD.

³⁴ See the non-exhaustive list of Art. 5 (e) ICERD.

³⁵ BGBl. 210/1958.

³⁶ See *Gaygusuz v. Austria* (17371/90) ECHR 36 of 16 September 1996.

³⁷ E.g. § 3 (2) *Kärntner Sozialhilfegesetz* (Carinthian Social Welfare Act) LGBL. 140/2001, § 4 (1) 1 *Steiermärkisches Sozialhilfegesetz* (Styrian Social Welfare Act) LGBL. 70/2004 and § 7a (3) *Wiener Sozialhilfegesetz* (Vienna Social Welfare Act) LGBL. 46/2004 require 3 months, while § 6 (4) *Salzburger Sozialhilfegesetz* (Salzburg Social Welfare Act) LGBL. 46/2004 requires 6 months of lawful stay within the territory of Austria (see also König/Stadler 2003: 243).

legal residence status and length of residence. Also, family subsidy and childcare subsidy are linked to legal residence status.

In Austria, illegally resident foreign nationals are not eligible to access the social security system (including health, accidental and pension insurance) and therefore do not enjoy any legal right to benefit from healthcare facilities. Legislation in Austria has no special provision concerning access to healthcare for illegally resident immigrants (see PICUM 2003: 34). Yet, the Austrian Law on Hospitals and Sanatoria³⁸ orders every hospital to take in and treat injured patients whose health is in serious danger.³⁹ Given that medical treatment is a service that incurs costs, medicating illegally resident and/or working immigrants consequently evokes several questions. Social and medical care for illegally resident immigrants is in most cases limited to urgent medical aid (Houben 1999: ii), which has to be paid privately as they cannot appeal to the public social insurance authority for cost reimbursement (PERCO 2004: 22).⁴⁰ (cf. chapter 3.4.2 on social services)

Only if the employer can be found out – which is unlikely as illegally employed immigrants fear losing their work when revealing their employer – a regress can be considered, because the Austrian Labour Law obliges employers to insure their employees. Consequently, illegal employment can be also seen as insurance fraud.

Even if the responsible provincial authority eventually tries to recover the costs by initiating legal action, irrecoverable costs have to be written off at the expenses of the budget of the responsible body running the hospital. Unfortunately, for a variety of reasons, reliable data is not available.⁴¹

Access to the labour market and unemployment benefits

³⁸ Krankenanstalten- und Kuranstaltengesetz (KAKuG); BGBl. Nr. 1/1957 idF BGBl. I Nr. 65/2002.

³⁹ KAKuG § 22-23.

⁴⁰ Normally, the body responsible for the hospital (mostly a regional authority like a federal province) covers the cost of the medication and gets reimbursed by the responsible health insurance. If patients have no health insurance at all, they principally have to pay from their own pocket for the medical treatment. Nevertheless, a patient cannot be forced to give any reliable data. Sometimes, it happens that the hospital cannot find out who actually was medicated. In such a case, the often tremendously high costs remain irrecoverable.

⁴¹ Not all patients who hide their identity are considered illegally resident and/or working immigrants. Hospitals do not necessarily register the status of residence of patients. Additionally, concurring responsibilities of social insurance companies further complicates the issue.

Since 1976, Austria has been regulating the employment of foreign nationals through the Law on the Occupation of Aliens.⁴² After the fall of the Iron Curtain, Austria decided in 1990 to introduce a 'Federal Maximum Number' (*Bundeshöchstzahl*) which affected the issuance of work permits by limiting the maximum percentage of foreign workers accepted into the workforce. The annually determined maximum number reflects the intake capacity of foreign nationals into the Austrian labour market. Illegally resident immigrants have no legitimate access to the labour market. However, they can find employment on the informal labour market, where they run the risk of poor working conditions, underpayment and exploitation. On the other hand, illegally employed immigrants should not only be seen as victims. Usually, they benefit from better payment than in their country of origin. For a certain number of cases it can be assumed that, after having sent remittances to their family members for a certain period of time, they return to their country of origin.

Even if the recognition of unemployment benefit claims does not depend on the Austrian citizenship, the general requirements stated in the Unemployment Insurance Law (1977)⁴³ must be met, which are bound to a legal residence status.

Housing

In most Austrian communities, third country nationals are also excluded from access to apartments paid for by tax monies, such as municipal or cooperative apartments (especially in Vienna, where the so-called *Gemeindebauten* have played a key role in Viennese housing policy since the end of World War I). Since 2000, a provincial law for Vienna has allowed for third country citizens, under certain circumstances (precarious social situation, unsanitary apartment, etc.), who have lived *legally* in Austria for five years (two of which in Vienna), to be awarded 'emergency apartments' owned by the municipality (IOM 2005: 16).⁴⁴ Yet, if housing is a basic social right, which is often very difficult to fulfil, it is even more so for an illegal resident: "*Undocumented migrants generally face enormous difficulties in finding available, decent, and reasonably priced housing.*" (PICUM 2003: 37).

Education

⁴² Law on the Occupation of Aliens BGBl. I 218/1975, amended version BGBl. I 28/2004.

⁴³ *Arbeitslosenversicherungsgesetz* BGBl. Nr. 609/1977.

⁴⁴ Indeed, the contingent of emergency apartments (since the year 2000 more than 3,600) is small compared to the total number of apartments owned by the municipality of Vienna (approx. 220,000) (Der Standard, *Faymann announces the creation of additional emergency apartments (Faymann kündigt mehr Notfallwohnungen an)*, 31 August 2005).

As stated in the Austrian Constitution⁴⁵ and the School Organisation Act⁴⁶, all public schools are universally accessible without discrimination on grounds of birth, gender, race, social status, class, language or religion. In Austria, school attendance is compulsory for all children, from the age of six until nine school years are completed.⁴⁷ For inscription, every child needs to have a confirmation of residence (*Meldebestätigung*), which states the place of residence of the document holder (see chapter 3.4.3).

In general, it is possible for adult immigrants to visit language courses as well as other vocational training courses without having to present any certificate of residence. Illegally resident immigrants are not eligible for courses, which are financially supported by the federal or provincial government(s).

Minority Rights

Austrian laws on the protection of minorities are designed for and applicable to members of the six officially recognised autochthonous minorities (Croats, Czechs, Hungarians, Roma, Slovaks and Slovenes), who are in possession of Austrian citizenship.⁴⁸ Therefore, there are no provisions mentioned in regard to an irregular status.

The Austrian legal system does not explicitly refer to the rights of illegal residents. However, the so-called *Jedermannsrechte* (everyman's rights) are *per definitionem* applicable to illegal residents. This means that human rights (e.g. the right to a fair trial, the right not to be subjected to torture) and Austrian rights in general that are neither explicitly granted to nationals nor to citizens of specific third countries, apply to illegal residents too.⁴⁹

1.3 Main legislative and policy developments affecting the status of illegally resident immigrants

⁴⁵ See Art. 14 (6) B-VG BGBl. I/1930 amended version BGBl. I Nr. 153/2004.

⁴⁶ See § 4 (1) *Schulorganisationsgesetz* (School Organisation Act) BGBl. Nr. 242/1962 amended version BGBl. Nr. 323/1975.

⁴⁷ §§ 1, 2 and 3 *Schulpflichtgesetz* (Compulsory School Attendance Law), BGBl. Nr. 76/1985 amended version BGBl. I Nr. 57/2003.

⁴⁸ See Art. 67 (1) *Staatsvertrag von St. Germain* (Treaty of St. Germain), StGBI. Nr. 303/1920 amended version BGBl. III Nr. 179/2002.

⁴⁹ Due to the limited length of the study, it is not feasible to comprehensively enumerate these provisions here.

In the Austrian context, it is important to recognise that there exist two different laws, one concerning the residence and the other concerning the employment of foreigners. The Aliens Act regulates the entry, residence and settlement of foreigners, while the Law on the Occupation of Aliens regulates their integration on the labour market. These two instruments are cross-linked but apply a different system of legal titles, which can be a serious burden for those foreigners who do not fulfil the necessary requirements. This can therefore constitute an important reason why immigrants try to cross the border, to reside and/or to work illegally in Austria. To give an example: As the quota system of settlement permits also applies to family reunification, family members who want to reside in Austria but are outside the annual quota, have no other opportunity to legally reside on the Austrian territory beyond the three months tourist visa. These regulations and the long waiting period for a place in the settlement quota, often up to three years, may be the reason for the arrival of many family members who may have entered Austria legally with a tourist visa but then ‘overstayed’ and become illegal residents.⁵⁰

To clarify, a short explanation of the different residence authorisations is presented here. Austrian legislation differentiates between three different kinds of residence titles⁵¹:

- The temporary residence permit (*Aufenthaltserlaubnis*) entitles a third country national to a limited stay for a certain purpose (e.g. education, vocational training, internship, temporary work, business, self-employment and international job rotation). The issuance of a first residence permit is not subject to a quota system; yet, some of the categories of employees are subject to quantitative limitations under the Law on the Occupation of Aliens (by the regulation of contingents), such as for cross border commuters and seasonal workers. Aliens in possession of this type of residence permit are generally not entitled to family reunification (exception: family reunification for persons in rotation or education, as long as the family members do not work in Austria, emanating from the assumption that these persons will leave Austria again).
- A permanent residence permit, the so-called settlement permit (*Niederlassungsbewilligung*), is issued to persons who wish to settle in Austria on a long-term basis. Since 1 January 2003, this residence title is subject to an annual quota⁵² for the

⁵⁰ The strict family reunification regulations have resulted in an illegal smuggling of minors across Austrian borders to reunite with their own families. They are passed off as the children of the (foreign) accompanying person at border control points.

⁵¹ See § 7 FrG.

⁵² The Austrian government, in consultation with the federal provinces, social partners, representatives of cities and municipalities and the Austrian Institute for Economic Research (Österreichisches

following cases: employed and self-employed key workers and their family members, family members of third country nationals who have settled in Austria before 1 January 1998 and persons who wish to settle in Austria but have no intention to work (e.g. retired persons) and their family members.⁵³

- With the amendment of the Aliens Act 2002, the proof of settlement (*Niederlassungsnachweis*)⁵⁴ was introduced for immigrants residing legally and permanently in Austria for at least five years or absolving their compulsory school years, granting them the unlimited right to residence and unrestricted access to the labour market.

Besides an *intentional* unlawful entry, residence and/or work, there have been, and still are, several possibilities of becoming unintentionally illegal, mainly due to gaps and changes in national legislation. With the amendment of the Aliens Act in 1992 (entered into force in 2003), comprehensive measures “*primarily with the aim of regulating and reducing uncontrolled immigration*” (König/Stadler 2003: 228, auth. trans.) into Austria were implemented. Here follows a short overview of the most important changes.

Overview of legal changes in the Aliens Act since 1993

In 1993, the annual immigration quota as well as qualitative requirements for the respective applicants (among others to dispose of sufficient financial means, of a certain level of education, and of an adequate accommodation comparable to that of Austrian citizens) were introduced. Due to these new parameters, the status of already legally residing foreign nationals could change into an illegal status in cases where they did not fulfil the criteria or could not find a place in the immigration quota. New were also the introduction of a quota for family reunification (which included even children, who were born in Austria but due to the *ius sanguinis* principle do not automatically obtain the Austrian citizenship) as well as the

Wirtschaftsforschungsinstitut, WIFO), annually decides this immigration quota. The quota of immigrants for 2004 amounted to 8,050 persons (thereof 4,010 for Vienna). Exempted from this quota are specific professional groups such as journalists, researchers, teachers, pastors, artists, etc. and advantaged third country nationals (family members of Austrian citizens, EU and EEA citizens and Swiss citizens).

⁵³ The possibility to join family members depends on the type of the residence title of the family member already residing within the territory of Austria and the availability of a free place within the quota for family reunification. Only those who hold a settlement permit or a proof of settlement are entitled to family reunification. The applicable quota depends on the date of their settlement in Austria: In case they settled *before* 1 January 2003, only their minor unmarried children (if the application for family reunification has been filed before their 15th birthday) and spouses are entitled to stay, if the family reunification quota has not been filled, as is usually the case (§ 21 (3) Aliens Act). Since 1 January 2003, only key workers and private, financially independent persons within a given quota can settle in Austria and are entitled to bring their family members (spouses and unmarried children until the age of 18) with them (§ 21 (1a) Aliens Act).

⁵⁴ See § 24 Aliens Act.

regulation to apply for settlement from abroad. This made a legalisation of the residence status in Austria impossible (König 1997: 151).

The strict regulations of immigration and family reunification caused an estimated amount of 250 paperless adolescents, who were counted as work force at the age of 14 and were therefore subject to the quantitative limitations (cf. Back Bone/Back on Stage: 1). Adolescents whose parents neglected to reapply for a residence permit could suddenly find themselves in an irregular situation and in danger of deportation as soon as they had finished school. This situation changed with the proof of settlement for persons residing in the country for at least five years or absolving their compulsory school years. Furthermore, legislation has since been amended to enable minors, especially children born in Austria, to obtain Austrian citizenship after four years of residence.⁵⁵

Immigrants could furthermore become illegal residents, if they did not reapply within four weeks after the expiry of their residence title for a new permit (Schumacher 2003: 121). This legal trap was abolished with the amendment 1997: a residence title once valid could be reapplied for without an explicit time limit, if the applicant is residing on a continuous basis in the country.⁵⁶

With the 1997 amendment, a system of consolidation of residence (*Aufenthaltsverfestigung*) was established. Although this system practically results in an incremental improvement of living conditions and residence of long-term residents in Austria (their expulsion is enforceable only under more restrictive conditions), absolute security of residence is guaranteed only to persons, who have grown up in Austria or have been legally living here for many years (Guličová-Grethe 2004: 24).⁵⁷ Furthermore, the possibility of issuing a residence permit for humanitarian reasons was introduced in 1997. With the amendment of the Aliens Act in 2002, humanitarian settlement permits are also possible. This type of permit constitutes an indirect form of legalisation as legal residence is not a precondition (see 1.4 and Annex I, table 25 for figures).

Another new regulation was the introduction of the application for a first residence permit from outside the country. This made any legalisation of former stay in Austria impossible

⁵⁵ § 10 (4) Austrian Citizenship Act.

⁵⁶ § 23 (1) Aliens Act.

⁵⁷ This system is divided into four steps: aliens reach the first step after lawful and continuous residence in Austria of one year (§34 (2) Aliens Act), the second after five years, the third after eight and the last after ten years (§ 35 Aliens Act).

(König 1997: 151).⁵⁸ Furthermore, it was possible to become illegally resident if the foreign national did not file an application for a subsequent settlement permit within four weeks of the expiration of the former permit (see Schumacher 2003: 121). This regulation was changed with the amendment of the Aliens Act in 1997 resulting in the present legal situation that allows applications for subsequent settlement without an explicit time limit.⁵⁹

Under the current provisions, unemployment can lead to extradition from Austria if a foreign national with a settlement permit, who is registered as available for work, does not engage in any lawful form of employment for more than four months within the first year of settlement.⁶⁰ Moreover, aliens can be expelled within the first five years⁶¹, even if they have obtained a settlement permit⁶², if they have been unemployed for a more or less uninterrupted period of one year⁶³. This system of independently issued residence and work permits can lead to a vicious circle if an immigrant loses one of the required permits: without legal employment, he/she can lose the residence permit and without a residence permit, he/she has no access to legal work.

The situation partially changed on 1 January 2003 with the introduction of § 24 of the Aliens Act, which established a long-term residence permission (proof of settlement) and access to the labour market for aliens who live and work in Austria for more than five years. The act also includes their dependents and those who attended compulsory education at any time during a settlement period of five years.

Austria's Asylum Act may be a further cause of legally residing asylum seekers entering an illegal status. According to Messinger (2000: 171), the law in its current application offers many possibilities of losing the temporary residence permit, which is guaranteed for the time of the legal proceedings of an asylum application.⁶⁴ Rejected asylum seekers, who *de iure*

⁵⁸ In practice, many applications were made from abroad (e.g. Bratislava or Munich), while the persons were already resident in Austria. This reality was well known to the Austrian authorities.

⁵⁹ § 23 (1) Aliens Act.

⁶⁰ § 34 (2) Aliens Act. Legal commentators hold this particular article to be unconstitutional (cf. Muzak 2004; Rath-Katrein 1997).

⁶¹ § 35 (1) Aliens Act.

⁶² In the cases where they have settled for more than one, but less than eight, years in the federal territory of Austria.

⁶³ § 34 (3) 2 Aliens Act.

⁶⁴ In cases where asylum seekers enter the Austrian territory by circumventing the border controls, their stay in Austria is illegal, unless they are granted a preliminary residence permit by the competent authorities. Preliminary resident permits are issued if the application for asylum is admissible (no safe third country is responsible to carry out the asylum procedure according to § 4 of the Asylum Act, no other country is responsible according to the Dublin Convention (§ 5) and not manifestly ill founded (§ 6 (1)). If the national

and/or *de facto* cannot be deported to their country of origin or a neighbouring country fall under the category of illegal residents. They cannot obtain a regular residence permit, but are tolerated until their actual deportation. They receive a 'postponement of deportation' certificate (*Abschiebeaufschub*), which prevents these rejected asylum seekers from being held in detention pending deportation. These persons have no access to the labour market. Nevertheless, they do not drop out of the system established by the Basic Welfare Support Agreement, which entered into force on 1 May 2004 and which provides for the basic care of asylum seekers and, for a period of four months, recognised refugees.

Implemented common European initiatives relating to illegal immigration

In regard to the implementation of EU legislation, provisions of Council Directive 2003/109/EC⁶⁵ concerning the status of long-term resident third country nationals were incorporated into the Aliens Act 1997 by an amendment in 2002. In order to be classified as a long-term resident, the Aliens Act requires permanent settlement for five years and proof of the applicant's ability to maintain him-/herself through a lawful, gainful activity. Yet, this norm must be considered in view of the provisions of the Directive⁶⁶. As already indicated, the temporary residence permit and the settlement permit do not automatically imply a permission to work⁶⁷ as the issuance of work permits is subject to Austria's annual reception quota and/or the fulfilment of specific criteria in order to count as key personnel⁶⁸.

To counteract the overdemand for the family reunification quota, a decree in the sense of Council Directive 2003/86/EC on the right to family reunification⁶⁹ was introduced in 2003⁷⁰, granting settlement permits to applicants, who have been waiting at least three years, for humanitarian reasons (Biffel/Bock-Schappelwein 2004: 63; 42), which to a certain extent was a form of legalisation. The provisions corresponding to this Directive can be found in §§ 18,

authorities decide that asylum will not be granted, the foreign national loses his/her preliminary residence permit and has to leave the country, either voluntarily or by forced return (see chapter 3.3).

⁶⁵ Council Directive 2003/109/EC of 25 November 2003 concerning the status of third country nationals who are long-term residents, Official Journal L 016, 23/01/2004, pp. 44-53.

⁶⁶ § 24 (1) Z 1 Aliens Act 1997 in comparison with Art. 4 and 5 Council Directive 2003/109/EC.

⁶⁷ § 4 Law on the Occupation of Aliens.

⁶⁸ § 12 *ibid.*

⁶⁹ Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, Official Journal L 251, 03/10/2003, pp. 12-18.

⁷⁰ Introduced with the Amendment of Asylum Act 2002; BGBl. 126/2002.

20-22 of the Aliens Act.⁷¹ As a consequence, the Aliens Act provides neither explicit waiting period limits concerning the issuance of residence permits to family members,⁷² nor explicit limits regarding the waiting time for access to the labour market⁷³.

In accordance with Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence⁷⁴, the Aliens Act provides that any person who wilfully procures or otherwise facilitates the unauthorised residence of an alien in the federal territory in return for a pecuniary advantage will receive a fine of up to € 3,600. The Aliens Act also comprises respective provisions of Council Directive 2001/51/EC supplementing the provisions of Article 26 of the Convention Implementing the Schengen Agreement⁷⁵. Regulations regarding the carrier's liability are stated in §§ 53 and 103 of the Aliens Act, of which the latter was adapted through the amendment of the Act in 2001.⁷⁶ Austria must comply with its obligation of transposition of the provisions of Council Directive 2004/81/EC on residence permits issued to third country nationals, who are affected by trafficking in human beings, or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities by 6 August 2006.⁷⁷

In the area of asylum, the Dublin II Regulation⁷⁸ was incorporated into the Asylum Act. While the Regulation considers only Member States of the European Union as safe third countries, the Austrian Asylum Act also regards the countries of the European Economic Area (Switzerland, Liechtenstein, Norway, and Iceland) as such. The newly introduced list of safe countries of origin⁷⁹ does not find a corresponding provision in the Regulation, but in the view of the future Directive on Minimum Standards on Asylum Procedures,⁸⁰ the concept of safe countries of origin is likely to be applied on a European level. The main purpose of the

⁷¹ The Austrian Constitutional Court stated in its decision of 8 October 2003 that, as a matter of principle, the quota system for family reunification is constitutional. However, an objective order regarding the treatment of applications should, according to the Court, be established. See decision VfGH G 119/03 from 8 October 2003.

⁷² Art. 8 Council Directive 2003/86/EC in comparison to §§ 18 and 20-22 Aliens Act.

⁷³ Art. 14 Council Directive 2003/86/EC in comparison to §§ 18 and 20-22 Aliens Act.

⁷⁴ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence, Official Journal L 328, 05/12/2002, pp. 17-18.

⁷⁵ Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, Official Journal L 187, 10/07/2001, pp. 45-46.

⁷⁶ Aliens Act, BGBl. I Nr. 118/2001.

⁷⁷ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals, who are victims of trafficking in human beings, or who have been the subject of an action to facilitate illegal immigration, and who cooperate with the competent authorities, Official Journal L 261, 06/08/2004, pp. 19-23.

⁷⁸ Council Regulation 2003/343/EC of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national, Official Journal L 050, 2003, pp. 1-10.

⁷⁹ § 6 (2) Asylum Act, including Australia, Canada and New Zealand.

⁸⁰ Proposal for a Council Directive COM/2000/0578 final.

amendment of the Asylum Act in 2002⁸¹ was to harmonise national legislation with the provisions of Council Regulation 2725/2000 concerning the establishment of Eurodac⁸² and with Council Regulation 407/2002, which lays down certain rules to implement the Eurodac Regulation.⁸³

1.4 Legal options to obtain a residence title (other than through regularisation campaigns, e.g. through refugee status or marriage) and respective prerequisites

There are several options to regularise the illegal stay of individuals in Austria. Applications for a residence title have to be made from abroad prior to entering Austria. This regulation does not apply after expiry of the residence title last granted in the event that the applicant seeks a renewed residence title for the purpose of gainful employment, which had not been permissible under the residence title he/she had previously obtained.⁸⁴ Since the entry into force of the amendment of the Aliens Act on 1 January 2003, immigration is limited to key professionals⁸⁵ and persons of independent means⁸⁶. Foreign nationals, who have already resided illegally in Austria, do not acquire the right to a temporary or a permanent residence permit based on the length of their stay.

A first option is an application for a residence or settlement permit for humanitarian reasons. Illegally resident immigrants can obtain a humanitarian residence permit if they are exposed to danger in their country of origin, where the prohibition of *refoulement*⁸⁷ applies to them or they are victims of an armed conflict or human trafficking⁸⁸. The applicable reasons are not

⁸¹ Asylum Act 1997 amended version BGBl. I 126/2002.

⁸² Proposal of Council Regulation 2000/2725/EC of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, Official Journal L 316, 15/12/2000, pp. 1-10.

⁸³ Council Regulation 2002/407/EC of 28 February 2002 laying down certain rules to implement Regulation (EC) No 2725/2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, Official Journal L 062, 05/03/2002, pp. 1-5.

⁸⁴ § 14 (2) Aliens Act.

⁸⁵ According to § 2 (5) Law on the Occupation of Aliens, BGBl. I 218/1975 amended version 28/2004, key professionals are defined as follows: A person with special skills earning 60% of the *Höchstbeitragsgrundlage* (basis for maximum social security contribution) plus special interest of an enterprise in employing this person, or the employment of the person creates additional jobs, or the person is a leading manager, or the employment leads to additional FDI, or the person is academically educated. Furthermore, the settlement of key professionals is (according to § 18 (1) 1 Aliens Act) regulated through the quota system.

⁸⁶ According to § 19 (5) Aliens Act so-called persons of independent means, who wish to settle permanently in Austria with no intention of gainful activity can be granted a settlement permit, which is valid for all purposes of residence except for gainful employment.

⁸⁷ Pursuant to § 57 (1) or (2) Aliens Act.

⁸⁸ § 10 (4) *ibid.*

enumerated extensively in the Aliens Act, thus humanitarian residence permits have also been granted for other reasons, e.g. to:

- victims of the Aliens Act 1992, who lost their residence title because they applied too late for a renewal;
- long-term resident, paperless adolescents, who were brought into the country irregularly by their parents;
- family members of war refugees, who settled in Austria despite a negative asylum decision; and
- persons with severe health problems, who cannot receive adequate treatment in their country of origin (e.g. in cases of cancer, Aids or dialysis) (Schumacher 2003: 83).

To date, no humanitarian residence permit has been approved for children who were brought to Austria by evading the regulations for family reunification, or for asylum seekers whose application received a negative decision (ibid.).

The Minister of the Interior decides after the recommendations of the Austrian Advisory Council for Asylum and Migration Matters, if a humanitarian residence title can be granted.⁸⁹ However, the Aliens Act does not provide an enforceable right or legal remedy in this regard. It has been criticised that the procedure for obtaining humanitarian residence titles is not regulated as such in the Aliens Act and that it is therefore not transparent (see Schumacher 2003: 85). If a foreigner fulfils the conditions for obtaining a humanitarian residence permit, he/she might be eligible for a humanitarian settlement permit. This would be the case if he/she is a family member of a foreign national residing lawfully and permanently in Austria and the applicant has already been integrated into the Austrian labour market or a formal declaration of commitment (*Sicherungsbescheinigung*) is made on his/her behalf.⁹⁰ In recent years, a considerable number of humanitarian residence and settlement permits have been issued: the figures vary between 464 residence permits in 2004 and 1,500 in 2001 (see Annex I, table 25).

As admissible and not manifestly ill-founded asylum applications guarantee a preliminary right to residence,⁹¹ illegally resident foreigners can apply for asylum in order to become legally resident. However, if they were not persecuted in their country of origin or third

⁸⁹ §§ 90 and 51a Aliens Act.

⁹⁰ § 19 (2) 6 Aliens Act.

⁹¹ § 19 Asylum Act BGBl. I 76/1997, amended version BGBl. I 105/2003.

country, they can be deported (depending on the prohibition of *refoulement*).⁹² All asylum seekers receive a limited residence permit⁹³, which facilitates their access to the Austrian labour market⁹⁴.

The possibility of acquiring Austrian citizenship after a certain number of years is also available to illegally resident immigrants as a legal status is not a prerequisite. Furthermore, illegally resident foreign nationals can become preferentially treated third country nationals through marriage⁹⁵ with or adoption by an Austrian, Swiss, or preferentially treated third country national (EEA citizen). In instances of adoption, aliens may only refer to the adoption in their application for (or maintenance of) residence titles if the exclusive or primary motivation for the adoption was not that of obtaining or maintaining the residence title.⁹⁶ Following marriage to an Austrian citizen, unlawfully residing foreign nationals acquire a settlement permit (unless their residence constitutes a threat to public order and security)⁹⁷ and free access to the labour market⁹⁸.

There is no doubt that ‘fictitious’ marriages and adoptions take place. According to Willfried Kovarnik, head of the Administrative Police Department of Vienna, the number of ‘fictitious’ adoptions of foreigners has increased enormously during recent years. In the past, the average number of applications by adults for residence titles based on adoption amounted to five applications per year in Vienna; in 2002, such applications had already reached between fifteen and twenty per week. In Kovarnik’s opinion, in many cases a ‘fictitious’ adoption is obvious. Meanwhile, a niche market for such adoptions has emerged, with lawyers specialised in adoptions and ‘parents’ earning € 3,000 to € 4,000 per adoption according to estimates by the Aliens Police (BM.I 9-10/2002). Along with Germany, Austria is one of the few countries worldwide where an adoption of adults is possible with few restrictions, Kovarnik criticised. With the amendment of the Aliens’ Law, the arrangement of adoptions for profit that are deemed fictitious became liable to prosecution in 2003.

⁹² §§ 57 and 75 Aliens Act.

⁹³ § 19 Asylum Act.

⁹⁴ See § 4 (3) 7 Law on the Occupation of Aliens.

⁹⁵ Under the slogan “Marriage is not a crime”, the Austrian website <http://www.8ung.at/traudich/> gives concrete information on marriage between nationals and non-national citizens.

⁹⁶ § 8 (4a) Aliens Act.

⁹⁷ § 47 *ibid.*

⁹⁸ § 1 (2) (1) Law on the Occupation of Aliens.

The new Aliens' Law (2005), which will enter into force on 1 January 2006, foresees that fictitious marriages will be liable to prosecution, including for Austrian citizens.⁹⁹

⁹⁹ An article in the newspaper Salzburger Nachrichten reported that a group of Turkish citizens demanded between € 11,000 and € 13,000 for brokering 'fictitious' marriages between Turkish nationals and Austrian women. These women were promised (but not paid) between € 3,000 and € 5,000 with the assurance that they could get divorced again after 14 months (see Salzburger Nachrichten, *18 Fictitious Marriages Arranged for Turks (18 Scheinehen für Türken vermittelt)*, 22 August 2002).

2. Stocks and Profiles

(Written by Brigitte Schütz, IOM Vienna)

Chapter 2 Synopsis

Data dealing directly with illegal immigration only shows a fragmentary picture of the real situation, as illegal immigration itself is undocumented. Data sources we have at our disposal include data on apprehensions of illegally entering or resident immigrants recorded by the MoI/Criminal Intelligence Services or client data of NGOs and welfare institutions working in the field of migration and asylum. Certainly, one has to bear in mind that these data cannot be considered representative for the total number of illegal immigrants entering or residing in Austria and therefore have to be interpreted carefully.

The total numbers of illegally entering and/or illegally resident persons can only be estimated. For this purpose, a variety of diverse methods and techniques have been developed. In the case of Austria, only few estimates following these techniques have been published. Of these few estimates, each refers to a particular group of illegally resident immigrants and not to the phenomenon as a whole, e.g. illegally resident pupils or illegally employed foreigners. To give an example, by comparing two different data sources, Biffl (2002) estimates that among six-15 year olds, some 5,000-7,000 children and adolescents are residing illegally in Austria.

Looking at apprehension data (such as smuggled persons or illegally entering and/or residing persons), the number has been declining since 2003. In 2004, 38,530 persons were apprehended, a fall of over 14% from the previous year. The most important countries of origin among smuggled persons are the Russian Federation, India, Moldova and Georgia; the main countries of origin among illegally entering and/or residing persons are Romania, Bulgaria, Moldova and Serbia and Montenegro.

Besides apprehension data, a variety of NGOs, welfare institutions and studies present interesting data on the profiles of illegally resident immigrants. Although not representative, these sources shed light on structures of illegal immigration and biographies of illegally resident immigrants. Data is available on women and children affected by trafficking, rejected asylum seekers, immigrants without health insurance and illegally employed domestic workers.

In this chapter, we will map out the main data collectors relevant to the topic of illegal immigration. Secondly, we will present estimations for different groups of illegally resident/working immigrants and then show the main data trends on apprehensions of ‘illegal immigrants’ by the border guards or police officers. Additionally, we will deal with information collected by welfare institutions and non-governmental organisations.¹⁰⁰

One has to bear in mind that illegal immigration itself is an undocumented phenomenon. Events of illegal immigration, which are recorded by official statistics, only reveal a fragmentary picture. We will briefly map out different methods to estimate stocks and flows of illegal immigrants, after having presented the main collectors of data in this field.

¹⁰⁰ The data on illegal immigration and the estimations we have at our disposal do not allow for a differentiation into the categories of refused asylum seekers and immigrants with illegal residence status documented by the police or NGOs as proposed by the template for this study.

2.1 Main collectors of data on illegal immigration

The main collector of statistical information dealing directly with the phenomenon of illegal immigration is the Austrian Federal Ministry of the Interior (MoI). Within the MoI, two databases, maintained by two different departments, are of relevance: firstly, the Elektronische Schlepperdatenbank (Electronic Database on Smuggling), which contains data on apprehended persons¹⁰¹, and secondly, the Fremdeninformationssystem (FIS) (Alien Information System) with data on asylum applications, asylum decisions, residence titles and measures of compulsion¹⁰², which are undertaken by the Aliens Police¹⁰³. Since 1997, the MoI has published the statistics of the Alien Information System annually and, more recently, also on a monthly basis. Furthermore, since 1997, the Zentralstelle zur Bekämpfung der Schlepperkriminalität (ZBS) (Central Service Combating Alien Smuggling), a special unit within the Bundeskriminalamt (BK) (Austrian Criminal Intelligence Service), composes monthly, half-yearly and yearly reports as well as special analyses on illegal immigration and smuggling (BM.I 13 February 2002). With a Weekly Report on the Situation, it informs the respective authorities on important cases of smuggling and other essential information such as new trends, routes and techniques of forging documents.¹⁰⁴

Between 2000 and 2002, the MoI published short annual reports, each with a chapter on illegal immigration. Since 2002, the reports on Organised Crime of Smuggling of Human Beings (hereafter Smuggling Report) published by the Central Service Combating Aliens Smuggling are more comprehensive. Yet, the title of these reports may be misleading, because all forms of illegal migration are summarised under the term of ‘smuggling of human beings’. The contents of these reports (with a special focus on the latest publication on the data of 2004) will be presented in more detail in chapter 2.3 on the profiles of illegal immigrants, after a few general remarks on the quality of the data collected.

¹⁰¹ This database comprises information on apprehensions, apprehended persons (divided into ‘smugglers’, ‘smuggled persons’ and ‘illegally entered and/or residing persons’) including variables such as citizenship, age, gender, the country from where the Austrian border was crossed, means of transportation, etc. (cf. chapter 2.3.).

¹⁰² These include rejections at the border, forcible returns, expulsions, residence bans, detention pending deportation and deportations.

¹⁰³ The Aliens Police does not constitute part of the Federal Police as the name might indicate, but it is a special administrative unit.

¹⁰⁴ Since their establishment, the two databases have continuously been improved. In 2003, the data collection on smuggling changed significantly: The subordinated offices now register apprehensions electronically and send this information within 24 hours to the ZBS. This electronic database makes it possible for the ZBS to get a current overview of the situation of illegal immigration directly from the subordinated offices, to analyse the data and to send these analyses back to the offices. In this way, the ZBS can react rapidly to any notable changes. According to the ZBS, these technical enhancements have made it possible to break several internationally active smuggling organisations since 2003 (BK 2004: 4).

Certainly, data on apprehensions and measures of compulsion provide only a fragmentary picture of the phenomenon and cannot be considered representative of the actual stocks or flows of ‘illegal immigrants’.

Apart from statistics compiled by the MoI, non-governmental organisations (NGOs) and institutions active in the field of migration and asylum collect their own data. However, in some cases, they do not make it accessible to the public for obvious reasons, especially when it concerns data on their clients (e.g. Caritas, AMBER, LEFÖ-IBF). Indeed, client statistics have to be interpreted carefully, as the recorded persons cannot be considered as a representative sample of immigrants entering and/or residing illegally in the country either.

2.2 Estimates of illegally resident and/or working immigrants in Austria

Tapinos (1999) and Delaunay/Tapinos (1998) have pointed out that there are several ways to estimate the stock and flows of ‘illegal immigrants’ in the host country, defining two general categories of methods: direct and indirect. One type of indirect estimation, the ‘residual estimation technique’, tries to assess absolute numbers of illegally resident immigrants by comparing different data sources. This estimation method assumes that a database exists, which includes illegally resident immigrants. Comparing this data with data on resident permits should reveal the number of illegally resident immigrants. To give an example, illegally resident immigrants are by definition excluded from data on residence titles or foreigner registers, but may be included in census data. By comparing these two statistical sources estimates about the magnitude of illegal migration could be made. According to Jandl (2004: 3-4), this estimation method is regularly used in the United States of America to estimate the stock of illegally resident immigrants, but usually not applied in European states, *“because the censuses are thought to be seriously undercounting irregular migrants in Europe.”* Other indirect methods, such as ‘demographic methods’, rely on the fact that even undocumented persons leave their traces in official statistics, e.g. the number of births and deaths. Further indirect methods are based upon indicators such as the usage of bread or electricity or the amount of cash in circulation (cf. estimations by Schneider presented below).

Following the terminology of Delaunay/Tapinos (1998: 36), direct measures of illegal immigration are based on data, which records illegal immigration directly, while the total number of illegally resident immigrants is not known. One method of direct estimations are

the ‘multiplier estimation techniques’ (see Jandl 2004), which are based on the extrapolation of given indicators, such as the estimation of flows of ‘illegal immigrants’ based upon the number of apprehensions at the border and estimations on stocks of ‘illegal immigrants’ based upon the number of apprehensions within the territory. In order to use these data for estimating absolute numbers of flows or stocks of ‘illegal immigrants’, multipliers have to be applied. According to Jandl (2004), the problem remains with finding the ‘appropriate’ multiplier. Depending on the multiplier chosen and the respective intention, widely varying estimates can be the result. Within the category of direct estimation techniques, survey methods, capture-recapture methods and estimations based on regularisation data can also be included.

For Austria, only few estimates using these techniques have been published to date. Applying the residual estimation technique, which is based on a comparison of data on residence titles and another data source, would entail overcoming several methodological difficulties: calculations based on a comparison of population statistics¹⁰⁵ and data on residence titles¹⁰⁶ would have to be based on the assumption that persons who are residing illegally in Austria, register voluntarily at the municipal office. Certainly, it is difficult to assess how this works in practice and if it is likely that persons in an illegal situation register themselves voluntarily. This may also vary between particular groups, e.g. children who require a registration certificate to attend school (cf. chapter 3.2). Two important facts have to be taken into consideration in this context: Firstly, at registration, it is not required to show a residence title. Secondly, in 2002, the competence for registration was transferred from the police to the municipalities. It is important to note that since this transfer came into effect, there has been no data exchange between the Aliens Police and the municipalities.¹⁰⁷ However, one has to bear in mind that statistics based on a registration system assume that this system works also in practice: people are required to register and deregister within a certain period in case they change their place of residence.

¹⁰⁵ Population statistics by Statistics Austria are extracted from the population register (POPREG), which is based on the Zentrales Melderegister (ZMR) (Austrian Central Registration Register).

¹⁰⁶ Data source is the aforementioned Alien Information System (FIS) (maintained by the MoI).

¹⁰⁷ This will change again with the entry into force of the new legal framework of the Aliens Police Act 2005, which explicitly foresees an enhanced data exchange between the two authorities.

Waldrauch (2002: 184-243) has elaborated on the estimation of long-term residents in Austria, which provides useful information on the quality of data sources and gives a hint towards an estimation of the number of illegally resident immigrants¹⁰⁸.

A possibility for estimating the number of illegally resident immigrants would be to use census data instead of register-based population statistics, as the aim of the census is to record all persons resident on the Austrian territory. Yet, there remains the question, if the census covers illegally resident immigrants, as they are likely to avoid being recorded. (Additionally, in 2001, the census was combined with an adjustment of the registration data, which might have deterred many illegally resident immigrants from registering).

A general question which arises is whether the estimation of stocks and flows using a solely quantitative approach will reveal the real picture of the phenomenon. As researchers have pointed out, illegal immigration shows a great diversity, a comprehensive approach would also have to take into account specific information on particular groups of illegally resident immigrants, revealing the structures of the phenomenon. While some illegal immigration may be temporary because persons plan to return to their countries of origin, others find themselves permanently in an irregular situation. Certainly, different categories of illegal immigrants would have to be differentiated, visa-overstayers, illegal workers, refused asylum seekers, etc. As already stated, Matuschek (2002: 353) is of the opinion that a qualitative research approach could prove to be useful in discovering causes, forms and duration of illegal immigration.

It is difficult to find comprehensive estimations of the scale of illegal immigration in Austria in academic literature. Some publications present clear figures, but do not explain the method

¹⁰⁸ To give an example, Waldrauch (2002: 207-208) points out that it may occur that legally resident foreigners holding a 'permanent residence permit' issued before the year 1993, are not registered in the Alien Information System (FIS). This is due to several factors: first, the FIS was set up in mid-1993, the same year the Aliens Act 1992 went into force. Permits were only registered since that date and there was no obligation to renew those permits, which were issued before 1993 (on a different legal basis). Permits with a limited validity issued before 1993, were indeed registered after a certain time; with the renewal of the permit after its expiry, the new permit was entered into the database. However the problem concerns permanent residence permits issued before 1993 because of their unlimited validity. Waldrauch states that persons holding this kind of permit will only be registered by the FIS if their passport has to be renewed.

Nevertheless, as more than ten years have passed since the database was introduced, this lack may no longer be as problematic as it used to be during the 1990s and only a small number of titles may remain, which are not yet registered in the system. It can be assumed that many of these persons are already naturalised, have left Austria or have had to renew their passport (and as a consequence received a new permanent permit, which is already registered in the system).

upon which they are based. Thus, it is not possible to prove whether these estimates are reliable or not, and furthermore, it is difficult to compare these different estimates due to the lack of unambiguous definitions. In general, of the few estimates that exist, each refers to a particular group of illegally resident immigrants and not to the phenomenon as a whole. While Biffl (2002), for example, elaborated on the number of illegally resident pupils; Schneider (e.g. 2002, 2003) estimated the number of illegally employed foreign citizens. In the following, the few estimates on stocks that exist will be explained in more detail.

Illegally resident pupils

Biffl (2002: 102-103) has elaborated on the extent of illegality among the group of six to 15-year olds by comparing different data sources. While school statistics for the school year 1999/2000 counted 93,554 pupils with foreign citizenship, the Periodic Population Update (*Bevölkerungsfortschreibung*)¹⁰⁹ (average for 1999) counted only 80,084 children aged six to 15, which is a deviation of 17%. This deviation becomes even more evident considering the 'traditional groups of guestworkers', namely citizens of Turkey (+26%) and The former Yugoslavia (+17%) (see also Biffl/Bock-Schappelwein 2003: 121-122).

According to the author, these inconsistencies are a result of statistical bias, but also, to a certain extent, of illegality. Based on her calculations, Biffl estimates that among the group of six to 15-year olds, some **5,000 to 7,000 children and adolescents** (only pupils) are residing illegally in Austria. It is assumed that a certain number of them came to Austria beyond the quota for family reunification.¹¹⁰

Illegally employed immigrants

In general, three main categories of illegally working foreign nationals can be differentiated:

- foreigners without residence and employment status;
- foreigners who hold a residence title but are working illegally; and
- foreigners who hold a work and a residence permit but are working illegally in addition to their legal work (Matuschek 2002: 358).

¹⁰⁹ The Periodic Population Update was a population projection calculated in yearly periods: census data was annually updated with birth, death and migration register data.

¹¹⁰ Since the introduction of a quota for family reunification, a large number of pending applications for family reunification was registered each year, but since the year 2000 this tailback has been significantly reduced (cf. chapter 4.3).

Matuschek (ibid. 351-362) outlined a variety of methodological problems, which complicate estimates on the informal economy and illegal immigration in general. Due to the high degree of heterogeneity and the dynamics of the phenomenon, quantification is difficult. Data on controls and apprehensions is not considered representative as it rather reflects the control behaviour of the authorities. Matuschek has therefore proposed to better conduct a scientific analysis of the development of the statistics on illegality as statistics often reflect the administrative processes of the diverse control authorities rather than the true amount of illegality. *“Thereby, processes of illegal employment of foreigners and migration could be brought into a socio-economic context, which has so far been largely neglected.”* (ibid. 354; auth. trans.).

Schneider has estimated the dimensions of the informal economy in Austria by using a monetary approach to the amount of cash in circulation (*Bargeldansatz*). This method is based on the assumption that informal economy goods and services are paid in cash (Schneider/Enste 2000, Schneider 2002a, 2002b and 2003). Thus, higher cash flows are taken as indicators for the extent of the informal economy. Yet, this approach has been criticised because of its assumptions on the extent of ‘normal cash flows’ in periods where no informal economy activities take place (see Biffl 2002: 350).

For the year 2002, Schneider (2002a: 1-3) has estimated the extent of the informal economy at 10.7% of Gross Domestic Product (GDP). The number of illegally employed foreigners (‘full-time illegal workers’) is estimated at 109,000 persons (number of full-time illegally working nationals: 746,000 persons). Certainly, this would suggest that even more persons are involved, as only a few work full time in the informal economy.¹¹¹ No distinction is made on the status of residence, thus legally residing immigrants (foreign nationals) are included.

Biffl (2002: 362-365) estimates the number of illegally working immigrants using two approaches and considering different facets of the phenomenon. Reflecting on which groups are inclined to work illegally, the author points out the restricted access to the labour market foreigners are confronted with (due to the Law on the Occupation of Aliens). Legal restrictions may, to a certain extent, cause illegal employment. On the other hand, some economic sectors may be more open for illegal employment of Austrians than foreign nationals, e.g. in the trade or self-employed sector. In these sectors, illegal employment is

¹¹¹ Schneider points out that the assumption of ‘full-time illegal workers’ is only fictitious as in all researched countries many of those who are working illegally are also legally employed.

relatively common, while at the same time only few immigrants work in these sectors. Although the structure and composition of illegal employment may differ when comparing Austrian to foreign nationals, Biffl assumes that the share of foreigners in the informal sector does not exceed the share of foreigners in legal employment, which is at 10% (the share of the informal economy in the GDP is calculated at 8,7%).

Based on these reflections, Biffl estimates that the number of illegally working foreigners (irrespective of their status of residence) is **35,000 persons working illegally in full-time jobs**. However, as already mentioned, it is rather the exception than the rule that illegally employed persons are working continuously in full-time jobs. Moreover, the total number of foreigners residing in Austria also has to be considered (the estimate of 35,000 persons is only based on the number of legally employed foreigners). Thus, the author assumes a number of **50,000 to 70,000 illegally working foreigners** at maximum.

In a different approach, Biffl estimated the number of illegally employed foreigners by looking at particular groups, such as casual employees and students. Measures of compulsion by the Austrian Aliens Police (especially expulsions, deportations and residence bans) may also be an indicator of illegal employment. Based on this research of different groups, the author calculated a total of **47,000 foreigners working illegally** (which corresponds to the above mentioned GDP-based estimate). Further differentiating, she estimates that about **10,000 persons are illegally resident and illegally working** in Austria.

Jandl (2004) points out that estimates of the number of migrants working in the informal economy are confronted with the same difficulties as estimates of the number of illegal immigrants in general. Depending on the method of calculation, the respective results can vary widely. As an example he refers to Pichelmann's (1994) estimate of illegally employed foreigners, which is based on statistics of persons apprehended at worksites by routine controls carried out by the Inspectorate of Labour. Jandl (2004: 8) states that, "*the problem is that these routine control checks do not constitute a random sample of all workplaces but – due to restrictions and low staffing levels – concentrate on 'suspicious' workplaces only*". He shows that a simple extrapolation of apprehensions to all workplaces would result in high multipliers and exceptionally high numbers of illegally employed foreigners.

Estimates and nationalities of 'illegal immigrants' based on apprehension data

Data on border apprehensions and apprehensions of illegal residents within the territory can also be taken as a base for estimations of flows and stocks of 'illegal immigrants'. To reiterate, Jandl (2004) states that the results depend to a high degree on the method used to estimate the multiplier.

To give an example, a study carried out by the Ministry for Health and Women dealing with persons living in Austria without health insurance points to the estimate of Peter Blumauer, head of the unit Aliens Police Matters within the MoI, who estimates, on the basis of apprehensions in the year 2002, that about 80,000-100,000 persons are residing illegally in Austria (see BMGF 2003: 73). Unfortunately, the study provides no information on the calculation methodology behind these figures.

Estimates of stocks of illegally resident immigrants based on apprehension data have to take into account that, for a certain number of people, Austria is only a transit country. Some are en route to another (EU-) destination country, while others are apprehended on their return to their country of origin, after they have been living (and possibly working) illegally in Austria or other EU-member states. Different views on this issue are expressed in several interviews with MoI officials conducted by Tschernitz (2004: 188-232) in the framework of his doctoral thesis.

Certainly, the nationalities of the apprehended persons are taken into account, as well as their motivation to come to Austria/the EU. To give a few concrete examples (data provided by MoI/BK):

- Austria seems to be, to a high degree, a destination country for citizens of **Turkey** and the successor states of the **former Yugoslavia**, but to some extent also a transit country (BK 2004 and 2005).
- Most of the apprehended **Chechens** (being smuggled to Austria) seek for asylum in Austria, which is likely to be granted to this group of refugees; their recognition rate was exceptionally high at 93.4% in 2004 (data of MoI). It would not make much sense to include this group in estimations of illegally resident or entering persons. Austria is a primary asylum country for Chechens and therefore the number of undocumented Chechens resident in Austria is not considered to be very high; with the accession of the asylum procedure, they can no longer be viewed as illegal immigrants.

- On the contrary, Austria is considered a transit country for nationals of **India**, **Bangladesh** (destination country: United Kingdom) or of **China** (destination countries: France, Italy, Spain) (BK 2004 and 2005).
- Apprehended **Bulgarians** and **Romanians** leave their home countries in order to work in the European Union for a few months. They do not require a visa to enter the EU and are allowed to stay for up to three months. Yet, for the majority of apprehended Bulgarian and Romanian citizens, Austria is only a transit country, the final destinations being Italy, Spain or Germany. When returning home they are detected as visa-overstayers and have to pay a fine (BK 2004 and 2005).
- It is interesting to note that most of the apprehended Africans, especially **Nigerians**, are assumed to immigrate via EU-internal borders (e.g. coming from Italy) to Austria, where many of them apply for asylum directly at the Initial Reception Centres Traiskirchen and Thalham. EU-internal borders play therefore a crucial role in the issue of illegal immigration to Austria (BK 2005).

General developments and trends in apprehensions

In 2004, security authorities detected **17,566 cases**¹¹² of smuggling, illegal border crossing and illegal residence, which is a decrease of 13.0% compared with the preceding year. Among these cases, **38,530 persons** were apprehended at Austrian borders and on Austrian territory, which is a decrease of 14.6% from 2003 (BK 2005: 12-13). The figures have started declining since 2003. Between 1997 and 2001 the number of apprehensions increased sharply from 5,121 to 20,597 cases, with the number of apprehended persons increasing accordingly (cf Annex I, tables 1 and 3). Looking at the countries of origin of apprehended persons (cf Annex I, table 20), the development in the period 1997 to 2005 shows significant changes as well as continuities and also parallels to the most important countries of origin of asylum seekers in that period.

Illegal immigration and asylum

Illegal immigration and asylum¹¹³ are interconnected issues in diverse regards. In the public discourse, especially in the mass media, asylum seekers and refugees are often misleadingly referred to as illegal immigrants, which suggests that their asylum applications are unjustified. At the same time, many asylum seekers, being smuggled to Austria or travelling alone, cross

¹¹² A “case” implicates a legal/official act.

¹¹³ To summarise the main developments in the field of asylum in recent years, the years from 1997 until 2002 were characterised by a significant increase in asylum applications (with a preliminary regression in 2000), followed by a continuous decrease in the subsequent years (see data of MoI).

the border illegally to apply for asylum within the Austrian territory. Asylum seekers, who entered the territory illegally, are also recorded as ‘apprehended persons’ in the database on smuggling.

Riedl outlines another facet in the linkages between illegal immigration and asylum: “*(I)n Austria the situation of undocumented migrants is closely linked to the situation of asylum seekers, as well as individuals whose asylum applications have been rejected. This results from the fact that an overwhelming number of migrants are forced to enter Austria via the asylum method.*” (Riedl 2003: 24). So among the persons, who apply for asylum, might also be some who do not wait for the decision on their application, but further migrate to other Schengen countries. In this regard it is interesting to look at other non-status decisions in the asylum procedure, particularly cessations (see Annex I, table 23).

It is interesting to note that of 30.9% of apprehended smuggled persons it is not known in which province they have crossed the border. These are mainly persons who apply directly for asylum at the Initial Reception Centres, being then also registered as apprehended persons. These facts support the assumption that the number of unreported cases of those groups who are likely to seek for asylum in Austria, may not be very high.

In the Smuggling Report, the authors try to correlate data on asylum applications and apprehension data to express the link between asylum and illegal immigration in concrete figures (see BK 2005). However, it should be taken into consideration, that the two databases are not interlinked.¹¹⁴

2.3 Profiles of illegally resident immigrants

2.3.1 Statistics on apprehensions of illegally entering and/or residing immigrants and cases of smuggling of human beings provided by the Ministry of Interior¹¹⁵

It is important to stress that the Central Service Combating Alien Smuggling (ZBS) within the Austrian Criminal Intelligence Service (BK) presents data on illegal immigration in the context of organised crime. Unfortunately, these reports seem to utilise rather vague

¹¹⁴ This shortcoming is currently being addressed in order to enhance the data. The data entry, whether the person has applied for asylum or not, will be mandatory in the near future.

¹¹⁵ Annex I (tables 1-20) shows more comprehensive data on variables such as citizenship, place of apprehension, transportation etc. including also information on smugglers.

terminology. The annual report on Organised Crime of Smuggling of Human Beings¹¹⁶ divides apprehensions and apprehended persons into two categories: a) smuggled persons and b) illegally entered and/or residing persons. The differentiating criterion applied is, whether a person has reached the Austrian territory with or without help. The category illegally entered and/or residing appears to be defined in a very broad sense, as the collected data is not further differentiated into more detailed categories. According to Colonel Tatzgern, this was differentiated in the past, but caused too many difficulties in practice.

Moreover, attention is to be drawn to the fact that, for technical reasons, the ZBS cannot differentiate between ‘smuggling’ and ‘trafficking’ in its report, thus cases of ‘trafficking’ may be subsumed under the term of ‘smuggling’. This may be because the apprehending authorities enter the data directly after apprehension. More detailed information on every apprehended person would therefore require a revision of the initial data entry after the completed investigation. In other words, it is difficult to know whether a person has been smuggled or trafficked on first contact.¹¹⁷ Finally, the Electronic Database on Smuggling is not a basis for scientific analysis, but a tool for further criminal investigation aiming at combating illegal immigration, in particular the trafficking and smuggling of human beings.

Under the term ‘apprehended persons’, the ZBS includes all persons with illegal entry and/or residence status and smugglers, who are apprehended on Austrian territory. As noted, it is not possible to further differentiate apprehended persons into more detailed categories. The only distinction applied is, whether:

- 1) the persons migrated to Austria with help (‘smuggled persons’) or
- 2) on their own (‘illegally entered/residing persons’).

Thus, particularly under the second category, different forms of illegality are counted, e.g. visa-overstayers, persons apprehended immediately after their illegal border crossing, or persons whose legal residence status became an illegal one for whatever reason. Other person may be apprehended on their journey through Austria to their home country, having worked illegally in the Schengen area. A third category on which data is collected, but which is considered as less relevant here, are smugglers.

¹¹⁶ Translated originally to “Organised THB (Trafficking in Human Beings) Crime”, a translation, which the authors consider imprecise.

¹¹⁷ It is important to note that the data entries are subject to the interpretation of the apprehending authorities. Concerning general data quality, the ZBS itself admits that it is impossible to check all data entered. Additionally, the information provided by the apprehended persons in the aftermath (e.g. on the province where he/she has crossed the border) can certainly not be verified by the authorities. Yet, although statistical biases may occur, according to the ZBS, data is assumed to be of very good quality (BK 2004: 5).

Considering the data from 2004, **957 smugglers, 15,607 smuggled persons and 21,966 illegally entered and/or residing persons** were apprehended (in total: 38,530). Differentiating the places of apprehension, the largest share of the apprehended persons at 47.8% were apprehended on Austrian territory, 22.7% at the moment of leaving the country¹¹⁸, 12.6% at the moment of entrance¹¹⁹, and 17% within compensatory measures¹²⁰ (BK 2005: 18; auth. calculations).

We will now focus on the main trends and characteristics comparing smuggled persons and illegally entered and/or residing persons. It is important to outline that there are significant differences between smuggled persons and illegally entered and/or residing persons. While most of the smuggled persons are apprehended on the Austrian territory (69.1%), this is true for only 33.5% of illegally entered and/or residing persons. Another 33.2% of this group is apprehended at departure (ibid., auth. calculations).¹²¹ It is possible that a certain number may have crossed the border legally (persons without visa requirements or with tourist visas) or with forged documents.

The share of women is slightly higher among illegally entered and/or residing persons (33%) compared to smuggled persons (30%) (BK 2005: 27; 31). Looking at the means of transportation, 58% of smuggled persons crossed the border on foot compared to only 13% of illegally entered and/or residing persons.

Another interesting statistic is the nationality of apprehended persons. While citizens of Russia (in particular Chechens) (31.2%), India (8.7%), Moldova (7.6%), and Georgia (7%) are the main groups among smuggled persons, the main countries of citizenship among the group of illegally entered and/or residing persons are Romania (42.2%), Bulgaria (12.9%), Moldova (4.5%), and Serbia and Montenegro (4.3%). Thus, among the latter, persons without visa requirements constitute the majority (ibid. 20-22).

¹¹⁸ The Smuggling Report does not clearly identify where these persons who are leaving the Austrian territory intend to go: they could either travel on to other countries in the Schengen area or return to their home countries.

¹¹⁹ Persons who were apprehended while they were trying to cross the border illegally or who were apprehended immediately after having crossed the border illegally.

¹²⁰ These persons were apprehended by (former) gendarmerie units operating in the Schengen internal border regions. These compensatory measures were set up after border controls were abolished due to the entry into force of the Schengen agreement.

¹²¹ It is not clear whether these figures are subject to a systematical bias. It can be assumed that it is difficult for the apprehending authorities to discover after the event if a person, who was apprehended on Austrian territory, was smuggled or migrated on his/her own. In this case, the authorities have to rely on the statements made by the apprehended persons.

The differences between these two groups can also be mapped out in relation to the segment of the Austria border crossed. Twenty-four percent of smuggled persons entered from Slovakia, 23% from the Czech Republic and 9% from Hungary (ibid. 27). This list also includes Austria with 3%; these are persons, who are registered as asylum seekers in Austria, and who attempted to be smuggled from Austria to a neighbouring country.

Converse patterns are observed concerning the group of illegally entered and/or residing persons. It is important to note that 57% of this group crossed borders within the Schengen area (the leading country is Italy with 38% of persons crossing the border to Austria) and fewer, namely 32%, crossed Schengen external borders.

2.3.2 Data on illegally resident immigrants provided by NGOs and welfare institutions

Looking at profiles of illegally resident immigrants in Austria, the data collected by NGOs and welfare institutions also provides useful insights. Organisations and institutions working in this field have data on illegal immigration at their disposal, such as that collected on their clients. The following presentation of data collectors is not exhaustive and has to be seen as showing only a part of reality.

Women and children affected by trafficking:

Every year, the NGO, LEFÖ, and its Interventionsstelle für Betroffene des Frauenhandels (IBF) (Intervention Centre for Women Affected by Trafficking), which provides assistance to females affected by trafficking, presents statistics on its clients in annual activity reports. In 2004, LEFÖ provided assistance to 167 females, of whom approximately 70% were citizens of Eastern and Southeastern European countries. The largest group were Romanian citizens constituting 30%, followed by Bulgarian women (14%), African women (9%) and women from Ukraine (7%) (LEFÖ-IBF 2005: 16).

LEFÖ provides different forms of assistance to female victims of trafficking, such as support in the temporary emergency shelter, psychosocial support, counselling for external clients and support for women in detention pending deportation.

In 2004, 37 women stayed at the shelter, of whom 40% came from Romania and 24% from Bulgaria. Fifty-one percent of the females staying in the shelter were aged between 19 and 25 (ibid. 19). The annual report also provides statistics on the duration of the stay of the women in the shelter and the number of persons staying in the shelter per month.

In addition, some statistics on women receiving support other than accommodation in the shelter, is presented. LEFÖ also provides statistics on how or through which institutions and organisations the women came into contact with the organisation. The largest number, 32,5%, are referred through police authorities, 29% through private contacts, and others through NGOs or other organisations (ibid. 15). Another interesting statistic is that nine clients were granted residence permits for humanitarian reasons in 2004 and residence permits were extended for five women (ibid. 12). Indeed, it is also for reasons of security of the victims that data is not broken down into too precise detail.

The special crisis intervention centre Drehscheibe, which is subordinated to the Viennese Institution for Youth Welfare (Municipal Department 11), also collects client statistics. Drehscheibe is an institution specialising in unaccompanied, foreign minors (often victims of trafficking), who are caught in criminal activities (such as stealing, begging, burglary or illegal prostitution) by the police.¹²² Most of these trafficked minors are victims of criminal organisations, who abuse and force them to commit crimes in Austria. While in 2003, the most important country of origin was Romania, in 2004, 65.5% of the total 360 assisted children who were taken to Drehscheibe, came from Bulgaria (unpublished statistics provided by Drehscheibe).

Apart from client statistics, research studies including qualitative approaches should be mentioned. The recent EU-Interreg programme Women East Smuggling Trafficking (W.E.S.T) focuses on trafficking in women and prostitution in Italy and the Austrian province of Carinthia. The results of this research project confirmed the assumption that Carinthia is both a region of destination as well as of transit for trafficked Eastern European women (WEST 2005: 34). In a first step, court files were collected and systematically analysed in order to shed light on the 'documented picture' of trafficking in women and prostitution in this region.¹²³ The most important countries of citizenship of the persons affected (total: 142) were Ukraine (46.5%), followed by Moldova and Romania (both 25.4%). In the cases, where the regional origin was known, 73% of the women came from rural areas. The females were aged between 14 and 61 years. The study also provides information on variables such as marital status and education. From the available data 32.4% were unmarried and 23.9%

¹²² A small minority contacts Drehscheibe on a voluntary basis.

¹²³ Further initiatives of the WEST programme aimed at discovering the perspective of the women by conducting in-depth, qualitative interviews with victims and revealing the 'undocumented picture' with the help of discussions (round tables) among experts and practitioners in the field.

married, with the main list of professions including the health care sector, service occupations and teaching (ibid. 27-29).

Refused asylum seekers

The largest Austrian advisory institution, the Asylum Centre of Caritas in Vienna, counted about 12,000 client contacts in May 2005. On average, about 10% of their clients are without legal residence status. These are mainly refused asylum seekers, who are protected from deportation or who cannot be deported for other reasons (because the country of origin refuses their readmission, they provided a false identity, lack of capacity on the Austrian side, etc.) or where deportation is imminent. Having asylum seekers as their main client group, the countries of origin are similar to those found in the official asylum statistics, such as Nigeria, successor states of the Former Soviet Union (e.g. Georgia and Ukraine), India, Pakistan and Turkey. Concerning the profile of the persons, Caritas collects only data on the country of origin and sex, but not on family status and age. Yet, the collected data and the experience show that the large majority is male, originates either from the African continent or the CIS countries, and is aged between 20 and 30 years old.

Immigrants without health insurance

Since 2004, the Diakonie/Evangelisches Hilfswerk (Deaconry/Protestant Relief Organisation) has run the project AMBER – Medical and Social Advisory Service in Vienna. It offers free and anonymous medical treatment for persons without health insurance and special consulting in serious cases. AMBER has been collecting data on its clients since January 2004 (for their internal use only); although the clients give the information on a voluntary basis. Clients mainly originate from Eastern and Southeastern European countries (primarily: Serbia and Montenegro and Romania), followed by the Russian Federation, Nigeria and Afghanistan. There are more male clients (59%) than females (41%). Since AMBER has expanded its service from two to five days per week in October 2004, the total number of clients has been increasing, numbering 713 persons from 12 January 2004 to 30 June 2005. The total number of client contacts in this period is almost 1,400, and the average number of new clients per month currently lies at 60 to 70 persons. Of the 713 treated persons, 91% had no health insurance. Concerning the housing situation, 52% of the patients had private accommodation, 40% were staying in shelter accommodation and 6.6% were homeless (remainder unknown). In regard to their legal status, the percentage of asylum seekers (for the period between 12 January 2004 and 30 June 2005) amounts to 44%, those with an illegal residence status

reached 24%, migrants with different residence titles 10%, persons with tourist visa 10%, EU citizens 9% and Austrian citizens 3% (internal data provided by AMBER).

In 2003, the Federal Ministry for Health and Women published a study, a quantitative and qualitative survey and analysis of persons without health insurance in Austria conducted by the European Centre for Social Welfare Policy and Research (BMFG 2003). The report also contains a subchapter on illegally resident immigrants, but in terms of data and statistics it refers to existing estimates (see e.g. Biffl 2002). The entry-into-force of the Basic Welfare Support Agreement¹²⁴ on 1 May 2004, which regulates the tasks of the federal state and the provinces concerning the accommodation, health insurance, sustenance and education of asylum seekers and refugees in Austria, created the opportunity for rejected asylum seekers to remain insured, if an deportation has been impossible for various reasons (cf. chapter 3.4.2).

Illegally employed domestic workers

Concerning the group of illegally employed domestic workers, we refer to three studies applying a qualitative research approach. The Autonomes Integrationszentrum von und für Migrantinnen (MAIZ) (Autonomous Integration Centre by and for Migrant Women) has conducted a study on immigrant female domestic workers (MAIZ 2004). Within the framework of this study, 11 interviews with migrant women working – partly staying legally, partly illegally – in households were conducted. The aim was to choose women with diverse migration backgrounds: asylum seekers, economic migrants and migrants who came for study purposes. The countries of origin included Ghana, Ecuador, Poland, Brasil, Moldova, Turkey, Slovakia, Iran, Hungary, Croatia and Peru. The study sheds light on the diverse biographies of the immigrants. The interviewed persons were between 23 and 45 years old, five of them had no children, three were single. Before emigrating, the education/occupation of the women were: academic (two), student (two), shop assistant (three), midwife (one), tailor (one), technical laboratory assistant (one) and sales employee (one). Except one person, the interviewees were living on average between three and nine years in Austria. Eight interviewed persons were residing illegally in Austria before they were able to regulate their situation; about half had no work permit (MAIZ 2004: 41-42).

Another interesting study was carried out by a group of Austrian artists called Social Impact, who completed a sociological study on the situation of illegal foreign domestic workers

¹²⁴ BGBl. I Nr. 80/2004.

(Social Impact 1999). They interviewed 15 women, who were between 23 and 54 years old and originated from Bosnia and Herzegovina, Armenia, Romania, Serbia and Montenegro and Turkey. The average number of children per woman was 1.5; seven women were married, three single, four divorced and one widowed. All 15 had experience with illegal work; at the time the interviews were conducted, four of them were already legally employed. The approximate duration of residence in Austria was on average 5.3 years. The majority of the immigrants had expected an improved quality of life for themselves and their children, especially aspects such as security, democracy and the wish to secure the survival had been in the foreground (ibid 22-26).

A third study was carried out by Rechling (2004), who relied on the same persons interviewed in the study by MAIZ. Amongst others, the author outlined the difficult situation of 'illegalised' migrant women and the relationships of dependence between them and their employers. For more details see chapter 4.1 on the social situation.

3. State Approaches

(Written by Sophie Hofbauer, IOM Vienna)

Chapter 3 Synopsis

Austria implements a variety of policies in order to prevent, control, rectify, remedy or undo illegal immigration. The state approach that is most often applied is that of the prevention and exertion of domestic control, followed by the policy of undoing, which includes expulsion and deportation. The option of rectification/remedy, which would include legalisation programmes, is rarely implemented. While there has never been a legalisation programme in Austria, other options have been found in order to rectify a person's irregular residence status on a case-by-case basis.

The trafficking and smuggling of human beings plays an important role in Austria, which is considered both as a destination country as well as a transit country for immigrants on their way to other EU Member States. According to the Austrian Criminal Intelligence Service, the main points of entry of smuggled persons to Austria are Hungary, Slovakia, and the Czech Republic, with land or air routes used differing according to the nationalities of the immigrants. Central and Eastern Europe are the main countries of origin of persons (mainly women) affected by human trafficking.

During the last 15 years, external border control, international police cooperation and information exchange have constantly been improved. On the international level, so-called security partnerships were established with Austria's neighbouring countries in 2000, and a number of joint projects have been implemented to counter human smuggling and trafficking in the countries of origin. Austria has also concluded several readmission agreements on a bilateral level with countries of origin and transit of illegal immigration.

Concerning measures of domestic control, according to the Austrian Registration Law, all persons establishing their residence in Austria must register at the civil registry offices. Yet, the registration data are not shared with the Aliens Police, which is the authority dealing with illegally resident immigrants in the country. The Central Taskforce for the Prevention of Illegal Employment is in charge of tracking down illegally working immigrants by controlling work sites. In 2003, the so-called reverse-charge-system was introduced in the construction sector to combat the prevalence of fictitious companies, the stock of personnel of the Central Taskforce was doubled, their authority expanded and the number of controls increased.

In the area of forced return, enhancements such as the medical examination of the deportees, legal training for executive personnel and the accompaniment of human rights observers and doctors on charter flights were introduced in 1999. Assisted voluntary return is an option that has increasingly been used by persons who are kept in detention pending deportation, since the general awareness has been increased within the responsible state institutions and NGOs. There are currently several programmes of assisted voluntary return, which are implemented by the International Organization for Migration.

In general, there is no public social or medical support for illegally resident immigrants in Austria. Yet, they have access to social services such as health care, emergency health care, emergency shelter and legal support provided by NGOs and welfare institutions. Concerning employment, there are three different work permits for legally resident immigrants in Austria. In order to meet the needs of migrant labour, the amount of seasonal workers was increased and the concept of commuting was extended under the Aliens Act 2002. Further, the Government concluded bilateral agreements with Hungary and the Czech Republic, defining the numbers of both frontier workers as well as key professionals. However, there are no explicit provisions that would prevent immigrant workers from slipping into illegality after their work visa has expired.

This chapter will analyse Austria's various approaches towards illegal immigration. The focus is on the latest developments since Austria's accession to the EU in 1995.

According to Çinar/Gächter/Waldrauch (2000: 22), there are basically three main policy options for states to address the phenomenon of illegally resident immigrants in a country. Firstly, "*prevention and control*", which comprises border controls, the prosecution of smugglers and traffickers, tracking visas in order to prevent overstaying, legal system reforms to avoid or remove 'illegalisation traps', and deterrents to curb demand for illegally working immigrants (such as employer sanctions and contractor responsibilities). Alternative measures within this approach would be temporary manpower programmes, information campaigns and tackling the root causes of migration in the countries of origin, as well as incentives to curb demand for illegally working immigrants. Secondly, there is the option of "*rectification/remedy*", which comprises amnesties and regularisations and facilitation of access to basic services: in other words, recognition that many immigrants reside and work illegally in the country. Thirdly, the authors name the state approach of "*undoing*" that is implemented through raids, expulsion, deportation and incentives for voluntary return as an alternative approach to forced return.

Using Çinar/Gächter/Waldrauch's terminology, the approach primarily implemented in Austria is one of prevention of illegal immigration and the exertion of domestic control, followed by the policy of undoing. The option of rectification/remedy is rarely implemented. Unlike some Southern EU Member States such as Spain, Greece and Italy, Austria has never implemented an amnesty programme in order to legalise irregular immigrants. According to Stefan Stortecky, head of the Aliens Police in Vienna, a legalisation of illegally resident immigrants could be counter-productive. In his opinion, it does not really solve the problems in the labour and housing markets. Further, a legalisation would have a magnetic impact on further illegal immigrants (BM.I 03/2000: 3).

In Austria, the prevention of illegal immigration has found its expression traditionally in the control of its external borders. This is due – in part – to Austria's historical and geographical position as a border country; at first it demarcated 'the East' from 'the West' by the Iron Curtain, later it formed an external border of the EU, and today, it still forms a Schengen external border to the Czech Republic, Slovakia, Hungary and Slovenia to the East, and Switzerland and Liechtenstein to the West. Naturally, the accession of the new EU Member

States in 2004, and the subsequent shift of the EU's external borders, had an important impact on the development of common security measures and common border control for Austria. The last decade was characterised by intensive preparations for an enhanced border control management and international criminal police cooperation.

Looking back, the fall of the Iron Curtain, with its deep impact on the political, economic and social situation in the neighbouring countries, also changed the organised crime scene in Austria (Tschernitz 2004: 9). Notable is the larger share of imported criminality that has been observed, which is explained by high delinquent mobility, greater number of foreign delinquents, wider range of organised criminality and an increase in violent crimes (ibid; Pilgram 2003). According to Sohler (1999; 2000), the start of the politicisation of inner security issues in Austria should be seen in the context of the opening towards the East after 1989. From this time, the control of crime became increasingly linked to the control of migration flows and the prevention of illegal immigration. This continued in a growing overlap of the two areas of security policies and migration policies (Sohler 1999: 5).

As a consequence, since the 1990s, important changes have taken place in Austria. These changes are manifested primarily on a structural level. With § 1 of the Federal Law¹²⁵, the Criminal Intelligence Service Austria (Bundeskriminalamt, BK) was established in 2002 to effectively combat criminal acts punishable by law and to fulfil central functions in the area of international police cooperation.¹²⁶ Here follows an overview of the most important and recent measures undertaken to prevent illegal immigration into Austria.

¹²⁵ BGBl. I Nr. 22/2002, Federal Law on the Establishment and Organisation of the Criminal Intelligence Service Austria.

¹²⁶ The Criminal Intelligence Service Austria forms part of the Directorate-General of Public Security of the MoI. It directs and coordinates the official actions of the criminal police in Austria and is the national focal point regarding international police cooperation for the International Criminal Police Organisation (Interpol), Schengen and the European Law Enforcement Organisation (Europol). Office 2.2 of the Criminal Intelligence Service Austria is the National Unit for Europol, serving as an information interface and fulfilling judicial-administrative and strategic tasks such as sending seconded experts abroad or elaborating information and training programmes to raise the awareness of police officers. Moreover, this office is participating in projects financed by the European Union; in 2003, the National Unit for Europol initiated a close cooperation with the national focal points of Hungary and Slovakia.

3.1 Measures to prevent illegal immigration

(In consultation with Colonel Gerald Tatzgern, Federal Ministry of the Interior, Central Service Combating Alien Smuggling)

Main ways of illegal entry to Austria

It is difficult to determine the primary way of illegal entry to Austria, as there are several possibilities, and existing data sources do not provide a clear picture. Each way of illegal entrance can have different causes and intentions, and therefore different consequences for the person once apprehended without legal entry documentation. Refugees, who cross borders in order to seek asylum in a safe country, and immigrants, who come to Austria for a range of economic and social reasons, have different causes and intentions but both groups may enter the country illegally.¹²⁷ Aside from the different legal aspects, there exist different methods of illegal entry, consider the means of transport that are chosen in order to cross borders (by air, by land or by water). Another differentiation can be made based on the use of smugglers, traffickers or facilitators, or whether a person travels alone. According to Europol (ICMPD 1999: 14), this decision depends to a certain degree on the geographical distance of the country of origin and the length of the travel, because *“the greater the distance is, the more likely it is that organised groups have facilitated the journey”*. Some persons use the services of smugglers in order to reach the Austrian border, but are then left alone to cross the green border on foot and are later picked up again (Böhm 1998: 38). A recent study on Human Smuggling as a Transnational Service Industry by Bilger/Hofmann/Jandl (2005: 4), who interviewed 46 smuggled migrants in Austria, also confirms this new *modus operandi*, which *“involves operations in the vicinity of borders for delivering and collecting migrants at certain meeting points, while the borders are crossed by the migrants alone or in groups acting on the directions of their smugglers.”*

The southeast European countries are considered important countries of origin and transit for ‘illegal immigrants’ entering Austria. As the IOM publication Migration Management in South Eastern Europe: Objectives for 2005 states: *“In the past years, the region has become a transit and destination area for asylum seekers, irregular migrants to the EU (mainly Albanians and Kosovars) and victims of trafficking (mainly women and minors for sexual exploitation from Romania, Moldova, Ukraine, Bulgaria, etc.) as well as of origin. [...] The*

¹²⁷ Visa overstayers are not included here, as they do not enter the country illegally but usually enter with valid documentation.

figures vary, but they are probably over 100,000 irregular migrants per year going from the Balkans to the EU, of which 15% originate from the region itself.” (IOM 2004a: 8).

According to the study, *The Relationship between Organised Crime and Trafficking in Aliens* by the International Centre for Migration Policy Development (ICMPD 1999: 15), the “*relative size of the problem in smuggling business is much larger than in trafficking in persons business.*” Both, human smuggling and trafficking are such comprehensive topics that they require studies of their own, but as they are important for the case of Austria, they must at least be mentioned in a summarised manner. As we can rely only on available statistics, the main smuggling routes to Austria and the existing data on trafficking in human beings will be briefly described here. Consider, however, that smuggling and trafficking constitute only a part of the larger picture of illegal entries.

Smuggling of human beings to Austria

The Smuggling Report 2005 revealed that in 2004, the main points of entry of smuggled persons were Slovakia (24%) and the Czech Republic (23%) with a high number of others/unknown (35%). According to the most recent, available statistics from the MoI (May 2005), the routes, which are used by the top ten nationalities of smuggled persons, are the following:

- Serbia and Montenegro – Hungary – Austria (for nationals of Serbia and Montenegro);
- Belarus – Poland – Czech Republic – Austria, respectively Ukraine – Slovakia – Austria (for nationals of the Russian Federation);
- Ukraine – Hungary – Austria (for nationals of Ukraine);
- The air route to Eastern European countries – by land to Slovakia – Austria (for nationals of India, Pakistan and Bangladesh);
- Georgia – Russian Federation – Ukraine – Romania – Hungary – Austria, respectively Ukraine – Slovakia – Austria (for nationals of Georgia);
- The air route to Eastern European countries – by land to Slovakia – Austria, respectively the Balkan land route (for nationals of Turkey);
- The air or sea route into the EU – by air or sea within Schengen area – Austria (for nationals of Nigeria);
- Moldova – Romania – Hungary – Austria, respectively Moldova – Ukraine – Slovakia – Austria (for nationals of Moldova);
- The Balkan land route or the route across former CIS countries – Austria (for nationals of Afghanistan);

- The land route to the Russian Federation – by land to Slovakia or the Czech Republic – Austria (for nationals of China).¹²⁸

Interestingly, Bilger/Hofmann/Jandl (2005: 5) found that *“there exists a complex market for highly differentiated smuggling services offered by a multitude of providers that potential migrants can choose from.”* Further, *“Smugglers play a key role in channelling migration by directing migration towards or away from particular transit and destination countries. [...] A significant part of interviewed migrants told us that they got ‘stranded’ in Austria, a country they did not have in mind in the first place, because the smugglers had directed them.”* (ibid. 15). Another reason for entering a specific country is because relatives or friends have already settled there. The interviews showed that many respondents had been on the move for several months, some of them even for years, before reaching Austria. This was mainly due to the lack of financial means, thus migrants were forced to find a way to make enough money for the onward journey. The actual routes taken very much depended on the available financial means (ibid. 20-21).

Trafficking in human beings¹²⁹

Due to its central geographical position, Austria is a country of transit and destination for trafficking in human beings from Central and Eastern Europe, which primarily affects women destined for prostitution or domestic work. According to a study by the International Organization for Migration (IOM), *“(…), most victims of trafficking are concentrated in Vienna. Although the number of registered women in prostitution has declined, prostitution by irregular and trafficked women has been on the rise. Most victims are trafficked into Austria from neighbouring countries (Hungary, Slovakia, the Czech Republic). Austria is also a transit area for migrants and traffickers to enter other EU countries, especially Italy.”* (Apap/Medved 2002: 32). As a consequence of the opening of the Eastern borders, a sharp rise in illegal foreign prostitution in Austria was observed (IOM 1996: 4). According to statistics from the MoI, in 2000, about 100 of the some 600 registered prostitutes in Vienna were of foreign nationality. Yet, the number of foreign prostitutes working illegally in Vienna is estimated to be much higher, namely between 3,000 and 3,500¹³⁰ (see BM.I 09/10, 2000; BM.I 01/02, 2003). Eighty percent of these women are thought to originate from Eastern

¹²⁸ Unpublished statistics provided by BMI-II/BK Büro 3.6-ZBS in May 2005.

¹²⁹ As clarified in the introduction, persons affected by trafficking are primarily woman and girls, however it is important not to exclude the trafficking in boys and men for sexual exploitation, labour exploitation, trade in organs, etc.

¹³⁰ There is no explanation provided on the method used to reach these figures.

European countries, including Slovakian hospital nurses, commuting on a daily basis between Vienna and Slovakia (see BM.I 01/02, 2003).

Although the vast majority of reported cases concern trafficking in women for purposes of sexual exploitation, there are also reported cases of trafficking in women for purposes of labour exploitation and of trafficking in children for criminal activities (see ECRI 2005: 16; Tschernitz 2004: 86). Tschernitz (ibid. 87-88) states that the continuous recruitment of girls and women from Eastern Europe is common, which operates based on a form of order system. According to the author, recruitment follows two different methods: 'open' and 'hidden'. Some women are recruited, notably those who have already been working in brothels and therefore already decided to work in prostitution in their home country, while others are made lucrative job offers under false pretences. In doing so, traffickers target the poorer districts in large cities or factories to take advantage of the difficult socio-economic situation facing women and girls. Another tactic is the interception of girls at central transportation links, such as central train stations in larger cities, where they arrive from more rural provinces and are made offers of cheap accommodation. If the girls go with the contact person, they are handed over to another person in the trafficking chain, who is likely to immediately beat and violate them, in order to force them into a relationship of dependent subservience (ibid.)

Several articles in the Austrian Penal Code¹³¹ and the Aliens Act specifically prohibit trafficking and trafficking-related crimes and impose severe penalties. The relevant legal instrument is § 217 of the Penal Code, which was amended in 2004 and now includes trafficking for prostitution across borders (*Grenzüberschreitender Prostitutionshandel*). § 104 of the Aliens Act determines the penalties in regard to smuggling of human beings and § 105 of the same law protects aliens who reside illegally in Austria or who are not in possession of a work permit from all forms of exploitation. In 2004, the Austrian Parliament adopted an amendment to § 104a of the Penal Code that expands the definition of trafficking in human beings to include the exploitation of labour and the trafficking in children and in organs.

In 1995, the Austrian authorities decided to undertake a number of measures to try to combat trafficking in persons, primarily based on concern about links between trafficking and organised crime (IOM 1996: 25). An informal inter-ministerial Task Force against Trafficking

¹³¹ BGBl. Nr. 60/1974 idF BGBl. I Nr. 152/2004.

in Human Beings was initiated for the elaboration of strategies to protect victims of organised crime and to offer them better protective mechanisms.¹³² This has had important consequences. In 1998, the Intervention Centre for Migrant Women Affected by Trafficking (IBF) was established within the NGO LEFÖ, whose main tasks include to offer counselling and temporary emergency shelter, to work with other women's organisations in the countries of origin, to identify new perspectives for the return of victims, to support persons in integration matters, and to distribute information about trafficking in women and female migration to the Austrian population and specific target groups (police, judges, public prosecutors and other NGOs). The inter-ministerial task force became official at the end of 2004, with LEFÖ-IBF being part of this new structure.¹³³

Main measures and instruments used to prevent illegal immigration

The main measures and instruments that are used at a national level in order to prevent 'illegal immigrants' from entering Austria include strict entry requirements together with intensive border controls. The strengthening of immigration controls on legal and institutional levels was an important aim of the legal reforms in Austria during the 1990s (see Sohler 1999, 2000). Since 1990, all immigrants entering Austria are confronted with restrictive admission standards and administrative barriers, and preliminary procedures concerning entry clearances and residence titles that must be issued by the Austrian representative authorities (embassies and consulates) in the countries of origin.

Since 1995, the Austrian visa policy in regard to third country nationals is in accord with the visa regimes of the EU and the Schengen countries (Sohler 1999: 65).¹³⁴ The Convention Implementing the Schengen Agreement came into force in Austria on 1 December 1997. Its measures in the fields of visa issuance, asylum and immigration of third country nationals, as well as measures of police and judicial cooperation in criminal cases and combating international crime have been implemented since this date. The Aliens Police is the

¹³² The most important recommendations in the final report of the *interim* task force in 1998 included: the creation of an adequate legal framework within the Aliens Act, access to social rights, the creation of organisations for victim protection at national level, the enforcement of cooperation between NGOs and public authorities and the recognition of prostitution as occupation, linked with residence permits for foreign prostitutes (Kartusch/Knaus/Reiter 2000: 121-122).

¹³³ In principle, this panel is a platform for combating trafficking in human beings and supporting the affected persons. It takes up concrete problems and elaborates on solutions including the respective authorities and organisations in this field (see LEFÖ-IBF 2005: 40).

¹³⁴ As with all other EU Member States, depending on the intentions of entry and stay, different permits (visa A, B, C, or D) are required. In order to obtain a visa, certain positive conditions must be fulfilled (e.g. possession of sufficient financial means and health insurance) and there must not exist any reason for a possible denial (e.g. prohibition of stay in Austria or in another Schengen country).

responsible authority implementing the legal measures of compulsion, which are laid down in the Aliens Act of 1997 (entered into force on 1 January 1998)¹³⁵ (see Annex I, table 22).

As in all other EU Member States, visas can be denied and persons can be rejected at the Austrian border. The main reasons for rejection, listed in § 52 of the Aliens Act, are doubts about identity, lack of visa, lack of means and the suspicion of criminal offences or illegal work. Based on this section of the Aliens Act, a large number of persons are rejected at the Austrian border every year (26,280 persons in 2004).¹³⁶ This has been criticised as a possibility for a *de facto* unlimited application of formless rejection at the border, as it does not require any explanatory statement and because the simple *suspicion* of potential threat to public order is sufficient for border guards to reject a person (Sohler 1999: 65). International human rights organisations, such as UNHCR, amnesty international and Austrian NGOs, such as Asylkoordination, Asyl in Not, SOS Mitmensch and others, have pointed to infringements of the Geneva Refugee Convention where asylum seekers are rejected at the border without being able to apply for asylum.¹³⁷

The community law of the European Union has significantly determined the national visa and entry requirements in Austria during the recent years (Schumacher 2003: 19). To give an example, citizens of Romania can now enter and stay in Austria up to 90 days based on the common EU list of countries without visa requirements (ibid. 21).¹³⁸ A significant step towards the combating of illegal immigration and the abuse of asylum systems (by ‘asylum shopping’) has been the introduction of the European automated fingerprint recognition system, Eurodac (European dactyloscopy). With Eurodac, the EU aims to establish a system

¹³⁵ The corresponding legal paragraphs for measures of compulsion are: rejection at border (§ 52), forcible return (§ 55), expulsion (§ 33), residence ban (§ 36), detention pending deportation (§ 61) and deportation (§ 56).

¹³⁶ The number of rejections at the border decreased significantly from 72,874 in 1997 to 23,825 in 1998. The entry into force of a new asylum law in 1998 and the entry into force of the Schengen implementation agreement in December 1997 may have contributed to this decline. In the subsequent years, the decline continued until 2001. However, since 2002, the number of rejections at Austrian borders has increased again (cf. Annex I, table 22).

¹³⁷ From a human rights perspective, the training of border officials who first come into contact with asylum seekers, on the rules and principles of refugee protection and domestic legal instruments is therefore of high importance. In Austria, legal training provided by UNHCR still takes place (roughly every six months), but have become less important as the focus of these measures has shifted towards the new EU Member States and their external EU borders to the East. LEFÖ-IBF maintains regular information exchange and occasionally provides (depending on the financial means) training on trafficking in human beings in Austria and abroad, amongst others also for police officers.

¹³⁸ The list of third countries, whose citizens do not need a visa to enter the European Union, and which is therefore also applicable to Austria, includes the following: Andorra, Argentina, Australia, Bolivia, Brazil, Brunei, Bulgaria, Chile, Costa Rica, Croatia, Ecuador, El Salvador, Guatemala, Honduras, Israel, Japan, Canada, Malaysia, Mexico, Monaco, New Zealand, Nicaragua, Panama, Paraguay, Romania, San Marino, Switzerland, Singapore, South Korea, Uruguay, Vatican City, Venezuela, United States of America (status: June 2005).

for the comparison of fingerprints of asylum applicants and ‘illegal immigrants’ and to facilitate the application of the Dublin Convention. Since 15 January 2003, the Eurodac central unit has operated a central database and an automated fingerprint comparison system. Among others the database also keeps record of the application date, the member state where the first asylum application was filed and the gender of the applicant. These data are collected for all asylum applicants over 14 years of age.

Enhancement of external border control

Border control in Austria has been intensified during the past fifteen years. Different authorities and units are responsible for the prevention or apprehension of ‘illegal immigrants’. In general, one can speak of three mechanisms of control: (i) the first takes place directly at border crossing points by officers of the Federal Police, (ii) the second consists of surveillance troops and a search group, which were introduced as compensatory measures as a consequence of the abolition of border control within the Schengen area, and (iii) the third is a support unit under the central direction of the border service of the Federal Police (*Unterstützungsgruppe des Grenzdienstes der Bundespolizei*, USG). This unit can be deployed spontaneously within the entire country, based on the main points of interest and so-called hot spots (such as for controls on trains). Below, the respective authorities and units will be explained in more detail.

Ad (i): Since Austria’s accession to Schengen, the Border Management of the Federal Police (*Grenzpolizeiinspektion*) is composed of 39 border surveillance posts (*Grenzüberwachung*) at the blue and green borders and 31 border control points (*Grenzkontrollstellen*) at the official border crossings. Here, the authorities in charge until 2004 were guards of the customs control (about 800 persons) together with the Federal Police and 250 further police officers. Today, the Federal Police deploys about 3,000 staff and is responsible for external as well as internal Schengen borders.

Following a long tradition of complex criminal proceeding structures, where customs duty, gendarmerie and police were combined at the regional and national level, Austria finally decided to streamline this whole structure. As a first step, and with the accession of the new EU Member States, the posts of customs control at the Austrian borders with the Czech Republic, Slovakia, Hungary and Slovenia were abolished on 1 May 2004. On the basis of the Naples II Agreement (98/C 24/01), new measures were introduced, including cross-border

observations, controlled delivery of non-prohibited goods, undercover operations and joint investigation teams. In some areas of organised crime, such as trafficking in human beings, drug trafficking and smuggling of cigarettes, customs and police are still both responsible, and customs officers continue to undertake criminal police investigations.¹³⁹ In July 2005, the Austrian MoI reorganised its law enforcement agencies, merging the Federal Police and the Federal Gendarmerie into one unit (now called the Federal Police).¹⁴⁰ The MoI has argued that primarily in areas such as border control and the fight against crime, substantial improvements will be seen.

Singular in the European Union is the support of border management by recruits of the Austrian Federal Army conducting their military service, the *Assistenzeinsatz zur Grenzüberwachung* (Border Surveillance and Support Operation). About 2,000 recruits in rotation spend six weeks of their military service supporting the Federal Police by controlling the east Austrian borders. This countermeasure against illegal immigration was introduced in 1990 as a reaction to the fall of the Iron Curtain. Originally, it was implemented in the federal province of Burgenland on the border with Hungary as an *interim* measure based on a decision of the Council of Ministers. However, since 1990, the decision has been extended each year. Further, the deployment was increased in 1999 to also cover the border of the federal province of Lower Austria with Slovakia. In principle, the Federal Army has a control effect. For many 'illegal immigrants', the recruits are the first contact in Austria after having illegally crossed the green border.¹⁴¹ The recruits can be considered as first aid providers as they refer immigrants to the responsible institutions, where they are provided with food and clothes, if needed.

Ad (ii) and (iii): Part of the Schengen compensatory measures are patrols that daily control the border area. Since April 1999, there exists a support unit of the border service of the Federal Police. This support unit is composed of six, civilian clothed, teams controlling the external and internal Schengen borders at the main roads, transit routes and international trains in order to fight international criminal offences such as illegal weapon and drug trafficking, illegal migration and trafficking in human beings, document forgery and smuggling of

¹³⁹ The Austrian customs office has its own international contacts for cooperation and information exchange, e.g. working together with the EU Anti-Fraud Office (OLAF), the World Customs Organisation (WCO), and the Southeast European Cooperative Initiative Transborder Crime Fighting Centre (SECI).

¹⁴⁰ Amendment of the Security Police Law (Sicherheitspolizeigesetz-Novelle 2005) BGBl. 151/2004.

¹⁴¹ A master thesis on Austria's refugee policy on the special aspect of the Border Surveillance and Support Operation was written by Herbert Böhm in 1998.

vehicles. The teams, who are provided with special technical equipment, have been participating in transnational key operations of the European Union and have been used as an example for establishing similar units in other countries, such as Slovenia. According to figures of the MoI, since the establishment of this support unit, 5,411 ‘illegal immigrants’ and smugglers have been apprehended in Austria between 1 April 1999 and 1 June 2002, 2,000 of them on international trains (see BM.I 7-8/2002). Controls are also taking place on national trains.

These security measures at Austria’s eastern borders were enhanced by a general upgrading of equipment and personnel. The methods of detecting ‘illegal immigrants’ have become more efficient due to the procurement of modern technical resources such as thermal imaging cameras, night sensing equipment, carbon dioxide sensors, sensors to measure the thickness of walls (for detecting persons hiding in trucks), microwave detectors, portable electronic equipment for data handling, specialised helicopters and vehicles, and much more. Every month, the executive authorities undertake 2,500 control flights along the borders by helicopter and control international trains 245 times per month (BM.I 04/2000). According to Oskar Strohmeyer, former head of the former Central Command Unit of the Gendarmerie, *“Austria has invested 7.6 billion Austrian Schillings [approx. 552 million €] in its border police in the last years [before 2000].”* (ibid., auth. trans.).

Part of the improvement of external border control was the establishment of the anti-trafficking task force in the Ministry of the Interior as another countermeasure to the increasing illegal border crossing from the east. In January 2002, the Central Service Combating Alien Smuggling was incorporated into the Criminal Intelligence Service Austria. As a consequence, trafficking and smuggling of human beings are now addressed at the regional level by Federal Police units. The criminal police units have also been supplemented by more personnel in 2002 (see BM.I 5-6/2003).

At an international level, Austria started various projects during the recent years, which aimed at supporting the then candidate states in adapting to the established EU- and Schengen standards, especially for border and entry control, visa and readmission policies as well as international police cooperation. In regard to trafficking in human beings, the exchange of information with police entities in the EU Member States and with Europol has been enforced (BM.I 9-10/2000). Due to efforts regarding the common monitoring of the eastern border with

Slovakian and Hungarian executives, it was possible to pass bureaucratic barriers and to enhance the combating of smugglers and illegal immigration by the establishment of a joint border management (see Bachkönig 2003). An example of good practice of daily international cooperation and information exchange are the procedures at the Austrian-Hungarian respectively the Austrian-Slovakian border, where joint controls are undertaken. While Austrian officials examine the information in the Schengen Information System (SIS), the counterparts, who do not have access to the SIS, participate within the joint control teams and their available information.

The harmonisation of visa regimes and asylum policies and the intensification of external border controls are only one aspect of the multi-level system of the “*concept of reduction of illegal entries*” (Sohler 1999: 54), which was agreed at a meeting of 34 Ministers of Justice and Interior from the European Community, Switzerland and eastern and south east European countries in 1991 in Vienna. Common border protection, which was long implemented in western Austria, has also been established in the eastern provinces of Austria. The expansion of international governmental cooperation to accord common strategies was pushed forward within the Schengen regulations, but several projects were also accomplished due to Austria’s initiative supporting the then neighbouring EU candidate countries. In the following, a short overview of the most important political developments and a few examples of joint operations will be provided.

Bi- and multilateral agreements on the international level¹⁴²

Austria has concluded numerous bilateral agreements with several European countries on readmission, cross-border police cooperation and combating international terrorism, illegal drug trafficking and organised criminality. The majority of these agreements were signed in the mid-1980s and 1990s.

a) Bilateral agreements:

One type of bi- or multilateral agreement that is useful in addressing the phenomenon of illegal immigration is readmission agreement. The contracting partners of these agreements are mutually obliged to readmit persons (who fulfil the conditions of the readmission agreement regardless of their nationality), who do not fulfil the requirements for entry and stay in the territory of the contracting state. In practice, this comprises unsuccessful asylum

¹⁴² Cf. table 26 in Annex I for the countries and dates of entry into force according to the respective agreements.

seekers as well as persons who have illegally crossed the borders coming from the territory of the contracting state. According to UNHCR (2002: 12), “*such formal agreements have a significant advantage over unilateral return measures in that they spell out the mutual responsibilities and commitments of the contracting parties for the re-admission of their respective nationals.*”

Austria has concluded a number of readmission agreements on a bilateral level with countries of origin and transit of illegal immigration. At first, Austrian initiatives concentrated on eastern neighbours (Sohler 1999: 106), but the list of contracting states has since grown and currently comprises 21 countries.

Austria has also concluded a number of bilateral agreements focusing on the issue of trafficking in human beings, including trafficking in children. Since the 1980s, Austria has been involved in negotiations on bilateral agreements on international terrorism, illegal drug trafficking and/or organised crime.¹⁴³ Austria has also concluded agreements on cross-border commuters (*Grenzgängerabkommen*) with Hungary and the Czech Republic¹⁴⁴: These offer the possibility to annually fix the number of cross-border commuters eligible to seek employment within a certain geographical zone, based on the respective situation of the foreign labour market.¹⁴⁵

b) Multilateral agreements on terrorism and security:

On a multilateral level, Austria has initiated the development of a joint dialogue with neighbouring countries. In 2000, the then Austrian Minister of Interior, Ernst Strasser, started a multilateral dialogue with the Ministers of Interior of the Czech Republic, Hungary, Poland, Slovakia, and Slovenia, under the slogan “*More Security in an Expanded Europe*”. The aim was to create a network of ‘security partnerships’, with special attention to fighting transnational organised crime and the common protection of the external border of the European Union. As a result of Austria’s initiatives, at a meeting in Bratislava in 2000, the

¹⁴³ Recently, Austria and Albania have agreed to enhance bilateral cooperation in fighting organised crime and trafficking. Public Order Minister, Igli Toska, and Austrian Interior Minister, Liese Prokop, met in June 2005 to discuss increased collaboration between police forces and exchanges of information. See Albanian News - 21/06/05, quoted at http://www.setimes.com/cocoon/setimes/xhtml/en_GB/newsbriefs/setimes/newsbriefs/2005/06/21/nb-11 (accessed in July 2005).

¹⁴⁴ The agreement on cross-border commuters with Germany of 1958 lapsed with the EU accession. Currently, only the two agreements with Hungary (since 1 April 1998) and the Czech Republic (since 1 July 2005) are in force, but further agreements with Slovenia and Slovakia are planned.

¹⁴⁵ See http://www.parlinkom.gv.at/portal/page?_pageid=908,823444&_dad=portal&_schema=PORTAL (accessed in May 2005).

Ministers agreed to establish joint control points at the borders and central coordination units, regularly exchange of information on, and analyses of, the current situation at the borders, adopt sanctions against smugglers/traffickers and establish working groups, in particular one on trafficking in and smuggling of human beings (BM.I 11-12/2000).

In 2001, the then Austrian Minister of Interior publicly announced a plan to establish a package of countermeasures against organised smuggling of human beings that should include:

- A special commission against human smuggling in order to gather information on smugglers and their routes;
- A more efficient fight against organised crime with the newly established Criminal Intelligence Service;
- An intensification of the cooperation with the neighbouring countries, among others by liaison officers;
- Offering know-how and technical support to the security authorities of the EU accession candidates; and
- Information campaigns in the countries of origin.¹⁴⁶

At the ‘Forum Salzburg 2001’, the development of bilateral cooperation was strengthened and confirmed by signing the Salzburg Declaration, “*as a clear expression of their political will to construct a Common Europe with a new form of security and justice for all European citizens as well as to give special impact to the region.*” (BM.I 2001: 7).¹⁴⁷ In terms of information exchange, it is stated in the Smuggling Report of 2003 that, “*Due to the enhanced cooperation with authorities in the states, which are known as transit countries for*

¹⁴⁶ In addition, the Minister supported the proposal of the then German Minister of Interior, Otto Schily, of establishing a common European border police. According to Strasser, a common European initiative against human trafficking should be established, as it already exists against drug trafficking (BM.I 05-06/2001).

¹⁴⁷ The following five areas were identified as being the most important:

- police cooperation – close cooperation on an operational level as well as along border regions in order to fight all forms of organised crime;
- border control – develop a common and coherent strategy and concrete tasks for cross-border cooperation, especially joint concepts for effective border surveillance, training of staff and technical equipment;
- illegal migration – improve information exchange and cooperation between authorities, and develop common concepts to prevent illegal migration and trafficking in human beings, exploitation of women and children as well as aligning visa and entry policies to current applicable EU visa and entry rules, including the Schengen rules and procedures;
- asylum – harmonise standards of reception and procedural guarantees with best European practices;
- exchange of views on special EU-matters – regular discussions and exchange of information on developments in the European Union in the above mentioned fields. (BMI 2001: 7; see BM.I 09-10/2001).

illegal immigrants on their long way to the Schengen area, it is now possible, as a result of the notifications on apprehension figures in the states, to predict at least roughly future migration flows and to develop possible counterstrategies already during the preliminary stages.” (BK 2004: 9, auth. trans.)

Since July 2004, the chair of the Salzburg Group rotates every six months, “*ensuring thereby an active neighbourhood policy with equivalent partner states and a zone of high quality in security tasks*” (BM.I 9-10/2003). At the fourth meeting of the Forum Salzburg held in Austria in 2003, the participating Ministers agreed again to extend the successful police cooperation by signing a Common Declaration on the Regional Cooperation in the Frame of an Enlarged European Union. At the same time, the then Ministers of Interior of Austria, Ernst Strasser, and of Slovenia, Rado Bohinc, signed an agreement on the intensification of cooperation and on enforcing the security at the borders of Austria and Slovenia (BM.I 9-10/2003). Between Austria and Slovakia, a Dialogue on Inner Security on asylum issues, police cooperation and more had started in 2001 (BM.I 9-10/2001).

Examples of joint operations

In 2000, the Austrian and the German Ministers of Interior decided to introduce joint police patrols along common border regions, taking the form of police vehicles shared by German and Austrian police officers. Furthermore, it was agreed to establish mixed special commissions in order to jointly fight international smuggling organisations. The core teams should work together for six to eight months. In addition, both countries would aim to establish common analyses of the border situation (BM.I 04/2000).¹⁴⁸

Another example of good international cooperation is the *Sonderkommission Grenze* (Special Border Commission), which was set up in March 2001. This commission was composed of 20 officials working together with the authorities in Hungary and Slovakia in order to gather information on the routes and *modus operandi* of smugglers, means of transport, contact points, forged documents and countries of destination (BM.I 05-06/2001). The investigations were undertaken mainly in the eastern federal provinces Lower Austria and Burgenland as most of the apprehensions of ‘illegal immigrants’ at that time took place within the country

¹⁴⁸ In the same year, in July 2000, the German, Italian and Austrian executive were able to break an international smuggling organisation within the framework of operation “Abu Ziro”. The organisation was suspected of having smuggled over 6,000 Kurds to Germany in previous years and of having earned more than 30 million US Dollars (BM.I 11-12/2000).

triangle of Austria, Hungary and Slovakia. Meanwhile, the numbers of 'illegal immigrants' have changed and Italy has become an important country from which they enter Austria. In August 2002, the tasks of this commission were taken over by the Central Service Combating Alien Smuggling.

Due to increasing migration pressure from Slovakia, in September 2001, the *Generaldirektion für öffentliche Sicherheit* (Head Office for Public Security) introduced the Action Plan *March* (*March* is the German name of the river Morava, forming the 'blue' border between Austria and Slovakia). This plan was developed as a countermeasure, which pursued a common strategy with all authorities entrusted with border controls and combating the smuggling of human beings.¹⁴⁹

Another operative focus in 2003 was a special mission on Chechnya undertaken with Czech counterparts. Due to an extraordinary rise of apprehensions of illegal Russian citizens (+276% between 2001 and 2002, the majority of whom were Chechens), and due to the suspicion that they had been smuggled, the Central Service Combating Alien Smuggling started a special operation together with the Department of Human Trafficking in Prague, the border control post of Gmünd in Lower Austria and the criminal departments of Lower Austria and Burgenland. In the course of a joint operation 43 members of an internationally active organisation of smuggling were apprehended, which was responsible for more than 4,000 smuggling actions (see BK 2004: 53-54).

The most recent success of international police cooperation was the break up of a major human-smuggling/trafficking ring in May 2005, led by Romanian, Moldovan and Ukrainian criminals, who smuggled/trafficked more than 5,000 East Europeans to the EU.¹⁵⁰

¹⁴⁹ The topography at the blue border is convenient for smuggling organisations because a complete monitoring along the Morava river is only partially possible.

¹⁵⁰ Austrian officials had been working together with Moldovan, Romanian and Hungarian authorities on "Operation Nistru" since June 2004; the investigations were coordinated by the SECI-Center in Budapest under Austrian direction. Fifty-nine of the 64 suspects were arrested in Austria and the rest were taken into police custody in Hungary, Poland and Romania. They included a German and a Romanian intercepted at a checkpoint on the border with Germany and Poland. Austria, Italy and Spain were the immigrants' main destinations (see *Der Standard*, *Traffickers, Thugs, Smugglers (Schlepper, Schläger, Schmuggler)*, 13 May 2005; *The Associated Press*, *Austrians break up human-trafficking ring*, 12 May 2005). Although the press releases use both terms trafficking and smuggling, it is not known how many persons were trafficked. Yet, according to the investigators, the ring used brute force, including rape, to intimidate the immigrants (*Associated Press* 12 May 2005), suggesting that some were trafficked.

The Criminal Intelligence Service evaluates its activities very positively. It sees one of the reasons for the lower number of apprehensions in the high impact operations, *“performed in cooperation between the Central Service Combating Alien Smuggling and various Austrian and foreign authorities, resulting in smashing international smuggling organisations. Tightened controls along known smuggling routes rendered these routes virtually useless for criminal organisations, which is of highly significant preventive value.”* (BK 2005: 59).

Influence by strategy papers of international organisations on Austria’s policy on illegal immigration

The Austrian government plays an active role in all UN, EU, OSCE and other international efforts to combat trafficking. Austria is a member of the Schengen Group, the Budapest Group, the Trafficking Expert Groups of Europol and Interpol, EuroJust¹⁵¹, and the Police Chiefs Task Force (Apap/Medved 2002: 34; 36). The Austrian Development Cooperation and Cooperation with Eastern Europe (*Österreichische Entwicklungs- und Ostzusammenarbeit*, OEZA), which is part of the Austrian Foreign Ministry (*Bundesministerium für auswärtige Angelegenheiten*, BMAA), supports regional cooperations and projects in south eastern Europe, which aim at the strengthening of the economic and social development of the whole region. In its guidelines on regional cooperation in south eastern Europe, the OEZA enumerates the combating of trafficking in human beings as an area, where regional cooperation has an added value (BMAA 2004: 2).

Concerning the prevention of trafficking from a legal point of view, Austria ratified in 1999 the OECD Convention on Bribery of Foreign Public Officials in International Business Transactions. Furthermore, Austria signed the Council of Europe Criminal Law Convention and has ratified other international conventions, such as ILO Convention 105 concerning the Abolition of Forced Labour, the UN Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices Similar to Slavery, and the Optional Protocol to the UN Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (Apap/Medved 2002: 33-34).

In September 2005, Austria ratified the UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), it adheres to the EU Framework

¹⁵¹ Eurojust is an EU body set up in 2002 with the view to reinforcing the fight against serious organised crime.

Decision on Trafficking in Human Beings, the EU Framework Decision on Combating Sexual Exploitation of Children and Child Pornography, the European Convention on Mutual Assistance in Criminal Matters 1959 (Additional Protocols of 1978 and 2001), the European Convention on Extradition 1957 (Additional Protocol of 1975), the EU Convention on Mutual Legal Assistance on Criminal Matters between the Member States 2000 (Additional Protocol of 2001) (ibid. 34).

Concerning policy initiatives, the Austrian Government has focused on the following points:

- Awareness-raising campaigns at national and international level;
- Establishment of contact with countries of origin to facilitate prosecution of suspected traffickers and to disband trafficking rings;
- Active work with inter-governmental and regional organisations; and
- Funding of research and of NGOs' prevention efforts and counselling (ibid. 35).

In its official programme for the XXII legislative period, which started in December 2002, the Austrian Government clearly indicates that *“it will actively support the human rights policy in the international sphere and within the bodies Austria is part of, in particular the EU, the United Nations, OSCE, Council of Europe”*. (Regierungsprogramm 2003-2006: 5, auth. trans.). In the chapter Internal Affairs, Asylum and Integration, the following points are listed under the heading international networking against international organised crime:

- combating smuggling of human beings,
- border protection,
- jointly financed corps of border protection,
- common visa centres,
- standardised documents,
- harmonisation of European return policy,
- central European visa identification system,
- division of the financial burden for border security in the sense of Schengen-solidarity,
- enforced collaboration with the accessing countries in regard to the Schengen accession, and
- extension of Europol (ibid. 7, auth. trans.).

According to the MoI, the exchange of information with police departments in the EU Member States and with Europol is becoming more intensive. The cooperation with

international organisations and NGOs is strengthening as well; for instance with the International Organization for Migration (IOM) and the Intervention Centre for Women Affected by Trafficking (LEFÖ-IBF). Officers are also searching in the Internet for relevant pages e.g. offering suspicious jobs in Austria, which might indicate the recruitment of 'illegal immigrants' (BM.I 9-10/2000).

Efforts to combat illegal immigration at its source

Having recognised in 2003 that a certain share of the illegal entries to Austria utilise the air route to the international airport Vienna-Schwechat, a package of measures was elaborated in order to prevent those entries. A first concrete measure was the development of a profile of suspect persons. In 2003, it was noted that many illegal entrants traveled on Austrian Airlines (AUA) flights from Kharkov, Ukraine.¹⁵² In response, officers of the Federal Police started to accompany flights to and from Kharkov four times a week in order to hinder immigrants without a legal entry permits through so-called preliminary border controls in Ukraine prior to boarding. Apparently, the strategies of the criminal organisations were soon changed and other airports used. Yet, due to the existing person profiles, it was possible to recognise suspects and to prevent them from disembarking from the airplane in Vienna (BK 2004: 55). Since 2003, a number of destinations of AUA flights are accompanied by police officers, selected according to the current needs and developments. As a result, in the Smuggling Report of 2004 it is stated: *"apprehensions at Vienna Airport Schwechat decreased by 76.66% compared to 2003 due to the effective tight control measures in place, in particular ramp controls."* (BK 2005: 59).

In addition to these measures, the Ministry of the Interior has been sending special advisers to the countries from which the numbers of 'illegal immigrants' have increased. These experts assist the local AUA representatives in matters of recognition of falsified passports. According to the MoI, these measures have also contributed to the decrease in the numbers of apprehensions (BK 2004: 55).

¹⁵² According to the Smuggling Report 2003, Ukraine is deemed to be an important point of departure for many illegal immigrants on their way westward. Persons arrive to Ukraine from the Balkan route and also from Moscow (Indian, Chinese). According to findings from Hungary and Slovakia, a large share of illegal entries to their countries occurs from Ukraine. Due to its proximity to the Caucasian Republics, Ukraine is used as a transit country (BK 2004: 46).

Also special liaison officers are sent abroad. Since 1999, Austria has built up a network of fifteen liaison officers to Austrian Embassies, mainly in Eastern Europe¹⁵³, whose task it is to support the authorities in security issues. They particularly assist in the control of persons who want to travel to Austria, and deliver a daily report to the MoI on current developments (BM.I 1-2/2005).¹⁵⁴

Other spontaneous measures are adapted to current developments. To give an example, in August 2003, the Criminal Intelligence Service decided to enlarge its international contacts, notably with Slovakia but also with Ukraine and the Russian Federation, due to an increase of illegal entries by Indian citizens arriving by train from Slovakia or by airplane from New Delhi directly to Vienna-Schwechat airport. It was recognised as essential to establish better ways of communication with India (see BK 2004: 44) Furthermore, for years, there has been a special focus concerning strategies to combat illegal immigration on Turkey as one of the main countries of origin (ibid. 47).

Activities in the framework of the Budapest Process¹⁵⁵ and related activities

The Austrian Government works closely together with intergovernmental organisation such as IOM Vienna and ICMPD, the latter of which is based in Vienna and acts as the secretariat for the Budapest Process.

In March 2004, the project on the re-direction of the Budapest Process towards the CIS region started. This project is financially supported by Austria and the European Commission, among other states, the Czech Republic, Denmark, Finland, the Netherlands and Poland (ICMPD 2004: 3). In the ICMPD activity report (ibid.), it is furthermore stated that Austrian experts (officials of the MoI and the Ministry of Foreign Affairs) have participated in fact finding missions to the western CIS and Caucasus countries with the aim of providing a comprehensive overview of the migration situation and to identify existing gaps.¹⁵⁶

¹⁵³ Concretely, this concerns the countries of Poland, Slovakia, Slovenia, Hungary, Czech Republic, Croatia, the Russian Federation, Ukraine, Serbia and Montenegro, Romania, Jordan, Morocco and Turkey.

¹⁵⁴ The administrative coordination of the liaison officers lies within the Department for International Affairs of the MoI (Abteilung I/4).

¹⁵⁵ The Budapest Group was launched by the then German Federal Minister of Interior in 1991 at a ministerial meeting in Berlin, as a consultative group aimed at reinforcing migration control cooperation between Central, Eastern and Western Europe. The Budapest Process increasingly addresses migration control problems in the countries neighbouring EU Candidate States. It deals with combating illegal migration and involves more than 40 states and 10 international organisations.

¹⁵⁶ As a result of the project, twelve country reports providing a comprehensive overview of the migration situation in each, with identified gaps and concrete proposals for follow-up actions (ICMPD 2004: 3) will be produced.

Austria also supports and finances several projects. Outside the Budapest Group, a Country Study on Turkey: Policy and Practice in the Area of Migration (ICMPD) was finalised in November 2004, which had been commissioned by the Austrian Federal Chancellery.¹⁵⁷ Since 2002, a common research project funded by the European Science Foundation and the Austrian Science Fund with the title Human Smuggling and Trafficking in Migrants: Types, Origins and Dynamics in a Comparative and Interdisciplinary Perspective is being undertaken with research partners from Austria, Italy, Germany, the Netherlands, Switzerland and Spain.¹⁵⁸

Sustainable prevention measures addressing trafficking in human beings

From December 2004 to December 2005, ICMPD, in partnership with the Ministries of Interior of Austria and Czech Republic, and the Italian NGO On the Road, is implementing the EU AGIS project entitled Awareness Training on Trafficking in Human Beings for Police, Border Guards and Customs Officials in EU Member States, Accession and Candidate Countries and Development of a European Curriculum. The objective of this project is to create a European standard training module for training law enforcement agencies in the European Union.¹⁵⁹

From 2003 through 2004, IOM Vienna implemented a project entitled Victim Assistance for Minors: Capacity Building via Training and Exchange of Information/Best Practices in the EU, Candidate and Third Countries, with financial support from the European Commission (DG Justice and Home Affairs) AGIS 2003 Programme.¹⁶⁰ IOM Vienna's partners for this project were the Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings, Europol, the *Bundespolizeidirektion Wien* (Federal Police Directorate Vienna), the Southeast European Cooperative Initiative Centre for Combating Trans-Border Crime, IOM Prague and the German *Bundesfachverband Unbegleitete Minderjährige Flüchtlinge* (Federal Association for Unaccompanied Minor Refugees). Based on the result of this project, the Austrian MoI, in cooperation with IOM Vienna, submitted a follow-up project under AGIS

¹⁵⁷ The purpose of the report was to examine the main practical challenges for Turkey in handling questions of asylum, migration and border controls. Regarding the substance of the study, the policy areas of visa, border control, asylum, legal and illegal migration, were examined in detail (ICMPD 2004: 12-13).

¹⁵⁸ This project will continue until 2005. It entails three research approaches: document analysis, such as court cases, expert interviews and narrative and biographical interviews with migrants. The research questions are derived from the gaps in the research literature (ICMPD 2004: 17-18).

¹⁵⁹ For more information see <http://www.icmpd.org/default.asp?nav=capacity&folderid=-1&id=508> (accessed in August 2005).

¹⁶⁰ The main activities of the project were a workshop for law enforcement services and training for NGOs/social service providers.

2005 entitled Comprehensive Training for Law Enforcement Authorities Responsible for Trafficking in Children/Minors, which has been approved by the European Commission and which is currently implemented by IOM Vienna. In March 2006, a resource book on good practices elaborated by experts and working groups will be distributed during an international training seminar. This will have a significant coverage as well as constituting high visibility as part of the activities of Austria's EU presidency, which will prioritise combating child trafficking.

Also regarding the prevention of trafficking, the Austrian Government has worked actively with international and regional organisations such as the UN, EU, Interpol, OSCE, Stability Pact, IOM and ICMPD to carry out preventive programmes domestically and internationally. In 2004, the MoI developed a new database (*Rotlichtdatenbank*) for tracking victims and perpetrators of trafficking. The Foreign Ministry developed and distributed trafficking information packets for use in Austrian embassies and consulates in Eastern Europe. The Government supports and funds NGO and government sensitivity training for police and other public authorities in Austria and other countries. In April 2003, the Government helped to fund the first judicial training programme for Stability Pact countries. Moreover, within the Task Force on Trafficking in Human Beings, the Austrian Development Cooperation & Cooperation with Eastern Europe funded a women's shelter in Belgrade in 2003, which offers legal, psychological and medical assistance to women affected by trafficking (see IOM 2004b: 116-117; www.bmaa.gv.at).

The special crisis centre for trafficked children, Drehscheibe, has also been very active in combating trafficking in human beings in the countries of origin, mainly Romania and Bulgaria. The large majority of the children are assisted to return home through the IOM Assisted Voluntary Return Programme. Although it would be possible to apply for a humanitarian residence title, practice shows that the minors usually want to return home (according to Drehscheibe, in 2004, only one girl decided to stay with her sister in Austria). For all identified unaccompanied minors, a special procedure is applied to ensure the safety of the child in the country of origin. Prior to the return of the child, IOM, through its office in the home country, identifies the family or, in its absence, a youth centre that will ensure the care of the returnee and makes all necessary arrangements for adequate reception. Despite these measures, the numbers of unaccompanied minors assisted by Drehscheibe has not diminished.

Thus, Drehscheibe has recently engaged in building the capacity of youth institutions in Romania and Bulgaria, by providing know-how and training to the social workers.

As the Vienna Office of the International Organization for Migration (IOM) was a regional mission covering south eastern Europe, eastern Europe and Central Asia until the end of 2004, the office has been an important partner of the Austrian Government and other countries for the implementation of transnational programmes on irregular migration and counter-trafficking in central and south eastern Europe. IOM Vienna mainly assisted governments in these regions to meet the challenges of migration management, including programmes against trafficking in human beings, for the prevention and management of irregular migration, as well as programmes for the assistance and protection of victims of trafficking in human beings.¹⁶¹

The newly established European AENEAS “Programme for financial and technical assistance to third countries in the fields of migration and asylum” is a key indicator for a comprehensive policy, which includes efforts to combat the trafficking in human beings. In the framework of this programme, one of the objectives is “*the establishment of a policy to stem illegal migration, including trafficking in human beings*”¹⁶².

This enumeration of legal and institutional measures, research projects and joint cooperations, which have been outlined, referred to the prevention of illegal immigration at the border as well as in the countries of origin. The following subchapter focuses on the situation once illegally resident and/or working immigrants are already within Austrian territory.

¹⁶¹ The projects listed in the Migration Objectives 2005 for the countries Albania, Bosnia and Herzegovina, Croatia, FY Republic of Macedonia and Serbia and Montenegro include, among others: public information and awareness-raising campaigns on irregular migration and human trafficking, capacity building on counter-trafficking-training of law enforcement lawyers and members of the judiciary, assisted voluntary return of irregular migrants from western European countries, economic and social stabilisation programmes for potential victims of trafficking and capacity building on the mental health of victims of trafficking (cf. IOM 2004a: Annex A).

¹⁶² European Commission EuropeAid Cooperation Office AIDCO/522/2004, Rev. 1.

3.2 Domestic control measures

Basic preliminary control methods: registration¹⁶³

Residence registration in Austria deserves special attention in the context of illegally resident immigrants. In Austria, the alien system on the federal level – in the form of the authority responsible for foreign citizens, which is the Aliens Police – and the general residence registration system at the municipal level belong to different authorities, and there is no formal exchange of information between the two. The latter, the general residence registration system, is responsible for all citizens irrespective of their nationality and contains, besides personal data, such as name, age, sex, nationality, country of birth, religious denomination (not obligatory), also the residential address and the signature of the person or entity providing accommodation.¹⁶⁴ According to the Austrian Registration Law¹⁶⁵, all persons establishing or changing their residence in Austria must register this by completing and submitting a Residence Registration Form to the responsible authority within three days of this movement.¹⁶⁶ In return, the person receives a confirmation of residence, but not a certificate of residence document, the latter being issued by the Aliens Police.¹⁶⁷ For the focus of this study, it must be stressed that a person's illegal residence status is irrelevant for residence registration.

This residence confirmation document is needed in Austria among others to enrol children in school and kindergarten, for marrying, but also for daily-life activities such as registering for the gas and electricity service, for radio, television and telephone, motor vehicle admissions, renting books or audiovisual home entertainment items (videos, DVDs, CDs, computer games, etc.) at libraries or video stores, and wherever one is asked to show a confirmation of

¹⁶³ Information in German and English on registration can be obtained at the following Internet address: <http://www.help.gv.at/Content.Node/140/Seite.1400000.html#Registration> (accessed in June 2005).

¹⁶⁴ In the case of a primary apartment leasehold, the registration form must be signed by the real estate management company, in the case of a sublet, by the primary leaseholder, and in the case of a condominium or house, by the owner.

¹⁶⁵ *Bundesgesetz über das polizeiliche Meldewesen* (Austrian Registration Law) (*Meldegeseztz* 1991 – MeldeG) BGBl. Nr. 9/1992 idF BGBl. I Nr. 10/2004.

¹⁶⁶ The responsible authorities in the provinces are the residence registration service of the Municipal Offices (*Gemeindeamt*) or, in cities with own statute, the Municipal Authority (*Magistrat*) and in Vienna, the residence registration service of the Municipal District Office (*Magistratisches Bezirksamt*).

¹⁶⁷ A person can register or de-register (i) in person, (ii) through a person of trust (using the original documents of the person obliged to register, or with a notarised copy of these documents), or (iii) by post (using the original documents of the person obliged to register, or with a notarised copy of these documents). Legislation does not currently permit registration by fax or e-mail.

residence.¹⁶⁸ There is no requirement to show a confirmation of residence for opening a bank account (only a personal identification document) or for buying a weekly, monthly or yearly ticket for the means of public transport.

Regarding registration in school, a confirmation of residence is not obligatory in every province (Waldrauch 2002: 215). Other documents, which might be required, are a proof of citizenship, a document proving the religious denomination, birth certificate and a vaccination pass. Austrian legislation does not specifically state that illegally resident children must also go to school, but in practice there is no difference made between documented and undocumented children enrolling in school, as the residence status of a child is not controlled. In March 2005, the Austrian Freedom Party (FPÖ) brought this topic to the attention of the public by proposing to control the residence status of children at the moment of enrolment, but this was rejected by various authorities, including the Viennese School Council.

The *Hauptverband der Österreichischen Sozialversicherungsträger* (Central Association of Austrian Social Insurance Authorities) does not allow immigrants without residence permits to register for health, accident or pension insurance, and any illegal residence status is reported to the Aliens Police. With regard to the control methods in emergency situations, the personal data of a patient is recorded by hospitals. If a patient has no health insurance and it becomes clear that he/she is illegally residing in Austria, this is reported to the Aliens Police although medical personnel are not *obliged* to denounce an illegally resident immigrant to the authorities. To cover the costs for medical treatment, the hospital administration then tries to find out whether there is a guarantor who will assume responsibility and thus bear the costs. If this is not the case, the costs are covered by the province.

Governmental institutions concerning the illegal residence of immigrants

The authority dealing most often with illegally resident immigrants is the Aliens Police.¹⁶⁹ The Aliens Police is in charge of the execution of the Aliens Act, which includes measures of termination of residence (expulsion and deportation) and the verification/examination of requirements for a residence title or the prohibition of stay. If a foreigner resides illegally in the federal territory, or if he/she infringes Austrian law, the Aliens Police implements the

¹⁶⁸ In order to obtain such a document, the person who wants to register, must present an official identification document with a photo and proof of citizenship, a birth certificate, and documentary proof of academic degrees if needed.

¹⁶⁹ In the two largest cities, Vienna and Graz, the Aliens Police constitutes a separate department within the police directorate. In all other areas, the Aliens Police is part of the municipal offices (*Bezirkshauptmannschaft*).

procedures for the prohibition of stay and issues the notification of expulsion and/or deportation. Yet, the Aliens Police is neither responsible for detention pending deportation nor for the granting of citizenship or of settlement permit. The Aliens Police does, however, issue visas and non-quota residence titles for persons such as students and persons married to Austrian citizens. They cooperate closely with other authorities, especially the Federal Asylum Office (*Bundesasylamt*) at the moment of apprehension of persons, who want to apply for asylum, and the *Austrian Arbeitsmarktservice* (AMS) (Public Employment Service) who issues work permits, as well as the departments of the provincial governments for the permits of residence and settlement.¹⁷⁰

The civil registry offices¹⁷¹ are not directly linked to the Aliens Police and do not forward any information on illegal residence on their own initiative, but they are nevertheless obligated to do so if asked.

Public hospitals are only in contact with illegally resident immigrants in cases of medical emergency. It is rather the private ambulances and surgeries run by NGOs or religious orders that are in contact with these persons, as they normally do not possess any health insurance (cf 3.4.2).

There are very few state-run advice centres dealing with illegally resident immigrants. Within the MoI is an information centre (*Informationszentrum für Asyl und Integration*¹⁷²), run by the Austrian Integration Fund, which deals mainly with questions on asylum and integration, but also provides information regarding residence titles. At the provincial level, a governmental institution, which can be listed in this context, is the Viennese Immigration Office (Municipal Department 20), which answers all questions regarding residence regulations in Vienna.¹⁷³ Yet, it must be taken into consideration that public institutions in advisory functions appear inaccessible to an illegally resident immigrant as Karazman-Morawetz (2001: 323) remarks: “*The fear of becoming ‘visible’ to the authorities seems to forbid any contact to non-private institutions.*”

¹⁷⁰ <http://www.zebra.or.at/lexikon/f.html#top> (accessed in June 2005).

¹⁷¹ Civil registry offices execute legal acts such as marriage ceremonies, naturalisations and change of names, and the issuance of birth and death certificates.

¹⁷² <http://www.bmi.gv.at/fremdenwesen/asylwesen.asp> (accessed in June 2005).

¹⁷³ The recently founded Viennese Municipal Department 17 for Integration and Diversity Affairs is responsible for the city’s integration policy and diversity management and liaises with migrant organisations, but not directly for counselling (illegally resident) immigrants as opposed to its predecessor, the now defunct Vienna Fund for Integration.

Actions undertaken on the federal, provincial and local levels to curtail the demand for illegally working immigrants

Since the Federal Ministry for Finance considers the illegal employment of foreigners social fraud and distortion of competition, it periodically checks all companies located in Austria, with a special focus on sectors with a traditional affinity to illicit employment, such as construction and allied industries. In 2002, this responsibility was taken over by the Federal Ministry for Finance from the Ministry for the Economy and Labour, subareas were passed on to the customs authorities.¹⁷⁴

§ 26 (2) of the Law on the Occupation of Aliens establishes the competence of the customs authority, the AMS and authorities of the public health insurance to control illicit employment of aliens at the work sites. The sanctions determined in § 28 foresee the infringing employer with a penalty of € 1,000 up to € 25,000 according to the number of employees and times of infringement. An employer involved in organised illicit employment (*organisierte Schwarzarbeit*) would face a more severe penalty: according to § 153e of the Austrian Penal Code with imprisonment for up to two years.

There is an administrative requirement among government authorities, which states a general duty to help other authorities in their work. § 27 of the Law on the Occupation of Aliens states the obligation to provide information to the relevant office in charge with the control of illicit employment.

In 2003, the Federal Government decided on an action plan to enforce the combating of fraud concerning, among others, the combating of illegal labour and employment, which includes immigrants. In response, the Ministry of Finance implemented a package of measures. Firstly, in the same year, the so-called reverse-charge-system was introduced in the construction sector. This entitled the general contractor (not the whole chain of entrepreneurs) to deduct input tax. Thus, for subcontractors it was no longer possible to deduct input taxes and, before having paid VAT, to end their business activity or even to file for bankruptcy (BMF 13 April 2004).

Secondly, the personnel of the *Kontrolle illegaler Arbeitnehmerbeschäftigung* (KIAB) (Central Taskforce for the Prevention of Illegal Employment) was doubled from 93 to 186

¹⁷⁴ https://www.bmf.gv.at/Zoll/KontrolleillegalerA1583/_start.htm (accessed in July 2005).

controlling officers, and the Taskforce's authority expanded, on 1 May 2004 (BMF 2004: 3).¹⁷⁵ At the same time, the number of controls was increased. In 2003, in the course of approximately 21,000 controls, almost 4,000 reports were made and fines amounting to more than € 9 million were imposed. Catering (26%), the building industry (21%) and sub-construction work (17%) are among the branches with the highest share of illicit labour (ibid. 23-24). Due to the enforced controls, detections also increased. In 2004, with double the personnel capacity, the KIAB teams undertook 23,000 controls, detecting more than 6,200 illegally employed persons. Three thousand, seven hundred reports were made against entrepreneurs and the administrative authorities imposed penalties totaling € 13.5 million (BMF 18 April 2005).

With the Federal Law against Social Fraud (*Sozialbetrugsgesetz*)¹⁷⁶, the Federal Ministry for the Economy and Labour introduced in 2004 the idea of a *Dienstleistungsscheck* (service cheque) enabling domestic work to be paid on an hourly basis. This official voucher would be bought at tobacconist shops and include all taxes and duties; it would be completed by the employer and handed in to the social insurance authority by the employee. The aim is to establish a legal alternative to illicit work, since domestic work in Austrian households, is often carried out by persons spontaneously engaged, without a formal contract of employment and in private environment, and thus bears the incentive to bypass official tax regulations. Whether this more cost-intensive and bureaucratic 'service cheque' can be an effective strategy against illicit work remains to be seen as it has not yet been put into practice.

Main instruments and actors involved in tracking down illegally employed and/or resident immigrants

The main actor in tracking down illegally working immigrants in Austria is the Central Taskforce for the Prevention of Illegal Employment (KIAB) at the Federal Ministry of Finance. The KIAB is based on two fundamental laws: the Law on the Occupation of Aliens and the Employment Contract Law Amendment Act (*Arbeitsvertragsrechtsanpassungsgesetz*, AVRAG)¹⁷⁷. Its tasks cover the identification of illegally employed workers as well as the attendant defraudation of taxes and social insurance. Even though the KIAB targets in the first place foreign workers, it is also authorised to control Austrian employees, who may be

¹⁷⁵ In the near future, a further increase in personnel is planned, but the exact numbers are not yet public.

¹⁷⁶ BGBl. 152/2004.

¹⁷⁷ BGBl. Nr. 459/1993.

registered as unemployed with the Public Employment Service, and to clarify whether employers fulfil their obligations under social and fiscal law.

The Austrian Social Insurance Authorities and the *Hauptverband der Österreichischen Sozialversicherungsträger* (SV) (Central Association of Austrian Social Insurance Authorities) are obliged by law (§ 27 Law on the Occupation of Aliens) to provide insurance data to the KIAB upon request. The KIAB has access to the relevant databases of the SV, and every inquiry made of the database by KIAB is recorded (information provided by SV).

According to the Ministry of Finance, the relevance of the controls all over the country by the KIAB teams can be seen in their preventive effect as well as in the resulting financial penalties (BMF 2004:24).

Furthermore, there exists the Sondereinsatzgruppe SEG-Bau (Special Task Force on Construction), which was established in 2002. It is responsible to combat tax fraud in the construction sector and works closely together with the KIAB. The Mobile Überwachungsgruppe (MÜG) (Mobile Surveillance Task Force) is a unit of the customs authority and is in charge of the surveillance of goods liable to consumption tax and controls of vehicles. Nevertheless, it can support the finance and customs authorities in executive deployments (BMF 30 October 2002).

Especially in the construction sector, the problem of fictitious companies is evident. Some companies are founded for the sole purpose of avoiding dues and social insurance contributions. In response, special inspectors examine companies, particularly newly started companies (especially within the construction and sub-construction industry), inspecting the operating licenses as well as the actual work routine of the company. Should there be any suspicion of a fictitious company, investigations by the Special Task Force on Construction or the KIAB departments are initiated. These investigations include inspections of the managers, especially if there is reasonable doubt concerning their personal or registration data (BMF 2004: 24).

It regularly happens that workers do not receive their wages from such fictitious companies. The Austrian Federal Chamber of Workers and Employees (Arbeiterkammer, AK) has been supporting victims by making claims – also on behalf of illegal foreign workers – for the

remuneration of unpaid wages. In 2004, the AK represented 2,300 employees, who had become victims of the 'construction-mafia', an increase of 40% compared to 2003 (NEWS 19/05). According to Christoph Klein of the AK Vienna, the solution to the problem of fictitious companies would be to hold the main contractors legally liable for their sub-companies (ibid.).

The main actor in tracking down illegally resident immigrants is the Aliens Police. Yet, due to the legal changes in the recent years, in particular the Police Reform of 2003, the number of executive bodies within the Aliens Police has diminished. In principle, every officer of the Federal Police has the duty to report suspicious cases. The number of such reports has been declining.

3.3 Voluntary and forced return

Voluntary return programmes

In Austria, there exist various voluntary return programmes for immigrants, asylum seekers and refugees, who want to return to their countries of origin, all of which are implemented by the International Organization for Migration. The Ministry of the Interior and IOM Vienna signed a Memorandum of Understanding in June 2000, which outlined a comprehensive programme to promote and implement voluntary return from Austria. The target groups of this General Humanitarian Voluntary Return Programme are (rejected) asylum seekers and illegally resident immigrants in Austria. With the amendment of the Asylum Law, which entered into force on 1 May 2004, asylum seekers can be informed at any time during the procedures about the possibility of returning voluntarily to the country of origin (§40a). This service is co-funded by the MoI and the European Refugee Fund, ERF. The return costs are financed by the MoI, while IOM Vienna organises the return voyage and provides pre-departure, transit and arrival assistance. In 2004, a total of 1,158 persons returned with this programme to 46 destination countries (cf. Annex I, table 24). The Memorandum provides for reintegration support in the countries of origin for particularly vulnerable groups, such as unaccompanied minors.

As of April 2003, IOM Vienna has been entrusted with the implementation of the project entitled Co-ordination of the Assistance for Voluntary Return to Afghanistan, which is co-financed by the ERF and the MoI. This project aims at establishing a link between return

counselling in Austria, the logistics of the return and the arrival at the country of origin. It is available to all return counselling centres in Austria, be they governmental or non-governmental, which provide counselling to Afghans. The target group, as the name indicates, are Afghan citizens in Austria, irrespective of their legal status, who wish to return home. The reintegration measures offered contribute to the success and sustainability of the return, which is an important aspect of the programme and can be seen as an incentive to return.¹⁷⁸

Furthermore, there exist two IOM programmes¹⁷⁹ for the return of unaccompanied minors to Bulgaria and Romania respectively, implemented in accordance with the UNHCR guidelines on the return of unaccompanied minors.¹⁸⁰ The actors involved in all the voluntary return programmes are the MoI (donor), IOM Vienna (logistics and general assistance) and NGOs (counselling). Occasionally, IOM Vienna also organises the voluntary return of women affected by human trafficking, together with LEFÖ-IBF. Assisted voluntary return is an option that is increasingly being used by persons who are kept in detention pending deportation, due to the raised awareness within the responsible state institutions (federal refugee offices) and NGOs.

Forced return: detention pending deportation

Foreigners who are required to leave the country (e.g. due to the lack of a valid permit of entry or residence, lack of financial means or a residence ban) and do not do so voluntarily are held in detention pending deportation (*Schubhaft*). The same is true for illegally resident immigrants arrested due to lack of documentation. The purpose of detention pending deportation is to secure the procedure of enacting an order of expulsion or a residence ban, and to secure deportation. In general, this form of detention is applied in cases of rejected asylum seekers and illegally resident immigrants when they are suspected of disappearing into illegality.

In Austria, there are currently 18 places of detention pending deportation, all of which are located within police detention centres, sometimes the deportees are also kept within prisons. Besides, close to the Hungarian border are several centres, where persons are kept for a short

¹⁷⁸ The reintegration allowance is covered by the MoI and has been set as follows: € 500 for single persons; € 800 for married couples, and € 100 for each child (however the maximum per family is € 1,200). See http://austria.iom.int/en/artikel.php?menu_id=41&artikel_id=215&history_back=true (accessed in July 2005). For detailed statistical information see Annex I, table 24.

¹⁷⁹ For more information see www.iomvienna.at.

¹⁸⁰ Unfortunately, during 2004, these programmes to Romania and Bulgaria were rarely used by the social providers in Vienna. The reason for this is that the minors disappear before the movement can take place or that the minors only stay at shelters for a short time and no return preparation can take place.

while after an illegal border crossing. The maximum period of detention is six months, while the average duration of stay amounts to 20 days (Knapp 1998: 114-115). This will be changed with the entry into force of the new Asylum Act on 1 January 2006, which foresees an extension of the maximum detention to ten months. Every month, the MoI publishes the number of detained foreigners; although unfortunately, these statistics are not broken down by the cause of detention, which would make it possible to determine those with an illegal residence status. In 2004, a total of 9,041 foreigners were held in detention pending deportation and 5,274 foreigners were actually deported (see MoI; cf. Annex I, table 22).

Since 1 January 1998, the attendance of detained persons by social workers is regulated by agreements between the Austrian MoI and NGOs in the different provinces (*Schubhaftbetreuungsverträge*).¹⁸¹ Since the death of Nigerian asylum seeker, Marcus Omofuma, on 1 May 1999, who suffocated on the airplane while being deported, several improvements have been implemented. Deportations by airplane are only undertaken after a medical examination of the deportee and after personal contact between the deportee and the executive of the public security service (which belongs to the MoI), in order to enhance mutual trust.¹⁸² The personnel escorting deportees are regularly trained on legal issues such as intergovernmental agreements, international human rights standards, but also first aid and basic English. Moreover, on charter flights the deportee is accompanied by the executive of the public security service, by a doctor and if possible also by a human rights observer. Additionally, a basis for the control of the implemented measures on forced and voluntary return is the systematic monitoring model of the Austrian NGO Verein Menschenrechte Österreich (Association Human Rights Austria), which has been delivering regular feedback to the MoI since 1 March 2003.¹⁸³

¹⁸¹ These are: Caritas in Vienna, Burgenland, Styria and Vorarlberg, Volkshilfe in Vienna, Evangelischer Flüchtlingsdienst in Salzburg, Lower Austria and Carinthia, ARGE Schubhaft in Tyrol, and SOS Menschenrechte in Upper Austria.

¹⁸² Information provided by MoI/II/3 on 13 January 2004.

¹⁸³ <http://www.verein-menschenrechte.at/cgi-in/index.pl?MAIN=index.html&MENU=menu1.html&NEWS=news1.html&DATA=../monitoring/monitoring.html> (accessed in July 2005).

3.4. Measures of rectification and remedy

3.4.1 Legal Status

There has never been a comprehensive regularisation campaign focusing on the legal residence status of illegally resident immigrants in Austria. However, under the temporary § 32 of the Law on the Occupation of Aliens 1990, there existed a three-months programme legalising illegally employed immigrants, *“which has been a unique step by Austria’s policy makers, as it legalised the employment status of 29,100 people.”* (Guličová-Grethe 2004: 7; Nowotny 1991: 56).

Yet, different actors have voiced their favour of such campaigns, not only NGOs and welfare institutions, which are in contact with illegally resident immigrants, but also from researchers with an academic point of view. Arno Pilgram, former head of the Institute of Legal and Criminal Sociology, advocates legalisations under certain circumstances:

“Even migrants, who made use of illegitimate resources, should have the possibility to become independent from them and to receive a regular residence status under certain circumstances. A comprehensible example for this are the victims of trafficking in women. Yet, also in other cases, where social support for the integration into the labour market, familial and social networks can be mobilised, it should be possible to use these facts for the legalisation of migrants. Just because the public means for the integration of immigrants will always be limited, private and sub-cultural societal resources for economic and social integration should be welcomed, recognised and supported. Pushing these as well as the unwanted migrants’ own resources rigorously into the social underground is an alternative afflicted with considerable security risks.” (Pilgram 2003: 336, auth. trans.).

Nevertheless, even if no regularisation campaign as such has taken place in Austria, other possibilities of rectifying or impeding the illegal residence of immigrants have been found. On 1 August 1998, the Federal Law on the Guarantee of Residence for Displaced Persons from Bosnia and Herzegovina Integrated in Austria¹⁸⁴ entered into force. This law secured the continued legal residence of refugees from Bosnia and Herzegovina, who had come to Austria before 1 October 1997 and settled with an *interim* residence permit. About six months later, on 28 April 1999, the Law on the Right to Residence of Displaced Kosovo-Albanians as a

¹⁸⁴ BGBl. I Nr. 85/1998.

Consequence of the War¹⁸⁵ enabled Kosovo-Albanians to apply for *interim* residence permits, a permit which would last until 31 July 2000¹⁸⁶. The possibility to apply for a residence permit since 1997 and, since 2003, also for a settlement permit for humanitarian reasons are solutions, which are applied on a case-by-case basis.

3.4.2 Social services:

In general, there is no public social or medical support for illegally resident immigrants in Austria (Riedl 2003: 24). However, they have limited access to social services such as health care, emergency health care, emergency shelter and legal support. While there are no NGOs that have specialised in providing help only to illegally resident immigrants (ibid. 26), there are organisations that offer services regardless of the legal status of their clients (e.g. by offering anonymous care). There are several church-based organisations, such as Caritas and Diakonie, which provide shelter, food and medication for homeless people, irrespective of their residence status (PICUM 2003: 33).

Health and food

Medical personnel in Austria are not obliged to denounce an illegally resident immigrant to the authorities, although they also cannot refuse to cooperate with the police. This leads to the following dilemma in practice: *“Thus, although an undocumented migrant may not fear being denounced by medical personnel, s/he may be afraid to use public medical facilities due to the possibility of being arrested.”* (PICUM 2003: 36). The Federal Ministry for Health and Women has stated in its Qualitative and Quantitative Survey and Analysis of Persons in Austria without Health Insurance that, due to this fear, illegally resident immigrants seek medical treatment only when there remains no other possibility (BMGF 2003: 90).

Finally, it can happen that hospitals reject a patient if the medical condition of the immigrant is not considered to be an emergency. To reiterate, illegally resident immigrants do not have access to the social security system, and there is no possibility to obtain public health insurance with an irregular residence status, as this would be reported to the relevant authorities. In case of illness, they can go to a hospital or visit a private doctor, but at their own expense (PERCO 2004: 22). However, as the necessary financial means for private treatment are usually not available (Amesberger/Halbmayer/Liegl 2003: 183), some

¹⁸⁵ BGBl. II Nr. 133/1999.

¹⁸⁶ BGBl. II Nr. 133/1999 amended version BGBl. II Nr. 461/1999.

organisations (e.g. Caritas, Diakonie/AMBER, Asyl in Not, Verein Ute Bock) intervene occasionally and act as intermediaries, asking for a cancellation or reduction of the fees. The Association for Human Rights and Democracy in Africa (ADHA), based in Vienna, even brings such cases to the attention of governmental officials or the media and has achieved some positive results in reducing the medical fees (PICUM 2003: 36). Caritas and AMBER both closely cooperate with some health institutions and have their own networks of volunteer doctors and nurses to provide assistance when required.

Immigrants who are not in possession of some form of health insurance, have only limited possibilities to receive treatment for free.¹⁸⁷ Some institutions, like Aids Hilfe Wien, or fraternity orders, such as the Merciful Brothers, run healthcare clinics, providing health services that can be used by persons who do not have any health insurance, such as illegally resident immigrants and homeless people. The largest such clinic in Vienna is the Krankenhaus der Barmherzigen Brüder, Hospital of the Merciful Brothers.

Another example is Marienambulanz in Graz, a low-threshold clinic for first aid and basic medical assistance. It was opened in 1999 by Caritas Graz and the Omega Health Care Centre with the aim of providing primary healthcare to Austrians and foreigners without health insurance as well as to the homeless. About 60% of their clients are foreign citizens, thereof 50% asylum seekers. About 60% of the clients are men, 40% women and about 10% children. In 2004, the number of medical treatments amounted to 5,061 (Omega 2004: 23). Illegally resident immigrants represent a portion of their target group. Since 2001, there exists a mobile unit that travels to different parts of Graz once a week. Thus, not only do the citizens of Graz use this clinic, but clients come also from the rural areas of the province of Styria. The clinic is officially authorised by the Styria Chamber of Physicians (PICUM 2003: 36).

AMBER's surgery, run by Diakonie/Evangelisches Hilfswerk in Vienna, is another institution, where persons without insurance, and also without legal residence status, can go for assistance. Another example for a mobile service provider is the so-called 'Louise-Bus', also run by Caritas, which offers general medical care and first aid to homeless persons in Vienna. Regarding mental healthcare, organisations in Austria report that such a service

¹⁸⁷ Officially, this is not thought to enhance this situation: „For illegally resident persons in Austria (as well as for tourists), we propose to maintain the existing right to acute, medically necessary treatment, which is already provided on humane grounds, also without health insurance, but not to enlarge the scope.” (BMGF 2003: 93, auth. trans.).

(psychotherapy) is difficult to provide because of language problems and the precarious status of the clients (PICUM 2003: 37). Zebra – Zentrum zur sozialmedizinischen, rechtlichen und kulturellen Betreuung von Ausländern und Ausländerinnen in Österreich (Centre for Socio-Medical, Legal and Cultural Support of Foreigners in Austria) and Omega Healthcare Centre – Organisation for Victims of Violence and Human Rights Violations, both situated in the city of Graz, do not exclude illegal migrants from their services (ibid. 37).

There are also several possibilities for anonymous pregnancy counselling, gynaecological examinations and childbirth in Austria (e.g. AMBER, Caritas Graz, or Krankenanstalt des Göttlichen Heilandes, a religious order hospital in Vienna), including for persons without insurance coverage.

Interesting to note here is the project idea MAIA – Medical Aid For All – Network for Medical Treatment of Persons without Health Insurance¹⁸⁸ in cooperation with the refugee association Ute Bock, which is planned to establish a network of medical doctors and nurses, who would offer medical examination, treatment and medication at no cost. The idea has existed since 2004, but it has not yet been translated into practice.

Providing food to those in need is one of the key areas of work of Caritas. To give one example: its diocese Graz-Seckau runs a food service in Graz, which is open to Austrians as well as foreigners, including illegally resident immigrants. It is open on a daily basis and serves lunch and dinner. Food packets are also available, and there is no maximum amount of time that an individual can receive food (PICUM 2003: 34).

All of these institutions are regionally concentrated in the two largest Austrian cities, Vienna and Graz. However, it has been noted in a study undertaken by the Austrian Red Cross that there is an urgent need for more such institutions, which provide free help and support (Evrensel/Höbart 2004: 4).

Housing

It is very difficult for illegally resident immigrants to find appropriate and reasonably priced housing, and as a result they are often forced to accept sub-standard living conditions. The options to find accommodations are few, thus usually illegally resident immigrants can make

¹⁸⁸ <http://www.maia.at>

use of emergency shelters run by Caritas in the bigger cities, such as the several emergency sleeping shelters (*Notschlafstellen*) or social services in train stations (*Bahnhofsozialdienste*). The NGOs LEFÖ, Association for Human Rights and Democracy in Africa (ADHA), SOS Mitmensch and Verein Ute Bock – Wohn- und Integrationsprojekt für Flüchtlinge (Association Ute Bock – Housing and Integration Project for Refugees) rent flats on the private housing market and use these as emergency or longer-term accommodation. Within the ADHA emergency programme, a total of 40 people can be accommodated in two large apartments. Illegally resident African immigrants in need of shelter can get short-term accommodation within this programme. The association Ute Bock manages 65 flats (for a total of 285 persons) in Vienna and one house in Styria, where homeless asylum seekers, refugees and other needy immigrants can be accommodated and receive meals.¹⁸⁹ SOS Mitmensch and Verein Ute Bock also offer free Internet access and a postal and registration service in their common office, which has proven to be of utmost importance for the average 800 registered persons who are able to receive official notifications relating to their asylum procedures (Verein Ute Bock 2005: 10). It must be noted, however, that it is illegal to lease accommodation to non-registered persons (Karazman-Morawetz 2001: 317). Yet, as these organisations have experienced, this law is not applied. In general, organisations have thus demonstrated that Austrian legislation is not a barrier to providing assistance to illegally resident immigrants (PICUM 2003: 59). However, NGOs and welfare institutions fear that this might change in the near future with the entry into force of the new Aliens Act 2005, where tightened measures are foreseen.

Legal support

There are several organisations in Austria, which provide legal assistance, among others, also to illegally resident immigrants (e.g. Deserteurs- und Flüchtlingsberatung, Asyl in Not, Caritas Asylzentrum, Diakonie/EFDÖ, Grüne AusländerInnen-Beratung, LEFÖ, Integrationshaus, Peregrina, Hemayat, Verein Ute Bock, helping hands, Netzwerk Asylanwalt to name only a few in Vienna). Due to the fact that regularisation campaigns and clauses are not covered by legislation, besides counselling, organisations mainly provide legal assistance, most often writing appeals for rejected asylum seekers (PICUM 2003: 42). Based on the impression that the presence of Austrian citizens helps to ensure fairness during the asylum

¹⁸⁹ As of 1 February 2005, the majority of persons benefiting from the housing project originate from Nigeria (154), Guinea (20), Armenia (18), Russian Federation (17), Gambia (16) and Liberia (13) (Verein Ute Bock 2005: 7).

interviews, or because of asylum seekers' fears of deportation, some organisations also accompany their clients during this process (ibid.; Verein Ute Bock 2005: 13).¹⁹⁰

The experience of these institutions shows that, although some information on their services is available in the Internet and some have special brochures or leaflets, most clients come by word-of-mouth.

3.4.3. Educational facilities

Austrian legislation requires that children attend school for nine years. It does not specifically indicate that illegally resident children should or should not attend school, but usually no difference is made between unregistered and registered children enrolling in school. However, problems are encountered during the enrolment of undocumented children in secondary school, when they have to demonstrate a sufficient knowledge of German. In practice, it often depends on the different school principals, whether illegal adolescents are permitted to enrol at the secondary level.¹⁹¹

At vocational and language training facilities, a residence permit is not required for registration. Therefore, it is theoretically possible for illegally resident immigrants to make use of educational facilities. Yet, there is no information available of the demand in terms of numbers, profiles, etc. There are no services that target this particular group. Yet, AHDA, Verein Ute Bock, Deserteurs- und Flüchtlingsberatung in Vienna, and Danaida – Education and Social Centre for Foreign Women and Omega in Graz all offer free language training (German courses and literacy programmes), basic education and/or computer courses (PICUM 2003: 41, 46; Verein Ute Bock 2005: 15-19).

¹⁹⁰ In this context, the special vulnerability of unaccompanied minors, most of whom seek asylum, must be mentioned. Recently, some safe houses, so-called *Clearingstellen* (Clearing Places), where unaccompanied minors can receive protection for three months upon arrival in Austria, have been established (e.g. Integrationshaus in Vienna, SOS Clearinghaus in Salzburg, Franziskushaus in Graz) (PICUM 2003: 49).

¹⁹¹ The AHDA in Vienna stated in an interview with PICUM that it is usually very difficult for African undocumented children to enrol in school, even in primary schools: *"We have come across some cases, where they (the school authorities) say 'We cannot take him because he is illegal'. We try to somehow intervene, but for the parents the children stay home or they put them in a private kindergarten. In the state institutions it's very difficult. This happens very often. For African people it is very, very difficult looking for schools."* (Pastor in Austria, quoted in PICUM 2003: 41).

3.4.4 Work

(Written by Karin Mayr, University of Linz, Department of Economics)

Possibilities for illegally resident immigrants to work legally¹⁹²

In Austria, it is not possible for illegally resident immigrants to work legally. In general, only immigrants with a proof of settlement (*Niederlassungsnachweis*) can work as salaried or self-employed workers.¹⁹³ There are essentially three types of work permits. Employers may only hire migrants once they have obtained a restricted work permit (*Beschäftigungsbewilligung*)¹⁹⁴ for them or when migrants possess their own work permit (*Arbeitserlaubnis*)¹⁹⁵ or a certificate of exemption (*Befreiungsschein*).¹⁹⁶ A restricted work permit can only be issued over and above existing quotas (both national and regional) in certain circumstances, for example, if the employment is deemed necessary on very specific grounds (i.e. in the health or welfare sectors) to further general economic interests, or if it relates to seasonal work (*Saisonarbeitskräfte*). The harvest helper status (*Erntehelfer*), established in May 2000, enables 7,000 seasonal workers to work in Austria for up to six weeks, but “(T)here is practically no social insurance, the wages are low and the unions absent. The employer saves over 15% because he does not have to pay social charges.” (Bell 2004: 46). In addition, with the new Aliens Act passed in July 2002 (entered into force in 2003), migrant workers are required to complete integration and language courses and submit a health certificate.

¹⁹² The following information on the legal status of migrants admitted for employment is based on Cholewinski (2002) and König and Perchinig (2003).

¹⁹³ Family members who join the migrant worker must wait four years before they may accept work, although this waiting period can be reduced if the family member was previously issued with an employment license. Aliens Act, Arts. 21 (4) and 23 (3).

¹⁹⁴ The issuance of an work permit is subject to the following criteria (Law on the Occupation of Aliens, Art. 4): fulfilment of a labour market test – i.e., the actual situation of the labour market and the public and economic interests warrant the employment of the person concerned; observance of the wage and labour regulations and the rules on social security; possession of a residence permit which includes the purpose of employment (‘all purpose’ residence permit) or where this purpose can be extended after an employment license has been issued (this applies only to family members); and in accordance with the national quota or the regional quota (as set by the different provinces). The national quota (*Bundeshöchstzahl*) provides that the total amount of employed and unemployed migrants should not exceed 8% of the Austrian employment potential (*Arbeitskräftepotenzial*), i.e. the total amount of employed and unemployed nationals and immigrants (Law on the Occupation of Aliens, Art. 12a). This quota is announced by the Minister for Economic and Labour Affairs each year and is dependent on the numbers of the preceding year. For the issuance of employment licenses for special groups of persons, where the employment is in the public or general economic interest, it can be raised to 9%.

¹⁹⁵ Once migrants have been employed for 52 weeks in the previous 14 months, they have a right to a work permit (Law on the Occupation of Aliens, Art. 14a). Employment as an artist, seasonal worker or frontier worker is excluded from this permit. The work permit is issued for two years and for the region (province), where they have been employed and enables migrants to accept work in all branches of employment.

¹⁹⁶ Immigrants can apply for an exemption card once they have been lawfully employed for a minimum of five years in the last eight years. The exemption card is issued for five years and is applicable to the whole Austrian territory.

The new Aliens Act also restricts non-temporary labour immigration to the admission of key professionals (*Schlüsselkräfte*).¹⁹⁷ In addition to the limitation for the employment of migrants, there is also a quota in respect of residence policy (Aliens Act, Article 18.). The latter quota is set in accordance with the situation and the development of the labour market, and is adjusted annually by the government after taking into account the advice of the Österreichisches Wirtschaftsforschungsinstitut (WIFO) (Austrian Institute of Economic Research). With the Aliens Act 2002, key professionals as well as holders of the new proof of settlement, which encompasses the right to work, were taken out of the quota system.

According to the findings of PICUM (2003: 39), the position of Austrian NGOs regarding the informal market is twofold, some try to find work for the individual immigrant in order to ensure his/her survival, while others take an opposed position because of the possible repercussions this could have for the organisation and due to the fact that exploitation is very common on the black market.

Temporary labour programmes and the need for migrant labour met through regular or illegal channels

Since the existence of illegally resident and/or working immigrants typically only becomes apparent through apprehensions or regularisation programmes, it is difficult to tell whether, or to what extent, temporary labour demand is met through illegally working immigrants. Provisions for the regular employment of temporary workers are, however, in place and have been accommodated to leave room for short-term fluctuations in demand. There is an annual maximum number for the employment of seasonal workers set within the settlement decree (*Niederlassungsverordnung*). The Minister of Economic and Labour Affairs may then issue further decrees for those employment sectors that need seasonal workers, such as agriculture, forestry, and tourism (both in winter and summer). The admission of workers in the IT sector was being facilitated in the summer of 2000. Under the new Aliens Act 2002, seasonal labour was increased and applied to branches of the economy that are not normally associated with

¹⁹⁷ According to the law, 'key professionals' are labour immigrants who have special training and/or qualifications, professional knowledge and competences and who earn at least € 2016 per month (for 2003) and meet one of the following requirements: the intended employment serves economic interests that go beyond those of the business wishing to employ the person in question, the intended employment contributes to the creation of new jobs or the securing of existing jobs, the migrant worker holds a key position with regard to the management of the business/enterprise, the intended employment includes a transfer of investment capital to Austria and the labour migrant holds an academic degree or the degree of an advanced technical college (*Fachhochschule*).

this form of labour.¹⁹⁸ The concept of commuters (*Pendlerbeschäftigung*) was extended (the definition was changed from daily to weekly commuting). As mentioned, the government concluded bilateral agreements with Hungary and the Czech Republic defining the numbers of both frontier workers as well as key professionals outside the maximum numbers set by the annual residence quotas. Key professionals are issued a new type of permit that encompasses both the right to stay as well as the right to work for a specific employer for one year.

Slipping into illegality following the expiry of the temporary work visa

Permanent migrant workers are entitled to a certificate of exemption after five years of lawful employment with a work permit (one year with a restricted work permit and twice two years with a work permit) and then have a right to a proof of settlement¹⁹⁹. However, temporary (seasonal, rotational and frontier) workers are excluded from permanent residence and from graduation from the restricted work permit to a work permit or a certificate of exemption. There are no explicit provisions that would prevent immigrant workers from slipping into illegality after their work visa has expired. Temporary work permits may be issued for a period of up to six months. If the respective decree provides for this, they are renewable once for another six months. Two months must then elapse before a temporary worker – or rather the employer – is entitled to reapply to work in Austria. There is no overall time limit for this type of temporary work.

Institutions concerned with the employment of illegally resident immigrants and the regulation of the access to the labour market

Before July 2002, regional branches of the Central Labour Inspectorate, which was part of the Federal Ministry of Labour, investigated the illegal employment of foreigners. Since then, this task has been shifted to the Central Taskforce for the Prevention of Illegal Employment (KIAB) at the Federal Ministry of Finance²⁰⁰. They inspect factories, construction sites and other external workplaces, for example farms, where it is suspected that workers are illegally employed. Further, the branches of the Austrian Public Employment Service and the customs authorities have to report any well-founded suspicions on the trespassing of employment and other law encountered within their business operating area.

¹⁹⁸ Under this law (2002), employers in all sectors are able to hire seasonal workers, who are issued with temporary work permits valid for six months. These permits are renewable only once and migrant workers are only able to reapply two months after their previous employment ended.

¹⁹⁹ Given that they are in possession of an adequate and regular income from lawful employment and the authorities expect that there will be no grounds to refuse a visa (*Sichtvermerksversagungsgrund*) in the near future.

²⁰⁰ See https://www.bmf.gv.at/Zoll/KontrolleillegalerA1583/_start.htm (accessed in July 2005).

The principal rules for the employment of immigrants are laid down in the Aliens Act 1997, the Law on the Occupation of Aliens 1975 and in the regulations and ministerial decisions adopted under these laws. On 9 July 2002, the Austrian Parliament passed some significant amendments to these rules in the form of a new Aliens Act, which entered into force on 1 January 2003 (see Cholewinski 2002). (For the various types of work permits see above) Note that the Aliens Act is to be divided into a new *Fremdenpolizeigesetz* (Aliens Police Act) and a *Niederlassungs- und Aufenthaltsgesetz* (Settlement and Residence Act) as of 1 January 2006, which have already passed the parliament and will result in a comprehensive restructuring of residence titles. A corresponding amendment to the Law on the Occupation of Aliens has also been enacted.²⁰¹

In the following chapter, the focus will move from state approaches to the persons affected and the social and economic situation of illegally resident and/or working immigrants in Austria. Although there are no signs of political participation, campaigns and actions have been taking place in order to draw the attention of the government as well as the general public to the situation of illegally resident immigrants.

²⁰¹ Information received by Walter Eller, Federal Ministry of the Interior.

4. Social and Economic Situation, Political Participation

(Written by Sophie Hofbauer, IOM Vienna)

Chapter 4 Synopsis

In general, the daily life of illegally resident immigrants is characterised by the fear of being detected and consequently deported. This can cause psychological strains, which in turn can have a negative impact on their state of health. Loss of identity (especially for minors who live under false names), separation of families, insecure living conditions and lack of stability have been enumerated as problems of affected persons. Their precarious living-conditions can lead to extreme dependency on their employers, which is usually correlated to experiences of violence and exploitation, especially in insecure working conditions. Furthermore, even if ethnic networks play a pivotal role in helping to find accommodation and jobs, illegally resident immigrants tend to live in social isolation. There is no information available on whether illegally resident immigrants have found alternative ways to organise education and training either for themselves or for their children.

The limited data collected reveal that the branches most affected by illegal foreign employment are the sectors of construction, catering, agriculture and small-scale industry. Until 2002, the majority of illegally working immigrants came from the central European countries (e.g. Poland, Slovakia) and the successor states of the former Yugoslavia. The illegal employment of foreigners in sectors requiring higher qualifications is considered to be less common. Since mid-2002, data on the nationality of illegal foreign workers are not available. It is therefore usually not possible to determine whether there is a dominance of certain ethnic or national groups in particular niches, or the conditions under which they work. Moreover, information on the socio-economic characteristics of illegally resident immigrants is scarce and often relies on small and unrepresentative samples.

Political participation on an official level is impossible for illegally resident immigrants in Austria, and there is no current public discussion regarding the need for a political platform for their concerns. Nevertheless, different organisations have been active in supporting illegally resident immigrants by campaigns and platforms aimed at raising the awareness of the government and the general public.

4.1 Social situation

It is difficult to determine the social situation of illegally resident immigrants as they are not a homogenous group and their lives differ greatly from each other. Kratzmann (2005: 26) has rightly pointed to the fact that undocumented migration has many faces and that therefore different terms should be used in order to describe the diverse living-conditions and situations of those affected. Besides a handful of sociological case studies and articles in the alternative (non-mainstream) media, there is no research literature available. Thus, the descriptions

provided here must be taken as examples applying only to certain groups among the diversity of illegally resident immigrants in Austria.

Karazman-Morawetz (2001: 313) writes of the general consequences of the irregular status some immigrants may have: *“The lack of the status of legality concerning residence has portentous and grave consequences for the people affected: it makes migrants highly vulnerable in the face of all kinds of accidents and life’s vicissitudes, especially the danger of enforced expulsion, and, in regard to coping with legal exclusion, it thus determines the options and resources available, manoeuvrability and the scope of action.”*

Danger of violence and exploitation

The NCP Austria is aware of at least three sociological studies on the topic of migrant domestic workers (Rechling 2004; Social Impact 1999; MAIZ 2004), each of which point to the high risk of violence and exploitation experienced in private households by immigrants who do not possess a legal residence title. Other problems noted among this specific group of illegally resident immigrants include the permanent fear of being detected (and, as a consequence, deported), as well as the fact that many domestic workers (mainly women but also men) are over-qualified but are forced to ‘hide’ in allegedly safe private households due to the missing nostrification of their education in the home country and due to their illegal residence status. Their illegal situation and/or precarious living-conditions can lead to extreme dependency on employers; in case of conflict, options most often include silent acceptance or loss of employment. Moreover, as the experiences of women counselling institutions show (MAIZ 2004: 74; 78), this high level of dependence is linked with experiences of violence.

Housing situation and remuneration

Rechling (2003: 91) has reported on the living-conditions of 20 to 25 illegally resident immigrants sharing three rooms in a department without heating. According to her findings, existing networks (which may be characterised differently according to nationality, family or friendship) are essential, especially for new arrivals, for the organisation of accommodation and employment (ibid.). Also the study of Social Impact on Illegal Foreign Cleaning Ladies, in which the housing situation at the time of arrival and at the moment of the interview are compared, showed that the housing situation was very difficult in the beginning: *“While some women were lucky to find accommodation with relatives or friends, a large share lived in a refugee shelter, which – if there was an own room – was small and often too narrow for a*

family. Another portion of the women had to be content with basement flats with 'affordable but not necessarily reasonably priced' rental fees or with flats with 'unaffordable fees'." (Social Impact 1999: 31, auth. trans.).

The analysis of interviews in the study by MAIZ, as well as the experience of counselling organisations and the findings of relevant literature, have shown that employment in private households are an often chosen strategy of transition, and, for female migrants without legal status, one of the few ways of securing their livelihood, especially in the beginning of their stay (MAIZ 2004: 72). According to MAIZ and Rechling, the average remuneration is between six and eight Euro per hour. Yet, an African women's organisation in Vienna has reported that in some cases only between three and five Euro per hour is paid (ibid. 73).

The existence of (ethnic) networks and social isolation

Another interesting phenomenon that is mentioned by Rechling (2004: 95) is the act of creating a social hierarchy among immigrants themselves, namely those who are legal and those who are illegal residents. Concerning the existence of networks within ethnic communities in Austria, Rechling (ibid. 81) sees a proof of well-functioning structures within the ethnic communities, with the same nationalities working in the same type of job (e.g. domestic workers recommending their friends/relatives). She also points to the need for the development of communicative strategies, which are necessary for survival in illegal situations (ibid.).

The findings of Social Impact (1999: 33) also confirm the assumption that the search for employment is not primarily undertaken by consulting organisations, the official job centre or newspapers, but rather with the help of a domestic workers' personal social network. According to the study, women who have been refugees themselves, offer help to the newly arrived, while institutionalised professional help remains in the background.

It has been found out that even if ethnic networks are used for different reasons, illegally resident immigrants often live in social isolation due to their insecure residence status and the fear of exposing themselves to possible police detection (see WEST 2005: 12). Different strategies are applied in order to evade possible police controls, such as wearing formal clothing, behaving inconspicuously, staying home in the evenings or avoiding places and streets that are known for regular controls.

Karazman-Morawetz took Polish migrants for her sample interviews on Legal Exclusion and Social Exclusion: ‘Legal’ and ‘Illegal’ Migrants. Polish immigrants represent the typical commuters (‘labour tourists’) after the fall of the Iron Curtain, who used to live or work illegally in Vienna, but travelled back and forth between Austria and Poland according to the needs of the Austrian (black) labour market (2001: 314). Other countries of origin identified by this study, include Serbia and Montenegro, Slovakia and Hungary. Karazman-Morawetz concluded, “*it is a general finding within our material that participation on ethnic networks in terms of cultural or social ambitions is a rare phenomenon; migrants rather live and feel socially isolated.*” (2001: 317). Yet, when it comes to work-related help among immigrants themselves, she also sees signs for networking: “*We don’t hear about the resources of an ethnic community though we know from other research that there exists a network for helping fellow-countrymen to get access to the irregular economy.*” (ibid.).

The research of MAIZ shows that many illegal domestic workers make use of a network of friends, especially on arrival. According to their findings, these networks are culture- and country-specific and not always unproblematic: “*Transitions, but above all enhancements, concerning the status, e.g. by legalisation and/or higher remuneration, are not seldom the cause for breaking with the networks, whereby internalised racism and the therewith combined demarcation and resentments play a role, which should not be underestimated.*” (MAIZ 2004: 78-79, auth. trans.).

Impact on health

According to the data collected by the surgery AMBER in Vienna, the most common medical problems and diseases include:

- infectious diseases such as influenza, bronchitis, coughing and urinary tract infections;
- toothaches and dental caries;
- mental disorders such as depressions, anxiety attacks, insomnia and post-traumatic stress disorder (PTSD);
- headaches and migraines;
- stomach pains and gastritis; and
- knee and back pains (unpublished data provided by AMBER).

Messinger, who has published her master thesis and diverse articles on the topic of unaccompanied minor asylum seekers, has written on the encumbering psychological

consequences of the minors' identities in cases of illegality. In her interviews, *“(T)he adolescents enumerate psychological strain in connection with their illegalisation, respectively its consequences or the fear of it. The manifold strains, such as the separation from family, the uncertainty, the mostly unresolved mental ‘processing’ of events that caused the flight, the adaptation to foreign surrounding, etc., all combined with the lack of perspectives of their own situation, and can lead to excessive demands, which are mentally unbearable.”* (Messinger 2000: 153, auth. trans.). According to the author, the insecure living conditions and the lack of stability can have traumatising effects or aggravate already existing traumatisations (ibid. 70). She furthermore mentions the exclusion of illegal minors on societal and political levels (ibid.).

This assumption of the neglected health situation of illegally resident immigrants can be confirmed as the following experience shows: *“During a campaign that Diakonie and several other organisations made in Vienna a couple of years ago to make illegal immigrants aware of the services offered by the organisations, it came to light that many had health problems due to lack of medical treatment.”* (PICUM 2003: 52)

Other problems

In the study by Social Impact, the lack of the German language has been named by the persons interviewed as a hindrance, especially during the search for accommodation and work, during the start of employment, as well as in the context of putting their professional perspectives into practice (Social Impact 1999: 34). Further, insecurities regarding decisions concerning the illegal residence, physical separation from the spouse, care for children (at home or in the new country) have been enumerated as aggravating psychological strain as well as feelings of loss: of material items; home in country of origin; familiar social network of friends, family members, acquaintances; of occupational identity and the loss of appropriate means of expression. These feelings appear after having solved the urgent needs, such as housing and employment (ibid. 34-35). The fragmentation of the family (with relatives remaining in the home country) contributes to fears and strains as well as the anxiety of earning a livelihood to support children and the wish of offering them a secure future. However, the most important factor mentioned during interviews with illegal domestic workers is the fear of deportation (ibid. 44-45).

In interviews with researcher Kratzmann (2005: 37), illegally resident immigrants have characterised the lack of ‘roots’, the distance from the family in the country of origin, with the

parallel exclusion of Austrian society, as distressing. An interesting point is the feeling of shame or guilt toward family members, friends and acquaintances in the country of origin (who have financed the smuggling fee or other costs) combined with invented ‘success stories’ of life in the new country “*by drawing a picture of themselves being truly successful in the new environment, while at the same time concealing the hardships they are encountering.*” (Bilger/Hofmann/Jandl 2005: 13). This often contributes to the already distorted imaginations of the ‘West’ and an allegedly happy life in Austria, which in turn may attract further (illegal) immigrants to try their luck.

There is no information available as to whether illegally resident immigrants have found alternative ways to organise education and training either for themselves or for their children.

4.2 Economic situation

(Written by Karin Mayr, University of Linz, Department of Economics)

Fields of work

This subchapter shall answer the question whether there is a tendency for illegally resident immigrants to find employment in sectors such as domestic work, agriculture, construction, entertainment, DDD (dirty, dark and dangerous) jobs and prostitution. Little is currently known about how most illegally resident immigrants earn a livelihood. Estimates on the fields of work of illegally resident immigrants have to rely on indirect information such as apprehensions at the workplace. Until 2002, the former Inspectorate of Labour in Austria controlled worksites for the employment of illegal foreign workers and documented their number by employment branch and nationality. Since July 2002, however, data collected by the Central Taskforce for the Prevention of Illegal Employment (KIAB) are no longer documented in comparable. A breakdown of data by industry pre-2002 indicates the branches most affected by illegal foreign employment are mainly construction, catering and small-scale industry/handicraft owned by foreign employers (Jandl 2004).²⁰² Also, according to Riedel (2000), the probability of discovering illegally employed foreigners is especially high in the construction and allied building trades, catering, agriculture and private house building

²⁰² However, it must be borne in mind that the controls are only carried out in workplaces and not in individual households.

sectors.²⁰³ Detailed information on the employment of illegal workers (not separated by nationals and foreigners) by work branches and federal provinces can be found in parliamentary documentation.²⁰⁴ According to a report by IOM (1996), Austria is one of the countries in Western Europe which has been most affected by the growth in the East-West trafficking in women, who work as illegal prostitutes in destination countries.

Nationalities and working conditions of illegally resident immigrants

As outlined above, it is data collected by the former Inspectorate of Labour that provide some indication of the nationality of apprehended illegal foreign workers in Austria. Before 2002, most (around 60%) originated from central Europe (e.g. Poland and Slovakia) and the successor states of the former Yugoslavia. Around 20% originated from Turkey and a further 10% from the Commonwealth of Independent States (CIS). The remainder came from countries all over the world (Jandl 2004). Since mid-2002, data on the nationality of illegal foreign workers are not available. It is therefore generally not possible to determine whether there is a dominance of certain ethnic or national groups in particular fields of employment, or the conditions under which they work. Among sex workers, however, IOM (1996) reports that in Austria in 1994 and the first half of 1995, 752 trafficked women were identified from 35 countries. Roughly three-quarters of these women were recruited in central and eastern Europe (CEE). In total, 48% of registered persons came from Austria's immediate neighbours, the Czech and Slovak Republics and Hungary. Another important group was prostitutes from the Dominican Republic, who constituted 16% of all persons affected by trafficking. Furthermore it is stated in the report that cases of severe exploitation of women from the CEE countries remain largely unknown, since women, who have had such experiences, are not easily identified and are often not prepared to discuss their experience. However, LEFÖ reported on a number of cases of women trafficked from the Dominican Republic to Austria, which involved severe sexual exploitation, deception, coercion and brutality.

The general lack of Austrian personnel in the care sector for the elderly, where payment is very low, has been criticised by Streissler (2004). She suggests the prognosed mid-term adaptation of the wage level in the new Member States will lead to a strong decrease of

²⁰³ Riedel mentions a random survey that has shown that, on average, illegal foreign employees are discovered every eighth inspection; in the catering sector, every fifth inspection and in agriculture, over one in three. Most inspections (approximately half), however, involved the construction sector.

²⁰⁴ See for example http://www.parlament.gv.at/pls/portal/docs/page/PG/DE/XXII/AB/AB_01991/FNAME_026650.PDF# for the most recent years, 2002 and 2003.

existing black labour in Austria. „Estimations speak of 10,000 to 40,000 persons, who annually come, above all from the Czech Republic and Slovakia, and illegally provide care services in Austria. Should this group drop out, the care sector in Austria will be threatened if countermeasures are not implemented early enough.” (Streissler 2004: 4, auth. trans.). In her opinion, a facilitation of the inflow of foreign carers could be a short- to mid-term alleviation, but on the long run better remuneration in this area would be necessary (ibid. 3).

Highly qualified illegally resident immigrants

In general, information on the socio-economic characteristics of illegally resident immigrants is scarce and often relies on small and unrepresentative samples, providing a snapshot rather than a comprehensive picture (see Salt 2003). For example, among the 17 trafficked women from eastern European countries interviewed by IOM in the city of Graz, some women had high qualification levels, and three of them were university graduates. Nevertheless, their motivation was, without exception, economic (IOM 1996). The illegal employment of foreigners in sectors requiring higher qualifications is considered to be less frequent (Riedel 2000).

4.3 Political participation

Political participation on an official level is impossible for illegally resident immigrants in Austria, and there is no current public discussion regarding the need for a political platform for illegally resident immigrants. Yet, some NGOs have drawn the attention of the general public and policy makers to the difficult situation of persons without official documentation residing in the country. Some NGOs working on migration and asylum issues are connected to larger groups and international networks, such as the European Platform for International Cooperation on Undocumented Migrants (PICUM)²⁰⁵, the noborder network²⁰⁶, *Kein Mensch ist Illegal* in Germany²⁰⁷ and December 18 – Portal for the Promotion and Protection of the Rights of Migrants²⁰⁸, to name only a few. Also church-organisations²⁰⁹ and the Red Cross²¹⁰

²⁰⁵ <http://www.picum.org>

²⁰⁶ <http://www.noborder.org>

²⁰⁷ <http://www.contrast.org/borders/kein/>

²⁰⁸ <http://www.december18.net/web/general/start.php>

²⁰⁹ Such as the Churches' Commission for Migrants in Europe (CCME), http://www.cec-kek.org/CCMEeng/ccm_eindx.htm (accessed in September 2005).

²¹⁰ The Platform for European Red Cross Cooperation on Refugees, Asylum-seekers and Migrants, PERCO, has its own Working Group on Irregular Migration: “To find out more about the scope and the implications of irregular migration in European Countries and to be able to make well founded recommendations about the

have established international groups of cooperation. Austrian counterparts sometimes take on general claims, which are not Austria-specific, such as the abolition of deportation and exclusion, the abolition of borders, critical discussions on 'Fortress Europe' and the international call for European ratifications of the UN Migrant Workers' Convention.

In contrast, there are only few NGOs working on Austria-specific topics, with illegal immigration as their central concern. Nevertheless, there remains the possibility of support and/or self-organisation groups working underground, which purposely do not want public attention. Yet, as stated by PICUM (2003: 58), the chances of finding a group made up of only undocumented migrants are nearly impossible. Also in political fora, such as the Viennese Integration Conference, which functions like a parliamentary system for migrants' groups, there is no representation of illegally resident immigrant groups (ibid.). More to the point, Rechling (2004: 64) has stated that "*many female migrants do not identify with their occupation as domestic workers and therefore do not want to organise themselves as such.*"

Besides the general trend towards networking on the national and international level, it can be observed that the Austrian debate on illegally resident immigrants is not continuous but rather characterised by short-term actions and campaigns. The Austrian NCP is aware of only one self-help group, namely FC. Sans Papiers/Die Bunten, which deals with the topic of the illegal residence of immigrants. However, it is rather NGOs, medical, social and legal counselling institutions and churches, which are in touch with illegally resident immigrants by their general work, that lobby for the precarious situation of some of their clients.

FC. Sans Papiers/Die Bunten has a rather unusual way of raising the awareness: the members of the group, all of whom have been in an illegal situation at some point, play football once a week against different teams, including against the police.²¹¹ They see themselves as "*a platform for all those people, who are illegalized by the state system*" and "*not only as a football team but as main actors of this campaign*".²¹²

In 1999, the Austrian NGO, Deserteurs- und Flüchtlingsberatung (Deserters and Refugee Counselling), coordinated the campaign, No Human Being is Illegal! Human Rights are

possible future role of European Red Cross / Red Crescent Societies in this field, a working group was established at the PERCO Meeting in Athens in April 2003." (PERCO 2004: 2).

²¹¹ The strategy of playing football and combining it with political aims has not gone unnoticed. In 2003, FC. Sans Papiers/Die Bunten were given football kits by the four sport spokespersons of the political parties in an official celebration in Parliament after having won the local football league.

²¹² <http://www.deserteursberatung.at/projekte/fcSansPapiers.htm> (accessed in May 2005).

Indivisible!, following the German example.²¹³ From February to July 1999, many different activities and ideas were launched, all with the intention of raising the awareness among the local population, of pushing the topic in the media, and perhaps most importantly, with the aim of establishing sustainable structures for addressing the topic in the future. The activities included a press conference, advertising, public discussions, a theatre play, interactive artistic events, information events, a touring exhibition, a demonstration and more.²¹⁴

This campaign was considered successful as other organisations joined in broadening the outreach to the target audience. While the topic was raised to the political level of responsible decision makers, there were no remarkable political consequences. At the same time, a parallel campaign took place, which did have a concrete impact, at least on a number of illegally resident immigrants. In 1998, the three – partly non-governmental, partly governmental – Viennese organisations dealing with migrant adolescents, Back on Stage, Back Bone, and ECHO, launched the petition *Jugendliche schuldlos ohne Aufenthaltsrecht* (Adolescents Guiltless without Residence Permits).²¹⁵ At that time, nearly 400 paperless adolescents were in this situation in Vienna (PICUM 2003: 49). After the change in legislation in 1992, it was possible to become illegal, if parents had forgotten to renew the residence permit for their children. *“Their situation is not caused by themselves, the adolescents do not have their own voice and they find themselves in a highly precarious position. No visa, no residence permit, no access to the labour market, but no country of origin either where they could go. They are integrated in Austria, have family and friends here, have visited school. To be paperless means to fall out of all social networks. Institutions are not frequented anymore, the fear of being deported and having no resources push the adolescents into isolation.”* (Back on Stage, n.d., auth. trans.).

²¹³ In their own words, it was the numerous cases of illegalised refugees that raised the interest of the counsellors for “being able to do more” (see http://www.deserteursberatung.at/projekte/kmii/wie_alles_begonne_n_hat.htm). The winning of a UNHCR contest for projects assisting illegalised refugees in need of protection, provided the financial means, even if only for a few months.

²¹⁴ Worth mentioning is one artistic project, which made it possible to put oneself in the position of illegally resident immigrants by entering prepared columns with slits, thereby becoming invisible for the others, and at the same time listening to texts written by illegally resident immigrants. Another project was a guided tour for journalists through ‘Vienna Illegalised’ (see <http://www.deserteursberatung.at/projekte/kmii/ueberblick.htm> (accessed in May 2005)).

²¹⁵ The claims of this petition were the following:

- 1) Amnesty for adolescents and young adults, who are integrated, but who are living in Austria illegally through no fault of their own.
- 2) Residence permits for integrated adolescents.
- 3) Unlimited access to the labour market.
- 4) Combating the causes (e.g. adolescents not under the family visa).
- 5) No deportation during ongoing procedures.
- 6) Participation of a youth worker in the Integration Committee of the Ministry of the Interior.

Various public institutions (such as the former Viennese Integration Fund, which has been incorporated by the Viennese city administration in form of the Municipal Department 17 on Integration and Diversity Affairs) and politicians supported the petition. As a consequence, the topic ‘paperless adolescents’, was addressed by the Viennese Parliament in February 1999. A resolution was passed with the recommendation to the responsible minister to legalise integrated adolescents. A joint meeting of the petitioners with the then Minister of Interior, Karl Schlögl, in February 1999 was considered positive. Yet, a general amnesty for paperless adolescents was explicitly rejected, and the problem was tackled only on a case-by-case basis. A telephone hotline was established as a first step, of which almost 300 persons made use in a timeframe of one year. In summary, more than 100 cases of paperless adolescents were solved, many adolescents were first given humanitarian residence permits, which allowed them to later apply for legal residence (PICUM 2003: 49).²¹⁶

According to the Annual Report (2003: 20) of Back on Stage, the long lasting support service of paperless adolescents and the counselling on legal issues related to residence status or other migration-specific problems has since been replaced by topics such as unemployment and gender-specific issues. In their opinion, this is due to the restrictive immigration regulations, which has also changed the type of immigration to Austria.

Nevertheless, even with the amendment of the Aliens Act in 1997, which brought a successive consolidation of residence status (*Aufenthaltsverfestigung*) and protection against deportation (§§ 35 and 38 Aliens Act 1997), it is still possible for adolescents to be deported if they have not spent at least half of their life in Austria and have stayed within the territory for the last three years.

Worth mentioning in the context of political participation is a platform of support for migrant women in an illegal situation, which was founded in 2002 under the name “legalise_at”, endorsed by various Austrian NGOs.²¹⁷ On 10 December 2002 (International Human Rights Day), activities were organised under the slogan “*No one is illegal, laws illegalise! Documents for all!*”. Public activities such as music, theatre, video projections and

²¹⁶ Nevertheless, even if not all cases could be solved, the echo in the media was large, especially after the symbolic case of the Turkish adolescent, Baris Keles, who came to Austria as 13-year-old with a tourist visa and who remained illegally with his family, overstaying his three months visa. During his years in school, he was tolerated by the authorities but not given a legal status until he finished school and was deported. This caused immense reaction by the public, and, with support from the media, the decision was finally reversed. Yet, many other adolescents found themselves in the same situation.

²¹⁷ It is not known whether this platform is still active.

performances would draw the attention to the situation and problems of migrant women who do not have the necessary legal documents, but live and work in Austria.²¹⁸ This action day was also supported by the Viennese Integration Fund, whose former executive director, Hannes Seitner, recommended the large-scale legalisation of illegally resident immigrants in Austria. According to him (2002), the majority of illegalised persons are family members of immigrants already residing in Austria. Due to the Austrian quota for family reunification (unique within European legislation), migrants are continuously illegalised.²¹⁹

Meanwhile, this situation has changed. According to Biffl/Bock-Schappelwein (2004: 66-71), the number of pending applications for family reunion has been further decreasing in 2004. Assuming that the number of pending applications will continue declining and that the quota is fixed at the same level as 2004 (as is the case for 2005), it is likely that the backlog of pending applications will be cleared in 2005. Apart from the large number of pending applications in general, the extent of the backlog differs between the nine Austrian provinces. In 2004, the Minister of the Interior administered an order to the subordinated authorities that applicants for family reunion, whose application is pending for more than three years, should get a settlement permit on humanitarian grounds for their dependants. Biffl/Bock-Schappelwein assume that this order has contributed to the reduced differences in the number of pending applications between the provinces.

As mentioned, an important form of support comes from the churches. Diakonie (Deaconry) is one of the five biggest welfare organisations in Austria and has its own department for refugees, the Evangelischer Flüchtlingsdienst (EFDÖ) (Protestant Refugee Service). EFDÖ is a member of the Churches' Commission for Migrants in Europe (CCME), an ecumenical agency on migration and integration, asylum and refugees, anti-racism and anti-discrimination in 16 European countries. In 2003, the CCME published a position paper, *Irregular Migration: A Challenge for the European Migration and Asylum Policy*. In this paper recommendations and possibilities for action are outlined, including, among others the following:

“Humanitarian organisations assisting victims of traffickers and irregular migrants in difficult situations ought not be criminalized and penalised for doing so. We are extremely worried that in recent decisions of the EU on facilitating illegal entry and residence exemptions for humanitarian organisations providing assistance are not

²¹⁸ <http://www.frauenweb.at/legalise/> (accessed in January 2005).

²¹⁹ Press release of the Viennese Integration Fund, 10 December 2002. (http://www.wif.wien.at/wif_site/wif_pages/Presse_104_down.html, accessed in January 2005, not available anymore).

considered appropriately and remain optional. The same applies to the measures against trafficking in human beings. While we do agree with the principles to fight trafficking in human beings, there is an urgent need to protect the victims as well as those who help them for humanitarian reasons. [...] Social, medical and counselling services provided by churches and other welfare organisations must not be criminalized if they extend their services to irregular migrants.” (CCME 2003: 5, 7)

Nevertheless, in Austria, providing help to illegally resident immigrants is not a criminal act but an infringement of administrative law; there is no duty of disclosure for those who are offering help.

Another active platform of support for immigrants is the Austrian Caritas, which does not exclude support for illegal residents. Yet, their activities aim, in the first instance, at enhancing the immigrants’ social and medical situation, and cannot be seen in the context of supporting any political participation of illegally resident immigrants.

Additionally, there are sporadic artistic projects, which cannot be considered political platforms, but which raise the awareness among the Austrian population. These projects will be presented in chapter 5.

In conclusion, besides the rather spontaneous platform building and short-term actions, there does not exist a continuous and large-scale social movement in Austria such as *Sans Papiers* in France and Belgium or *Immigrant Solidarity* in Ireland. A crucial question that remains to be asked in the Austrian context is whether the mentioned organisations are used by illegally resident immigrants as platforms to make their voices heard and to articulate their political will, or whether these projects are implemented with minimal contact with the target group itself. As Karazman-Morawetz (2001: 323) clearly states: “*confronted with an exclusionary political climate, collective articulation of claims would appear self-destructive.*”

5. The Impact of Illegal Immigration on the Host Country

(Written by Sophie Hofbauer, IOM Vienna; Dr. Karin Mayr, University of Linz, Department of Economics)

Chapter 5 Synopsis

For a clear and well-defined description of the impact of illegal immigration on the host society, there is insufficient information available. Yet, reflections of the topic within society can be taken as possible indicators. The main actors addressing the issue of illegal immigration in Austria are NGOs, welfare institutions, churches, and the media. Political parties and trade unions deal with the topic to a lesser extent, instead more generally focusing on migration and asylum. Among the general public, illegal immigration is perceived as a humanitarian challenge and as a general threat, as well as in terms of competition in the labour market.

As the data on illegally resident immigrants are necessarily poor, it is difficult to implement a proper cost-benefit analysis to estimate the impact of illegal immigration on the economy. Yet, according to the OECD (1999), the fiscal impact of illegal foreign workers and their families is generally insignificant. While most benefits of the social security system are only granted after five years of regular residence, direct cost is incurred by the use of services, which are not determined by the legality of residence status, such as the education of the children of illegally resident immigrants. Moreover, with regard to public order, a direct cost of illegally resident immigrants is the cost of entry control. However, as argued by OECD (1999), not all the costs incurred in entry control can be attributed to illegal immigration. It is not known how much fiscal revenue was lost due to the undeclared employment of illegally working immigrants in Austria.

It is not possible to enunciate the impact illegal immigration has on society in terms of integration, as no thorough research has been undertaken to date. Neither the regional concentration of illegal immigrants nor the consequences for local authorities can be determined due to the lack of data, statistics and research material. However, it can be assumed that the majority of illegal immigrants reside in larger cities, where there are better chances of find employment. Results of the work site controls have shown that most illegally working immigrants were detected in the capital, Vienna, and the province of Lower Austria.

Due to the general lack of facts based on data, statistics, surveys, reports and the like, it is almost impossible to determine the impact of illegal immigration on Austria. The assumption that illegal immigration has an impact on Austria's society cannot be negated, but the proof for such an assertion is hard to find. Besides the possibly measurable impact on the economy (in form of fiscal revenue, paid taxes, etc.), reactions by the host society to the phenomenon can be pieced together as parts of the mosaic that would capture the whole picture. The number of actors addressing the issue of illegal immigration in the country, the echo in the media, and activities within civil society can constitute possible indicators to help ascertain how the phenomenon of illegal immigration is dealt with in the public discourse. In this chapter we will describe some of the indicators that reflect the impact of illegal immigration on Austrian society.

5.1 Main actors addressing the issue of illegal immigration and the perception of illegally resident immigrants by the host society

The main actors addressing the issue of illegal immigration in Austria are NGOs, welfare institutions, churches and the media, all of which regularly report on the tasks and/or successes of administrative bodies such as the Aliens Police, the Central Service Combating Alien Smuggling (ZBS) and the Central Taskforce for the Prevention of Illegal Employment (KIAB). Nevertheless, for obvious political reasons, those organisations and institutions (both, governmental and non-governmental) that are most often in contact with illegally resident immigrants often prefer not to have too much publicity to avoid destabilising the *status quo*. Political parties and trade unions, deal little with the topic, focusing more generally on migration and asylum. The two formerly governing political parties, Österreichische Volkspartei (ÖVP) (Austrian People's Party) and (the former) Freiheitliche Partei Österreichs (FPÖ) (Austrian Freedom Party) mention illegal immigration in the context of security issues and enhanced border control.²²⁰

In their article on trade union practices in Europe, LeVoy/Verbruggen/Wets (2004) note that trade unions in EU Member States, such as Germany, Sweden, Denmark and Austria, “*are not entirely supportive of undocumented workers*”, as “*for many trade union members, undocumented workers represent a threat, as their presence at the workplace and the working conditions they accept are not according to the collective agreements.*” (ibid. 114).²²¹ Within the Österreichischer Gewerkschaftsbund (ÖGB) (Austrian Confederation of Trade Unions in Vienna), it occurs that, due to high unemployment rates in certain sectors (e.g. construction) and in an attempt to criminalise employers who exploit illegally working immigrants, trade union members report illegal employment in solidarity with Austrian workers (PICUM 2003: 40). There exist reports of members of trade unions, who have denounced the slave-like working conditions of their migrant colleagues.²²² On an international level, the ÖGB has in the past worked closely with trade unions from Germany and Luxembourg to penalise

²²⁰ See the websites of the two political parties ÖVP and FPÖ: <http://www.oevp.at/Sicherheit/artikel.aspx?where=004581>; <http://www.fpoe.at/index.php?id=468> (both accessed in May 2005).

²²¹ The text continues: “*The response by unions has not been very positive, as many times has been to alienate them from trade unions. A negative aspect of trade unions' policies concerning undocumented labour has been to crack down on employers who exploit undocumented migrants, which usually has the effect of immediate deportation of the undocumented worker. While some trade unions have carried out some positive measures towards undocumented workers, these unfortunately appear to be an exception rather than the rule.*” (ibid. 114)

²²² See the article in Solidarity No. 883 (Solidarität), the monthly newspaper of the ÖGB: *Workers Held like Slaves (Arbeiter wie Sklaven gehalten)*, September 2005.

Austrian employers who hired illegally resident immigrant workers in Germany and Luxembourg (ibid. 51).

In her study on female domestic workers, Rechling (2004: 65) was critical that “(T)he Austrian trade unions have so far not managed to think beyond the construction of the national worker community and to represent workers’ rights independently of membership and residence status.” (auth. trans.).

Returning to NGOs as important actors, according to Schenk (Diakonie), illegally resident immigrants have even become a target group of the counselling and support activities of different organisations:

“The large supporting organisations have been expanding since 1989 in the fields of counselling and support of persons in the three categories: ‘foreigner’, ‘refugee’ and ‘illegal’. The services offered range from legal counselling, interim or long-term housing possibilities, humanitarian emergency aid, psychotherapeutic support and support in detention pending deportation to courses for professional orientation. The largest institutions are the welfare organisations Caritas, evangelische Diakonie and Volkshilfe, followed by local organisations such as Zebra in Graz, Integrationshaus in Vienna, helping hands, counselling offices in Innsbruck and Carinthia.” (Schenk 1998: 51, auth. trans.)

At an expert meeting on the topic asylum organised by the Catholic Austrian Commission Iustitia et Pax in April 2003, it was stated that refugees are in the centre of the practical experience of Austrian churches (compared to other migrants). According to participants, a possible explanation could be “*that we as private catholic institutions have many enquiries from the group of illegal human beings, who have no chance in other institutions.*” (Fernández de la Hoz 2003: 15, auth. trans.). According to PICUM, rejected asylum seekers are said to represent by far the largest category of illegally resident immigrants to whom organisations in Austria provide assistance (2003: 62).

It has been criticised by Riedl that “[I]n the general public nearly no distinction is made between undocumented migrants, migrants, asylum seekers, rejected asylum seekers, who are not allowed to be sent back to their countries (Article 3 and Article 8 ECHR), refugees recognised by the Geneva Convention or criminal tourists.” (Riedl 2003: 26). To a certain

extent, Austrian press coverage can be taken as a basis of how certain aspects of illegal immigration are understood by the general public. Yet, from a scientific point of view, this can be questionable as the coverage of this topic often reflects a particular perspective. The following assumptions must therefore be handled with care.²²³ In general, the topic of illegal immigration can be found in mainstream print media, especially with respect to trafficking in and smuggling of human beings (e.g. cases of breaking international crime organisations; the inhuman conditions in which smuggled and trafficked persons are transported across the borders)²²⁴, and relating to the issue of illegal employment at the labour market²²⁵. Therefore, as a careful conclusion, it can be assumed that in the print media, illegally resident immigrants are either handled as victims of trafficking/smuggling, as a threat to society on security grounds or as competitors in regard to the labour force. In contrast to the mainstream media magazines such as *Augustin*, *Moment*, *Hin und Her*, *asyl aktuell*, Internet sites and radio broadcasting published and broadcast by NGOs, churches and migrant groups publically address the situation of illegally resident immigrants in the country either by criticising the existing legal framework and/or by taking the perspective of a humanitarian challenge.

²²³ Due to spatial limits, it was not possible in the framework of this pilot study to undertake a thorough and systematic analysis of contributions and articles on the topic in the media community.

²²⁴ Note, among others, the following articles (the terms smuggling and trafficking are used interchangeably in the German original titles): *Die Presse*, *52 Afghans Apprehended at the Border (52 Afghanen an der Grenze aufgegriffen)*, 26 January 2000; *Die Presse*, *Minister of Interior Strasser Demands Higher Penalties for Smugglers (Innenminister Strasser fordert höhere Strafen für Schlepper)*, 3 March 2000; *Die Presse*, *Breakup of Smuggling Ring (Schlepperbande zerschlagen)*, 13 July 2000; *Die Presse*, *Illegal Border Crossers Apprehended Again (Wieder illegale Grenzgänger aufgegriffen)*, 29 July 2000; *Die Presse*, *“Illegals” and Smugglers Apprehended (“Illegale” und Schlepper gefaßt)*, 31 August 2000; *Die Presse*, *Stream of Smuggled Chinese Has no End (Strom eingeschleppter Chinesen reißt nicht ab)*, 9 September 2000; *Die Presse*, *Smuggling: Rapid Increase in Austria (Schlepperei: Rapider Anstieg in Österreich)*, 19 October 2000; *Die Presse*, *The Trace of the Dragon: Vienna as Switching Centre of Chinese Smugglers (Die Spur des Drachens: Wien als Schaltzentrale chinesischer Schlepper)*, 22 May 2001; *Die Presse*, *Illegal Border Crossers Apprehended (Illegale Grenzgänger gefaßt)*, 18 June 2001; *Die Presse*, *Illegals: Declining Apprehensions (Illegale: Aufgriffe rückläufig)*, 16 June 2001; *Die Presse*, *178 People Caught at the Green Border (178 an Grüner Grenze erwischt)*, 25 June 2001; *Die Presse*, *28 People Crossed the „Green Border“ (28 querten „grüne Grenze“)*, 3 August 2001; *Salzburger Nachrichten*, *18 Fictitious Marriages Arranged for Turks (18 Scheinehen für Türken vermittelt)*, 22 August 2002; *Die Presse*, *Illegal Immigration: Russian or Chechen? (Illegale Einwanderung: Russe oder Tschetschene?)*, 1 August 2003; *Die Presse*, *Austria: Blow to Smuggling-Mafia (Österreich: Schlag gegen Schlepper-Mafia)*, 3 November 2003; *Kurier*, *Smugglers. Twelve Chinese Crammed in a Lorry Shed (Schlepper. Zwölf Chinesen in Lkw-Verschlag gepfercht)*, 10 December 2004; *Der Standard*, *Traffickers, Thugs, Smugglers (Schlepper, Schläger, Schmuggler)*, 12 May 2005.

²²⁵ Note, among others, the following articles: *Die Presse*, *Raids in the Red Light Scene: 15 Apprehensions (Razzien in der Rotlicht-Szene: 15 Festnahmen)*, 11 July 2001; *Die Presse*, *Illegal Employment in Market-Garden (Schwarzarbeit in Gärtnerei)*, 29 August 2002; *Die Presse*, *Charges: 4,000 Illegal Employees in Freightier Kralowetz’s Service (Anklage: 4.000 illegal Beschäftigte im Dienste von Frächter Kralowetz)*, 21 February 2003; *Die Presse*, *Raid: Escape Through Cellar Hallways (Razzia: Flucht durch Kellergänge)*, 4 March 2004; *Die Presse*, *40,000 Nurses Help Needy People - Illegally (40.000 Krankenpflegerinnen helfen Bedürftigen – illegal)*, 2 December 2004; *Kurier*, *„Illegals“: A Third Comes to Work (“Illegale”: Ein Drittel kommt zum Arbeiten)*, 10 December 2004; *Der Standard*, *A Cheque for Domestic Workers and Babysitters (Ein Scheck für Putzfrauen und Babysitter)*, 23 December 2004; *Der Standard*, *Grasser Against Fictitious Independence (Grasser gegen Scheinselbstständigkeit)*, 19 April 2005; *Wiener Zeitung*, *Loved as Tourists but not as Workers (Als Touristen geliebt, als Arbeiter nicht)*, 2 July 2005.

A sector, which should not be ignored when examining actors addressing the issue of illegal immigration, is the artistic field. In the area of film, theatre, literature, fine arts and others, the popularity of topics of geographical borders, immigration and illegality has noticeably increased over the last decade. In 2003, the exhibition *Crossing the Line – Human Trafficking* was shown in Vienna, with selected contributions by artists using video, photography and installations. In the corresponding catalogue, Gerald Matt (director of Kunsthalle Wien) and Lucas Gehrmann (curator of the exhibition) observe the following perception of illegal immigration in the general public: *“It is one of the most highly charged issues of our time: illegal immigration in the European area. Charged with emotions between fear and hope, not just on the part of the emigrants but also in the population and their representatives in the countries they are immigrating into, it is also an issue that gives rise to sharp controversy.”* (Matt/Gehrmann 2003: 82).

Interestingly, there are Austrian artists and artist groups that have dealt with the topic of illegal immigration with ‘interventionist art’ (ibid.). Mostly, they use the Internet for dissemination and documentation. Matt/Gehrmann provide two examples of awareness raising efforts among the local population using the umbrella of the human tragedy of illegal immigration. The first project was called *Service: Border Crossing* and was initiated in 2001 by the Viennese artists Martin Krenn and Oliver Ressler. It consisted, among others, of the information brochure *Neues Grenzblatt* (New Border Journal), which *“consciously popular and drawing on traditional association newspapers was delivered to 12,000 households along the whole EU external border in Styria. Low-threshold contributions both in content and language, are intended to interest the broad public and to advertise ,refugee assistance as a service with quality’, and more: to activate the population of the border region as refugee helpers.”* (Raunig 2001, quoted in Matt/Gehrmann 2003: 83)²²⁶

The second project, entitled *Border Rescue*, was realised in June 2002 by the artist group *Social Impact*. It offered ‘safe escape routes’ over the Czech-Austrian border via the Internet. On their homepage, alongside maps, video sequences and GPS files, the following description of the project can be found: *“During a one-week period of action, SOCIAL IMPACT researches and documents safe immigration routes along the Austrian-Czech border (using GPS data, video sequences, photography, hand-drawn sketches, protocols...). The project-team crosses repeatedly the border illegally to attain enough data to make it possible to find*

²²⁶ Quoted in Raunig, Gerald, *Service: Border Crossing (Dienstleistung: Grenzüberschreitung.)* In „analyse und kritik“, no. 452, 7/2001.

and follow the investigated routes. Information material will be additionally provided on the asylum situation in Austria and on incidences of fatal attempts to cross the Schengen border.”²²⁷ The website contains detailed information on how and where to cross the borders by explaining eleven different routes.²²⁸ Moreover, there are “general tips for refugees” on surveillance, crossing the border and what to do once caught in Austria.²²⁹ Although the artistic group was sued for smuggling, „Border Rescue, however, sees itself primarily not as an asylum assistance project, but an actionist staging seeking to draw attention to the growing number of fatalities on the Schengen border.”²³⁰ (Matt/Gehrmann 2003: 83).

Besides such projects, which take the side of the illegally resident immigrant, the other extreme, namely inviting the local population to help the authorities to capture illegal border crossers (e.g. by cooperating with hunters) by the medium of an official journal has happened as well. One such case was in the Upper Austrian town Schenkenfelden (Fronek 2000: 235). Such initiatives conform to the perception that illegally resident immigrants are a threat for the host society.

Researcher Sohler (2000: 1) has very critically dealt with “*the construction of the illegal immigrant*” as threat to society. In the context of a development that started in the 1990s that she describes as, “*ethnicising of criminality risks*”, she writes “*In the public and political discourse, a picture of menace of illegal immigration as an uncontrollable and clandestine mass phenomenon was created: a construction of threat as it was transported through continuous speculations about the number of undetected illegal immigrants as well as through their characterisation as destabilising phenomenon for governmental and societal core institutions – mainly in connection with the discourse on organised crime.*” (ibid. 2, auth.

²²⁷ <http://border-rescue.social-impact.at> (accessed in May 2005).

²²⁸ See <http://border-rescue.social-impact.at/seiten/index2a.html>.

²²⁹ For example: “Crossing the border by day seems to be better than at night, since it is thus possible to achieve a certain ‘equal opportunity’ in terms of ‘seeing and being seen’. At night the guards operate with night vision equipment and can detect persons even at a great distance, where these persons believe they are still safe. In addition, there are twice as many guards on duty at night as during the day. Disguising oneself as a hiker/day tourist seems to be effective for remaining inconspicuous.”; “Once one has crossed the Austrian border, in order to avoid being deported back to a third country (e.g. Czech Republic), all indications of having travelled through a third country should be destroyed.”; “If one’s knowledge of German is limited and if one is dark-skinned, it is likely that a bus driver, from whom one buys a ticket to continue travelling, or a taxi driver or any other person may contact the police. The most promising strategy seems to be to agree on a meeting point with a contact person in Austria, where one is to be picked up.” <http://border-rescue.social-impact.at/seiten/downloads/general-tips.pdf> (accessed in May 2005).

²³⁰ Schmutzhard, Harald, *Green Border Cadaver. An Artistic Project Searched for Safe, Non-Lethal Immigration Routes and Was Charged of Smuggling* (Grüne Grenze Leichnam. Ein Kunstprojekt recherchierte gefahrlose, untödliche Einwanderungsrouten und erhielt eine Anzeige wegen Schlepperei). In „Die Bunte Zeitung“, August/September 2002.

trans.) Sohler suggests that by putting the phenomenon of illegal immigration into the perspective of being a national security problem, its continuous connection to problems of criminality gain greater importance. Both as a reason and as its own category of crime, illegal immigration became a main focus of an advanced security discourse, where the character of the *'illegal immigrant'* became a category of *'criminal'* (ibid.).

5.2 The relevance of illegal immigration for the regular and the informal economy

(5.2 - 5.4 written by Karin Mayr, University of Linz, Department of Economics)

The informal economy and illegal foreign employment are not synonymous phenomena, but are related as the informal economy is the only way for foreigners in an illegal situation, and without work permits, to enter the labour market. The overall dynamic of the labour market determines the shape of the hidden economy and, thus the work carried out by foreigners in an irregular situation. *'Atypical'* jobs, i.e. those in the hidden economy, are often highly seasonal in nature and require a rapid response to variations in demand and changing tastes, in order to achieve greater flexibility in production and pay (OECD 1999).

When assessing the costs and benefits to society, however, Çinar/Gächter/Waldrauch (2000: 19) point to the following hindrances: *"A proper cost-benefit analysis, though, is out of the question when it comes to illegal immigration. The main reason being that data on irregularly resident migrants – if data exist at all – are necessarily poor. This deficit leads to an even more opinionated debate than would be the case were data readily available."*

5.3 The economic impact: costs and benefits for the host society

This subchapter will examine the economic costs and benefits of illegally resident and/or working immigrants on the host society. Both in terms of receiving benefits and as tax- or fee-paying residents, in particular costs for public health, education, public order. Empirical studies on the fiscal impact of (legal) immigrants generally reveal that their net tax payments (tax and social security payments paid by immigrants, less the benefits they receive) are result in a positive balance for the host society. This is not only the case in cross-sectional analyses, which have been criticised for considerable methodological flaws, but also inter-temporal analyses, such as generational accounting, which take into account future demographic and

economic developments.²³¹ According to OECD (1999), the fiscal impact of illegal foreign workers and their families is generally insignificant:

“Illegal migrants pay indirect taxes in the same way as all other consumers and although they avoid paying income tax their revenues are generally such that the loss to the public exchequer cannot be significant and is unlikely to exceed what they obtain in return, given that their use of community services tends to be even lower than their incomes.” Yet, “on the hypothesis that the contributions of regular migrants are greater than the benefits they receive, a relative increase in the proportion of illegal immigrants who neither contribute nor benefit represents a loss to the system.” (OECD 1999: 240).

Social security contributions and entitlements are linked to regularity in terms of residence and work. In Austria, most social security system benefits are only granted after five years of regular residence. However, even legal immigrants are exempt from receiving the unlimited unemployment assistance in case of an emergency (*Notstandshilfe*). Likewise, there is no equal access to social assistance benefits (*Sozialhilfe*) and connected benefits, e.g. for the blind (*Blindenbeihilfe*), at the level of the federal provinces after five years of legal residence. For instance, in Vienna a legal residence of ten years is required. Also, access to communal housing in Vienna is not accessible even after five years of legal residence (see König/Perchinig 2003). Direct cost is incurred by the use of services, some of which are not determined by the legality of residence status, such as the education of children of illegally resident immigrants. Further, with regard to public order, a direct cost of ‘illegal immigrants’ to be considered is that of the cost of entry control. However, as argued in OECD (1999), not all the costs incurred by entry control can be attributed to illegal migration. For illegal immigration to represent a fiscal burden, it would have to be assumed that the cost of control (properly adjusted) exceeded the positive net balance of fiscal revenues less social expenditures attributable to it. That is judged to be a highly unlikely outcome given the extent of the positive impact of illegal immigration on GDP.

²³¹ For a generational accounting evaluation of the (positive) long-term net fiscal impact of immigrants in Austria in the year 1998 see Mayr (2004).

5.4 Estimation of lost fiscal revenue due to the undeclared employment of illegally resident immigrants

The investigation of current economic literature, statistics and policy-related documents did not yield any information on the amount of fiscal revenue lost due to the undeclared employment of illegally resident immigrants. Scarce specifications on the amount of revenue lost due to informal economic activity exist, for example in Schneider (1996).²³² However, it is not clear how these figures were calculated, nor do they provide any information on the share of lost revenue that is attributable to illegal foreign employment. Opinions on the relative shares of employment of natives and illegal foreigners in the informal sector diverge.

“The construction industry engages cheap, often illegal workers from Eastern Europe, which also benefits the ultimate consumer, who has to pay less for the work than would be the case of a correctly acting provider. The ‘black labour’ market is booming like it has not for a long time. Which homebuilder can afford it without employing workers illegally? Both sides accept the risk of being detected; the constructors work even under the name of enterprises.” (Tschernitz 2004: 59, auth. trans.).

According to the Federal Ministry of Finance, Austria loses every year several million Euros due to non-paid wage deductions and fraud on input tax (BMF 2004: 3), yet, this includes Austrian nationals as well as illegal immigrant workers.

5.5 The impact on society: integration problems and urban areas

The impact of illegal immigration on society, in terms of the problems of integration (such as involvement in criminal activities and absence of language capabilities) has, to date, not been researched thoroughly. The topic of foreign criminality can be found in the media as well as in the political and the academic discourse, but not directly in connection with the problems of integration. The Catholic Austrian Commission Iustitia et Pax points to the vulnerable group of asylum seekers who are refused asylum but not deported, who “*get into an*

²³² The author mentions a net loss in fiscal revenue of 31 billion Austrian Schilling (equivalent to €2.25 billion at 2002 Shilling / Euro exchange rate) in the year 1995.

especially desperate situation (legally nobody is responsible for them), which sometimes leads into criminality.” (Fernández de la Hoz 2003: 16, auth. trans.)

The question that has to be asked is whether illegally resident immigrants rather tend to have as little contact with the authorities as possible (therefore avoiding any criminal activity) or whether they are practically forced to engage in criminality due to their difficult financial situation. It is dangerous to equate illegal immigration with criminal activity, even if the criminal exploitation of illegally resident immigrants exists: *“While the majority of irregular migrants have only committed the offence to enter illegally, there are some who are used by traffickers for criminal activities. This ranges from drug and arms trafficking to stealing and shoplifting using children.”* (CCME 2003: 3)

Pilgram (2003: 328) goes a step further by considering the social rights, legal entitlements and risks of discrimination and exploitation of illegally resident immigrants.

“([T]he irregular residence produces a high general social vulnerability. Yet, he admits “[T]here is a lack of systematic information on the circumstances of existence of migrants, whose residence status is not consolidated or illegal. It is difficult to measure the meaning of the legal restriction of freedom of mobility in the labour market and the limitation of the social rights of foreigners, and it is also difficult to say what relevance the resulting dependencies have for the respect and enforceability of legal entitlements.” (ibid., auth. trans.)

The regional concentration of illegally resident immigrants and its consequences for local authorities cannot be determined due to the lack of data, statistics and research material. Nevertheless, it can be assumed that the majority of illegally resident immigrants prefer to reside in larger cities, where they can rely on the assistance of members of their ethnic communities and access the informal labour market more easily than in rural areas, where it is more difficult to remain unnoticed. Of course, this does not mean that there are no illegally resident immigrants living in provincial areas.

Nevertheless, one can use the results of the KIAB controls as an indicator of the regional concentrations of illegally employed foreigners. The statistics of 2001 and 2002 (available only for the first half of 2002) show that most illegally working foreigners were detected in Vienna (2001: 1,007 foreigners detected during 1,421 controls; 2002: 295 foreigners during

442 controls) and the surrounding province of Lower Austria (2001: 568 foreigners during 3,290 controls; 2002: 269 foreigners during 1,207 controls) (BMWA 2002).

To conclude, there is too little material available to provide a clear and well-defined description of the impact of illegal immigration on Austrian society. Nevertheless, the press coverage reflects the different attitudes among the population: the feeling of threat as well as the aspect of 'human tragedy' and individual need for support. At the mid-term evaluation of European Refugee Fund projects in Austria for the period 2000-2002, it was stated that even if illegal immigration is not considered as a major problem, there is a need for a fair debate on this issue: *"(...) so far hardly any approaches exist for coping with illegal immigrants in Austrian society. The existence of a great number of illegal immigrants is known, but it is not being accepted as a problem, which Austrian society needs to solve. The project managers in particular point out the need for a fair public debate on this issue, which needs to be guided by the clear political will to guarantee a minimum level of respect for human dignity."* (ERF 2003: 37)

Conclusions

Illegal immigration in Austria is a multi-faceted phenomenon. It is difficult to perceive at one glance, as there exist many reasons and ways for becoming an illegally resident and/or working immigrant. The existing data, statistics and estimates on the stocks and flows of illegally resident immigrants differ to a certain extent according to the data collector, the method applied and the respective focus on the target group. Yet, compared to the situation more than a decade ago, illegal immigration is a topic that has become more present in the Austrian academic community in recent years. Not only are there more welfare organisations and NGOs established, which include illegally resident immigrants among their clients, but also Austria's structural and legal adjustments incorporating EU and Schengen regulations have had an impact on how illegally resident immigrants are dealt with and perceived by the public. Nevertheless, at the same time illegal immigration has been criticised as being treated only as marginal issue, which still deserves more attention from policy makers and the media.

All too often, illegal immigration to Austria is equated with organised crime and/or the criminal activities of immigrants, as the media coverage and respective headlines show.

However, regular media reports on the trafficking and smuggling of human beings also show the human angle of immigrants.

In migration research it is generally agreed that, due to its geographical and geopolitical position, Austria is affected by illegal immigration as a country of destination as well as of transit. Recent legal adaptations, such as the Basic Welfare Support Agreement, *interim* employment arrangements (e.g. concerning citizens of the new EU Member States on the Austrian labour market) and future developments, such as the eastward shift of Schengen borders, will have enormous effects on illegal immigration to Austria in the next years. The growing international police cooperation, security partnerships and joint border management patrols, but also database improvements and control methods at the work sites, are further signs of serious approaches to illegal immigration.

Another important challenge concerns the prevention and combating of trafficking in human beings. Austria has been part of numerous implementation measures and research projects in the past in several countries of origin and others will likely follow. Some legal amendments providing protection and assistance to persons affected by trafficking have been undertaken by implementing a number of EU directives and signing international conventions.

Little is currently known about the social and economic situation of illegally resident immigrants. However, it is evident that, even if they are generally socially and politically excluded, many find work within the informal labour market. The government is aware of the need for migrant labour and has lately taken several measures in order to combat the illegal employment of immigrants. Whether effective ways to combat illegal immigration will be identified in the future, and whether these changes will enhance the social situation of illegally resident immigrants within the country, remains to be seen.

To conclude, illegal immigration is a very comprehensive topic. Much more research needs to be undertaken in order to gain a clearer picture of the phenomenon as a whole. The challenge that lies within illegal immigration deserves greater attention, not only among the general public, but also in the academic field and at policy level.

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ANNEX I

Statistics

This annex contains statistics, which are relevant for the field of illegal immigration. The emphasis is on apprehension data, as it is dealt with in chapter 2. Source of apprehension statistics is the Smuggling Report published by the Austrian Criminal Intelligence Service/Central Service Combating Alien Smuggling (Bundeskriminalamt/Zentralstelle zur Bekämpfung der Schlepperkriminalität, ZBS).

The last table (table 26) contains additional information on bilateral agreements.

Table 1: Cases of smuggling, illegal border crossing and illegal residence 1997-2004

Year	Number of cases	Difference with preceding year (%)
1997	5.121	-
1998	6.696	30,76%
1999	15.845	136,63%
2000	18.526	16,92%
2001	20.597	11,18%
2002	20.407	-0,92%
2003	20.186	-1,08%
2004	17.566	-12,98%

Source: Bundeskriminalamt 2005: 12

Table 2: Cases of smuggling, illegal border crossing and illegal residence by province 2004

Province	Number of cases	Percentage of total
Lower Austria	3.577	20,36%
Burgenland	3.149	17,93%
Carinthia	2.313	13,17%
Vienna	1.978	11,26%
Tyrol	2.229	12,69%
Upper Austria	2.040	11,61%
Styria	1.136	6,47%
Salzburg	770	4,38%
Vorarlberg	374	2,13%
TOTAL	17.566	100,00%

Source: Bundeskriminalamt 2005: 12

Table 3: Number of apprehended persons 1997-2004 (smuggling, illegal border crossing and illegal residence)

Year	Number of persons	Difference with preceding year (%)
1997	13.244	-
1998	19.800	49,50%
1999	43.079	117,57%
2000	45.807	6,33%
2001	48.751	6,43%
2002	48.435	-0,65%
2003	45.126	-6,83%
2004	38.530	-14,62%

Source: Bundeskriminalamt 2005: 13

Table 4: Apprehended persons by province 2004

Province	Number of persons	As % of total
Lower Austria	12.796	33,21%
Burgenland	6.464	16,78%
Carinthia	5.248	13,62%
Vienna	3.991	10,36%
Tyrol	3.900	10,12%
Upper Austria	2.132	5,53%
Styria	2.076	5,39%
Salzburg	1.433	3,72%
Vorarlberg	490	1,27%
TOTAL	38.530	100,00%

Source: Bundeskriminalamt 2005: 13

Table 5: Apprehended Persons by category 2004

Category of persons	Number of persons	As % of total
Illegally entered/illegally residing	21.966	57,01%
Smuggled person	15.607	40,51%
Smugglers	957	2,48%
TOTAL	38.530	100,00%

Source: Bundeskriminalamt 2005: 14

Table 6: Apprehended persons by category 2001-2004

Category of persons	Year			
	2001	2002	2003	2004
Illegally entered/illegally residing	30.857	27.560	25.568	21.966
Smuggled person	15.508	19.626	18.533	15.607
Smugglers	2.313	1.221	1.025	957
TOTAL	48.678	48.407	45.126	38.530

Source: Bundeskriminalamt 2005: 14

Table 7: Apprehended persons and apprehensions 2004

Month	Apprehended persons	Apprehensions (Cases)
January	2.836	1.331
February	3.004	1.431
March	3.753	1.627
April	4.000	1.580
May	2.126	1.135
June	2.893	1.296
July	2.500	1.410
August	2.885	1.470
September	2.717	1.375
October	3.860	1.575
November	3.765	1.559
December	4.191	1.777
TOTAL	38.530	17.566

Source: Bundeskriminalamt 2005: 15

Table 8: Apprehended persons by category and month 2004

Month	Illegally entered/residing	Smuggled persons	Smugglers	TOTAL
January	1.588	1.185	63	2.836
February	1.846	1.102	56	3.004
March	2.079	1.588	86	3.753
April	2.113	1.803	84	4.000
May	1.549	529	48	2.126
June	1.736	1.068	89	2.893
July	1.783	637	80	2.500
August	1.998	799	88	2.885
September	1.667	942	108	2.717
October	1.785	1.976	99	3.860
November	1.646	2.035	84	3.765
December	2.176	1.943	72	4.191
TOTAL	21.966	15.607	957	38.530

Source: Bundeskriminalamt 2005: 15

Table 9: Apprehended persons 2004 by categories and locations

Category of persons	At border crossing	On Austrian Territory	At departure	In the framework of compensation measures	TOTAL
Illegally entered/illegally residing	1.352	7.362	7.299	5.953	21.966
Smuggled person	3.171	10.783	1.195	458	15.607
Smugglers	326	266	241	124	957
TOTAL	4.849	18.411	8.735	6.535	38.530

Source: Bundeskriminalamt 2005: 18

Comments:

At border crossing: these persons are apprehended while trying to cross the Austrian border illegally or persons who are apprehended immediately after they have crossed the border in the border region.

On Austrian territory: persons apprehended on Austrian territory.

At departure: persons apprehended at the Austrian border by Austrian or foreign authorities.

In the framework of compensation measures: compensation measures were established after border controls were abolished with the entry into force of the Schengen agreement. These measures include among others police units operating in Schengen internal border regions.

Table 10: Apprehended persons 2004 by category and nationality - sorted by Total 2004

Nationality	Smugglers	Smuggled persons	Illegally entered/residing	Total 2004	Total 2003	Total 2002	Difference between 2003 to 2004 (%)
Romania	193	345	9.287	9.825	7.018	4.639	40,00%
Russian Federation	15	4.865	802	5.682	6.837	2.248	-16,89%
Bulgaria	4	42	2.842	2.888	4.254	1.958	-32,11%
Moldova	32	1.190	984	2.206	2.019	1.458	9,26%
Serbia and Montenegro	40	1.011	950	2.001	2.099	4.566	-4,67%
Ukraine	124	925	885	1.934	1.533	3.142	26,16%
Georgia	7	1.099	647	1.753	1.462	1.462	19,90%
India	10	1.360	321	1.691	3.105	3.500	-45,54%
Turkey	31	424	285	740	1.405	2.143	-47,33%
Poland	53	8	674	735	1.547	1.522	-52,49%
Nigeria	5	429	207	641	536	642	19,59%
China (People's Republic of)	10	430	196	636	710	843	-10,42%
Pakistan	12	422	151	585	565	497	3,54%
Bosnia-Herzegovina	3	53	379	435	1.027	955	-57,64%
Afghanistan	0	274	136	410	943	3.712	-56,52%
Mongolia	5	244	159	408	138	88	195,65%
Slovakia	101	5	270	376	553	396	-32,01%
Iraq	7	234	127	368	1.479	4.809	-75,12%
Armenia	1	221	96	318	974	1.924	-67,35%
Albania	7	139	154	300	256	315	17,19%
Algeria	2	101	192	295	229	365	28,82%
Bangladesh	2	204	74	280	931	1.200	-69,92%
Macedonia (FYR of)	4	97	174	275	268	603	2,61%
Iran	2	140	49	191	597	395	-68,01%
Hungary	32	2	140	174	275	295	-36,73%
Other	255	1.343	1.785	3.383	4366	4711	
Total	957	15607	21966	38.530	45.126	48.388	-14,62%

Source: Bundeskriminalamt 2005: 20-22

Table 11: Border regions 2004: provinces where smuggled persons cross the Austrian border

Provinces	Number of persons
Lower Austria	6.922
Unknown	4.817
Burgenland	2.683
Tyrol	580
Carinthia	250
Upper Austria	166
Vorarlberg	69
Styria	94
Salzburg	38
Vienna	31

Source: Bundeskriminalamt 2005: 25

Comments:

Unknown: The province is classified as unknown when it is not possible to trace where the individual has crossed the border. These are persons who submit asylum applications directly at the First Reception Centres (EAST Ost, EAST West).

Table 12: Border regions 2004: provinces where illegally entered/residing persons cross the Austrian border

Provinces	Number of persons
Carinthia	5.978
Unknown	3.866
Tyrol	2.899
Burgenland	2.739
Salzburg	2.113
Lower Austria	1.939
Upper Austria	1.909
Vorarlberg	285
Styria	238
Total	21.966

Source: Bundeskriminalamt 2005: 29

Comments:

Note that a number of individuals who are included in this table may have crossed the border legally! The province is classified as unknown when it is not possible to trace where the individual has crossed the border.

Table 13: Starting points 2004: countries from where smuggled persons crossed the Austrian border

Countries	Smuggled Persons (%)
Slovakia	24%
Czech Republic	23%
Hungary	9%
Austria	3%
Italy	3%
Germany	2%
Switzerland	0%
Slovenia	1%
Unknown	35%

Source: Bundeskriminalamt 2005: 27

Comments:

Persons whose starting country is "Austria" are registered as asylum seekers in Austria and tried to emigrate to a neighbouring country.

Table 14: Starting points: countries from where illegally entered/residing persons crossed the Austrian border

Countries	Illegally entered/residing persons (%)
Italy	38%
Germany	19%
Hungary	13%
Czech Republic	4%
Slovakia	6%
Slovenia	1%
Switzerland	1%
Liechtenstein	0%
Unknown	18%

Source: Bundeskriminalamt 2005: 31

Table 15: Mode of transportation of smuggled persons

Mode of transportation	Smuggled persons (%)
On foot	58%
Car	11%
Train	6%
Plane	4%
Truck	4%
Boat	3%
Van	3%
Bus	1%
Unknown	10%

Source: Bundeskriminalamt 2005: 28

Table 16: Mode of transportation of illegally entered/residing persons

Mode of transportation	Illegally entered residing persons (%)
Bus	33%
Car	22%
Train	15%
On foot	13%
Van	11%
Boat	1%
Plane	1%
Truck	2%
Unknown	2%

Source: Bundeskriminalamt 2005: 28

Table 17: Motivation of smuggled persons

Stated Motivation	Smuggled Persons (%)
Asylum - political persecution	63%
Economic motivation	19%
Personal reasons - family reunification	13%
unknown	5%

Source: Bundeskriminalamt 2005: 26

Table 18: Motivation of illegally entered/residing persons

Stated Motivation	Illegally entered residing persons (%)
Economic motivation	40%
Return	29%
Personal reasons - family reunification	22%
Asylum - political persecution	3%
Unknown	6%

Source: Bundeskriminalamt 2005: 30

Table 19: Stated destination countries of apprehended persons 1998-2002 by percentage

Stated destination country	1998	1999	2000	2001	2002
Austria	27%	24%	21%	19%	23%
Germany	23%	21%	13%	11%	12%
Italy	14%	16%	11%	8%	8%
Europe (without EU-15)	5%	12%	26%	28%	25%
Others and not specified	26%	27%	29%	34%	32%

Source: Tschernitz 2004: 117 (data provided by MoI)

Table 20: Apprehended persons 1997 to 2005 (Top-10 Nationalities)

	1997	1998	1999	2000	2001
Rank					
1.	Romania	Federal Rep. of Yugoslavia	Federal Rep. of Yugoslavia	Romania	Afghanistan
2.	Federal Rep. of Yugoslavia	Romania	Romania	Ukraine	Romania
3.	Iraq	Iraq	Ukraine	Afghanistan	Ukraine
4.	Turkey	Iran	Iran	Federal Rep. of Yugoslavia	Federal Rep. of Yugoslavia
5.	Afghanistan	China (People's Republic of)	Iraq	Iraq	Iraq
6.	Bulgaria	Macedonia	Afghanistan	Iran	Moldova
7.	Macedonia FYR of	Afghanistan	Bosnia Herzegovina	Moldova	Poland
8.	Poland	Turkey	Poland	India	India
9.	Algeria	India	China (People's Republic of)	Poland	Bosnia and Herzegovina
10.	China (People's Republic of)	Poland	Macedonia FRY of	Bosnia and Herzegovina	Macedonia FYR of

	2002	2003	2004	2005
Rank				
1.	Iraq	Romania	Romania	Romania
2.	Romania	Russian Federation	Russian Federation	Serbia and Montenegro
3.	Federal Rep. of Yugoslavia	Bulgaria	Bulgaria	Russian Federation
4.	Afghanistan	India	Moldova	Bulgaria
5.	India	Serbia and Montenegro	Serbia and Montenegro	Ukraine
6.	Ukraine	Moldova	Ukraine	Moldova
7.	Russian Federation	Poland	Georgia	India
8.	Turkey	Ukraine	India	Georgia
9.	Bulgaria	Iraq	Turkey	Turkey
10.	Armenien	Georgia	Poland	Nigeria

Source: Austrian Criminal Intelligence Service

Comments:

Persons apprehended in the period between 01/01/1997 and 31/05/2005.

Table 21: Asylum applications by gender of asylum seekers 1997-2004

Year	Total	Male		Female	
		Total	As % of total	Total	As % of total
1997	6.719	5.093	75,80%	1.626	24,20%
1998	13.805	9.781	70,85%	4.024	29,15%
1999	20.129	13.472	66,93%	6.657	33,07%
2000	18.284	13.665	74,74%	4.619	25,26%
2001	30.127	23.430	77,77%	6.697	22,23%
2002	39.354	30.515	77,54%	8.839	22,46%
2003	32.364	23.754	73,40%	8.610	26,60%
2004	24.676	17.755	71,95%	6.921	28,05%

Source: Federal Ministry of the Interior

Comments:

2001: Status: 31/03/2002

2002: Status: 28/02/2003

Table 22: Measures of compulsion of the Aliens police 1997-2004

	1997*	1998	1999	2000	2001	2002	2003	2004
Rejection at the border (§ 52)	72.874	23.825	23.101	18.081	17.595	23.280	22.371	26.280
Forcible return (§ 55)	4.234	5.982	9.373	8.015	6.338	4.734	3.135	4.132
Expulsion (§ 33 und § 34)	5.655	4.951	8.485	9.126	6.204	7.059	7.531	6.378
Residence bans (§ 36)	11.258	11.023	11.725	11.884	16.387	16.691	15.057	9.132
Detention pending deportation (§ 61/1)	13.047	13.815	**	13.439	17.306	11.816	11.149	9.041
Deportation (§ 56/1)	10.097	9.544	9.236	8.935	8.324	6.842	8.073	5.274

Source: Federal Ministry of the Interior

Comments:

*The Aliens Act 1997 entered into force on 1 January 1998. In 1997 the legal basis for measures of compulsion was the Aliens Act 1992: rejection at border (§ 32), forcible return (§ 35), expulsion (§17), residence ban (§18), detention pending deportation (§41) and deportation (§ 36).

**For 1999 no figures on detention pending deportation are available.

Table 23: Other non-status decisions 1998-2004

	1998	1999	2000	2001	2002	2003	2004
Number of non-status decisions	5.509	10.941	14.725	21.502	24.523	28.395	16.030

Source: Federal Ministry of the Interior

Comments:

The category "other non-status decisions" refers to those decisions, which are defined neither as "rejections" nor as "positive" decisions, e.g. withdrawals of applications or rejected applications.

2001: Date of query: 31/03/2002; other years: 31/12

2004: As the amendment of the Asylum Act entered into force on 1 May 2004, decisions in 2004 were taken on different legal bases: old version of the Asylum Act, the amended version and transitional provisions.

Table 24: Voluntary Repatriation Programme 2004: main destination countries of returnees

Destination Country	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL 2004
Afghanistan	14	9	6	0	3	1	6	2	2	1	1	2	47
Armenia	8	2	9	12	0	8		11	5	3	4	12	74
Georgia	14	6	12	10	7	12	11	24	13	13	11	28	161
Macedonia (FRY of)	4	4	1	1	4	4	5	4	4	2	3	5	41
Moldova	11	8	5	2	4	6	7	5	8	12	13	12	93
Nigeria	11	4	1	1	4	2	4	0	6	3	2	5	43
Russian Federation	7	3	3	3	3	8	3	6	4	0	1	6	47
Serbia and Montenegro	12	17	10	12	13	16	21	19	23	12	15	18	188
Turkey	3	22	13	7	11	15	8	8	9	4	5	10	115
Ukraine	5	1	1	8	2	3	2	6	4	3	3	6	44
Other	34	18	25	27	15	27	19	29	26	28	21	36	305
TOTAL/MONTH	123	94	86	83	66	102	86	114	104	81	79	140	1.158

Source: International Organization for Migration (IOM) Vienna

Table 25: Issued residence and settlement permits for humanitarian reasons 2000-2004

Year	Category of permit	Male	Female	Total
2000	First Residence permits	354	382	736
	Renewal of residence permits	N/A	N/A	N/A
2001	First Residence permits	672	828	1500
	Renewal of residence permits	N/A	N/A	N/A
2002	First Residence permits	723	743	1466
	Renewal of residence permits	N/A	N/A	N/A
2003	First Settlement permits	453	411	864
	First Residence permits	352	359	711
	Renewal of residence permits	118	131	249
2004	First Settlement permits	458	405	863
	First Residence permits	210	254	464
	Renewal of residence permits	81	121	202

Source: Federal Ministry of the Interior

Comments:

Residence permits for humanitarian reasons were introduced with the Aliens Act 1997; settlement permits for humanitarian reasons were introduced by an amendment of the Aliens Act in 2002. Note that there is no data available on renewals of permits for the years 2000-2002 (as this was not published by the MoI). The MoI in general publishes data on issued permits only since 2000 (for the preceding years, only data on registered valid permits is available).

Chart 4: Smuggled persons by nationality, 2004

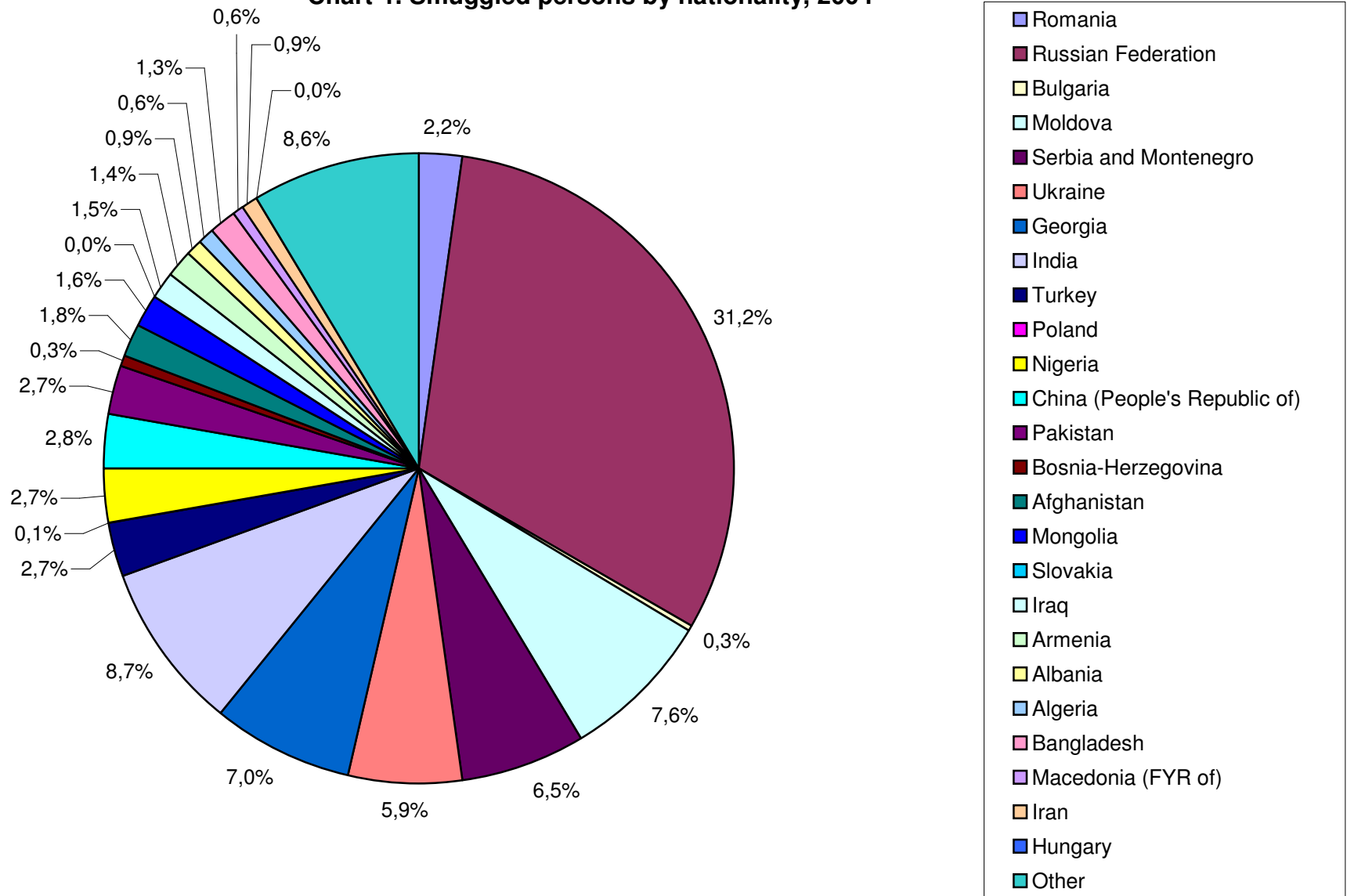


Chart 5: Illegally entered/residing persons by nationality, 2004

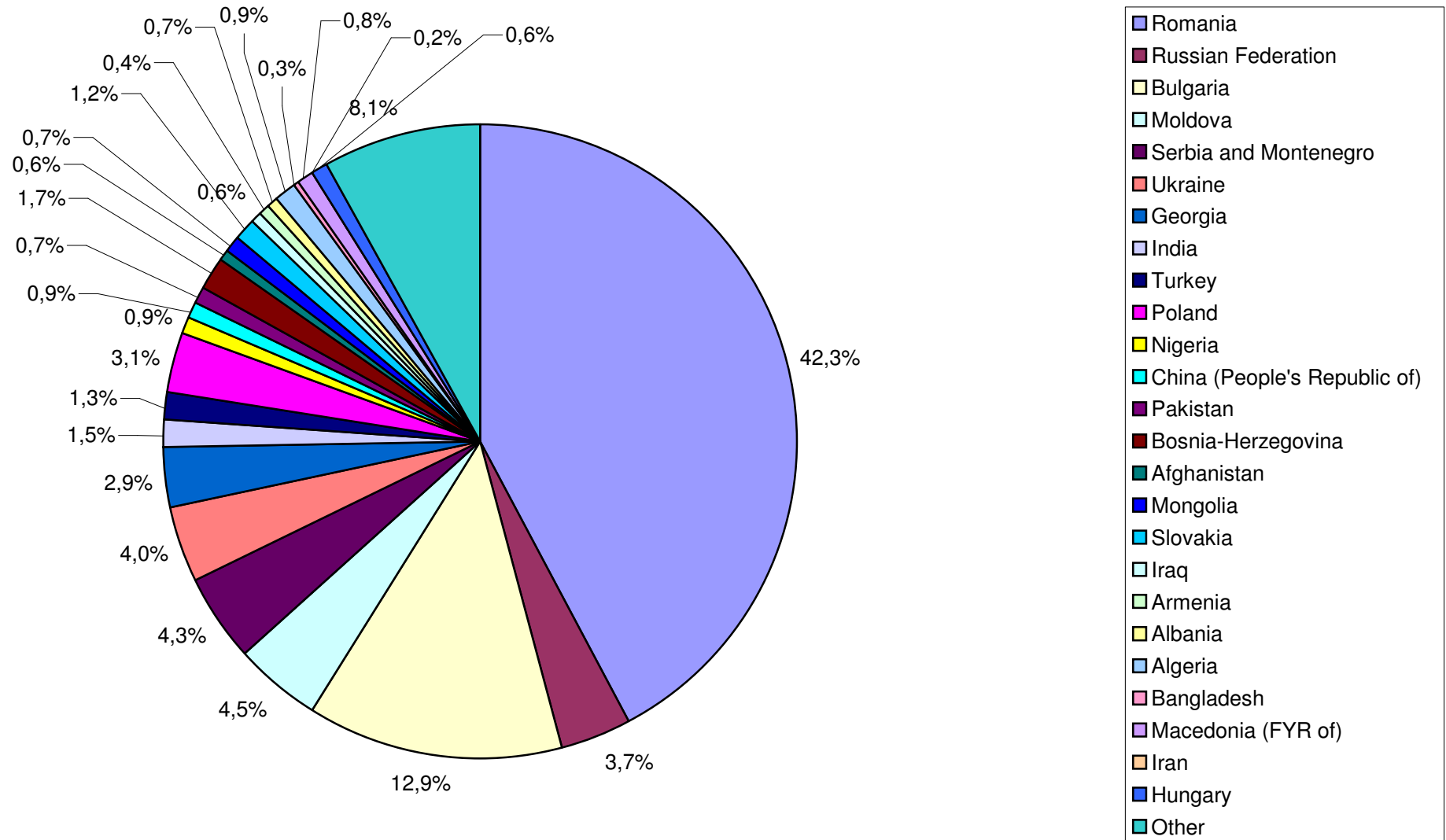


Chart 6: Apprehended persons by location, 2004

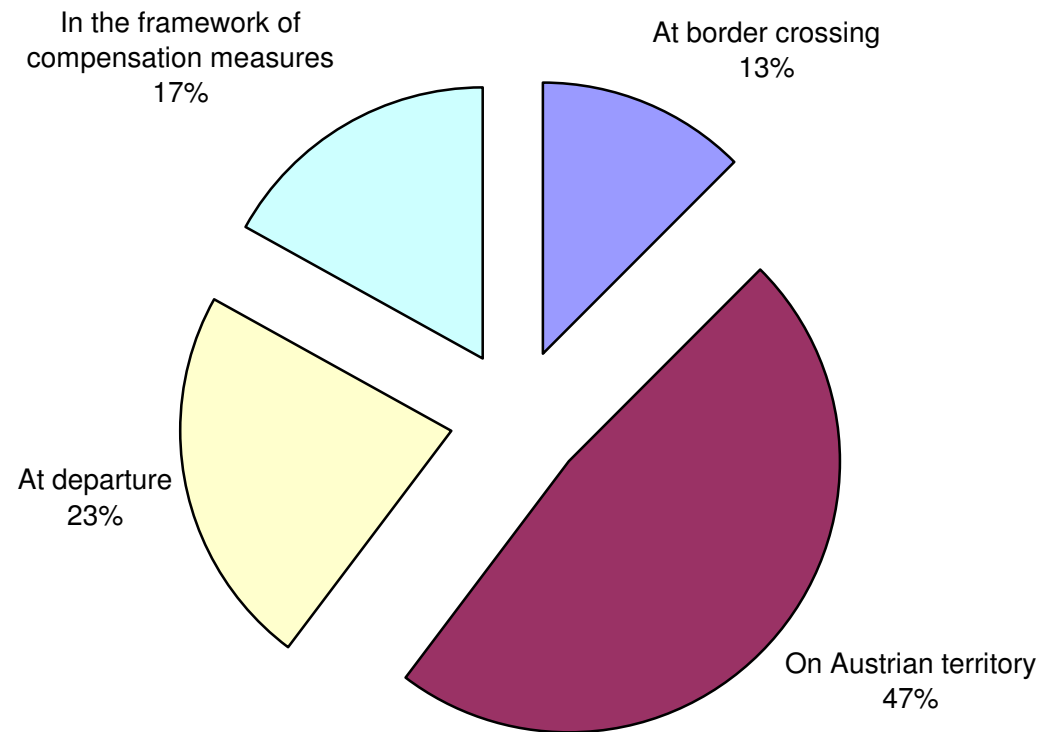


Chart 7: Apprehended Illegally entered and/or residing persons by location, 2004

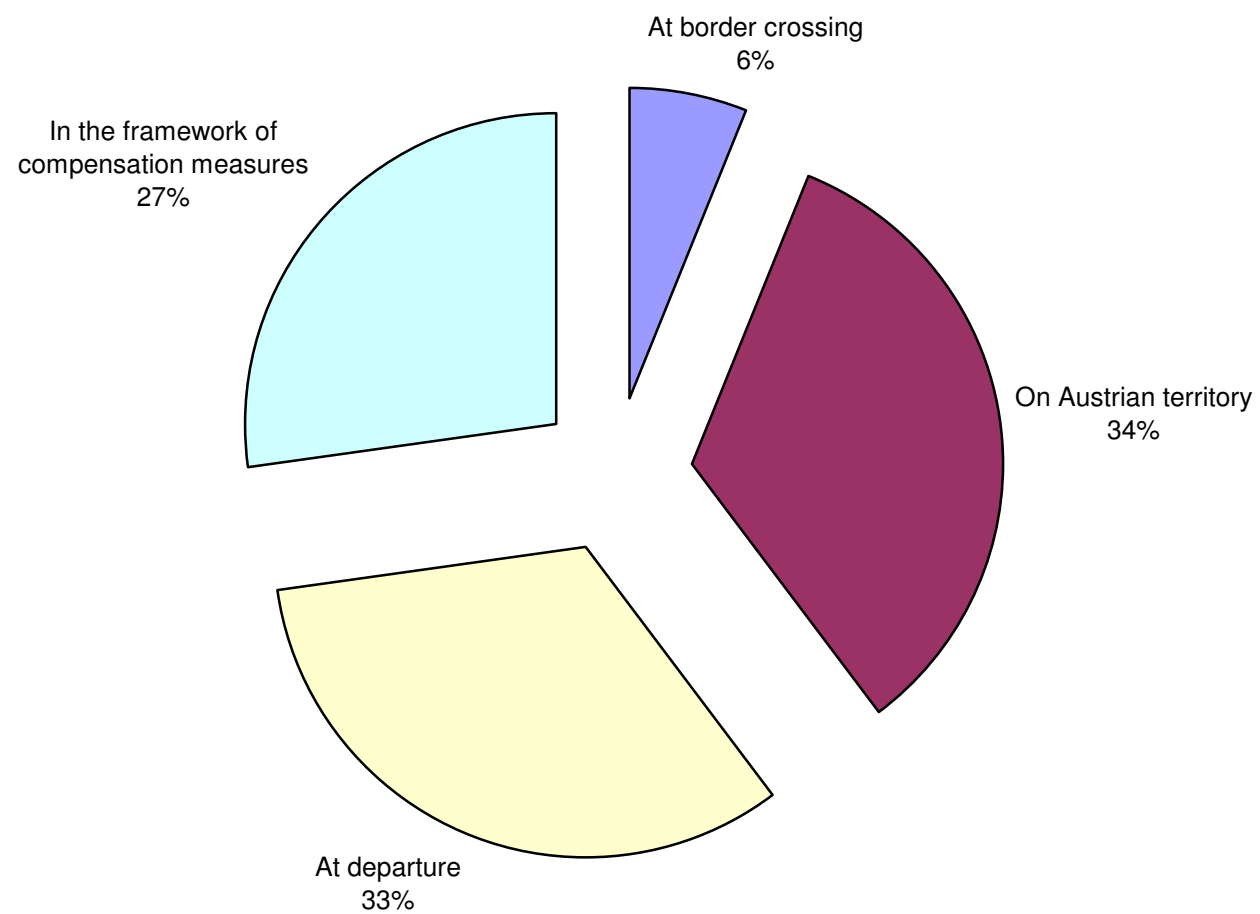


Chart 8: Apprehended smuggled persons by location, 2004

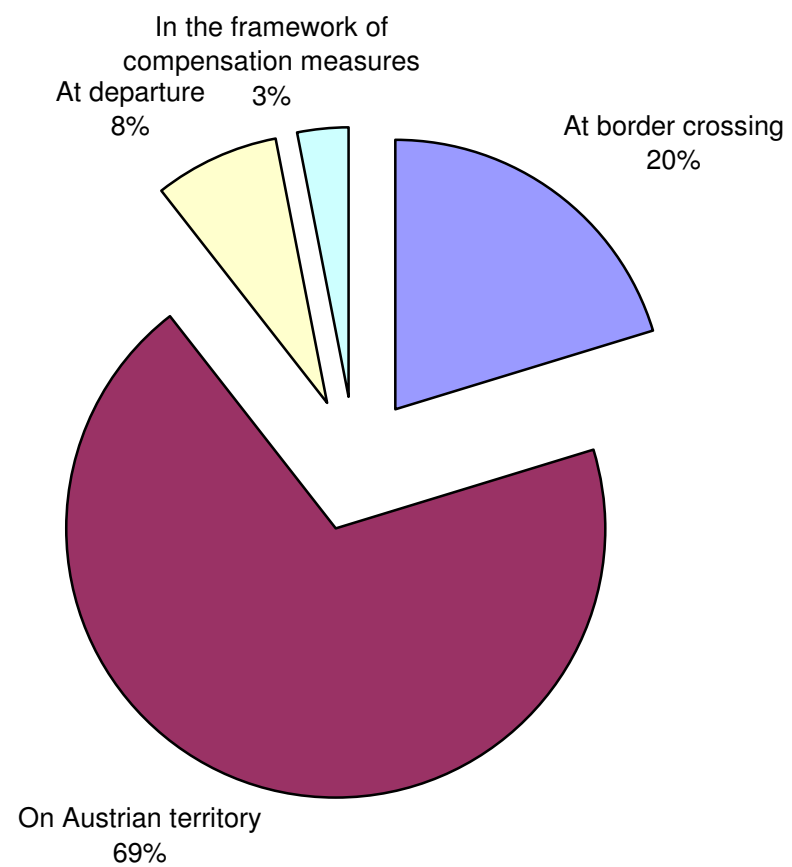


Table 26: Bilateral agreements

Countries	Focus of Bilateral Agreements				
	readmission	including trafficking in human beings	cross-border police cooperation	international terrorism, drug trafficking, organised crime	cross-border commuters
Albania		1996			
Belarus		in negotiation			
Belgium	1965				
Bosnia-Herzegovina		1996			
Bulgaria	1998	2002			
Croatia	1998	1994			
Cyprus		in negotiation		in preparation	
Czech Republic	1993	1993,1995	in preparation		2005
Estonia	2001	1998		1998	
France	1963				
Germany	1998		2001	1988	1958-lapsed
Hungary	1995	1980,1997	1980	1997, in preparation	1998
Italy	1998		2000	1986	
Latvia	2000	2004	2004		
Liechtenstein	2001				
Lithuania	2000				
Luxembourg	1965				
Macedonia FYR of		1998			
Malta		in negotiation	in preparation		
The Netherlands	1965				
Poland	1991	2003		2003	
Romania	2002	2000	*2005		
Serbia and Montenegro	2004	2005	2005		
Slovakia	2002	1993, 1995	not yet in force	1993	signed, not yet ratified
Slovenia	1993	2005	not yet in force	1995	desiderated
Spain				1987	
Switzerland	2001				
Tunisia	1965				
Ukraine		1992			

Source: Federal Ministry of the Interior/Criminal Intelligence Service. The status of these agreements - unless otherwise quoted - is 1 May 2005

Comments:

* Agreement concerning mutual data exchange in affairs of migration control and asylum

Additional Information:

Austria aims at concluding a readmission agreement with Russia. In September 2005, Austria and Russia signed a memorandum of understanding on enforced cooperation in the fields of organised crime, fight against drugs and terrorism as well as illegal immigration.

ANNEX II:

Institutions and organisations addressing illegal immigration

This annex is not exhaustive but enlists the institutions and organisations that are mentioned in the text.

I. GOVERNMENTAL INSTITUTIONS AND ORGANISATIONS

Ministries and Sub Departments

Bundesministerium für Inneres (BM.I) (Federal Ministry of the Interior)

Herrengasse 7

1014 Vienna

Austria

Tel.: ++43-1-531-26-0

Fax: -

Email: oeffentlichkeitsarbeit@bmi.gv.at

URL: <http://www.bmi.gv.at>

Section II – General Directorate for Public Security

Email: bmi-II@bmi.gv.at

Department II/3

Fremdenpolizei und
Grenzkontrollwesen (Aliens Police
and Border Control)

Email: bmi-II-3@bmi.gv.at

Section III – Legal Affairs

Email: bmi-III@bmi.gv.at

Department III/4

Residence and Citizenship Affairs

Email: bmi-III-4@bmi.gv.at

Department III/5

Asylum Affairs and Care

Email: bmi-III-5@bmi.gv.at

Bundeskriminalamt (BK) (Criminal Intelligence Service Austria)

**Sub Dept. 3.6 –Zentralstelle zur
Bekämpfung der Schlepperkriminalität
(ZBS) (Central Service Combating Alien
Smuggling)**

Josef Holaubek Platz 1

1090 Vienna

Austria

Tel.: ++43-1-24836-85383

Fax: ++43-1-24836-85394

Email: bmi-II-3-6@bmi.gv.at

URL: <http://www.bmi.gv.at/kriminalpolizei>

Asylum and Alien Matters

**Informationszentrum Asyl und
Integration (Centre of Information for
Asylum and Integration)**

Bräunerstrasse 5

1014 Vienna

Austria

Tel.: ++43-1-53126-5224; -5223

URL: <http://www.bmi.gv.at/fremdenwesen/>

Bundespolizei (Federal Police)

Herrengasse 7

1014 Vienna

Austria

Tel.: ++43-1-531-26-0

Fax: -

Email: oeffentlichkeitsarbeit@bmi.gv.at

URL: <http://www.bundespolizei.gv.at>

**Bundesministerium für Finanzen (BMF)
(Federal Ministry of Finance)**

Himmelpfortgasse 4-8
1015 Vienna
Austria
Tel.: ++43-1-514 33-0
Fax: -
Email: -
URL: <http://www.bmf.gv.at>

**Bundesministerium für Wirtschaft und
Arbeit (BMWA) Federal Ministry of
Economics and Labour)**

Stubenring 1
1011 Vienna
Austria
Tel.: ++43-1-71100-0
Fax: -
Email: service@bmwa.gv.at
URL: <http://www.bmwa.gv.at>

**Section IV – Taxes and Customs
Department IV/3 Combat of
Fraud:
Kontrolle illegaler
Arbeitnehmerbeschäftigung
(KIAB) (Central Taskforce for
the Prevention of Illegal
Employment)**

Himmelpfortgasse 4-8
1015 Vienna
Austria
Tel.: ++43-1-514 33-1281
Fax: ++43-1-512 67-90
Email: -
URL: [http://www.bmf.gv.at/Zoll/
KontrolleillegalerA1583/_start.htm](http://www.bmf.gv.at/Zoll/KontrolleillegalerA1583/_start.htm)

**Bundesministerium für Gesundheit und
Frauen (BMGF) (Federal Ministry for
Health and Women)**

Radetzkystrasse 2
1030 Vienna
Austria
Tel.: ++ 43 1 71100-0
Fax: + +43 1 71100-14300
Email: buergerservice@bmgf.gv.at
URL: <http://www.bmgf.gv.at/>

Other State Institutions

**Bundesasylamt - Zentrale (BAA)
(Central Federal Asylum Office)**

Landstrasser Hauptstrasse 171
1030 Vienna
Austria
Tel.: ++43-1-71 44 063-0
Fax: ++43-1-53126-5914
Email: sekr.baa@bmi.gv.at
URL: -

**Erstaufnahmestellen (Initial Reception
Centres):**

**Erstaufnahmestelle „Ost“ -
Traiskirchen**

Otto-Glöckel-Straße 16
2514 Traiskirchen
Austria
Tel.: ++43-2252-53015
Fax: -
Email: -
URL: -

**Erstaufnahmestelle „West“ -
Thalham**

Thalham 80
4880 St.Georgen im Attergau
Austria
Tel.: ++43-7667-6420
Fax: -
Email: -
URL: -

**Bundespolizeidirektion
Wien**

(Federal Police Head Office of Vienna)
Schottenring 7-9
A-1010 Vienna
Tel: ++43-1-31 310-0
Fax: -
Email: bpdw.praesidialjournal@polizei.gv.
at
URL: [http://www.polizei.gv.at/wien/
welcome.asp](http://www.polizei.gv.at/wien/welcome.asp)

Erstaufnahmestelle „Flughafen“

Nordstraße, Objekt 800
2320 Schwechat
Austria
Tel: -
Fax: -
Email: -
URL: -

**Österreichischer Gewerkschaftsbund
(ÖGB) (Austrian Confederation of
Trade Unions)**

Hohenstaufengasse 10-12
1010 Vienna
Austria
Tel.: ++43-1-534 44-0
Fax: ++43-1-534 44-204
Email: oegb@oegb.at
URL: <http://www.oegb.at>

**Bundesarbeiterkammer (AK) (Federal
Chamber for Workers and Employees)**

Prinz Eugen Strasse 20-22
1040 Vienna
Austria
Tel.: ++43-1-50165-0
Fax: -
Email: akmailbox@akwien.at
URL: <http://www.arbeiterkammer.at>

**Arbeitsmarktservice Österreich (AMS)
(Public Employment Service Austria)**

Treustrasse 35-43
1200 Vienna
Austria
Tel.: ++43-1-33178-0
Fax: ++43-1-33178-121
Email: -
URL: <http://www.ams.at>

Governmental Institutions of Vienna

**Fremdenpolizeiliches Büro (Office of the
Aliens Police in Vienna)**

Hernalser Gürtel 6-12
1080 Vienna
Austria
Tel.: ++43-1-313 10-34 005
Fax: -
Email: bpdw.frb@polizei.gv.at
URL: <http://www.polizei.gv.at>

**Magistratsabteilung 11: Amt für Jugend
und Familie (MA 11) (Municipal
Department for Youth and Family)**

Drehscheibe
Wasnergasse 33
1200 Vienna
Austria
Tel.: ++43-1- 331-34-20396
Fax: ++43-1-331-43-99-20396
Email: cen-rp8@m11.magwien.gv.at
URL: <http://www.wien.at/ma11>

Magistratsabteilung 17: Integrations- und Diversitätsangelegenheiten (MA 17) (Municipal Department for Integration and Diversity Affairs)

Friedrich-Schmidt-Platz 3

1080 Vienna

Austria

Tel.: ++43-1- 4000-81510

Fax: ++43-1- 4000-99-81520

Email: post@m17.magwien.at

URL: <http://www.wien.gv.at/integration/>

Magistratsabteilung 20: Fremdenrechtliche Angelegenheiten Zentrale (MA 20) (Municipal Department for Affairs concerning the Aliens Law)

Fickeystrasse 1-11

1110 Vienna

Austria

Tel.: ++43-1-4000-44801

Fax: ++43-1-4000-9944815

Email: post@m20.magwien.gv.at

URL:

<http://www.wien.gv.at/fremde/index.htm>

Magistratsabteilung 61: Staatsbürgerschafts- und Personenstandsangelegenheiten (MA 61) (Municipal Department for Citizenship and Civil Status Affairs)

Rathaus

Friedrich-Schmidt-Platz 1, Stiege 8

1080 Vienna

Austria

Tel: -

Fax: -

Email: -

URL: www.wien.gv.at/ma61

II. NON-GOVERNMENTAL INSTITUTIONS AND ORGANISATIONS

Legal support

Association for Human Rights and Democracy in Africa (ADHA)

Lazarettgasse 8/1

1090 Vienna

Austria

Mobile phone: ++ 43-676-3008496

Fax: -

Email: ahda@chello.at

URL: -

Amnesty International Austria

Moeringgasse 10

1150 Vienna

Austria

Tel.: ++43-1-78008-0

Fax: ++43-1-78008-44

Email: info@amnesty.at

URL: <http://www.amnesty.at>

**ARGE Schubhaft Tirol
(ARGE Detention Pending
Deportation Tyrol)**

Jahnstrasse 37
6020 Innsbruck
Austria
Tel.: -
Fax: -
Email: -
URL: -

**Caritas Graz – Sozialzentrum
Counselling for Refugees and
Integration**

Diözese Graz-Seckau
Keplerstrasse 82
8020 Graz
Austria
Tel.: ++ 43-316-8015-0
Fax: ++ 43-316-721369-340
Email: office@caritas-graz.at
URL: <http://www.caritas-graz.at>

**Asyl in Not
(Asylum in Danger)**

Währingerstrasse 59
1090 Vienna
Austria
Tel.: ++43-1- 408 42 10
Fax: ++43-1-405 28 88
Email: office@asyl-in-not.org
URL: <http://asyl-in-not.org>

Caritas Wien

Albrechtskreithgasse 19-21
1160 Vienna
Austria
Tel.: ++43-1-878 12-0
Fax: -
Email: office@caritas-wien.at
URL: <http://www.caritas-wien.at/>

**Asylkoordination
(Asylum Coordination)**

Laudongasse 52/9
1080 Vienna
Austria
Tel.: ++43-1-53 212 91
Fax: ++43-1-53 212 91-20
Email: asylkoordination@t0.or.at
URL: <http://www.asyl.at>

Caritas Zentrale Voralberg

Wichnergasse 22
6800 Feldkirch
Austria
Tel: ++43-0-5522/200 DW 0
Fax: ++43-0-5522/200 DW 1005
Email: kontakt@caritas.at
URL: <http://www.caritas-vorarlberg.at/>

**Caritas Asylzentrum
(Caritas Asylum Centre)**

Mariannengasse 11
1090 Vienna
Austria
Tel.: ++43-1-42 788-0
Fax: ++43-1/-42 788-88
Email: asylzentrum@caritas-wien.at
URL: -
URL: <http://www.caritas-wien.at/asylzentrum.htm>

**Schubhaft-Sozialdienst Wien
(Detention Pending Deportation-Social
Service Vienna)**

Alserbachstraße 5/17
1090 Vienna
Austria
Tel.: ++43-1-319 68 15
Fax: ++43-1-317 28 92
Email: schubhaft.sozialdienst@EUnet.at
URL: -

**Deserteurs- und Flüchtlingsberatung
(Deserters and Refugee Counselling)**

Schottengasse 3a/1/59
1010 Vienna
Austria
Tel.: ++ 43-1-533 72 71
Fax: ++ 43-1-532 74 16
Email: deserteursberatung@utanet.at
URL: <http://www.deserteursberatung.at>

**Diakonie/ Evangelischer
Flüchtlingsdienst (EFDÖ) (Deaconry/
Protestant Refugee Service)**

Steinergasse 3/12
1170 Vienna
Austria
Tel.: ++43-1-402 67 54
Fax: ++43-1-402 67 54-16
Email: gf.efdoe@diakonie.at
URL: <http://www.diakonie.at/efdoe>

Franziskushaus Caritas Graz

Purbergstrasse 51
8044 Graz
Austria
Tel.: ++43-0316-391566
Fax: ++43-0316-39 29 67
Email: flhaus.franziskus@caritas-graz.at
URL: -

**Grüne AusländerInnen-Beratung
(Green Counselling for Foreigners)**

Lindengasse 40-42
1070 Vienna
Austria
Tel.: ++43-1- 521 25-247
Fax: -
Email: -
URL: <http://wien.gruene.at>

**helping hands - Koordinationsbüro für
integrative und antirassistische Projekte
(Coordination Office for Integrative and
Anti-Racist Projects)**

Liechtensteinstrasse 13
1090 Vienna
Austria
Tel.: ++43-1-310 88 80-10
Fax: -
Email: info@helphand.org
URL: <http://www.helpinghands.at>

helping hands Graz

Schlögelgasse 9
8010 Graz
Austria
Tel.: ++43-316-873 5188
Fax: -
Email: helpinghands@htu.tugraz.at
URL: <http://www.helpinghands.at>

helping hands Salzburg

Kaigasse 28
5020 Salzburg
Austria
Tel. and Fax: ++43-662 8044 6003
Email: helphand.oeh@sbg.ac.at
URL: <http://www.8ung.at/helping-hands-salzburg/index.htm>

Hemayat

**Verein zum Betreuung von
Folternopfern (Association for the Care
of Victims of Torture)**

Engerthstraße 161-163
1020 Vienna
Austria
Tel: ++43-1-216 43 06
Fax: -
Email: hemayat94@aon.at
URL: <http://orangelab.net/hemayat/>

LEFÖ-IBF (Interventionsstelle für Betroffene von Frauenhandel) (Intervention Centre for Women Affected by Trafficking)

Floragasse 7A/7

1040 Vienna

Austria

Tel.: ++43-1-7969298

Fax: ++43-1-7969299

Email: ibf@lefoe.at

URL: <http://www.lefoe.at>

Netzwerk Asylanwalt (Network of Asylum Advocates)

Coordination: Caritas Austria

Albrechtskreithgasse 19-21

1160 Vienna

Austria

Tel.: ++43-1-488 31-440

Fax: ++43-1-480-45-83

Email: office@asylanwalt.at

URL: <http://www.asylanwalt.at/>

Peregrina – Bildungs-, Beratungs- und Therapiezentrum für Immigrantinnen (Education, Counselling and Therapy Centre for Female Immigrants)

Währingerstrasse 59

1090 Vienna

Austria

Tel.: ++43-1-408 33 52

Fax: ++43-1-408 61 19

Email: beratung.peregrina@aon.at

URL: <http://www.peregrina.at/>

Schubhaftbetreuung Evangelischer Flüchtlingsdienst (EFDÖ) Niederösterreich (Detention Pending Deportation Care - Protestant Refugee Service) Lower Austria

Julius Raab Promenade 18

3100 St. Pölten

Austria

Tel.: ++43-02742/733 11-12

Fax: -

Email: -

URL: -

Schubhaftbetreuung Salzburg EFDÖ (Evang. Flüchtlingsdienst) (Detention Pending Deportation Care - Salzburg)

Imbergstrasse 31

5020 Salzburg

Austria

Tel: -

Fax: -

Email: -

URL: -

Schubhaftbetreuung Kärnten EFDÖ (Detention Pending Deportation Care - Carinthia)

9560 Feldkirchen

Austria

Tel: ++43-0-4276 / 2201-0

Fax: -

E-mail: rektorat@diakonie-waiern

URL: <http://www.diakonie.at/efdoe/>

SOS Menschenrechte (SOS Human Rights)

Tummelplatz 5

4020 Linz

Austria

Tel.: ++43-732-777-404

Fax: ++43-732-777-404-4

Email: office@sos.at

URL: <http://www.sos.at>

SOS-Kinderdorf Österreich Salzburg (SOS Clearinghouse Salzburg)

Schwanthalerstraße 43 a

5026 Salzburg

Austria

Tel.: ++43- 0662- 63 67 66

Fax.: -

Email: clearing-house.salzburg@sos-kinderdorf.at

URL: www.sos-kinderdorf.at/html_at/sos-clearing-house.html

Verein Menschenrechte Österreich
(Association for Human Rights Austria)
Postfach 69
1095 Vienna
Austria
Tel.: ++43-1-26060-4048
Fax: ++43-1-2634115
Email: wien@verein-menschenrechte.at
URL: [http://www.verein-](http://www.verein-menschenrechte.at/)

Volkshilfe Wien
(People's Help Vienna)
Weinberggasse 77,
1190 Vienna
Austria
Tel.: ++43-1-360 64-0
Fax: ++43-1-360 64-61
Email: landessekretariat@volkshilfe-wien.at
URL: <http://www.volkshilfe-wien.at/>

Wiener Integrationshaus
(House of Integration Vienna)
Engerthstrasse 161- 163
1020 Vienna
Tel.: ++43-1-212-3520
Fax: ++43-1-212-3520-30
Email: info@integrationshaus.at
URL: <http://www.integrationshaus.at/>

Zebra – Zentrum zur sozialmedizinischen, rechtlichen und kulturellen Betreuung von Ausländern und Ausländerinnen in Österreich
(Centre for Socio-Medical, Legal and Cultural Support of Foreigners in Austria)
Schönaugürtel 29
8010 Graz
Austria
Tel.: ++43-316-83 56 30-0
Fax: ++43-316-83 56 30-50
Email: zebra@zebra.or.at
URL: <http://www.zebra.or.at>

Education

Back Bone
Pöchlarnstrasse 22
1200 Vienna
Austria
Tel: ++43-1-3347263
Mobile: ++43-06-9912011947
Fax: ++43-1-3321849
Email: team@backbone20.at
URL: <http://www.mobilejugendarbeit.at/?b=20&show=back.html>

Back on Stage 16/17 – Mobile Jugendarbeit (Mobile Youth Work)
Hernalser Hauptstrasse 24
1170 Vienna
Austria
Tel.: ++43-1/402 17 64
Fax: ++43-1/406 66 40
Email: bos16-17@jugendzentren.at
URL: <http://www.mobilejugendarbeit.at>

Danaida – Bildung und Treffpunkt für ausländische Frauen (Education and Social Centre for Foreign Women)

Marienplatz 5
8020 Graz
Austria
Tel.: ++43-316-71 06 60
Fax: ++43-316-71 06 60-13
Email: danaida@aon.at
URL: <http://members.aon.at/danaida/>

Flüchtlingsprojekt Ute Bock (Refugee Project Ute Bock)

Zollergasse 15
1070 Vienna
Austria
Tel.: ++43-1-92 92 424
Fax: ++43-1-52 49 900 - 9
Email: info@fraubock.at
URL: <http://www.fraubock.at>

ECHO

Gumpendorferstrasse 73/1/7
1060 Vienna
Tel: ++43-1-5856857
Fax:-
Email: echo@non.at
URL: <http://www.latzinator.com/grr/echo/ausnahmezustand>

Autonomes Migrationszentrum von und für MigrantInnen (MAIZ) (Autonomous Integration Centre for and by Migrant Women)

Hofgasse 11
4020 Linz
Austria
Tel.: ++43-732-776070
Fax: ++43-732-776070-5
Email: maiz@servus.at
URL: <http://www.maiz.at>

Health Care

Krankenhaus der Barmherzigen Brüder (Hospital of the Merciful Brothers)

Grosse Mohrengasse 9
1020 Vienna
Austria
Tel.: ++43-1-21121-0
Fax: ++43-1-21121-133
Email: krankenhaus@bbwien.at
URL: <http://www.barmherzige-brueder.at>

Aids Hilfe Wien (Aids Help Vienna)

Mariahilfer Gürtel 4
1060 Vienna
Austria
Tel.: ++43-1-595 37 11-93
Fax: ++43-1-595 37 11-17
Email: wien@aids.at
URL: <http://www.aids.at>

Krankenhaus Göttlicher Heiland (Hospital)

Dornbacher Strasse 20-28
1170 Vienna
Austria
Tel.: ++43-1-400 88 - 0
Fax: ++43-1-400 88 - 9999
Email: service@khgh.at
URL: <http://www.khgh.at>

Diakonie/ Evangelisches Hilfswerk AMBER – medizinische und soziale Beratungsstelle (Medical and Social Counselling)

Große Neugasse 42
1040 Vienna
Austria
Tel.: ++43-1-587 06 56
Fax: ++43-1-587 06 56-4
Email: amber@diakonie.at
URL:

Caritas – Marienambulanz

Keplerstrasse 82
8020 Graz
Austria
Tel.: ++43-316-8015 361
Fax: ++ 43-316-721969-353
Email: marienambulanz@caritas-graz.at
URL: <http://www.caritas-graz.at>

**OMEGA Gesundheitsstelle -
Verein für Opfer von Gewalt
und von Menschenrechtsver-
letzungen (Omega Health Care
Centre Graz - Organisation for
Victims of Violence and Human
Rights Violations)**

Granatengasse 2
8020 Graz
Austria
Tel. ++43-316-773 554
Fax: ++43-316-773 554-4
Email: office@omega-graz.at
URL: www.omega-graz.at

MAIA – Medical Aid for All

**(Network for Medical Treatment of
Persons without Health Insurance)**

Taubergasse 43/5
A-1170 Vienna
Austria
Tel: -
Fax: -
Email: -
URL: <http://www.maia.at>

**Österreichisches Rotes Kreuz (ÖRK)
(Austrian Red Cross)**

Wiedner Hauptstrasse 32
1041 Vienna
Austria
Tel.: ++43-1-58900-116
Fax: ++43-1-58900-119
Email: service@roteskreuz.at
URL: <http://www.roteskreuz.at>

Labour**Counselling Centre for Migrants
(Beratungszentrum für Migranten und
Migrantinnen)**

Hoher Markt 8/4/2/2
1010 Vienna
Austria
Tel.: ++43-1/ 712 56 04
Fax: ++43-1/ 712 56 04 -30
Email: migrant@migrant.at
URL: <http://www.migrant.at>

Political Participation

Die Bunten

(The Coloured)

Rotenlöwengasse 12/1

1090 Vienna

Austria

Tel.: ++43-1-96 11 029

Fax: ++43-1-317 35 61

Email: -

URL:

SOS Mitmensch

(SOS Fellow Human Beings)

Zollergasse 15

P.O.B. 220

1071 Vienna

Austria

Tel.: ++43-1-524 99 00

Fax: ++43-1-524 99 00-9

Email: info@sos-mitmensch.at

URL: <http://www.sosmitmensch.at>

III. OTHERS

ICMPD Vienna

(International Centre for Migration Policy Development)

Gonzagagasse 1

1010 Vienna

Austria

Tel: ++43-1- 5044677

Fax: ++43-1-50446775

E-mail: icmpd@icmpd.org

URL: <http://www.icmpd.org>

UNHCR Austria – United Nations High Commission for Refugees (Vienna International Centre)

Wagramer Strasse 5

1400 Vienna

Austria

Tel.: ++43-1-26060-4048

Fax: ++43-1-2634115

Email: ausvi@unhcr.ch

URL: <http://www.unhcr.at>

IOM Vienna – International Organization for Migration

Nibelungengasse 13/4

1010 Vienna

Austria

Tel.: ++43-1-5853322-0

Fax: ++43-1-5853322-30

Email: iom-vienna@iom.int

URL: <http://www.iomvienna.at/>

WIFO – Österreichisches Wirtschaftsforschungsinstitut (Austrian Institute of Economic Research)

Arsenal 3, Objekt 20

Postfach 91

1103 Vienna

Austria

Tel: ++43-1-7982601-0

Fax: ++43-1-798 93 86

Email: office@wifo.ac.at

URL: <http://www.wifo.ac.at>

www.emn.at



Information on migrants, asylumseekers, and refugees
in Austria (statistics, laws, institutions)



Information on the European Migration Network
(Contact Points, networks, researchers)



Current issues in the field of migration in the European context
(events, publications, invitations for tenders)

Information also available in German



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Nibelungengasse 13/4
1010 Vienna - Austria
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Fax: +43 1 585 33 22-30
Email: ncpaustria@iom.int
Internet: <http://www.iomvienna.at>