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REFUGEES CONTRIBUTION TO EUROPE

**A FEASIBILITY STUDY ON THE
ESTABLISHMENT OF A FUND FOR REFUGEE
EDUCATION AND EMPLOYMENT IN THE
EUROPEAN UNION**

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Refugees Contribution to Europe

A feasibility study on the establishment of a
Fund for Refugee Employment and Education (FREE)
in the European Union

Austria

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ABBREVIATIONS

(For abbreviations of legal texts see Bibliography – Legal Provisions)

AK	Arbeiterkammer (Chamber of Labour)
AMS	Arbeitsmarktservice (Labour Market Service)
BAA	Bundesasylamt (Federal Asylum Office)
BAZ	Berufsausbildungszentrum (Vocational Training Centre)
Bfi	Berufsförderungsinstitut (Vocational training institute)
BGBL	Bundesgesetzblatt (Official publication manual of laws in Austria)
BMI	Bundesministerium für Inneres (Ministry for the Interior)
BMBWK	Bundesministerium für Bildung, Wissenschaft und Kunst
BMWA	Bundesministerium für Wirtschaft und Arbeit
CTD	Convention Travel Document
ECHR	European Convention on Human Rights
ECRE	European Council on Refugees and Exiles
EEA	European Economic Area (Europäischer Wirtschaftsraum)
EFDÖ	Evangelischer Flüchtlingsdienst Österreich (Protestant Refugee Service Austria)
EFF = ERF	Europäischer Flüchtlingsfonds = European Refugee Fund
EQUAL	European Community Initiative Equal
ETC	European Training- and Research Centre for Human Rights and Democracy
EU	European Union
FIF	Fonds zur Integration von Flüchtlingen (Fund for the Integration of Refugees)
IdF	In der Fassung (current version)
IFK	Internationales Forschungszentrum Kulturwissenschaften (International Research Centre for Cultural Studies)
IHS	Institut für Höhere Studien (Institute of Advanced Studies)
ISOP	Innovative Sozialprojekte (Innovative social projects) - NGO
IV	Industriellenvereinigung
NACE	Nomenclature générale des activités économiques dans les communautés européennes – European classification of economic activities for statistical purposes
NARIC	National Academic Recognition Information Centre
NGO	Non Governmental Organisation
OECD	Organisation for Economic Cooperation and Development
ÖGB	Österreichischer Gewerkschaftsbund (Austrian Federation of Trade Unions)
ÖNACE 1995	Austrian version of NACE Rev. 1
TEC/EGV	Treaty of the European Community
TOEF	Treffen Österreichischer Flüchtlingsorganisationen (Meeting of Austrian Refugee Organisations)
UBAS	Unabhängiger Bundesasylsenat (Independent Federal Asylum Tribunal)
UNHCR	United Nations High Commissioner for Refugees
UVS	Unabhängiger Verwaltungssenat (Independent Administrative Tribunal)
VfGH	Verfassungsgerichtshof (Constitutional High Court)
VwGH	Verwaltungsgerichtshof (Administrative High Court)
WAFF	Wiener ArbeitnehmerInnen Förderungsfonds (Viennese support fund for employees)
WIF	Wiener Integrationsfonds (Viennese Integration Fund)
Wif	Wirtschaftsförderungsinstitut (Institute of Business Promotion)
WIFO	Wirtschaftsforschungsinstitut (Institute for Economic Research)

1. OVERVIEW OF THE SITUATION OF REFUGEES AND ASYLUM SEEKERS IN AUSTRIA

1.1 Key Players and Activities

1.1.1 NGOs, Refugee Organisations

Asylum is and remains a state issue.¹ This is important in understanding the peculiar role of NGOs in Austria.² The Austrian NGO scene is dominated by a small number of sizeable NGOs, notably Caritas and to a degree the Evangelischer Flüchtlingsdienst (Efdö), and a relatively large number of small NGOs which pursue their activities with a varying degree of professionalism over a wide range of activities.³ Let us touch on three aspects to clarify their respective roles:

First, in terms of funding, the independence of NGOs in the Austrian system tends to be doubtful. Most of them depend on public funding to a large degree and would barely be able to survive without state subsidies.⁴ A second major source of funding – the European Union – provides funding which is usually tied to particular projects, thus leading to a certain discontinuity and unpredictability of the NGOs' activities.⁵ Additionally, competition for ever restricted funds undermines the willingness to cooperate.

A second aspect concerns the general nature of their activities. The small NGOs (such as Zebra, Isop in Graz, Asyl in Not, Helping Hands, Flüchtlings- und Deserteursberatung etc. in Vienna) generally pursue classic NGO activities which fill a role vis-a-vis the state, i.e. they provide legal counselling, assistance on the labour market etc.⁶ The large NGOs, especially Caritas, also fill a role that is complementary to that of the state⁷ – a typical example is the accommodation of asylum seekers. The Austrian system of the Bundesbetreuung⁸ effectively provides accommodation for approximately only one third of the asylum seekers awaiting decisions in pending cases. The rest are typically cared for by NGOs, in a kind of informal (partly formalised) agreement with the authorities. There is also a small number who find accommodation with smaller, specialised NGOs, on the private housing market, and

¹ As derives from the very nature of refugee and asylum law, it is a matter of public international law with a particular emphasis on state sovereignty. See GOODWIN-GILL Guy, *The Refugee in International Law*, Oxford (Clarendon) 1996, pp 172ff; HAILBRONNER Kay, *Immigration and Asylum Law and Policy of the European Union*, The Hague et.al. (Kluwer) 2000, pp 35ff; DAVY Ulrike, *Asyl und Internationales Flüchtlingsrecht*, Wien (Selbstverlag) 1996, p. 9.

² See ÖLZ Martin, *Die NGO's im Recht des internationalen Menschenrechtsschutzes*, Wien (Verlag Österreich) 2002.

³ See for this purpose the websites of the NGOs mentioned in our bibliography. Yet the scene is characterised by a decline in numbers of NGOs assisting refugees over the past fifteen years.

⁴ KAPFER Ludwig / PUTZER Hans, *Verein(t). Ein Handbuch für die Vereinsarbeit*, Wien (Eigenverlag der Politischen Akademie/Vereinsakademie) 1998; PETER/KRATSCHMAR, *Viel Verein, wenig Geld? DAS Finanzhandbuch für die Vereinsarbeit*, Wien (Eigenverlag der Politischen Akademie) 2001; VOGL Mathias, *VerG – Vereinsgesetz 2002, Kurzkommentar*, Wien/Graz (NWV) 2002.

⁵ The ERF and EQUAL for example are well-known funds. As a result of the project-oriented approach it happens frequently upon contacting an NGO, that other staff do not know on what a particular person from the same office is working.

⁶ Asylum related NGOs are to a large degree such grass-roots NGOs. Very few have a predominantly scholarly focus, such as Accord (which does Country of Origin research and insists on working as impartially as possible). Institutions with a particular emphasis on research and similar activities tend to focus more on human rights and similar issues, touching on refugee issues only in this context – such as the ÖIM (Austrian Institute for Human Rights), the ETC etc.

⁷ See again: ÖLZ Martin, *Die NGO's im Recht des internationalen Menschenrechtsschutzes*, Wien (Verlag Österreich) 2002.

⁸ See Bundesgesetz, mit dem die Bundesbetreuung von Asylwerbern geregelt wird (Bundesbetreuungsgesetz) BGBl. Nr. 405/1991 idF BGBl. I Nr. 98/2001 – Act of Federal Care for Asylum Seekers. So far there is no legal entitlement to it, and standards for decision-making are not always intelligible to outsiders. New European standards are expected to effect some changes in this area.

the problem of those that face a negative decision in their asylum case but remain in Austria.⁹ Without the support from NGOs (though it is often intended only for short periods and is of varying quality), asylum seekers would be left to fend for themselves – which in turn has the consequence that state institutions rely heavily on NGOs to compensate for their shortcomings.¹⁰

Partly as a consequence of mutual ties and partly deriving from their different ideological backgrounds, the respective NGOs fill different roles in political and social life. Whereas the small independent NGOs, loosely organised in the umbrella organisation “Asylkoordination”, form a body that is critical of the government and pursue an oppositional course, Caritas in particular pursues a policy that can be described as a case of consociationalism.¹¹ This, however does not negate the many critical comments that the Caritas-leadership continues to make about details of government policies. There is, of course, also a number of organisations which consider themselves non-partisan, in particular those with a focus on theoretical, academic work (for example Accord, or our own ETC). The scene is, therefore, small enough to let personal relations play a decisive role.¹²

1.1.2 Governments and Governmental Authorities (local, regional, central)

Central, i.e. federal authorities form the core of the system. The regional level of Province-authorities and the local level of cities and municipalities enter the frame through the complex interplay that characterises a Federal State such as Austria. I shall address briefly the relevant sectors in thematic order and only refer to the institutions’ place in the Austrian legal system in passing.¹³

1.1.2.1 Asylum¹⁴

No constitutional right to asylum exists in Austria, while the principle of non-refoulement is well-established, both through the ECHR (which is part of Austrian constitutional law) and Austrian Aliens’ Law. The Austrian asylum law in its present shape is of relatively recent origin as are some of the Austrian institutions.¹⁵ The Austrian asylum proceedings in their present form¹⁶ go through two instances, with the possibility of further appeals to the high courts (Verfassungsgerichtshof and Verwaltungsgerichtshof), if the case so permits. The first instance is the Bundesasylamt (BAA), formally a department of the Ministry for the Interior. It is a uniform body with seven outposts in the

⁹ There are special agreements in some municipalities, such as Graz, creating an individual system in a joint effort of the local government (through a system of public welfare) and NGOs. These models exist next to the „Bundesbetreuung“-model. This system makes it difficult to provide exact numbers of places available to asylum seekers, as they find (or do not find) accommodation in institutions with very different service-standards.

¹⁰ For a comparison of different models in Europe see: EFIONAYI-MÄDER Denise, Sozialhilfe für Asylsuchende im europäischen Vergleich. Dänemark, Deutschland, Frankreich, Grossbritannien, Niederlande, Italien, Österreich, Schweiz, Spanien, Forschungsbericht 14, Neuchâtel (Swiss Forum for Migration Studies) February 2001, p 9. At the time of writing (October 2002), the system is in an acute crisis – more on this later in the report.

¹¹ The interplay of cooperation and a conflicting relationship is not recorded officially. It is nevertheless common knowledge and I [C.W.] have worked with both sides and witnessed the tension, in numerous meetings. The term consociationalism is taken from a book title (LUTHER Kurt (Ed.), Politics in Austria – still a case of consociationalism, London et.al. (Cass) 1992) and aptly describes some peculiar traits of Austrian politics.

¹² More on that in the results section of this report. There we also refer to three projects similar to ours that are currently underway.

¹³ For a general overview of the Austrian system, see DACHS Herbert (Ed.), Handbuch des politischen Systems in Österreich. Die Zweite Republik, Wien (Manz) ³1997.

¹⁴ For a useful general introduction see: ROSENMAYR Stefan, Asylrecht, in: MACHACEK Rudolf et.al. (Ed.), Grund- und Menschenrechte in Österreich, Kehl am Rhein et.al. (Engel) 1997, vol. III, pp 535ff. A more critical contribution is provided by: ASYLKOORDINATION-ÖSTERREICH, Asylsuchende an der EU-Außengrenze. Österreichs neues Asylgesetz 1997 am Prüfstand, Wien 2000.

¹⁵ First introduced in 1968 after a period of direct applicability of the Geneva Convention Relating to the Status of Refugees, with substantial alterations in 1991 and 1997.

¹⁶ Bundesgesetz über die Gewährung von Asyl (Asylgesetz 1997) BGBl. I Nr. 76/1997 idF BGBl. I Nr. 82/2001 – Asylum Law. The process for another minor amendment is underway. More extensive changes are expected for the coming years in the wake of the developing European asylum system.

Provinces. Appeals against its decisions are handled by the Unabhängiger Bundesasylsenat (UBAS – Independent Federal Asylum Tribunal) as second instance. This is an independent body, established by the Asylgesetz 1997, which qualifies as a tribunal in the sense of Art. 6 ECHR, and whose members are independent and not constrained by directives.¹⁷ Other than the first instance the UBAS has a solid reputation, despite being hard-pressed to handle the number of cases brought before it.

The High Courts of public law play a considerable role in the Austrian asylum system.¹⁸ On the one hand, a very high percentage of cases is brought before them¹⁹ - decisions have legal influence both on the asylum case itself and the right to stay during the procedure.²⁰ On the other hand, their decisions play a decisive role in the interpretation of the relevant legal provisions. The possibility of appealing to the High Courts of public law results from the fact that the asylum procedure is in essence simply a variation of the normal administrative procedure in Austria.²¹ The way to the high courts is an “außerordentliches Rechtsmittel” – an appeals procedure that can only be filed after the final decision on the case in the regular instances, and pursues other goals than the normal procedure (examination of the legality and constitutional legitimacy of the administration’s and legislation’s work).

1.1.2.2 Migration

Migration and, in particular, immigration is chiefly controlled by the means of legislation on aliens and on the employment of foreign nationals. While being an asylum seeker or a refugee confers a certain status under the latter, this system – which is currently undergoing a number of changes through a package of new legislation which is commonly referred to as an “integration-contract”²² – has, from the outset, been intended as a separate pillar, meaning that changing from an asylum procedure to a normal immigration procedure is virtually impossible. Nevertheless there is a need for cooperation between the asylum authorities and the Aliens’ Police (Fremdenpolizei), which is responsible for the execution of the Aliens’ Law²³ (with further exceptions in the award of citizenship and of permanent residency permits – Niederlassungsbewilligungen – the latter of which does not apply to recognised refugees). Another field of cooperation involving the Aliens’ Police is with Labour Market Service (“Arbeitsmarktservices” - AMS). Thus the Aliens’ Police (a separate police-branch in the bigger cities, but part of the Bezirkshauptmannschaft²⁴ in all other areas) is the key actor

¹⁷ See Article 129c of the Austrian Constitution and Bundesgesetz über den unabhängigen Bundesasylsenat (UBASG) BGBl. I Nr. 77/1997 idF BGBl. I Nr. 128/1999 – Law on the Independent Federal Asylum Tribunal. An overview of the UBAS’ activities and a critical assessment of the present state of the Austrian asylum system is contained in the Tribunal’s Activity Report from May 2002, which is available under: <http://www.ubas.gv.at>.

¹⁸ Decisions on these topics are countless in number, both on formal and material questions, the former being very difficult to read – for questions concerning the relevance of individual decisions, insiders like legal counsellors or BAA-staff are the competent authority.

¹⁹ UNABHÄNGIGER BUNDESASYLSENAT, Tätigkeitsbericht für die Jahre 2000 und 2001, Wien Mai 2002, pp. 10ff.

²⁰ For details see ROHRBÖCK Josef, Das Bundesgesetz über die Gewährung von Asyl. Kommentar, Wien (Orac) 1999. The VwGH can grant “aufschiebende Wirkung” (suspensiveness) to an appeal, which takes the applicant back to the status of an asylum seeker and involves a temporary permit to remain in the country.

²¹ See the administrative procedure acts, most notably the Allgemeines Verwaltungsverfahrensgesetz 1991 – AVG BGBl. Nr. 51/1991 idF BGBl. I Nr. 65/2002.

²² More on this below at the end of the overview-section.

²³ Bundesgesetz über die Einreise, den Aufenthalt und die Niederlassung von Fremden (Fremdengesetz 1997 – FrG) BGBl. I Nr. 75/1997 idF BGBl. I Nr. 69/2002. A very complicated law and subject to intensive political debate and topical developments. Other authorities involved in the enactment of the FrG as stated by §§ 88ff is the Governor of the Province.

²⁴ Austria is divided into nine Provinces. The Provinces are again divided into districts.

Bezirkshauptmannschaften are the administrative bodies that fill all the administrative functions for a district, which are divided between municipalities, police and others in the bigger cities (Bezirksverwaltungsbehörden). In the districts, they are the main focal point for anything a citizen needs from the administration, i.e. the state.

in this field. Responsibility for appeals against its decisions rests with the Independent Administrative Tribunals (Unabhängige Verwaltungssenate).²⁵

1.1.2.3 Employment

Foreign Nationals' access to the labour market is restricted by quotas in the case of those from non-EEA member states. This is an Austrian peculiarity²⁶ and a means of direct labour market regulation by political authorities. Recognised refugees are exempt from these quotas.²⁷ The key actors vary depending on the situation. First come the bodies granting leave to remain in Austria and employment permits. These are, in essence, again the Aliens' Police and the AMS²⁸. As a consequence the latter does play a crucial role in the recruitment process for foreign nationals, since they (incl. asylum seekers) can only be employed by working in cooperation with the AMS. Other actors include the social partners, which, despite having lost much of their former power, are still influential.²⁹

1.1.2.4 Social Security

This system makes use of a massive number of institutions – “Sozialversicherungsträger” (Social Security/Insurance Institutions).³⁰ It is presently subject to heated political debate and reform efforts. The system's relevance for migrants will be discussed below.

1.1.2.5 Social Welfare

The issue of social welfare brings the regional and local levels into the frame. Basic legislation in this area is created on the federal level, whereas details are laid down in the Sozialhilfegesetze (Social Welfare Acts) separately in each Province, which are also responsible for their administration and execution. As a result of non-integration into regular structures these laws play a significant role in the lives of many asylum seekers and refugees and the variations between the different Provincial laws are considerable. Thus asylum seekers can expect support in some Provinces such as Styria, whereas in other Provinces entitlement is tied to Austrian citizenship (for example Carinthia, Vienna). The Sozialämter (Social Welfare Offices) and the Bezirksverwaltungsbehörden³¹ as mediators of social welfare are the relevant protagonists in this field.³²

²⁵ See WALTER Robert / MAYER Heinz, Grundriß des österreichischen Verwaltungsverfahrenrechts, Wien (Manz) ⁷1999.

²⁶ See WALDRAUCH Harald, Die Integration von Einwanderern. Ein Index der rechtlichen Diskriminierung, Frankfurt/New York (Campus) 2001, p. 300.

²⁷ See § 1 AuslBG. The full title is: Bundesgesetz vom 20. März 1975, mit dem die Beschäftigung von Ausländern geregelt wird (Ausländerbeschäftigungsgesetz – AuslBG) BGBl. Nr. 218/1975 idF BGBl. Nr. 68/2002 – Law on the Employment of Foreigners. A crucial law in conjunction with the added factor of Niederlassungsbewilligungen (Permanent Residence Permits).

²⁸ The current Austrian incarnation of a labour office, an institution under public law with a wide range of duties.

²⁹ Social partners are the organisations of the employers' and of the employees' side which negotiate important economic matters before they enter the process of legislation. The model is not utterly different from Germany, though not quite the same. The latter half of the 20th century was a golden era for the social partners, which merited the reputation of being a de facto shadow cabinet and were renowned for an “Austrian” approach to conflicts, preserving social peace through compromise. Political changes have altered this stable system over the last fifteen years. See: DACHS Herbert (Ed.), Handbuch des politischen Systems in Österreich. Die Zweite Republik, Wien (Manz) ³1997, pp 371ff; TALOS Emmerich, Sozialpartnerschaft. Kontinuität und Wandel eines Modells, Wien (Verlag für Gesellschaftskritik) 1993; KLENNER Fritz / PELLAR Brigitte, Die österreichische Gewerkschaftsbewegung. Von den Anfängen bis 1999, Wien (ÖGB Verlag) 1999, pp 508ff.

³⁰ See Bundesgesetz vom 9. September 1955 über die Allgemeine Sozialversicherung (Allgemeines Sozialversicherungsgesetz – ASVG) BGBl. Nr. 189/1955 idF BGBl. I Nr. 100/2002 – Law on Social Security.

³¹ See Footnote 24.

³² Sozialhilfe is based on Art. 12 of the Austrian Constitution (B-VG). Individual laws are then enacted by the Provinces. See also EFIONAYI-MÄDER Denise, Sozialhilfe für Asylsuchende im europäischen Vergleich. Dänemark, Deutschland, Frankreich, Grossbritannien, Niederlande, Italien, Österreich, Schweiz, Spanien, Forschungsbericht 14, Neuchâtel (Swiss Forum for Migration Studies) February 2001, pp 91ff.

1.1.2.6 Other issues of integration³³

Despite being in intensive use and despite attempts at definition, integration remains an elusive concept. If it is understood to entail full integration into the host society, it would have a comprehensive meaning embracing all actors that an individual is likely to encounter in his or her everyday life. In the slightly narrower sense of the conventional debate it would involve mainly the bodies and institutions mentioned above in connection with the issues of residence, citizenship, employment and social security. Other issues habitually mentioned in this context are accommodation (where the key actors are a private housing market and the municipalities and communities that are subjects of and participants in an ongoing debate about the question of foreign nationals' access to real estate owned by the public sector) and political participation which is still chiefly located in the realm of political debate. Needless to say, the issue of housing in particular is both vital and controversial. Further relevant issues such as culture, self-organisation, anti-discrimination, inter-cultural initiatives and others are too diverse to be discussed in detail here.³⁴

Government ministries are also involved in integration issues. A number of the institutions mentioned above are directly linked to the Ministry for the Interior. Another key actor is the Ministry for Economic Affairs and Labour – while FREE would be an ERF-project (administered by the BMI in Austria), most similar projects are under the guidance of the ESF, with its special programme EQUAL that is actually tailored to exactly such issues.³⁵ The Ministry for Social Security and Generations is responsible for a publication that has come to be known as the NAP³⁶ but does not take account of the new minorities (including refugees, asylum seekers and migrants) and is a political rather than a scholarly paper.

1.1.3 Businesses and Business Communities

It would be difficult to allot a fixed role to particular entities in the Austrian economic system. Individual companies as such play a negligible role in the asylum and immigration system. On a more general level they are, of course, crucial. The economic system and climate is a central formative element for policies in the field of asylum, refugee and Aliens' Law.³⁷ Conventional Austrian political rhetoric refers to the real or perceived needs of the Austrian economy as the main focus of any new development – the intention of legislative reform is to tailor the system to Austria's economic needs.³⁸

³³ On integration issues in Austria see e.g.: WALDRAUCH Harald, Die Integration von Einwanderern, Frankfurt/New York (Campus) 2001; DAVY Ulrike (Ed.), Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich, Frankfurt/New York (Campus) 2001; BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien (WIFO) August 2001.

³⁴ An interesting piece for further reading is a study, which was undertaken in Graz, Austria's second largest city: SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002. Though other than those researchers, we tend to see self-organisation less as a solution, but as a fact and as an indicator for the shortcomings of the system towards integration. For Vienna it may be useful to have a look at: WIENER INTEGRATIONSFONDS, MigrantInnen in Wien 2001. Daten & Fakten & Recht. Report 2001 Teil II, Wien 2001.

³⁵ Section II, Labour Market is the relevant one in the ministry. Their website features a number of materials concerning the labour market. See also: BUNDESMINISTERIUM FÜR WIRTSCHAFT UND ARBEIT, Equal Österreich 2000-2006, Wien April 2001; BUNDESMINISTERIUM FÜR WIRTSCHAFT UND ARBEIT, Equal. Fragen und Antworten, Wien Mai 2001.

³⁶ BUNDESMINISTERIUM FÜR SOZIALE SICHERHEIT UND GENERATIONEN, Nationaler Aktionsplan zur Bekämpfung von Armut und sozialer Ausgrenzung, Wien Mai 2001.

³⁷ See the discussion about the question of refugee on the international plane over the past decades: HATHAWAY James C. (Hg.), Reconceiving International Refugee Law, The Hague u.a. (Nijhoff) 1997.; LOESCHER Gil, Beyond Charity: international cooperation and the global refugee crisis, Oxford, New York u.a. (Oxford University Press) 1993; UNHCR, The State of the World's Refugees 2000. Fifty years of humanitarian action, UNHCR, Oxford (Oxford University Press) 2000. For Austria see the notes on the "Integrationsvertrag" in this report.

³⁸ This was also the line of argument for new regulations in the "Integrationsvertrag", trying to acquire cheap labour that firms need during seasonal highs while in the meantime preventing immigration. As one example of many: DIE PRESSE, Zugang ohne Zwang – eine schöne Illusion, von Ernst SITTINGER, 11. Februar 2002.

The suitability can be and is disputed, for example in the recent debate on the potential implications of migration for economic growth.

The once famed “social partners” have lost much of their dominance, but both sides – employers’ and employees’ representative bodies – remain influential organisations.³⁹ The old saying that Austria is a state of chambers (Kammerstaat) still holds true and the umbrella organisation for the various unions, the Austrian Federation of Trade Unions (ÖGB), remains more or less intact.⁴⁰ Their respective stances towards the foreign workforce are usually coloured by their position on issues closer to their original mandate. This means that the employers’ body, notably the Chamber of Commerce, will usually protect economic interests, while the employees’ representatives, be it the Chamber of Labour or the Trade Unions (chiefly the ÖGB), will side with employees’ interests – depending on the social and economic implications for their predominantly Austrian clientele this can work in two ways, sometimes leading to a migrant-friendly stance, while at other times giving rise to the opposite.

Bodies representing the workforce are also important for another reason. Both the workers’ councils (Betriebsräte) in firms and the public Chamber of Labour grant suffrage to foreign nationals at least in the form of being allowed to vote. Yet Austria is the only EU-country that does not give foreign nationals the chance of being elected onto workers’ councils.⁴¹ The private Federation of Trade Unions allows suffrage to foreign nationals.

In Austria, the economy has always been inextricably linked to politics, and this is a tendency that has not been ameliorated by the appearance of the European Union. The Austrian economy’s general structure is that of a typical social market economy, with the added influence of a strong corporatist element and, recently, of accelerating internationalisation.⁴² The emphasis has traditionally been on small- to medium-sized enterprises, with a strong tourism sector.

1.1.4 Charitable Foundations, Trusts

Charitable Foundations and Trusts in general are not major players in the Austrian system. However, the category as such leaves room for interpretation, since a select number of organisations inhabit a space at the intersection of the NGO category and the aforementioned type of organisation, from religious sub-groups,⁴³ to organisations such as the Industriellenvereinigung.⁴⁴ In addition, an Austrian tradition of organising leisure activities around clubs, associations and societies of all kinds leads to a resourceful mass of organisations, some of which have a financially and socially potent membership (such as the Lions Club and the Rotary Club).⁴⁵ Their social activities are, however, sporadic and a predominantly conservative leaning renders asylum seekers unattractive to them. Events held under the banner of multiculturalism succeed in gaining substantial support, but this can only partly be transferred to everyday work.⁴⁶

³⁹ Social partners in Austria – see Footnote 29. See also: www.sozialpartner.at.

⁴⁰ See PERNTALER Peter, Kammern und Pflichtmitgliedschaft in Österreich. Eine Untersuchung aus der Sicht des öffentlichen Rechts sowie aus politikwissenschaftlicher, ökonomischer, demoskopischer und soziologischer Sicht, Wien (Verlag des Österreichischen Gewerkschaftsbundes) 1994.

⁴¹ See §§ 6 and 8 Betriebsrats-Wahlordnung BGBl. Nr. 319/1974 idF BGBl. Nr. 917/1993 – Electoral Regulations for Workers’ Councils, by way of interpretation.

⁴² See NECK Reinhard / NOWOTNY Ewald / WINCKLER Georg (Eds.), Grundzüge der Wirtschaftspolitik Österreichs, Wien (Manz) 2001.

⁴³ Some key institutions are directly church-related, such as the NGOs Caritas (www.caritas.at) and Efdö (members.eunet.at/efdoe). Other initiatives are run by churches directly (see e.g. www.kath-kirche.at) and many relevant institutions are more or less loosely affiliated with religious structures, such as the well-known Afro-Asian Institutes.

⁴⁴ IV – Federation of Austrian Industry: www.iv-net.at. Known for providing scholarships etc.

⁴⁵ Lions Club: www.lions.at. Rotarier: www.rotary.or.at.

⁴⁶ Events such as the Multikultiball in Graz, or the Flüchtlingsball (Refugee Ball) in Vienna are hugely popular and supported by prominent public figures. They are successful charitable events and focal points for some political forces in the country (as well as a catchphrase for their opponents). The critical note stricken here refers to two aspects: one is the personal experience that this public support is notably absent in places where

1.1.5 Educational Institutions

Austria has a uniform primary sector (“Volksschulenc), which is unproblematic for our target group. The lower secondary sector involved an initial divide between “Hauptschulen” and “Gymnasien” of various kinds. Diversification continues in higher secondary education, with a part of the population going into apprenticeships or the labour market directly (sometimes complemented by a year in polytechnics and vocational schools), while others enter different forms of higher secondary schools (which can be either academic or vocational in orientation). Administratively, schools are under the direction of either the Bezirke and Stadtschulräte (primary schools and Hauptschulen) and/or the Landesschulräte (all other secondary education). All come under the jurisdiction of the Ministry for Education, Science and Culture. The tertiary sector is a conglomeration of many institutions – still most prominent are the universities (newly independent) and the Fachhochschulen (universities of applied sciences, technical colleges). At present, Austrian educational institutions are in a state of transition. This weakens their position as actors in themselves.

The Austrian education sector remains relatively unaware of the links and differences between refugees, asylum seekers and migrants, and in particular, of the question of the relation of the asylum system to the current wave of migration. This means that the higher education system is equipped to meet the needs of refugees, whereas access for asylum seekers is difficult, due to their problematic status in comparison to that of ordinary foreign nationals. This in turn brings us to the fact that foreign nationals are of course a major factor in the education system at all levels.⁴⁷ Here and there small projects run by educational institutions can be found; for example, the Plattform Leoben International at the Montanuniversität Leoben.⁴⁸

1.1.6 Other

This category gives us the chance to address a number of institutions that once more reflect the nature of relevant issues as state issues, while not being part of the traditional core of the Austrian administrative system.⁴⁹

The AMS (Arbeitsmarktservice) has already been mentioned above. Its role is more diverse than that of a conventional labour office.⁵⁰ Ausländerbeiräte (advisory boards for foreign nationals) are municipal entities which provide political representation for foreign nationals, though their competencies do not exceed an advisory function. They have only been introduced in some of the larger cities.⁵¹ A Menschenrechtsbeirat (Advisory Council on Human Rights) was created with the BMI after the killing of an asylum seeker in the course of a deportation and has brought some fresh impetus to the aspects of asylum issues related to human rights.⁵² A unique Viennese institution is the Wiener Integrationsfonds (Viennese Integration Fund), initiated by the Viennese government for integration policy activities towards fruitful intercultural co-existence.⁵³ Additionally the general public should not be discarded as an actor, since this is the forum in which a no-holds-barred discourse

multiculturalism is ordinary and profane (e.g. hostels for asylum seekers); the other is based on the impression that the concept is used without awareness of its (lack of) theoretical pedigree.

⁴⁷ For an overview on current distributions see: BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien (Wifo) August 2001, pp. 10ff.

⁴⁸ See KLEINE ZEITUNG, Plattform: Integration ist hier keine hohle Floskel, 07. März 2002.

⁴⁹ For a quick outline of the traditional hierarchy see RASCHAUER Bernhard, Allgemeines Verwaltungsrecht, Wien et al. (Springer) 1998.

⁵⁰ See: www.ams.or.at/amsallg/index.htm.

⁵¹ Among the four which would have met the requirements making the board obligatory in Styria, only three did introduce an Ausländerbeirat. The legal basis were their own statutes; for other Gemeinden it would be §§ 38b-g Steiermärkische Gemeindeordnung (Styrian Municipal Act). Legal bases are similar in the other Provinces, based on Art. 15 B-VG.

⁵² More under: www.menschenrechtsbeirat.at.

⁵³ See GENSLUCKNER Elisabeth, Integrationspolitik. Initiativen und Aktivitäten in Österreich, in: APPELT Erna (Ed.), Demokratie und das Fremde. Multikulturelle Gesellschaften als demokratische Herausforderung des 21. Jahrhunderts. Innsbruck et al (STUDIENVerlag) 2001, pp 180ff. See also: www.wif.wien.at.

can be found, according to which, Austria is a country of non-immigration. This, of course, is in stark contradiction to historical facts.⁵⁴

1.2 Asylum

1.2.1 Asylum Procedure⁵⁵ and Legal Status for Refugees⁵⁶

An application for asylum can be filed with any authority in any form that makes its intention recognisable, though for a variety of reasons it is advisable to file the application at a branch of the BAA (the way it is done has a number of implications on time limits, legality of detention etc.). This is followed by fingerprints and photographs being taken. Asylum seekers are then interviewed, although one major problem at present is the length of the stretch of time between application and interview. The first part of the interview is devoted to their flight route, and the outcome can be a negative decision according to §§ 4 or 5 AsylG. These refer to passage through a safe third country, and incompetence of the Austrian state due to a contractual obligation (e.g. “Dublin cases”) respectively. Appeals to the UBAS (Unabhängiger Bundesasylsenat) are possible, which, if successful, refers the case back to the BAA. Interviews then proceed to the reason for flight. At this stage manifestly unfounded claims for asylum are weeded out, with an appeals procedure similar to that outlined above. Asylum seekers awaiting a decision after this interview can be granted a provisional permit to stay (Vorläufige Aufenthaltsberechtigung) according to § 19 AsylG. Asylum can then, in accordance with the regulations of the Geneva Convention, be granted (§ 7 AsylG) or denied. In case of a negative decision the question of non-refoulement-protection has to be examined (§ 8 AsylG). An appeal against the decision can be lodged within fourteen days. The decision on this appeal is incumbent on the UBAS, which conducts a new exhaustive procedure for the case in its own right. This will lead either to the same statuses being conferred, or to the case being referred back to the BAA.

A number of special procedures exist, although the procedure that follows appeals for asylum in Austrian embassies is being deleted from the spectrum. One notable special procedure is the Flughafenverfahren (the airport procedure) which is distinguished from the normal procedure by the fact that the UNHCR has a formal right to voice its opinion on the case.⁵⁷ Minors can expect to be treated to a special clearing procedure before their asylum case is heard and are subject to a few particular regulations concerning, amongst others, their legal representative.⁵⁸ The minority of asylum seekers who are granted refugee status receives an unlimited right of residence, a CTD, free access to the labour market, legal equality with Austrian citizens on aspects of social welfare and others, facilitated access to Austrian citizenship and some official support.

⁵⁴ See the FPÖ-party programme, article 4, on: www.fpoe.or.at. And FASSMANN Heinz / MÜNZ Rainer: Einwanderungsland Österreich? Historische Migrationsmuster, aktuelle Trends und politische Maßnahmen, Wien (Jugend und Volk) 1995.

⁵⁵ For the basics of the procedure see: ROHRBÖCK Josef, Das Bundesgesetz über die Gewährung von Asyl. Kommentar, Wien (Orac) 1999; MUZAK/TAUCHER/PINTER/LOBNER, Fremden- und Asylrecht. Kommentar, Wien (Verlag Österreich) 2002. Illustrations have been included in the reader we compiled for the Refugee Law Clinic Graz in spring 2002.

⁵⁶ On the European Union role and its influence on national procedures see NOLL Gregor, Negotiating Asylum, The EU Acquis, Extraterritorial Protection and the Common Market of Deflection, The Hague (Kluwer Law International) 2000; HAILBRONNER Kay, Immigration and Asylum Law and Policy of the European Union, The Hague et al (Kluwer Law International) 2000.

⁵⁷ This is based on § 39 (3) AsylG. See also: SCHMID Christian / FRANK Michaela, Asylgesetz 1997: Kommentar, Wien (NWV) 2001.

⁵⁸ This legal representative is the Jugendwohlfahrtsträger (Youth Welfare Authority); they are not taken into deportation custody but instead are subjected to a “gelinderes Mittel” (milder measure) - § 66 FrG. The issue remains problematic, but awareness of it is relatively high. More information and further links: www.asyl.at/umf and FRONEK Heinz / MESSINGER Irene (Eds.), Handbuch Unbegleitete Minderjährige Flüchtlinge. Recht, Politik, Praxis, Alltag, Projekte, Wien (Mandelbaum) 2002

Whereas the asylum procedure is an individual examination of refugee status, de-facto refugee status has been applied in a situation of mass influx once before, in the case of those fleeing from the war in Bosnia and Herzegovina. While not presently in use, a number of the Bosnian nationals with this status have either been integrated and received other titles, or become subjects for residence permits for humanitarian reasons.

Protection against refoulement can also be linked with a temporary form of a residence permit.

1.2.2 The Reception Process and Facilities⁵⁹

At present an alien may seek asylum either at the border, depending on legal or illegal entry to the country, or at a Bundesasylamts-Aussenstelle (a BAA-outpost). Asylum claims can be filed in a relatively informal manner as mentioned above.⁶⁰ Applications at the border can be filed directly upon crossing the border at a post (which is technically the same situation as at the airport, although it is different in practice and facilities at the borders are reported to be very basic). If migrants are seized upon trying to cross the Austrian border illegally they can either voice their intention to seek asylum on the spot or wait until later. Actual practice at the border is something of a grey area, as independent organisations have to rely on the records of border-police or the military, and of the migrants themselves. Only occasionally are independent organisations able to witness the situation first hand.⁶¹ From this point of view applications at a BAA-branch are less problematic and are often filed with the help of an NGO. A pivotal point in the Austrian system (although legally only a refugee camp and one of seven BAA-outposts) is the Flüchtlingslager (refugee camp) Traiskirchen. Accommodation for asylum seekers in the form of Bundesbetreuung (board and lodging for asylum seekers provided by federal institutions) is provided for approximately one third of those in need. No legal claim to it exists and the decision as to whether it is to be offered is taken by the Interior Ministry. It usually requires that identity is proven as well as the need for help. The decision is taken on the basis of the first interview. Before this has taken place, provisional Bundesbetreuung can be granted. Freedom of movement as such is not restricted, but prolonged absence leads to loss of the place – included are three meals a day, a small allowance and basic health care. Organisation and finances are taken care of federally.⁶² All asylum seekers not offered Bundesbetreuung are left to fend for themselves. They rely either on the help of NGOs (Caritas, Efdö) and, in some cases, municipal authorities (such as the Grundversorgung-model in Graz), or find accommodation privately with peers, fellow countrymen and others. In short, Austria, together with Italy, is one of the few countries in Europe which only grant limited support on a discretionary basis. Others ensure a basic standard of living for all asylum seekers and for the whole duration of asylum proceedings. Austria will be obliged to follow the European trend and move towards the latter system in the near future.⁶³

Planned amendments of asylum legislation⁶⁴ are intended to accelerate the procedure in its early stages.⁶⁵ This is to be achieved by a more centralised approach to the reception of asylum seekers (two centres instead of numerous outposts) and by an abbreviated procedure for the categories of manifestly

⁵⁹ The reception process and the early parts of the asylum procedure are prime targets for reform, as they are believed to hold potential for accelerating the procedure and as a sensible immigration policy is currently not an option due to political reasons.

⁶⁰ According to the relatively citizen-friendly regulations of the AVG and other relevant Austrian laws on administrative procedures.

⁶¹ See: ASYLKOORDINATION-ÖSTERREICH, Asylsuchende an der EU-Außengrenze. Österreichs neues Asylgesetz 1997 am Prüfstand, Wien 2000.

⁶² Ministry for the Interior, department III/14 (Flüchtlingsbetreuung).

⁶³ EFIONAYI-MÄDER Denise, Sozialhilfe für Asylsuchende im europäischen Vergleich, Forschungsbericht 14, Neuchâtel (Swiss Forum for Migration Studies) February 2001, p 8.

⁶⁴ We were at first informed of these plans in detail by Dr. Klaus KRAINZ, head of the BAA-outpost in Graz.

⁶⁵ Asylum seekers I [C.W.] have been working with in spring 2002 sometimes had to wait for four months for their first interview. On another level, the duration is one reason for desperate statements by the UBAS in its Activity Report, where it talks of a tailback of 7600 cases: UNABHÄNGIGER BUNDESASYLSENAT, Tätigkeitsbericht für die Jahre 2000 und 2001, Wien Mai 2002, p. 4.

unfounded claims for asylum. It is then intended to allot the ordinary procedure to the BAA-branches.⁶⁶

A notoriously controversial issue is the detention of asylum seekers in Schubhaft (imprisonment / custody to secure deportation). In principle a measure under Aliens' Law, it is a source of uncertainty and a fate that many asylum seekers meet (especially upon illegal immigration or in cases denied treatment in Austria under the regulations of the Dublin Convention). Figures given of asylum seekers who are detained vary between 10 and 15%. Although in theory it is nothing more than an administrative measure to secure deportation, it has in the past frequently been criticised by UNHCR and humanitarian organisations, especially for its abuse as a deterrent.⁶⁷

The issue of unaccompanied minors has gained a certain prominence in the collective consciousness. Therefore, despite the ongoing occurrence of insufficient treatment, these minors are a group which can expect to draw on somewhat richer resources for support than their older peers – for example the so-called Clearing-Stellen (clearing houses), projects run by Asylkoordination, Caritas ("UMA") and others.⁶⁸

1.2.3 Statistics, Figures about Refugee Status Granted and Asylum Claims

The asylum procedure is under almost all circumstances an individual procedure, which takes a decision on an individual person's case. Statistical data must always be read in the light of this fact. The most frequently quoted figure is that pertaining to overall asylum applications. There were 30,135 such applications in 2001 and comparisons with this year's monthly figures allow an even higher number to be extrapolated for 2002.⁶⁹ Last year's figure is said to have been inflated by an extraordinarily high number of applications at foreign embassies, the majority of which resulted from one particular situation involving Afghan would-be asylum seekers.

⁶⁶ This is not yet realised in legal provisions. What effect the new impetus after the EU-summit in Sevilla will have, is yet to be seen.

⁶⁷ Deportation custody has long been an emotional topic. This entails the problem that much of the written material on it is overly biased and often of low quality. See FRONEK Heinz, Die Zukunft der Schubhaft, in: asylkoordination aktuell 1/2001. Care for asylum seekers in deportation custody is regulated by contracts between the BMI and NGOs.

⁶⁸ See: www.asyl.at/umf/ and FRONEK Heinz / MESSINGER Irene (Eds.), Handbuch Unbegleitete Minderjährige Flüchtlinge, Wien (Mandelbaum) 2002.

⁶⁹ An expectation shared by both the NGOs and the BAA. The official statistics are compiled by the BMI.

⁷⁰	2001	Until 31st May 2002	30th June	31st July	31st August
Overall number of asylum applications	30135 Decisions: 25804	14189	17084	20758	23231
Per country		Afghanistan 2911 Iraq 1415 Turkey 1325 Yugoslavia 1226 Armenia 1197 Georgia 1123 India 626	Afghanistan 3252 Iraq 1658 Turkey 1678 Yugoslavia 1594 Armenia 1429 Georgia 1264	Afghanistan 3817 Iraq 2064 Turkey 2007 Yugoslavia 2017 Armenia 1703 Georgia 1401 India 1168	Afghanistan 4213 Yugoslavia 2796 Iraq 2417
Filed in a foreign country (Austrian embassy), usually pointless		1155 Of which Afghanistan: 1051	1317 / Afghanistan 1167	1743 / Afghanistan 1548	
Positive decisions	1114 Of which extension to family members - § 10 AsylG: 703	425 / 271	503 / 318	591 / 369	664 / 416
Positive decisions / Procedure	Normal procedure: 23.7% official calculation 4.3% NGO-calculation which uses all concluded asylum cases BAA UBAS	14% BAA 10% UBAS 20 %	14% BAA 10% UBAS 20%	14.3% BAA 9.3% UBAS 22.6%	
Positive decisions / country	Afghanistan 38% Yugoslavia 19% Iraq 8% Turkey 4%	Afghanistan 129 Yugoslavia 69 Iran 67 Iraq 35 Turkey 25 DR Congo 10 Somalia 9 Albania 8 Nigeria 3 India 1	Afghanistan 142 Yugoslavia 91 Iran 87 Iraq 44 Turkey 25 Russia 17 DR Congo 11 Somalia 9 Albania 8	Afghanistan 152 Yugoslavia 119 Iran 95 Iraq 60 Turkey 29 Russia 20 Albania 24 DR Congo 12 Somalia 9 Sudan 8 Georgia 7	Afghanistan 167 Yugoslavia 132 Iran 98 Iraq 72 Turkey 33 Russia 20 DR Congo 17 Albania 15
Positive according to § 8 AsylG – Non-refoulement protection		402 BAA 356	577 BAA 526	639 BAA 585	674
Negative decisions according to § 4 AsylG – Host third countries			BAA 73 UBAS 5	BAA 78 UBAS 6	BAA 78 UBAS 7
Negative decisions		Few decisions, many open cases	101	113	

⁷⁰ Figures forwarded by the Asylkoordination. These are provisional figures. The lists (countries etc.) are not exhaustive – therefore some of the figures in this table may not tally.

according to § 5 AsylG – Contractual responsibility of another state					
Negative decisions according to § 6 AsylG – Manifestly unfounded asylum claims		150	155 (a massive drop from the previous year)	183	
§ 15 – Temporary residence permit for non-refoulement cases		230			264
§ 19 – Residence permit for the duration of the asylum procedure		11304	11304	12326	
Discontinued procedures	~ 15000	14436		11260 / 897 Withdrawals	13033 / 1049 Withdrawals

These statistics are blurred by the fact that the asylum system hosts both refugees in the classic sense of international refugee law and in the movement of international migration to the EU-area. This problem is, of course, not unique to Austria. It mirrors the international trend as recognised even by UNHCR.⁷¹ Let me therefore add some brief numbers on measures under Aliens' Law: Statistics mention 1,7595 cases of refoulement at the border for 2001, for diverse reasons: 6,338 people were turned back, mostly for illegal crossing of the border; expulsions number 5,982, plus 222 under § 34 of Aliens' Law; new prohibitions of residence (Aufenthaltsverbote) were on the rise in 2001, with a total of 16,387 newly imposed; Schubhaft (detention to secure deportation) was imposed in 17,306 cases; and 8,324 people were deported.⁷² After the number of asylum seekers in Bundesbetreuung⁷³ reached an all-time high during this summer (8043 in August), the situation culminated in a major crisis in September and October 2002, when a new directive was issued by the Ministry for the Interior: asylum seekers from countries with a record of producing primarily economic migrants (Yugoslavia/Kosovo, Nigeria, Georgia, Sri Lanka etc.) were to be excluded from the Bundesbetreuung. This had the effect that hundreds of asylum seekers found themselves without shelter. This in turn resulted in a major outcry by NGOs and a lot of media-coverage on the issue. The number of asylum seekers, in particular ethnic Albanians, has since dropped considerably

1.3 Education

The following two sections are to be read bearing in mind that the relevant field is in a state of flux, due to substantial new legislative developments that have entered public consciousness in Austria in form of the keyword "Integrationsvertrag".⁷⁴ In the education system itself, the sector of institutions of Higher Learning is presently confronted with particularly far-reaching changes.⁷⁵

⁷¹ See UNHCR, The State of the World's Refugees 2000. Fifty years of humanitarian action, UNHCR, Oxford (Oxford University Press) 2000. UNHCR, Refugee Protection and Migration Control: Perspectives from UNHCR and IOM, UNHCR Global Consultations on International Protection, EC/GC/01/11 31st May 2001.

⁷² The official statistics, in this case taken from the asylkoordination: www.asyl.at.

⁷³ Bundesbetreuung is the provision of temporary food and lodging for the duration of an asylum procedure.

⁷⁴ See: BMI, 2002-03-04 Pressekonferenz Änderungen im Fremden- und Ausländerbeschäftigungsrecht – from the BMI-Homepage. The legislative reform, of which the integration contract was a part, has partly fallen prey to newer political developments.

⁷⁵ FEDERAL MINISTRY OF EDUCATION, SCIENCE AND CULTURE, Development of Education in Austria 1997-2000, Vienna November 2001.

1.3.1 Education System

The school system in Austria is still characterised by a strong emphasis on education as the responsibility of the state and a degree of centralism that belies the nature of a federal state and which is reflected in legislative competencies.⁷⁶ The sector of primary education is largely unproblematic in our context from a legal and organisational point of view. Sociological investigations, however, paint a different picture, indicating that certain groups of children of immigrants (including refugees) find themselves in the lowest echelons of the educational system from the earliest age.⁷⁷ Typical of the Austrian system is a relatively early diversification of educational careers, first at the age of ten for schools of lower secondary education (Hauptschulen and Gymnasien), then at the age of fourteen, when pupils have to choose between a vocational career and a number of different schools which lead to school-leaving exams after four or five years. Compulsory school-education lasts for nine years.⁷⁸

The tertiary sector is changing, a traditional system of various universities and other post-secondary non-university educational institutions (Pädagogische Akademien etc.) having been complemented by a system of more vocationally oriented Fachhochschulen (universities of applied sciences, technical colleges) since the early 1990s. Fachhochschulen and more specialised educational institutions usually offer a restricted number of places and therefore employ entrance examinations. Access to standard universities, on the other hand, is unrestricted for anyone with a Reifeprüfung (the general qualifying exam for university entrance). Universities are, therefore, overcrowded.⁷⁹ Additionally, a Studienberechtigungsprüfung (an examination leading to entry to a particular subject, involving general and curriculum-specific exams) can replace the Reifeprüfung (Matura) in particular cases, which may be an option for some of the fund's prospective clients.⁸⁰ Educational careers also develop variably according to gender. The overall proportion of students at university level in relation to the population is relatively low as compared to other industrialised countries.

The Austrian system is well versed in accommodating foreign students. Since 10.4% of the Austrian population was born outside the country, roughly 10% of pupils in primary and lower secondary schools are foreign. The corresponding figures are slightly lower in higher secondary education, but rise to 13% in the university sector.⁸¹ Refugees face an ambivalent situation in sociological terms – although legally on an almost equal footing with Austrian nationals, they are (as our research has demonstrated)⁸² commonly associated with the foreign section of the population.

Much further and vocational training for employees and others is in the hands of the educational institutions that the social partners run – the Wfi and the Bfi.⁸³ In general their programmes, in particular those of Wfi, are costly, and they tend to be reluctant to take part in anything that does not bring them immediate economic benefits. It is then important to consider how they could earn money by supporting a fund.

⁷⁶ See: BODENHÖFER Hans-Joachim, Bildungspolitik, in: DACHS Herbert (Ed.), Handbuch des politischen Systems in Österreich. Die Zweite Republik, Wien (Manz) 1997, pp. 592ff; JURANEK Markus, Schulverfassung und Schulverwaltung in Österreich und in Europa, Wien (Verlag Österreich) 1999.

⁷⁷ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 11.

⁷⁸ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp 10ff.

⁷⁹ For data see STATISTIK AUSTRIA, Hochschulstatistik 2000/01.

⁸⁰ The legal base is: Bundesgesetz vom 27. Juni 1985 über die Erlangung studienrichtungsbezogener Studienberechtigungen an Universitäten und Hochschulen künstlerischer Richtung (Studienberechtigungs-gesetz – StudBerG) BGBl. Nr. 292/1985 idF BGBl. I Nr. 136/2001.

⁸¹ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp 11ff.

⁸² We received questionnaires from a number of schools stating that they could not answer our questions, as they had not been able to discover any refugees among their students. Let us hope they had looked into every nook and cranny.

⁸³ The Wfi (Wirtschaftsförderungsinstitut – Institute of Business Promotion) is owned by the Chamber of Commerce; the Bfi is owned by the Chambers of Labour and the Austrian Federation of Trade Unions. Employers and employees are subject to compulsory membership with their chamber.

1.3.2 Refugees' and Asylum Seekers' Entitlements to Education and Training

As § 41 AsylG states, a recognised refugee can be granted Integrationshilfe (integration aid), which could involve language courses, courses towards (further) education, and events for introduction into Austrian culture and history. This provision makes use of the word “can” – it is not entirely clear whether this gives legal entitlement and so the question of what to do upon denial of this right remains problematic.⁸⁴ The state has to effect this provision through the aid of other legal subjects, which means, in practice, that some aid is channelled through the larger NGOs. While some refugees do benefit from the system, others miss out and what is created is hardly a contribution to comprehensive education.

A Fund for the Integration of Refugees (Fonds zur Integration von Flüchtlingen - FIF) has been created by the Ministry for the Interior and UNHCR, with the intention of supporting refugees in need. The fund supported 1,679 people in 2001, (1,542 recognised refugees and 114 people with a different asylum status, for example de-facto status). In 2001 it invested about 11% of its budget in subventions for German courses and 2% in support for access to work and education. Highest on its agenda is support for accommodation and related expenses.⁸⁵

Integration aid for aliens with a Niederlassungsbewilligung (Permanent Residency Permit) is similar to that afforded refugees. Additionally § 52 FrG creates an Integrationsbeirat (Advisory Council on Integration), which can advise the Minister for the Interior on residence permits that are granted for humanitarian reasons. Another main source of aid for integration are communities, yet sufficient data for comparative analysis is not available.

Refugees are granted legal equality with Austrian citizens,⁸⁶ so they are free to access any educational institution within the bounds of their relevant regulations. This is, however, fully dependent on their academic pedigree and own financial means or adroitness in mining the scholarship system. The education market for foreign nationals is basically dependent on the status of residence they have. Recognised refugees have access to the mainstream educational market. In the main, they require courses and other programmes which can bridge gaps to national skill or knowledge levels. Material support for such education is forthcoming from the Arbeitsmarktservice. This creates a no-chance situation for asylum seekers and others with a temporary status of residence; for example according to §§ 8, 15 AsylG.⁸⁷ An interesting idea that might be pursued is to investigate whether an alternative system that would complement the Arbeitsmarktservices could be developed.⁸⁸

With regard to the dominance of the AMS, another argument can be advanced. Next year should see the introduction of a model of Grundversorgung (basic care) for all asylum seekers. This might lead to political pressure on the AMS to extend their measures to asylum seekers: assistance from the AMS might allow asylum seekers to move on to self-supporting status and out of the “Grundversorgung”, thereby saving costs for the federal authorities that pay for board and lodging. This is at present mere speculation, but indicates some room for manoeuvre and improvement. Steps already taken in this direction are, however, not encouraging. AMS measures taken in provinces such as Salzburg, Tyrol and Carinthia – often preceding seasonal work permits – tend to force people into the tourism industry, creating the illusion of labour market integration, which only lasts for a few months and does nothing but fulfill the corporate sector's quest for a new workforce. This must be seen in the context of the

⁸⁴ See ROHRBÖCK Josef, Das Bundesgesetz über die Gewährung von Asyl. *Kommentar*, Wien (Orac) 1999, § 41 AsylG.

⁸⁵ Figures from the homepage: www.fif.at. This fund would be a very relevant partner for FREE.

⁸⁶ The rights of recognised refugees are covered by the notion of asylum and the rights guaranteed by the Geneva Refugee Convention, as evoked in § 1 AsylG. Asylum as such is legally a cross-sectional matter.

⁸⁷ § 8 is about non-refoulement, § 15 about temporary permits to stay.

⁸⁸ Projects by NGOs show, that so far niches can always be discovered, that allow for small legal jobs, and school leaving exams to achieve at least the standard of primary education. See ISOP: Arbeitsassistenten für MigrantInnen – another project that is of direct relevance to FREE, and Vermittlungspool für AsylwerberInnen & Familienangehörige von MigrantInnen; information under: www.isop.at.

particular situation of seasonal workers in Austria, a hot topic under the integration contract. In principle, seasonal workers are aliens who can get a temporary work permit (befristete Beschäftigungsbewilligung) for usually six months, which can be extended in certain cases. These workers are not entitled to rights of residence, integration etc.⁸⁹

Asylum seekers overall are in a much greater predicament. Their children from the age of six are accepted as pupils into public schools.⁹⁰ This, however, is the only unproblematic step.

1.3.3 Information on Language Training Provisions

No overall system of language courses for migrants or refugees exists. Interested parties can only turn to the private (including NGO) sector or to a semi-public sector like the universities. What can be granted to them, and in particular, to refugees, is financial support for the courses.

The recent debate on compulsory language courses for immigrants has sparked heavy criticism on the lack of available language courses. How this is going to be remedied in order to allow the realisation of the new legal obligations is still not fully clear.⁹¹ Even for the small group of recognised refugees the availability of courses is limited, and again, the courses are costly.

Upon entry to university education, courses such as the Vorstudienlehrgang (access to higher education course) constitute viable offerings but can not give blanket coverage. The Vorstudienlehrgang prepares students for the German exam that is necessary to gain entry to the university and can be attended while having the status of an associate student.

The question of language is at the very centre of political discussion. In the Austrian xenophobic discourse, lacking knowledge of the German language is *the* symbol evoked most frequently. Immigrants of all kinds often see it as *the* obstacle to their integration, even before legal restrictions on residence and employment, which, in reality often constitute much more insurmountable hurdles. It is one of the criticisms appearing most frequently in discussions about additional needs. It is imperative that more and better language courses are provided. It is also imperative that a wide variety of courses is offered – from those that tackle illiteracy to specific languages required for professional use.⁹² On the other hand, however, the fact that the issue of integration is reduced to the question of language competence, is frequently criticised.

1.3.4 Possibilities for Refugees to Follow Vocational Training

As regards vocational training, there are no specific problems for refugees when training is provided by the private sector. A certain differentiation arises with training measures which are provided by the AMS and which are usually intended to serve Austrian citizens.⁹³

Apprenticeships are a regular hot topic in Austria and during our research we often heard the polemical comments that on-the-job training and further training are non-existent in Austria. It is certainly the case that such training is nowhere near as popular with companies as it should be and is

⁸⁹ See §§ 9-12 FrG.

⁹⁰ See § 1 Schulpflichtgesetz – Bundesgesetz über die Schulpflicht (Schulpflichtgesetz 1985), BGBl. Nr. 76/1985 idF BGBl. I Nr. 75/2001 – Law on Compulsory Education.

⁹¹ To avoid some widespread terminological confusion: The integration contract is part of the integration package, i.e. the part that refers to the provisions concerning language courses. The plan is to teach 100 lessons for the acquisition of basic language skills and basics about administration and Austrian and European values. Costs shall be covered as follows: 50% employer/state, 50% migrant; so-called Schlüsselarbeitskräfte (highly qualified key workers) and pupils are exempt from the measure. Who will teach these courses and how has not yet been decided.

⁹² See SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002, p 223.

⁹³ See DAVY Ulrike (Ed.), Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich, Frankfurt/New York (Campus) 2001, p. 617.

often completely absent in the low-income areas of the labour market, where employers are not interested in further qualifying employees, for fear they would only have to pay them more. In this sector of the market, where unfortunately many refugees are to be found, training measures can hardly be founded support by companies, but have to take place alongside, allowing refugees to move on without relying on employers. This explains some of the poor response to our research.

In essence, the opportunity for asylum seekers to gain access to training measures largely depends on the AMS and is dictated by the situation in the labour market. Therefore access to any mercantile training is virtually impossible, especially with regard to the fact that preceding training measures would be necessary. However, there have been some branches, where, due to lack of workers willing to do the job, very intense, hands-on training measures were put into practice – for example in a training programme for welders.⁹⁴

1.3.5 Government Funded Training Schemes

Recognised refugees can be awarded österreichische Studienbeihilfe (Austrian scholarships provided for needy students) if they are students at an Austrian university, if a social need for it exists, and if they meet certain age restrictions. These are scholarships that are high enough to cover basic living costs. They are sponsored by Federal Ministries and administrated by the Afro-Asian institutes.⁹⁵

1.3.6 Access to Higher Education

Access to higher education is generally open to all and tied only to the appropriate school-leaving certificates (only in specific fields are further examinations required, before entry to an institution of higher learning is granted). Roughly speaking this applies to foreign students as well. Foreign nationals are found in the lowest and highest echelons of the educational system.⁹⁶ Yet university students of foreign origin come either directly from their countries of origin with the intention to take up studies in Austria, or from the privileged EU-member states. Refugees, often not belonging to such an elite population, face the danger of being grounded in the lower echelons and deprived of the chance of pursuing a more ambitious career. Factors responsible are mostly social and economic, and at times cultural. Legal factors are less relevant. Generally speaking, and with free access to universities and many similar institutions, the crux lies with the following three topics.

1.3.7 Recognition of Qualifications for Education

The normal procedure for the recognition of qualifications and certificates is called Nostrifikation. This is a relatively long and painstaking procedure, which can be costly if translations are required, and tends to be somewhat inflexible. It generally requires a completed course of a level that is equal to a comparable Austrian qualification. In such a procedure, it often turns out to be a major obstacle, that refugees are missing hard copies of documents, certificates and so on. The ensuing dependence on foreign embassies is often a cost-intensive factor.

Different historical developments have led to the Austrian educational system being relatively incompatible with the systems in many countries of origin – unlike some other European countries with a past as colonial powers. Also, apart from their usability in the academic or economic realm, Austrian qualifications are regularly time-consuming and theoretically of a high standard, so that many foreign qualifications will not be recognised. This affects a number of migrants/asylum seekers, who may have belonged to some elite in their country of origin, but are not allowed entry to similar elites in Europe. Improvements in this area have been brought about by the requirements of a more unified Europe, such as the use of a European Credit Transfer System and others, but this is of little value to

⁹⁴ This information was quoted by a representative of the Volkshilfe in a discussion with NGOs, organised by the Asylkoordination.

⁹⁵ See AFRO-ASIATISCHES INSTITUT WIEN, Förderungsprogramme für Konventionsflüchtlinge und Asylwerber aus Entwicklungsländern, Wien Juli 2000.

⁹⁶ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p 11.

refugees and asylum seekers. More impetus comes from EU-programmes such as TEMPUS. Overall there is a significant level of development in this area.⁹⁷

The system of NARIC-offices has been installed in Austria.⁹⁸ Another means of facilitating transfer of qualifications is by contracts under public international law.⁹⁹ However, it is said that the recognition of academic qualifications is underdeveloped in Austria as compared to the rest of the European Union.

1.3.8 Tuition Fees and College Fees

Secondary education is free in Austria, except if parents choose to put their offspring into private schools. These play only a marginal role.

The Austrian university system is moving away from free access to higher education. Austrian students, EU-students, students from Iceland, Liechtenstein and Norway pay a basic fee of €726.72 per annum at a normal university. Students from other states pay the same amount per semester, which makes for an annual fee of €1453.44. This amount can be refunded to students from a number of countries if they meet certain conditions.¹⁰⁰ This fee will also be asked for by the majority of other institutions of higher education, such as most Fachhochschulen – although other fees for individual institutions also exist. The overall development shows a movement towards a privatised system, in which education is procured like other goods – public discourse shows a broad consensus on this.

1.3.9 Student Maintenance (Scholarships, Grants, Loans)

Traditionally students are self-supporting in Austria. A scholarship system for students from low-income families has been in place for a long time.¹⁰¹ A relatively small number of grants from various charitable institutions or business communities is available on a competitive basis; these are only of interest for a minority of students. Another option is the provision of private sponsorship and scholarships. The Afro-Asian Institutes are well known for supporting a considerable number of students with foreign origins.¹⁰²

Taking out a loan to finance one's studies is an option, but it is not as common as in other countries. Generally, growing international mobility and the increasing amount of international cooperation is bringing about a number of changes, but for students without family support or something similar, a full-time degree course will still be an uphill battle from the financial point of view. Foreign students are not allowed to seek employment¹⁰³; their particular status as students can even create difficulties with placements and internships.

We have been told by NGOs that they consider the possibility to grant scholarships from the FREE-fund to be the most interesting part of the project.

⁹⁷ TEMPUS – see Council of the European Union, Resolution (1999/311/EC) of 29th April 1999.

⁹⁸ NARIC Austria, Bundesministerium für Wissenschaft und Kultur, Abteilung VII/D/3, Head: H. Kasparovsky.

⁹⁹ E.g. a multilateral treaty transformed into Austrian law: Übereinkommen über die Anerkennung von Qualifikationen im Hochschulbereich in der europäischen Region BGBl. III Nr. 71/1999.

¹⁰⁰ More information on the website of the relevant ministry: Bundesministerium für Bildung, Wissenschaft und Kultur – www.bmbwk.gv.at, under the heading Universitäten / Studium. Most foreign students get those fees refunded.

¹⁰¹ See Studienförderungsgesetz 1992 – StudFG. The relevant paragraphs concerning the equal treatment of foreign nationals are §§ 2 and 4 StudFG. Refugees have equal status to Austrians according to § 3 StudFG.

¹⁰² See AFRO-ASIATISCHES INSTITUT WIEN, Förderungsprogramme für Konventionsflüchtlinge und Asylwerber aus Entwicklungsländern, Wien Juli 2000.

¹⁰³ This provision shall cease to exist with the "Integrationspaket".

1.3.10 Accommodation and Basic Living Costs

Student halls of residence are run by a number of institutions, for example the Akademikerhilfe, the Wirtschaftshilfe für Studenten, the Afro-Asian institutes, catholic institutions and social-democratic institutions. Application for places must be made through the relevant bodies, usually well in advance of commencing studies. In recent years, there have usually been a number of vacant places. Frequently an option for students from foreign countries, or those arriving through exchange programmes, they offer relatively affordable accommodation, at least for a certain period, only to a minority of Austrian students. The major part of the Austrian student population either remains in parental care, or enters the private housing market.

The Ministry for Education names a figure of €507 to €724 for covering the costs of basic requirements, without providing a source.¹⁰⁴ Differences in the cost of accommodation between various parts of Austria are existent, but marginal. Basically, rooms in shared accommodation will be available from €200 per month upwards. A studio flat can be rented from €300 upwards, either with or without running costs included. Accommodation will thus use up a higher percentage of the available income than the 27% of the average Austrian household.¹⁰⁵ The basic costs of living may be covered by a similar sum. Above that, it all depends on further wishes, requirements and the available income.¹⁰⁶

1.3.11 Private Sponsorships

As with scholarships, there is always room for private initiative, for example by businesses, business-associations (such as the Industriellenvereinigung), or on the more charitable side by religious institutions and organisations. There exists, however, no fixed and formal system. In general, business are increasingly seeing the benefits of supporting activities, scholarships and prize-competitions at university level.

1.3.12 Studying on Benefit

While being on social benefit (Sozialhilfe), recipients must not undertake studies for a university degree.¹⁰⁷ Studying by using the benefit system may thus be feasible for some, but can not be considered a viable option.

1.3.13 Other Financial Assistance

Aspects which could be mentioned here are negligible from an overall and structural point of view.

1.4 Labour Market

The Austrian labour market is presently trying to come to terms with substantial changes. In this light the influence of immigration is variable, depending on perspective. Crucial developments which have led to changes in the Austrian system were joining the EU (EU-citizens being put on equal footing with Austrians), the expected expansion of the European Union, the after-effects of the influx of a population that entered the country in the 1990s after the fall of the Iron Curtain and the Balkan wars and is still at varying stages of integration, increasing competition through global integration and the liberalisation of formerly protected economic sectors, making economic cycles more immediately tangible. Two long-term trends add further complications to the development: technological progress alters the demand for qualifications on a large scale, generally creating a demand for more

¹⁰⁴ See www.bmbwk.gv.at.

¹⁰⁵ See Konsumerhebung 1999/2000, BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002, Wien 2002, p 233.

¹⁰⁶ All sorts of indices and data are available from the Statistik Austria. These data mostly do not feature students as a separate category, but allow for a straightforward calculation of the costs under a given consumption model: www.statistik.at.

¹⁰⁷ The relevant provisions are similar in different Provinces. In Styria it can be derived by interpretation from § 12 SHG (Steiermärkisches Sozialhilfegesetz). The notion is, that whoever can work, does not receive social benefit.

sophisticated qualifications, and demographic change produces an ever-ageing population, leaving ever-fewer employable groups. Research on such issues often meets data which are only partly sufficient, and earlier studies which are not always directly comparable. Concise and reliable empirical data is difficult to obtain. Any work on these topics would require existing (official) statistical data to be complemented by additional samples. Mining existing information always requires a mix of approaches and techniques. Typical questions in this context include the untapped potential in the workforce present in Austria, the real extent of labour displacement between nationals and foreign nationals, patterns concerning wages and salaries, and the effects of immigration on social security.¹⁰⁸ Statistical sources that could provide more information are those in possession of the AMS, which are sometimes difficult to access and read. Knowledge from our own activities in the field must sometimes complement gaps in the recorded information.

NGOs argue that the existing system is relatively comprehensive, functions well and would theoretically cover most necessary aspects even for disadvantaged people. It would, however, need to be opened up and tailored to the needs of refugees and asylum seekers. It could give them adequate support, had they access to it. Indeed, the issue of refugees, asylum seekers and the labour market is actually in a state of development, although at present asylum seekers are still usually without occupation and refugees are to be found predominantly in low-income jobs.

Information concerning refugees in the labour market is usually not available in the form of a centralised database or statistics. Conclusions could only be drawn from the placement statistics of the AMS. The Arbeitsmarktservices run the relevant pools as well and are thus the most useful source of information in this context.¹⁰⁹ The labour market itself does not differentiate between asylum seekers and refugees. Legal regulations, however, do.

1.4.1 Labour Market Needs and Skills Shortages Per Sector

Facts concerning the foreign workforce in the Austrian labour market include the following: two thirds of all third country nationals have been in Austria for more than five years. The number of foreign nationals who have grown up in Austria is increasing (some 146,000 at present). Youths from third countries are primarily found in the lower echelons of the educational sector. Younger groups of immigrants show a higher labour force participation rate than the resident population. The foreign working population is largely concentrated in a small number of economic sectors. They are largely employed in small- to medium-sized businesses. The gap in the wage-structure between foreign nationals and Austrians has not diminished recently. Part-time employment (“geringfügige Beschäftigung”) is not significantly more prevalent amongst foreign nationals. Large-scale labour displacement was restricted to the early 1990s. The foreign workforce constitutes a reserve pool of labour. The unemployment rate of foreign nationals is persistently higher than that of Austrians, with exceptions in the Provinces Burgenland and Lower Austria. The tailback of non-integrated foreign nationals on the labour market numbers about 20,000. Family members willing to follow to Austria are not very numerous. In the field of social security, the state’s revenues and expenses on behalf of foreign nationals are in balance. Immigration extends the productive capacity and thus enhances economic growth. Immigration of low qualified workers contributes to the increase in the gap between the incomes of lower and higher qualified personnel. Demographic developments contribute to an improved situation on the labour market. The gap between the qualifications needed by the economic sector and that of the potential supply is widening.¹¹⁰

¹⁰⁸ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp 1ff.

¹⁰⁹ Accessibility of such information once again depends on personal relations. Some AMS-branches are very helpful; others will not give any information. In general a good relation with the Ministry of Economic Affairs will also open doors to the AMS.

¹¹⁰ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p 5f.

The Austrian economy's long-term needs are difficult to assess, as developments are numerous and and are even leading to change in long-time traditions – i.e. since entering the EU Austria has become less dependent on tourism.¹¹¹

The Austrian labour market has recently been under more pressure again. Despite positive long-term predictions due to demographic developments, the unemployment rate has been on the rise lately. High unemployment rates are found in industrial sectors, notably building and metal works, and in the services sector in the tourism industry – here seasonal developments must be taken into account. Jobs on offer mirror that picture. Thus statistical data need to be properly read and complemented to provide evidence.¹¹²

A discussion of macroeconomic strategies employing or riding tendencies of migration is in its infancy.¹¹³ At present any suggestions pointing this way still spark hostile political debate and facts are read according to the respective political leaning¹¹⁴ – in particular, when aspects of EU expansion are discussed.

Sectors and employment per sector: In 2001 25,459 people were employed in the primary sector (agriculture, forestry), 902,877 in the production of goods, the secondary sector; and 2,149,769 in the services sector. The largest divisions of the second sector are the production of goods (613,670) and the building industry (247,143); in the second sector trade and related fields (498,468) are followed by the public administration (469,633 – a former key employer for academics, which has now basically stopped new entries), the diffuse sector of renting and selling real estate and company-related services (267,26 – this is one field that features a high growth rate, as does the health and social sector), and the traffic and telecommunication field.¹¹⁵

Unemployment per sector: The statistics of the Arbeitsmarktservice record the following numbers of unemployed per sector altogether in 2001: 3,703 in agriculture and forestry, 76,416 in the secondary sector and 113,941 in the services-sector.¹¹⁶

Foreign employees per sector: Two thirds of foreign nationals as opposed to half of the Austrian workforce are employed in just six sub-sectors: the building industry, tourism, trade and repairs, company-oriented services, metal processing and traffic and telecommunication.¹¹⁷

10.9% (2001) of working Austrians are self-employed. The figure is much higher in agriculture (reflecting a structure of small enterprises in this sector), and considerably lower in all other areas.¹¹⁸

Skills shortages are still primarily associated with the information technology and communication sector, despite its crisis last year. Generally speaking, Austria has a relatively low output of highly

¹¹¹ NECK Reinhard / NOWOTNY Ewald / WINCKLER Georg (Eds.), Grundzüge der Wirtschaftspolitik Österreichs, Wien (Manz) 2001.

¹¹² See again www.statistik.at.

¹¹³ See BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp 28ff. See also: BENEDEK Wolfgang, Das internationale Migrationsproblem und Österreich, in: Politicum Nr. 91, Graz 2002, pp. 34f.

¹¹⁴ See the reaction which greeted the book: BADE Klaus J. / MÜNZ Rainer, Migrationsreport 2002. Fakten-Analysen-Perspektiven, Frankfurt am Main / New York (Campus) 2002 – e.g. in DER STANDARD, Montag 15. Juli 2002, "Kommentar der anderen", p 23.

¹¹⁵ Hauptverband der österreichischen Sozialversicherungsträger, quoted after BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002, Wien 2002, p 139.

¹¹⁶ Arbeitsmarktservice Österreich, quoted after: BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002, Wien 2002, p 157.

¹¹⁷ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp 14ff.

¹¹⁸ Wifo-database, quoted after: BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002, Wien 2002, p 130.

qualified academics as compared to other industrialised countries.¹¹⁹ As a consequence, there is a shortage of skilled and qualified personnel in the newly developing technology intensive sectors. The Austrian situation is mirrored in the wider Western European context. However, in Austria, as in Germany, the debate is less developed than in some other countries. An immigration strategy that would aim to overcome skills shortages is not yet being seriously considered. It is not an opportune topic for public debate in the problematic environment of contemporary Austrian politics. In addition to skills shortages in the field of information technology and communications, there has also been a shortage of personnel for the tourism industry of late. The “Integrationsvertrag” is intended to provide a remedy for these shortages, although it is doubtful that these aims will be achieved. In particular, projects integrating people into tourism industry jobs have a reputation of only providing short-term solutions and introducing clients to a field where they are often exploited. Other people in demand are skilled workers, office-personnel and executive staff.

One sector which is notorious for its lack of qualified personnel is the field of healthcare. This might be a good example for possible contributions by a fund, as measures to bolster up and renew the qualifications of people already in the country may prove more efficient than importing staff from the Far East.

In the social stratification that characterises the labour market, the foreign population is primarily found in the highest and the lowest echelons.¹²⁰ A sensible aim of FREE would have to be to allow a higher number of refugees (and with more difficulty asylum seekers, non-refoulement refugees and others) to progress from the worst jobs (and in the case of asylum seekers they form a class that is frequently found below the lowest rung of the official labour market) to a sort of middle-class existence. Highest qualifications will remain the exception. The greatest need is in facilitating movement of a group that is in danger of becoming stuck in appalling contracts or as secondary workers, towards the middle-class sector where the majority of Austrians are already to be found. The traditional debate on the replacement of the resident Austrian workforce by cheap foreign labour has focussed on professions requiring barely any qualifications. If refugees were a highly qualified group, they might easily find a niche for themselves. Refugees’ and asylum seekers’ educational prowess is a bit of a dark horse. No concise statistical evidence is known to us. Asylum statistics would suggest that a well-trained and qualified refugee is the exception since the majority of asylum seekers and recognised refugees stem from countries whose educational systems are or were until recently in a sorry state – the case of Afghanistan is well-documented, as is that of Iraq; Yugoslavian asylum seekers are often Kosovar Albanians who have grown up with only an illegal school system to take care of them. Even if asylum seekers and refugees are from any sort of educated elite in their home countries, they are unlikely to demonstrate a level of education comparable to that of the educated elites in Western Europe – although individual exceptions are always possible.¹²¹

An aspect which must be noted is that asylum seekers comprise a relatively young population – it consists of an overwhelmingly high proportion of males between 20 and 35 years of age, thus also reflecting in part the general structure of the foreign population in Austria.¹²² Despite the fact that young adult males tend to be the physically most resilient group and are therefore most likely to reach the EU area, the distribution is not necessarily the same for recognised refugees.

¹¹⁹ This is a result of the evaluation of OECD-statistics, which can be accessed under: www.oecd.org. The publication of OECD results is regularly greeted by considerable media attention in Austria.

¹²⁰ See also BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001.

¹²¹ Due to their numbers, statistics on educational background can certainly be compiled for recognised refugees. Confusion about the social and educational background of asylum seekers is, we believe, a key factor behind many trans-cultural misunderstandings. Due to the mobility of asylum seekers and migrants, statistics are a tool of questionable value in this context.

¹²² See BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 9.

1.4.2 Refugees' and Asylum Seekers' Entitlements to Work

The difference between refugees and asylum seekers is fundamental here. Recognised refugees may seek employment without the restrictions that usually apply to foreign citizens. Unlike about 10% of all foreign employees, they do not fall within the scope of the AuslBG.¹²³ Foreign nationals looking for work must apply for a work permit, which comes in various forms, each of which is associated with a different set of rights, obligations and modes of issuance – Beschäftigungsbewilligung, Arbeitserlaubnis and Befreiungsschein. In practice, only the latter (issued after five years of almost continuous legal employment) allows for relatively unrestricted movement in the Austrian labour market. In comparison, the Beschäftigungsbewilligung can only be sought with the support of a sympathetic employer. Asylum seekers are subject to the relatively restrictive regulations of the AuslBG. § 4b creates a 'pecking order', stating that before a "Beschäftigungsbewilligung" can be issued the labour market has to be assessed, and gives a ranking on who has to take precedence for an available post, beginning with Austrian citizens and recognised refugees and making mention of asylum seekers in ninth and last position. In short, asylum seekers with a provisional permit to stay may be employed legally, but only under a number of conditions, which makes it very unlikely in practice that they will find work. Thus they are not de jure but de facto banned from legal employment, though unlike a couple of years ago, it is now not utterly impossible for them to find work.

Since the Austrian system makes it impossible to transfer between asylum and immigration, asylum seekers receiving a negative decision on their case often find themselves stranded. They are frequently referred to as "illegals", and theoretically it is impossible for them to integrate, though a surprising number of them eventually find a way into the system. Many move on and those remaining try to achieve some form of legal stay, as a long period of legal residence in Austria will go in their favour when applying for a permanent residence permit or citizenship (the notion of "Aufenthaltsverfestigung") in the future. Marriage is another popular option.¹²⁴ An unknown number of such foreign nationals inhabit grey and black niches in the labour market. The new legislative developments brought in under the mantle of the "Integrationspaket" are said to be effectively aimed at achieving zero-immigration and consequently zero-integration. The regulations in question are not the widely discussed measure of linking success in language courses with the issue of residence permits, but those concerning seasonal workers who are reportedly demanded by businesses, but are deprived of any chance to integrate. The argument that this legislation works in favour of foreign nationals who have no chance of integration can be deemed to be nothing short of hypocritical.¹²⁵ Self-employment is exempt from the Ausländerbeschäftigungsgesetz, and another group with a waiver from the AuslBG are artists; they do not fall under the quota. A number of projects trying to exploit this loophole and have foreign nationals recognised as artists have been tried out by NGOs.¹²⁶

1.4.3 Unemployment and Underemployment Rates among Refugees

The majority of foreign nationals are employed in small- to medium-sized businesses.¹²⁷ They are thus employed in businesses of 0–19 and 20–99 employees in disproportionately high numbers (37.3% and 24.7% respectively, as opposed to 32.4% and 19.3% Austrian nationals). This phenomenon also holds

¹²³ § 1 AuslBG. See also BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 13.

¹²⁴ See on the other hand on family unification: BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp. 26f.

¹²⁵ See again: BMI, 2002-03-04 Pressekonferenz Änderungen im Fremden- und Ausländerbeschäftigungsrecht – from the BMI-Homepage. The positive interpretation is given in the introduction. The sceptical position voiced in the sentence above is of course derived from a position that is critical towards the whole package.

¹²⁶ One example we know of dates back to 1995, undertaken in the course of the "steirischer herbst", an avant-garde festival, in the context of a project called "WochenKlausur. Kunst und konkrete Intervention" (Seclusion-week. Art and concrete intervention). The legal basis is § 4a AuslBG.

¹²⁷ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 5. See also BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002.

true for enterprises with 100–999 employees, while the figures are reversed in large firms. This also means that foreign nationals work in those environments that are most volatile due to competition – something they share to a high degree with female Austrian workers. They also tend to work in jobs requiring only low qualifications, which are increasingly outsourced by large companies. While this is generally reflected in incomes and few foreign nationals are to be found in the high-income spheres, the picture is not quite unilateral – labour-intensive employment such as in the building sector is relatively well paid. Incomes of foreign nationals are more susceptible to the effects of new labour influxes and cover a smaller range than those of Austrians.¹²⁸ Foreign nationals (in particular women) are also affected by the newer phenomenon of short-term employment. Increasing job fluctuation has become another common phenomenon. Participation in the labour market has increased over the last decade.¹²⁹ In the labour market, foreign nationals generally form a reserve pool of labour, but the relationship between labour influxes and changes in the labour market is complex.¹³⁰

The report talks about foreign nationals in this section, as data about refugees are almost impossible to acquire. Some relevant data on the employment of refugees could be available from the Arbeitsmarktservices but access is restricted tightly.¹³¹ There is some relevance in quoting data for foreign nationals, as that is what asylum seekers and refugees are from this point of view.

Employment of foreign nationals in total is lower than that of Austrians; unemployment rates are higher, though rates vary according to geographical origin and education.¹³² In 2001 240,060 foreign nationals requiring some kind of working permit were employed in Austria – the overwhelming majority of whom originated from various parts of the former Yugoslavia, and from Turkey. In 2000, 109,676 foreign nationals, as opposed to 579,197 Austrians, experienced unemployment.¹³³ The unemployment rate of foreign nationals over the last 20 years has constantly been close to 2% above that of Austrian nationals, with a temporary deviation during the strong influxes of the 1990s. It varies between the provinces and sectors.¹³⁴ The degree of under-utilisation of the foreign workforce is difficult to gauge. It depends on the region of origin and on qualifications. The issue is problematic primarily for those with low qualifications. Some of these filter into short-term employment and the illegal labour market. A not altogether marginal issue is that of foreign students and drop-outs, who, due to their residency status as students, may so far not seek employment – a potential pool that is estimated to comprise somewhere between 10,000 and 15,000 people.

One point that makes unemployment particularly critical for foreign nationals is the danger of losing one's standard of integration into the labour market, by dropping back in the hierarchy of work permits (Beschäftigungsbewilligung, Arbeitserlaubnis, Befreiungsschein). In the case of an extended period of unemployment, residence permits may also be lost.¹³⁵

¹²⁸ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp. 15ff.

¹²⁹ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 13.

¹³⁰ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 20ff.

¹³¹ Developing a functioning relationship with at least someone in the AMS will make the work of FREE a lot easier. We were advised by Ms BIFFL, that relevant statistical data were indeed available from the AMS.

¹³² BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, p. 13.

¹³³ Arbeitsmarktservice Österreich, quoted after BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, Wirtschafts- und sozialstatistisches Taschenbuch 2002, Wien 2002.

¹³⁴ BIFFL Gudrun, Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich, Wien August 2001, pp. 22ff.

¹³⁵ A Beschäftigungsbewilligung may be issued if the labour market so permits, on the initiative of the employer, and grants only the permit to work under one particular work contract and is issued for a maximum duration of one year. These and many more conditions in: §§ 3ff AuslBG. A foreign national who has been employed for at least 52 weeks in the past fourteen months can then apply for an Arbeitserlaubnis (§ 14a AuslBG). It is in its standard version valid for one Province and two years and can then be extended. The pinnacle for a normal alien is the Befreiungsschein, which can be issued if the foreign national has, during the past eight years, worked on

To understand the shortcomings in employment relations, the lack of integration, and unemployment, it is necessary to look back to the ‘guest workers’ of the 1960s and 1970s and to consider the effect of developments in the world economy.¹³⁶ It is difficult to spot any current policies which promise improvement. It is not yet clear what difference the various EQUAL initiatives for equalisation on the labour market will bring nor what the effect of the EU-Gleichbehandlungsrichtlinien (Council Directives on Equal Treatment) will be.

1.4.4 Recognition of Qualifications for Employment

The basic requirement has traditionally been comparability with Austrian qualifications. Migrants had to fulfil the requirements laid down in Austrian regulations, regarding for example job experience. Wide-reaching changes are taking place in this field, as a result of EU legislation.¹³⁷ On various issues, Austrian pressure groups have been reluctant to conform with these standards, as a number of court cases testify.¹³⁸ Yet things are developing safely in the direction of conforming with EU standards. The tendency is towards much greater flexibility, undermining the long-held tradition of rigid training paths.¹³⁹

Information on standard Austrian qualifications for employment, qualifications from apprenticeships and vocational training is available on the Chamber of Commerce website.¹⁴⁰ There are a number of occupations which cannot be pursued without a concession under *Gewerberecht*.¹⁴¹

Standard procedures of recognition do not exist. This is rather a complex system that involves various protagonists, such as the Ministry for Economic Affairs the Arbeitsmarktservice, and the Innungen.¹⁴² Initiatives towards facilitation are constantly being propagated.¹⁴³ It is basically impossible for a refugee without long-term experience in the Austrian system to find his or her way without advice and support. The key issue here would be how to bridge gaps that exist between foreign qualifications and Austrian requirements, be that because of different standards, or because of gaps in CVs caused by flight and enforced idleness. Few initiatives exist in this area. Statistical data on the number of recognised qualifications and the number of newly acquired qualifications are not available as such. A separate research project could collect them from each of the relevant institutions and carry out its own interpretation.

As with the NARIC system, there are many gaps in this field in Austria. In some situations though, for example, where the shortage of skilled workers is concerned, there are opportunities for action. Key protagonists here are the Innungen (guilds). The Wiener Integrationsfonds has experience in

Austrian territory for at least five years. This Befreiungsschein allows for relatively unrestricted movement on the labour market.

¹³⁶ See FASSMANN Heinz / MÜNZ Rainer: *Einwanderungsland Österreich? Historische Migrationsmuster, aktuelle Trends und politische Maßnahmen*, Wien (Jugend und Volk) 1995; or for a short version: MÜNZ Rainer, *Migration, Flucht und Vertreibung in Europa. Ein Rückblick auf das 20. Jahrhundert*, in: APPELT Erna (Ed.), *Demokratie und das Fremde. Multikulturelle Gesellschaften als demokratische Herausforderung des 21. Jahrhunderts*. Innsbruck et al (STUDIENVerlag) 2001, pp. 24ff.

¹³⁷ Or EU-jurisdiction rather – as according to Art. 149 (1) and Art. 150 (4) TEC national regulations may not be harmonised by the Union in term of education and vocational qualification. Financial subsidies through Erasmus, Sokrates and Tempus thus have the biggest effect. See STREINZ Rudolf, *Europarecht*, Heidelberg (C.F. Müller) 2001. See also: Bericht des Rates (Bildung) an den Europäischen Rat ”Die konkreten künftigen Ziele der Systeme der allgemeinen und beruflichen Bildung”, of 12. Februar 2001 – found under <http://register.consilium.eu.int/pdf/de/01/st05/05980d1.pdf>, last seen on 29th July 2002.

¹³⁸ It is the jurisdiction on the freedom of movement for workers which is relevant in this context.

¹³⁹ See for example: GRUBER Elke, *Modernisierung durch Flexibilisierung von Weiterbildung*, in: GROSSMANN Ralph (Ed.), *iff texte*, Wien / New York (Springer).

¹⁴⁰ <http://portal.wko.at>.

¹⁴¹ A kind of trade regulation act – see below.

¹⁴² Information via the ministry for economic affairs: www.bmwa.gv.at.

¹⁴³ See also: COUNCIL Directive 92/51 EWG; COUNCIL Directive 89/48/EWG.

cooperating with the Innungen on issues concerning foreign nationals. Advancement measures and the opportunity to undergo in-house training have been granted in some individual cases.

Individual and temporary measures have also been tried by the Bfi¹⁴⁴ in Vienna in its Berufsausbildungszentrum (Vocational Training Centre) for Facharbeiter (skilled workers). They used short courses (“Schnupperkurse”) to allow them to check what workers from foreign countries really had to offer in terms of their skills, which kind of machinery they had knowledge of, which techniques were familiar to them, and where they stood in comparison with Austrian workers. The drawback is that access to these courses is once again dependent on support from the AMS, which is only granted to a minority. But in the form of a step-by-step model with necessary certificates, this would be an option. A combination of entry exams on various levels and language courses to complement the offer would be sensible. Here we have another example of a functioning model which is not meant for refugees and asylum seekers. There is no shortage of ideas and models, but basic funding is missing everywhere. The BAZ-activities are sponsored by the AMS, the WAFF and partly the EU – sponsoring was possible because the lack of skilled workers is perceived as a pressing need.

1.4.5 Information on Change of Careers and the Transferring of Skills

Information is a key factor, although the recommendation to provide information alone is not enough. Basically all information is available somehow and a number of institutions and organisations are willing to help with the search (the AMS is responsible in the first instance). Accessibility for refugees and asylum seekers is another matter, however. What is needed would be a kind of information-broker, who is able to disseminate the information to a multicultural clientele. Apart from helpful NGOs, the system has an almost monopolistic character, with the Arbeitsmarktservice at its centre. The Ministry for Economic Affairs does, however, also offer various numbers and email-addresses,¹⁴⁵ to lower what is otherwise a high barrier. Information on change of careers and transferring of skills cannot be given in general terms; only specific information for specific cases and careers can be obtained.

1.4.6 The Recruitment Process, Including Job Search and Labour Market Orientation

Following the international trend, normal careers in Austria are much less stable and predictable than they once were. Changes of employer and even sector are far more frequent than they used to be and the labour market offers a constantly changing backdrop.¹⁴⁶ Frequent changes of employment increases the number of people seeking employment at any one time. In 2001, there were 203,883 unemployed people (the number of those receiving unemployment benefits was lower), and there were 5,483 people looking for an apprenticeship. The Arbeitsmarktservice offers numerous statistics on unemployment; all, however are official statistics with all their associated shortcomings.¹⁴⁷

Companies now employ numerous strategies to acquire employees,¹⁴⁸ but apart from very sophisticated or high-level jobs, the majority of posts are still advertised. Job adverts in AMS would be the standard way of seeking employment, but only a fraction of employees are placed in this way. Searching for jobs in newspapers and online sources is the classic way of filling vacancies, but this is a path that tends to put migrants at a disadvantage for social and cultural reasons.

A number of job markets are purely insider markets. One example is academia. Basically regulation in these markets follows similar criteria as on international levels, although some Austrian sectors of this kind lag behind the international norm. Austrian academia, for example, is only just getting

¹⁴⁴ Berufsförderungsinstitut, see Footnote 83.

¹⁴⁵ Information available under: www.bmwa.gv.at.

¹⁴⁶ A lot is being published in this context, especially with reference to “globalisation”. See HARDT Michael / NEGRI Antonio, *Empire*, Frankfurt am Main et al (Campus Verlag) 2002.

¹⁴⁷ In Austria the ÖNACE 1995 – system, which is in conformity with EU-standards, has been used on unemployment only since 1996. Therefore it is only statistics since 1997 which are directly comparable.

¹⁴⁸ We may generally refer to economic literature on this topic.

accustomed to the fact that jobs should be advertised publicly and so are more open to outsiders. This also means that prospects for home-groomed hopefuls are less secure. Appointment to a civil servant's position is still an unlikely option for a foreign national in Austria, despite the fact that employees to these jobs are no longer regularly appointed by *Bescheid* (a mandatory public notification which is the main form of binding decisions in Austrian administrative law), but by contract.¹⁴⁹ An informal labour market operates wherever possible, in which posts are handed to employees via personal relations.

Personnel leasing companies and employment agencies specialising in temporary work play a major role in the employment of legally resident foreign nationals.¹⁵⁰ Their reputation is not very positive, for two reasons. First, it is said (unofficially but regularly) that their business methods are on the tougher side; and second, they embody the type of low-end labour market that we would wish to lift asylum seekers from – such as cleaning jobs.

Austria boasts a considerable market for illicit work, known as *Schwarzarbeit* ("black labour"). The real scope is naturally difficult to assess. Occasionally subject to bellicose declarations and threats of draconian punishment,¹⁵¹ the reality is not quite that dramatic. One aspect is that the practice has a deeply rooted tradition. The shadow economy is a grey rather than black area and therefore accommodated by the market rather than truly posing a macroeconomic problem. My personal experience from social work "on the game" of the illegal labour market for Eastern Europeans is, that there is a mutual agreement to tolerate the phenomenon to some degree, thus keeping it under control more easily. Since a shadow economy undoubtedly exists, it is necessary to pay attention to its structures, which are often repressive for those caught in it, i.e. migrants without a claim to legal employment.

NGOs report that it was once easy for a refugee to find employment. It then became utterly impossible. At present there has been a further change in which it is difficult yet not impossible for a refugee to find work. According to them, much depends on individual circumstances, both of the client and of the economic sector in question. In sectors with personnel shortages, such as nursing or welding, there are many opportunities. The personal initiative of individuals in the AMS or ministries can also prove decisive. Other sectors, such as the building trade, are under much pressure. All in all the labour market is under severe pressure at present, but things look more optimistic in the long run.

Experts on integration frequently call for more programmes of counselling and training for refugees and other migrants.¹⁵² There is more on the conditions under which undertakers would employ refugees in another publication of the Wifo.¹⁵³

1.4.7 Regulations and Funding (Loans) for Setting Up Businesses

An overwhelming number of legal matters are of importance for prospective entrepreneurs. One is labour law, which states the obligations they have to fulfil. This is mostly a cost factor and not so pivotal at the founding stage. Yet it should be borne in mind that Austrian labour law is decidedly different from the Anglo-Saxon variety, which may have implications for the transfer of a fund model.

¹⁴⁹ DAVY Ulrike (Ed.), *Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich*, Frankfurt/New York (Campus) 2001, pp. 639ff. See *Vertragsbedienstetengesetz* BGBl. Nr. 86/1948 idF BGBl. I Nr. 100/2002 – Contractual Civil Servants Act; and the *Beamten-Dienstrechtsgesetz 1979* – BDG 1979.

¹⁵⁰ 5846 foreign employees as of 31st July 2001. From: Bundesministerium für Arbeit, quoted after: BUNDESKAMMER FÜR ARBEITER UND ANGESTELLTE, *Wirtschafts- und sozialstatistisches Taschenbuch 2002*, Wien 2002, p. 152.

¹⁵¹ Again from different sides of the spectrum: See www.fpoe.at – "Dafür steht die FPÖ – Für einen stabilen Arbeitsmarkt – Point number 11"; and on the other hand: ÖGB/AK, *Pressekonferenz Offensive gegen organisierten Sozial- und Steuerbetrug*, Wien am 15. Februar 2002, http://www.oegb.at/downloads/pressekonferenz/oegb_gegensozialbetrug_150202.pdf, last seen 29th July 2002.

¹⁵² SPRUNG Anette / HOLZER Daniela, *Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz*, Graz 2002, p. 223.

¹⁵³ See BIFFL Gudrun, in: WIFO-Monatsberichte 6/2002.

Two other key areas are commercial law, which basically sets the legal parameters for an entrepreneur's activities, and the trade, commerce and industry regulation act (Gewerbeordnung)¹⁵⁴ which, in its peculiar Austrian form, must be taken into account separately in planning any project. Commercial law¹⁵⁵ allows for a number of forms of businesses with different characteristics – ranging from a personal undertaking to business partnerships (Personengesellschaften) which are characterised by the personal liability of the partners, to capital companies which require a basic stock of capital, though the form of GmbH (Gesellschaft mit beschränkter Haftung – company with limited liability) is also very popular for small enterprises (altogether employing more than 40% of the Austrian workforce). Foreign nationals' enterprises are personal undertakings or small business partnerships (in one of a number of forms).¹⁵⁶

Under Austrian law anyone who wants to open a business enterprise must also obtain a permit under Gewerberecht, which basically testifies that he or she is personally allowed to undertake such a business. This is a major source of complaint, since obtaining a “gewerberechtliche Bewilligung” entails considerable outlay in fees. Moreover, it can only be obtained by finding one's way through a veritable bureaucratic jungle that may well scare foreign nationals away. In the case of some branches it is also tied to certain exams – it is at this level that national regulations for access to certain branches enter the frame as a problem. The system has given rise to various forms of abuse in the past – for example “gewerberechtliche GeschäftsführerInnen” (people selling their “Gewerbeberechtigung” to appear upfront as a nominee, without ever actually being involved in the business), which is now being stopped by new regulations.¹⁵⁷ There are a number of “free crafts” (freie Gewerbe), which are exempt from the obligation of getting authorised.¹⁵⁸ Next to those individual requirements Gewerberecht includes a provision that requires an acceptance of equivalence to be issued by the provincial government on the public and macroeconomic implications of a business a foreign national wants to open.¹⁵⁹ After they have been legally resident in Austria for three years, recognised refugees are almost on an equal footing with Austrians in this respect.

Attention should also be drawn to the fact that Austrian tax law has a character of its own and usually influences decisions taken in the aforementioned areas, such as which legal form of a company should be chosen.

Informal barriers: There are numerous facets to be considered. Let us look at some examples. Residence permits offer a status that can quickly come under threat because of relatively minor issues – a sufficient income is one condition for its extension, a marker which is far less calculable for a small entrepreneur than for an employee.¹⁶⁰ Similarly, relatively minor offences against administrative law (for example misconduct in road traffic) can have far-reaching consequences. One of the most crucial barriers remains the issue of understanding the system – a question of language, culture and familiarity with a legal system that is far from easily intelligible.

¹⁵⁴ Gewerbeordnung 1994 – GewO 1994 BGBl. Nr. 194/1994 idF BGBl. I Nr. 111/2002.

¹⁵⁵ Once again a relatively vast collection of laws, rather than a single act. The closest to a central volume is the Handelsgesetzbuch (HGB), though this as well covers only a fraction of the relevant sectors.

¹⁵⁶ The law offers the form of Offene Handelsgesellschaft (OHG), or the Kommanditgesellschaft (KG) with limited liability for some of the partners. Both exist in an even smaller version: Offene Erwerbsgesellschaft (OEG) and Kommandit-Erwerbsgesellschaft (KEG).

¹⁵⁷ See GERSCHA Arnold et al (Ed.), Kommentar zur Gewerbeordnung, Wien (WEKA-Verlag) Loseblatt-Ausgabe Lieferung 2002.

¹⁵⁸ § 5 (3) Gewerbeordnung 1994. The clause is phrased negatively – all that are not otherwise mentioned. They need to be registered, but do not need to prove the ability to practise the craft. See BUNDESMINISTERIUM FÜR WIRTSCHAFT UND ARBEIT/GRÜNDERSERVICE, A bis Z der freien Unternehmenstätigkeiten, Broschüre.

¹⁵⁹ § 14 Gewerbeordnung 1994.

¹⁶⁰ VOLF Patrik-Paul / BAUBÖCK Rainer, Wege zur Integration. Was man gegen Diskriminierung und Fremdenfeindlichkeit tun kann, Klagenfurt (Drava) 2001, p 80.

These legal issues and their consequences for social status are also decisive factors when the question of loans is considered. The banking sector's approach would not initially be discriminatory (though closer analysis of their activities can unveil a number of critical practices). It bases its decisions on economic criteria, however, and in this case it is looking at a particular social group that has a very volatile legal and social position and is usually attempting to enter difficult markets. So many of these smaller businesses depend on informal financial support by peers. It could be concluded that there is generally a climate which makes it difficult for foreign nationals from lower social strata to be granted a loan. Yet the concept of ethnic business has been dispersed relatively widely and is catching on, at least in some sectors.¹⁶¹

A number of further administrative aspects should at least be mentioned. Every business enterprise has to be registered in the Firmenbuch. Also, just as every employee has to be a member of the Chamber of Labour, so every entrepreneur has compulsory membership of the Chamber of Commerce. Existing businesses run by foreign nationals would be an interesting issue for us, but not one for which statistics are readily available. This may be something to be assessed in future research.¹⁶²

In the present situation, the aspect of self-organisation of foreign nationals is decisive, as it provides what is probably the single most important factor in foreign nationals' economic activities. For obvious reasons researching this is not easy and would require an intensive use of qualitative measures. Self-organisation is a fashionable topic, although it is known to have some dangerous effects – for example, we know of cases where such organisations include loan sharks and protection rackets.

The social security system is a decisive element in the context of founding a business enterprise, and not only from the recipient's or employee's point of view. The legal background here is no different for foreign nationals than for Austrian citizens, since it is based on the employer–employee relationship. In the case of foreign nationals, however, a prerequisite is the legality of residence and of all the activities concerned. It is a major cost factor in employing people – the employer is responsible for paying the relevant fees to the social insurance institutions, and while the employee is insured by being employed, the employer can be held responsible if he or she does not pay the dues.¹⁶³ Dues to be paid cover a number of different aspects – health insurance, accident insurance, unemployment insurance contributions and contributions for retirement pension insurance¹⁶⁴. Issues like sick pay also need to be considered in this context. Business communities and initiatives such as the Chamber of Commerce offer advice on all sorts of questions to young entrepreneurs¹⁶⁵ – though access to this may again be more difficult for foreign citizens.

Advice or counselling on founding a business enterprise is rarely available in different mother tongues. In general advisors and counsellors are not very familiar with the problems of refugees and asylum seekers. This is a problem that institutions such as the Junge Wirtschaft could remedy. At present, the nearest alternative is a set of brochures in different languages.

¹⁶¹ VOLF Patrik-Paul / BAUBÖCK Rainer, *Wege zur Integration. Was man gegen Diskriminierung und Fremdenfeindlichkeit tun kann*, Klagenfurt (Drava) 2001, pp 81ff.

¹⁶² VOLF Patrik-Paul / BAUBÖCK Rainer, *Wege zur Integration. Was man gegen Diskriminierung und Fremdenfeindlichkeit tun kann*, Klagenfurt (Drava) 2001, p. 75.

¹⁶³ The Austrian system of social insurance is a quasi-comprehensive one, which ties insurance to employment – social insurance for an employee (and e.g. children with him or her) is statutory. It must not be forgotten that the insurance bodies tend to be very tough on their debtors.

¹⁶⁴ Again to be found in the ASVG; a state system which is increasingly coming under pressure due to demographical and political developments. At present the retirement age is still 65 years for men and 60 for women. Details for the calculation of pensions etc. are again an area where potential entrepreneurs would be in dire need of competent advice.

¹⁶⁵ See www.gruenderservice.net: Start-up service.

1.4.8 Job Schemes, Relevant Government Schemes for Unemployed

Unemployment benefit (Arbeitslosenunterstützung) is granted at a level dependent on previous income (upper limits apply) for at least 20 to a maximum of 78 weeks (with the possibility of a further extension when re-training is undertaken). The period to which one is entitled to unemployment benefit is dependent on the duration of preceding employment – first 52 weeks in a space of two years, for subsequent claims 26 weeks during the span of one year for a basic claim – in a relatively non-discriminatory manner as far as EEA-nationals and aliens are concerned. Some aspects allow indirect discrimination, however: transfer of claims from another country; availability to the labour market, which is one of the conditions for receiving unemployment benefit and can be problematic in certain cases tied to the cessation of a “Beschäftigungsbewilligung”;¹⁶⁶ the duration of unemployment without losing entitlement, which is lower in the case of a legal residence span of under eight years and unemployment for a year; further training measures by the AMS, which favour Austrians; and finally, in the case of Notstandshilfe. When entitlement to unemployment benefit is exhausted, a person available for work but still unemployed, who is in need and fulfils a number of other legal criteria has a claim to Notstandshilfe. This is calculated on the basis of the calculation basis used for unemployment benefit, but is slightly lower than the latter.¹⁶⁷

Sozialpläne (social plans) are a means that large concerns employ when they cut the number of their personnel drastically. They usually operate in cooperation with the AMS. They provide schooling and qualification measures and help with re-entry to the labour market in a relatively generous manner.¹⁶⁸ An apprenticeship is an educational option that is quite frequently taken by young foreign citizens. In recent years the demand for placement as an apprentice has regularly exceeded availability. Various short-term initiatives have been taken to resolve the problem.¹⁶⁹ However, the consensus is that it should be “Austrians first” in periods where demand outstrips supply.

On one of the most controversial issues of contemporary Austrian politics, the Integrationsvertrag, see elsewhere in this report.

NGOs are calling for the installation of a second and third labour market for refugees, asylum seekers and migrants. By this, they mean a protected labour market for people with special needs that would allow them slow integration into the regular labour market. The question is who would finance this move. The main protagonist in this context is again the AMS. Similar labour markets already exist for disadvantaged Austrians in the form of the Sozialökonomische Betriebe (social-economic enterprises), though they also need subsidies in order to survive. It is hard to spot willingness to install such labour markets at the present stage. Models of co-funding are imaginable – which is also what we are looking for with FREE. However, the peculiarities of Austrian labour law, Gewerberecht and tax law must be borne in mind when foreign models are to be imported.

There is a number of existing initiatives that are of interest here. The city of Vienna ran an encouragement programme for Viennese employees – the WAFF¹⁷⁰ – which attempted to pursue goals such as providing a link between employers and employees, helping with the introduction to a new

¹⁶⁶ DAVY Ulrike (Ed.), Die Integration von Einwanderern. Rechtliche Regelungen im europäischen Vergleich, Frankfurt/New York (Campus) 2001, pp. 615ff.

¹⁶⁷ This too is paid from the system of unemployment insurance and thus based on the relevant law on unemployment insurance: Arbeitslosenversicherungsgesetz 1977 (AIVG) BGBl. Nr. 609/1977 (WV) idF BGBl. I Nr. 89/2002. Further details are regulated in a directive concerning the issue of Notstandshilfe: Notstandshilfeverordnung.

¹⁶⁸ They can be concluded in cooperation of employer and workers' council, based on the Arbeitsverfassungsgesetz – Law on labour constitution. See SCHWARZ Walter / LÖSCHNIGG Günther, Arbeitsrecht, Wien (ÖGB-Verlag) 92001, pp. 910ff. One recent example for a relatively generous social plan in a prominent enterprise in Austria is that of EUROSTAR in Graz.

¹⁶⁹ Keyword “Lehrlingsoffensive”, though this has later become prominent for dubious businesses conducted alongside.

¹⁷⁰ The fund has its own website under: www.weiterbildung.at.

job. To accomplish this, they employed a number of models, such as bridging-courses, and an education account (Bildungskonto). They had particular success in the provision of internships and placements in the IT sector, since some of the interns and trainees were retained.

1.4.9 Social Benefit System

The social benefit system has developed into a key factor in the situation of refugees and asylum seekers in Austria, since a system that has been developed from the conventional social benefit has come to complement the system of “Bundesbetreuung”. The topic has also entered political discussion, in the form of the question of whether granting social benefit to asylum seekers creates a pull-factor for immigration to Austria. Of particular importance is the question of the nationwide distribution of certain groups due to differences in regional and local social policies.¹⁷¹ The following must be read in the light of imminent changes to the system, with the possible introduction of a model of “Grundversorgung” for all asylum seekers. The situation of recognised refugees is a separate issue.

In short, refugees are entitled to receive social benefit. Other foreign citizens, including asylum seekers, are in some areas and are not in others, with the added complication that in certain areas, they are theoretically entitled to social benefit, but denied it in practice. The larger municipalities run parallel systems which handle the cases of Austrian and foreign clients differently. Administratively recognised refugees in need usually fall into the same category as Austrians. Asylum seekers given the protection of non-refoulement are not in a position as advantageous as that of recognised refugees. They are treated like ordinary migrants, continuing to depend on NGOs and raising familiar issues on the verges of illegality.

In essence, the system of social benefit is independent from contributions made by the beneficiary, based on social indigence as the key factor. Thus it is the counterpart of the social insurance system, which is, as indicated by the name, an insurance system based on the reciprocity of contributions paid against benefits and services received. Due to this system, with a basic federal law, but different systems operating in the separate provinces, it seems sensible to look at specific cases.¹⁷²

Vienna, which hosts the largest proportion of asylum seekers due to the opportunities it offers as the largest city in Austria, grants social benefit as state-sided support only to Austrian and EU citizens, with the exception of acute medical cases – as do six out of nine Austrian Provinces. This means that asylum seekers mostly turn to the NGOs Caritas and Efdö. Capacities only allow the Austrian system to stay in a delicate equilibrium, which is unbalanced by any major new influx. The Styrian model, which allows asylum seekers a claim to subsistence support, is exceptional in Austria. Nevertheless, the current “Grundversorgung” model, despite being an example of more generous practice, is the result of tightened legislation. This ties entitlement to social benefit at the normal rate to certain requirements which asylum seekers normally do not comply with. However, a right to basic subsistence (accommodation, provision of food, elementary health care) for everyone still exists.¹⁷³ In

¹⁷¹ This was again a political discussion, with ensuing newspaper articles galore. The issue that kindled it was that a number of asylum seekers were arrested for being in the businesses of selling illegal drugs. From this developed a massive debate about asylum seekers as “drug dealers” that still has a massive influence on asylum seekers’ public image. In this context it was observed that many of those suspects were resident in the same areas, which was then linked to generous social welfare policies in those areas.

¹⁷² See EFIONAYI-MÄDER Denise, Sozialhilfe für Asylsuchende im europäischen Vergleich, Neuchâtel (Swiss Forum for Migration Studies) February 2001, pp 91ff.

¹⁷³ I [C.W.] know the system of “Grundversorgung” very well from my work with an NGO that supports asylum seekers, but failed to unveil any official record of it – which may well be due to a restrictive information policy on the part of the initiators. In the end I had to look as far as a Swiss study to find some written record of it. See EFIONAYI-MÄDER Denise, Sozialhilfe für Asylsuchende im europäischen Vergleich, Neuchâtel (Swiss Forum for Migration Studies) February 2001, p 97. This study echoes my impression that local authorities have an interest of keeping their social benefit practices a secret as far as possible and have no interest in comprehensive documentation.

practice, various structures in a number of cities provide Grundversorgung through cooperation between cities and municipalities, the BAA and Caritas.

Social benefit as such (for Austrian citizens) actually offers a relatively wide range of measures, both in enacting the law and in private economic activity by the Stadt Graz. Although the system is based on the provision of financial support in accordance with the relevant laws, other forms of support are also provided.¹⁷⁴ Another peculiarity in Styria is that its laws grant recognised refugees access to social housing. Generally our experience with the Welfare Office for foreign nationals in Graz is that of an open-minded partner for new initiatives. Salzburg is another example of a province that crafted a more restrictive social benefit law in the course of the 1990s (following discussions about growing numbers of asylum seekers and surreptitious abuse of the system) and now runs a model that represents a half-way house between the two extremes represented by Vienna and Styria.

In most cases basic health care is covered by the social benefit system.

Throughout Austria, social benefit is nearly always tied to conditions of need for help and usually has to be paid back once this situation of being in need ceases to exist. To a degree, the lack of legal provisions allows some room for authorities' discretion and thus for ad hoc solutions. The importance of NGOs in the Austrian system is very high and provision in this field lies largely in the hands of a small number of NGOs. The federal state has administrative supremacy and handles it in the form of Privatwirtschaftsverwaltung (administration through activities in the private business sector). Favoured treatment can be expected by the sick or by families with small children.

The issue of family assistance payments is another matter that lies at the intersection of the social insurance system and a benefit system. Most of the assistance available is channelled through the Familienlastenausgleichsfonds (a federal endowment fund), which, in short, supports families with children until they have grown up or completed their education). A much publicised new development in 2002 is the system of "Kindergeld".¹⁷⁵ This is an initiative that despite its obvious ideological emphasis on the promotion of traditional family life, has been praised by experts as a singular example of a new development that will actually bring improvement instead of cutting benefits back. However, it is a regulation that excludes asylum seekers and a number of other migrants (due to clauses concerning the duration of residence – five years).

1.4.10 Integrationsvertrag¹⁷⁶

The so-called 'Integration Contract' is a rather misleading term that is basically little more than a headline for a debate that has been caused by plans for the amendment of most notably the Aliens' Law and the law on the employment of foreign nationals, which have by now become law and will be in effect from the turn of the year. The term Integrationsvertrag actually refers only to the provision of language courses, whereas the whole package is referred to as the "Integrationspaket". Some minor amendments were to be made to laws affected, such as asylum law. How far-reaching the changes will be cannot be gauged easily in advance – in essence it is a further step in a development that has been unfolding for more than a decade now. In short, the amendments include: new regulations for seasonal workers, with the aim of acquiring a flexible foreign workforce for seasonal highs without having to worry about integration; encouraging the influx of highly-qualified and well-paid "Schlüsselarbeitskräfte" (key workers); obligatory language courses for immigrants (which has been at the core of the debate – due to a harsh sanctions regime and insufficient provisions for the functioning

¹⁷⁴ Gesetz über die Sozialhilfe (Steiermärkisches Sozialhilfegesetz – SHG) LGBI. Nr. 29/1998 idF LGBI. Nr. 5/2002. See also: www.graz.at/soziales_senioren. The head of the Social Office for foreigners in Graz (Mag. B. Laminger) is in principle willing to cooperate with new projects, though she requested more information from us.

¹⁷⁵ Kinderbetreuungsgeldgesetz (KBGG).

¹⁷⁶ The integration contract has the form of a Verordnung (by-law) and will be in force from the beginning of 2003 for foreigners who have arrived since 1998. The amendments to other legal provisions (Aliens' Law, Asylum Law, Law for the Employment of Foreign Nationals) also enter into force on 1st January 2003.

of the system)¹⁷⁷; obligatory health tests to be presented upon immigration; stricter regulations on adoptions. Some aims have clearly not been achieved – for example concerning the simplification of procedures for the acquisition of residence and work permits.¹⁷⁸ Future developments may be influenced by the outcome of the upcoming general elections. Of the package, changes to the Aliens' Law have been effected. The by-law on the integration contract has been decreed and a process for the certification of course organisers has been initiated; the contract will therefore become reality.

2. MATRIX: REFUGEE BARRIERS AND NEEDS

The matrix attempts to describe the most important barriers and needs for asylum seekers and refugees. The list is not exhaustive.

2.1 Recognised Refugees

Topics	Barriers	Needs
Language provisions	<ul style="list-style-type: none"> - Lack of availability of language courses - Waiting lists - Cost of language courses - Methodological shortcomings in language teaching - Cultural barriers - Lack of multilingual information 	<ul style="list-style-type: none"> - More language courses, for a wider range of levels and needs - Language courses might be the medium to convey further indispensable information (laws, administration, educational system etc.) - The provision of ab initio German courses at all universities (presently unavailable in Linz)¹⁷⁹
Access to higher education	<ul style="list-style-type: none"> - Lack of documents - Problems with the recognition of certificates - Rigid system of proving eligibility to access - Lack of understanding of the national/local educational system - Fees - Costs of living - Lack of preparatory courses 	<ul style="list-style-type: none"> - Improved information material - Improved language teaching - Flexible solutions in administrative procedures for admission - Easier recognition of foreign certificates or alternative modes of assessing qualification for entry - Preparatory courses - Fee waivers - General information material on the educational system – overview
Access to vocational training	<ul style="list-style-type: none"> - Shortage of overall availability of places for apprenticeships - Scepticism and prejudices of potential employers towards foreign nationals - Restriction of access to places to Austrian nationals 	<ul style="list-style-type: none"> - Multilingual information - Information for smaller companies - Support in navigating the educational system - State-sided financial aid - Specially designed training courses for migrants and other

¹⁷⁷ The integration contract is part of the integration package, i.e. the part that refers to the provisions concerning language courses, to be coordinated by the FIF. The plan is to teach 100 lessons for the acquisition of basic language skills and basics about administration and Austrian and European values, costs shall be covered as follows: 50% employer/state, 50% migrant; so-called Schlüsselarbeitskräfte (highly qualified key workers) and pupils are exempt. Sanctions for not passing the courses are fines after two years and loss of the Niederlassungsbewilligung (permanant residence permit) after four years.

¹⁷⁸ In essence three laws are undergoing changes: Some in the aliens' law, few in the asylum law and extensive changes in the Ausländerbeschäftigungsgesetz – the law regulating the employment of foreigners. The fact that the latter are sophisticated and difficult to understand for non-experts has led to some confusion in the debate. Another provision of relevance in this context is the Niederlassungsverordnung, the resolution that contains the quota for residence titles that may be issued under aliens' law – see Niederlassungsverordnung 2002.

¹⁷⁹ Information from one interview conducted in the course of our study.

	<ul style="list-style-type: none"> - The cinderella status of on the job vocational training in Austria - High costs - Needs different to those of Austrian nationals 	<ul style="list-style-type: none"> - disadvantaged groups¹⁸⁰ - Quotas, such as those that exist for women or handicapped people, could be introduced for foreign nationals as well - Businesses could be obliged to offer vocational training - Financial incentives could be created for businesses, possibly via tax law, and could be combined with a binding commitment to certain services for employees
Recognition of qualifications for education	<ul style="list-style-type: none"> - Difficult and costly translation - Lack of comparability of certificates - Slow enactment of EU legislation and international contracts in Austria - The NARIC system is underdeveloped in Austria as compared to other EU countries 	<ul style="list-style-type: none"> - Information - Financial support - Translators, either sponsored or provided by administrative bodies - An institutionalised EU-wide credit system ensuring compatibility with foreign certificates should finally be installed
Educational system	<ul style="list-style-type: none"> - Language problems - Shortage of information - A vast array of social barriers that create disadvantages for foreign youths which only become evident when their poor overall performance shows in statistics - Lack of work permits for students - Unintelligibility of the funding system - There are the normal special schools at primary school level, but hardly any integration schools or integration classes 	<ul style="list-style-type: none"> - Poor language skills should not be mistaken for overall inability - At school level, the link between schools and parental homes would have to be intensified¹⁸¹ - Special needs should be cared for more intensely - The legal and social situation of foreign and migrant families needs to be stabilised by providing the necessities for integration - More work should be done using different mother tongues, thereby making use of a multilingual environment for the acquisition of languages - Additional training of teachers, especially in the primary school sector, can only be beneficial
Government funded training schemes	<ul style="list-style-type: none"> - Low resources - Restriction to Austrian nationals or more indirect forms of discrimination - Dependency on access to the AMS as a quasi-monopolistic body 	<ul style="list-style-type: none"> - As with all other programmes, these could be made more transparent through multilingual information material - Equal access as enjoyed by Austrians would need to be granted to refugees
Entitlements to work	<ul style="list-style-type: none"> - No formal barriers to work, but 	<ul style="list-style-type: none"> - Improved guidance through the

¹⁸⁰ A subsidies and grants scheme from the Chamber of Commerce, e.g. for women is already in place. See WIRTSCHAFTSKAMMER STEIERMARK/FÖRDERUNGSINFORMATION, EU-Gemeinschaftsinitiative Employment in der Steiermark 1995-1999, Broschüre des Zentralen Förderungsservice 1998.

¹⁸¹ SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002, p 224.

	<ul style="list-style-type: none"> - race, language, education - Poor understanding of rights and administrative procedures 	<ul style="list-style-type: none"> - procedures after recognition - Equalisation with Austrians, also with regard to indirectly relevant regulations
Recognition of qualifications for employment	<ul style="list-style-type: none"> - Costly translations - Documents may be lost or otherwise inaccessible - Foreign curricula may not be recognised in Austria - Very high importance of written proof in Austria, rather than skills assessments etc. - A certain meanness by some business sectors, which do not want to see their employees formally obtaining higher qualifications for fear of having to pay them more 	<ul style="list-style-type: none"> - Flexibility in case of the lack of documents - Easy access to complementary exams - Pools of interpreters
Changing of careers and transferring of skills	<ul style="list-style-type: none"> - Age - Disrupted CVs - Different culture, language - Different levels of skills and qualifications - The need to pursue full-time employment can make it difficult to attend courses etc. - Once established in one sector, a complete change of career is a tough order under the best of circumstances. 	<ul style="list-style-type: none"> - More intense courses than Austrians in vocational training to bridge the trans-cultural barrier - Re-training, re-education - Scholarships
The recruitment process, job search	<ul style="list-style-type: none"> - Racist prejudices on the labour market - Other dubious reputations - Both in the private sector and in contact with authorities, the issue of subtle discrimination of foreign nationals is far from negligible¹⁸² - Job adverts tailored to Austrians - Pressure on the labour market 	<ul style="list-style-type: none"> - Trans-cultural skills/aid - Modified job adverts - More active approaches in the recruitment of foreign personnel in cooperation with insider-institutions - The public sector would in itself have to actively seek to employ more personnel with a migrant background - Creation of a second and third labour market
Setting up businesses	<ul style="list-style-type: none"> - Difficult access to loans - High requirements of the Gewerberecht - Sophisticated administrative procedures - Tax law - Problematic self-organisation 	<ul style="list-style-type: none"> - Information materials should be made available in a number of languages - Business communities should be more willing to support business start-ups by foreign citizens - Guidance through the process
Government job schemes for the unemployed	<ul style="list-style-type: none"> - Disrupted employment - Previous employment only outside the country 	<ul style="list-style-type: none"> - Equal treatment with Austrians - Flexible handling of eligibility provisions

¹⁸² See VOLF Patrik-Paul / BAUBÖCK Rainer, Wege zur Integration. Was man gegen Diskriminierung und Fremdenfeindlichkeit tun kann, Klagenfurt (Drava) 2001, pp. 149f.

	<ul style="list-style-type: none"> - Preferential treatment for Austrian citizens 	<ul style="list-style-type: none"> - Stable employment contracts
Social Benefit system	<ul style="list-style-type: none"> - Benefit received must be paid back if possible upon finding employment - Restriction to Austrian citizens in part 	<ul style="list-style-type: none"> - Refugees should be made independent from it - Unification of different Austrian laws and standards
“Integrationsvertrag”		
The first period following arrival	<ul style="list-style-type: none"> - The long duration of asylum procedures often leads to the loss of years, which does not bode well for the use and maintenance of acquired qualifications - Difficult conditions after arrival and the inability to pursue an occupation - Information from the grapevine often leads to dangerous mistakes 	<ul style="list-style-type: none"> - Intense information in the early period of a person’s stay could facilitate and accelerate many steps - Accelerated asylum procedures

2.2 Asylum Seekers

Topics	Barriers	Needs
Language provisions	<ul style="list-style-type: none"> - Lack of courses on offer - Duration of stay uncertain - Non-eligibility for certain courses - Lack of motivation - In some cases illiteracy - In many cases lack of experience with language learning - In the integration contract, only 100 lessons are scheduled and it is not clear who will teach them 	<ul style="list-style-type: none"> - The number of courses on offer will necessarily increase with the new “Integrationsvertrag” - Learning the language is an emotional, ideological step of importance - Offer courses for those who are not eligible to any kind of integration-aid
Access to higher education	<ul style="list-style-type: none"> - If legalised as students, may not work (though this is about to be changed) - Lack of long-term residence permits - Lack of long-term perspective - Lack of necessary previous education - Lost or missing documents - Fees 	<ul style="list-style-type: none"> - Facilitation of legal stay upon undertaking studies - Unification of international standards for the recognition of foreign qualifications - Support with fees and costs of living
Access to vocational training	<ul style="list-style-type: none"> - Missing residence permit - Shortage of places or companies willing to employ asylum seekers - Denial of working permits 	<ul style="list-style-type: none"> - Easier access to labour in general for asylum seekers - Expansion of vocational training - A second labour market for foreigners
Recognition of qualifications for education	<ul style="list-style-type: none"> - Missing documents and certificates - Money, funding - Qualifications not recognised in Austria 	<ul style="list-style-type: none"> - Easier procedure - Unified standards - Translators
Educational system	<ul style="list-style-type: none"> - Systematic recognition of qualifications in a yet 	<ul style="list-style-type: none"> - Legalisation of stay for asylum seekers

	<ul style="list-style-type: none"> - underdeveloped Austrian system - Information - Funding - Instability of legal residence - Lacking knowledge of the language - Missing work permits for students 	<ul style="list-style-type: none"> - The legal and social situation of foreign and migrant families needs to be stabilised by granting the necessities for integration into the educational system - Support with special needs
Government funded training schemes	<ul style="list-style-type: none"> - No access to AMS measures - No chance to change onto a different legal scheme 	<ul style="list-style-type: none"> - Access to AMS measures - Development of a parallel scheme to complement the AMS
Entitlements to work	<ul style="list-style-type: none"> - Pre-condition legal residence - Other legal provisions which inhibit access to employment - Companies' unwillingness to go through the application procedure - Lack of availability of places under the quota 	<ul style="list-style-type: none"> - Ameliorated legal provisions towards residence and work permits - Dropping the quota - Information - Help for companies with permits and paper-work
Recognition of qualifications for employment	<ul style="list-style-type: none"> - Legal obstacles concerning residence and employment - Lack of documents - Lack of evidence of the comparability of skills to Austrian qualifications 	<ul style="list-style-type: none"> - Members of an overwhelmingly young population could find their own path through the system – if they were allowed to - Quick import of international standards
Changing of careers and transferring of skills	<ul style="list-style-type: none"> - No long-term perspective - Disrupted CVs - Poor educational background - Technological differences 	<ul style="list-style-type: none"> - Information and guidance - More test and training measures
The recruitment process, job search	<ul style="list-style-type: none"> - Prejudices – e.g. the debate on real or invented criminal activities by asylum seekers (e.g. the Nigerian population in Graz and Vienna) has created a hostile climate and many uncertainties - Companies' unwillingness to undergo complicated procedures 	<ul style="list-style-type: none"> - Anti-discrimination measures (also in the realm of law) - More support from the AMS - More objective job adverts
Setting up businesses	<ul style="list-style-type: none"> - Legal statuses - Lacking understanding of the system, especially administrative law - Poor availability of loans etc. 	<ul style="list-style-type: none"> - Forms of self-organisation have to be supported in order to prevent distorted information from circulating and mafia-like structures from developing. Self-organisation as such seems problematic to us. It can, however, provide valuable channels for disseminating information. - Help with legal matters (GewO etc.) - Cheaper loans
Government job schemes for the unemployed	<ul style="list-style-type: none"> - Legality of employment as a precondition for access - Access to unemployment benefit (legality, duration) 	<ul style="list-style-type: none"> - Linking residence and work permits - Creation of controlled immigration schemes
Social Benefit system	<ul style="list-style-type: none"> - Different regional laws - ID-documents as a condition for access - Overtaxes systems and abuse of 	<ul style="list-style-type: none"> - Unification necessary - The goal should always be to make clients independent of it - "Grundversorgung"

	them - Authorities acting at random	
“Integrationsvertrag”	- Is intended for non-immigration and makes integration of rejected asylum seekers nearly impossible - Measures are hostile and unrealistic	- A realistic immigration policy - Linking residence and work permits - Language courses that can actually convey language skills - Integration for seasonal workers that stay longer
The first period following arrival	- Poor information - Forced inactivity during procedures	- Information (“welcome packages” etc.) - Legal loopholes for work and other activities during the duration of the procedure

3. METHODOLOGICAL REMARKS ON THE RESEARCH FOR “FREE”

The task and the goals:

The first task of drawing up a feasibility study would have involved a kind of work similar to that done by market research institutes. The second goal of promoting the idea would first require wide distribution – this is something we achieved through using a large sample, and at least from the public sector and the NGOs we know that we reached further than the initial sample through forwarding and the grapevine. Our third task was to lay the base for a functioning future network – a lot of this work has actually been accomplished, though a lot remains to be done. As a fourth point, some ground-work for further scientific evaluation had to be done. The scope for the feasibility study was quite far-ranging and demanded that issues initially be touched on a fairly general level; thus room was and is left for further evaluation in detail. This study experimented with a number of methodological tools, and found many further paths that are worth exploring.

The research took place within a compact time-frame, which had its implications on the way we chose to communicate. As to our position, a number of parameters were significant. The researchers brought with them a wealth of experience in the theory and practice of refugee law and refugee issues, and in the work with asylum seekers. We were basically familiar with the relevant Austrian scene – actors and protagonists – though not directly in the middle of political action (which is centred in Vienna). The ETC can assess the refugee sector from an independent perspective, as a human rights NGO, which often works to its advantage.

The Austrian situation is in part described in the Overview section of this report. We hope that the nature of the Austrian discourse does shine through. The political situation and climate must be taken into account as a background.¹⁸³ A number of Austrian peculiarities have been alluded to, though not investigated in detail – concerning key themes of Austrian corporate discourse with regard to the European Union, competitiveness, modernisation etc.

¹⁸³ We shall not anticipate differing interpretations and therefore simply want to point to the fact.

Preliminary hypotheses:

General: We took a positive approach and embarked upon this study with the presumption that establishing the fund is a real possibility that would eventually be realised. We also banked on the novelty of its guiding ideas in the Austrian context, which proved to be partly mistaken.

Businesses were the aspect we were most sceptical about, i.e. we expected to meet some difficulties in approaching companies and to get a relatively low return rate for questionnaires etc. This was based on two considerations. First, the structure of the Austrian economy features a high number of small- to medium-sized businesses with barely enough business volume to pursue an active social or human rights responsibility programme; second, we did not expect the issues at stake to be high on the companies' list of priorities and doubted their willingness to discuss issues such as social affairs or human rights in detail – i.e. we did not expect the general climate to be conducive to the promotion of such issues. Partly we met an ongoing discourse in development. The degree to which ideas of corporate ethical and social responsibility are prevalent in the corporate sector in Austria has increased considerably during the past year.¹⁸⁴ Yet it is in conformity with another presumption of ours – that support for an idea by the EU is still a strong argument in its favour with companies.¹⁸⁵

Our sample can be divided into a number of main areas.¹⁸⁶ In producing it we cooperated with a so-called address-house. Cooperation with syndicates, social partners, research institutions and market research institutes was difficult and data protection is always a key consideration in such an undertaking. In the end we had a sample that consisted of about 50 enterprises each of small, medium-sized and large-scale enterprises in the following sectors: manufacturing, trade (Handwerk), service enterprises, wholesale trade, retail trade – 745 altogether. For each of these we contacted either the head of the marketing or the human resources department. Additionally we wrote to the 75 largest Austrian enterprises, and a few we knew from previous contacts. Business communities was a field we put more hopes into, knowing them to be financially potent, influential, and to have a record of supporting all sorts of projects and initiatives. We also expected them to be more easily accessible than companies and to be more prepared to handle questions such as ours. The approach to educational institutions was probably the most unbiased and unprepossessed; at least for the institutions in the tertiary sector, which we tried to cover in total. We approached authorities that are directly responsible for the clients of a potential FREE and we approached others too, with the purpose of gaining a wider range of answers. Whereas we expected to encounter familiar positions from the established players, it was not entirely clear what to expect from the others. the NGOs were and are a tricky issue. The scene, which at times likes to call itself the “organised civil society” is – for a number of reasons which cannot be discussed here – a conglomeration full of tensions and ruptures and rather delicate to approach. It will be necessary to work cautiously and with sure instincts if a concerted effort with a number of them in a fund is to be achieved. We expected some positive answers but plenty of scepticism from this quarter.

One more word on the preconditions of research in the Austrian corporate sector: One prominent Austrian researcher and resource for this study, Ms. G. Biffl, told us that she had in her years of experiences with such survey studies found out that it was very difficult in Austria to get any response from the economic sector other than by making use of personal relations and long-time contacts. She herself now prefers case-studies, done by drawing on a limited pool of personal contacts.

These were presumptions that informed our considerations, rather than bona fide testable hypotheses. Thus we approached the research in a very open manner, allowing for every possible outcome.

¹⁸⁴ Already finding its way into the discourse by employees' organisations, e.g. trade unions - see www.gpa.at - despite the fact that what has come out of the EU so far is not of binding nature.

¹⁸⁵ E.g. in this case when the EU issues a green book on “Corporate Social Responsibility”, the topic is at least on the informal agenda. The OECD with its guidelines for multinational companies has also discovered the topic.

¹⁸⁶ See Appendix II.

Method and aims:

The basic aim of the initial phase was to widely disseminate the idea of the fund and our questions. In so doing, we expected to unearth some statistical data on the accessibility of the Austrian community, to create a pool of contacts to keep working with and to achieve a first goal of the project, to “advertise” the idea to a broad spectrum of people and institutions. After having thus identified our contacts, we intended to go deeper gradually, i.e. adopting a more personal approach, acquiring more qualitative data in personal conversation and gradually getting closer to the concretion of the cooperation in a fund. This again would be differentiated. The corporate sector was much of an unknown quantity, yet understood to be the key area. With our sample of enterprises we were attempting to get a representative survey. The intense efforts in individual conversation were something we intended to reserve for the next stage of the project, predominantly guided by the idea of drawing up a feasibility study at this point. In the light of this we tried to remain neutral in our approach to potential donors. With educational institutions the aim was to develop a more concrete picture – what they could, and what they would, do. To authorities and NGOs we primarily wanted to introduce the project and establish a good base for communication.

Thus the whole project set-up was intended to proceed gradually from general to concrete, to start from a quantitative survey in the form of a statistical survey and then gradually go deeper, both proceeding to use a number of interpretative methodological tools and going on to individual in-depth conversation – and it would be from the survey that we would know with whom.

The database is therefore work in progress, as regards the number of entries and each individual one. As the statistical evidence is not based on a massive quantity of answers, we decided to take a slightly closer look at some individual cases in this section. Pressing for commitments towards financial contributions would, under Austrian circumstances, have been premature at this stage of affairs. Data which exist and might be used more extensively are those in possession of the AMS.

One measure to acquire commitments from companies and other players might be to organise a workshop or another kind of intense meeting with businesses based on former agreements, personal contacts etc. For a feasibility study though, this would have done little to evaluate the actual possibility of the fund on a national scale. Personal conversations do not draw an overall picture.

4. DISCUSSION OF RESEARCH RESULTS

4.1 General Introduction

The study is an example of work in progress. Further responses are coming in slowly but steadily. It was a study with a two-fold aim – a feasibility study paying attention to both scientific aspects and promotion work. As an effect of the combination of the two, results of the study sometimes relate to both aspects. We nevertheless hope to have gathered enough information to allow enough conclusions on the feasibility of the project.

Distribution and PR aspects were, we believe, successful. The study has definitely had an extensive outreach and we have received a rich response beyond the scope of our investigation itself. For concrete negotiations we think we have achieved what could be expected, considering Austrian circumstances and the project’s stage of development. The project was met with various expectations and different understandings from each protagonist involved, those working on the project and those we approached. This is a phenomenon in which each side’s point can be a legitimate one. A typical example for different understandings, which is reflected in this report, is the distinction between refugee and asylum seeker – of crucial importance for the insider-discourse and largely absent from the general national discourse. Who was responsible and who felt that they were not, was also subject to different interpretations on the part of those approached. Yet it leads to one conclusion concerning the model for a fund in Austria: we do not want to discard a model that comes to a coincidental collection of donors and partners that are willing to take part in the project, but in the Austrian context it would seem advisable to come to an agreement – at least ensuring connivance – with the key actors

in the scene (authorities, NGOs and business communities). It is difficult enough to make a fund work, and very easy to sabotage it.

4.2 Businesses

The questionnaire: We used a short questionnaire that was easily accessible and did not require much time and effort to fill in. The primary goal was to scan the sample for companies willing to react. We used a sample of 750 companies with weighted average distribution both according to size and geographical location. In each of these we addressed a particular person in charge of such issues. Additionally we wrote to 75 of the largest firms in Austria in order to reinforce the response. All of them were personalised, not anonymous. Those that responded and a number that we knew from beforehand were then phoned or visited to enquire for details.

The answers: Our expectations were modest and a bit sceptical, coloured by knowledge of the Austrian discourse on economic issues and of common company-speak, which does not generally leave room for human rights and social issues. From the sample, 20 questionnaires were returned, with one quarter of the answers classifiable as positive. Additionally ~10 companies reacted via e-mail, telephone or other. So while the major reply was silence, we got a number of different answers. Large concerns running branches in Austria tended to refer to social responsibility programmes or similar intra-company initiatives already in place – their negative reactions were nevertheless phrased politely, wishing good luck to the project.¹⁸⁷ Not always so smaller businesses: among the answers we received were complaints that all projects of this kind ignored the plight of smaller enterprises whose customers supposedly paid attention only to the price, not social prowess or efforts towards political correctness.¹⁸⁸ Hostile phone-calls cursing us for stealing others' time were also part of the response.¹⁸⁹ The positive reactions were mostly from large companies which pursue activities on an international plane. They all have employees of non-Austrian origin. The fields they operate in are tourism, technological products and engine building. They are all seated in different regions of Austria.

It was necessary to approach the contact-people in a company directly via telephone, if we wanted them to agree to a personal meeting. These phone-calls and meetings then had more positive results and brought smaller enterprises into the bargain too. See our “case-studies”.

Interpretation, Perspectives: It came as a slight surprise to us, that all the companies that answered felt that they were sufficiently informed about possibilities and procedures of access to the labour market for foreigners, and about the steps they needed to take in order to employ a foreigner. And they generally agreed on the notion that they would find it a lot easier to employ foreigners, if residence permits and work permits were directly associated. What companies can imagine is individualised support. They would accept to employ graduates from a specific FREE programme, and they could imagine programmes where they would partly “adopt” an individual refugee, including training “on the job”. One wish voiced by all the responding companies was for programmes in the field of vocational training – they all recognise its importance, yet none of them offer it on the premises. Some of the larger companies pursue sponsoring activities. They have their own concepts for these and will not add anything new to their spectrum on short notice. A programme like FREE may gain entry into such concepts, but this is a long-term process, depending on a company's planning circle and the ability of FREE to build a reputation as a serious and trustworthy partner. This aspect was also raised in another context, usually following the question as to how exactly the EU would support this project and how much funding such a fund could expect to receive from public sources: companies quoted it as a condition for their participation that the fund had a substantial basic capital endowment, before they invested further capital in it. Behind this was a fear of losing their own capital in a shaky fund, which could consist of considerable amounts for them.

¹⁸⁷ E.g. the Austrian branch of British Petrol.

¹⁸⁸ A small undertaker from the Province of Vorarlberg.

¹⁸⁹ A sizeable Viennese haulage contractor.

Conditions voiced by companies: The larger companies want very specific information on all aspects of the fund and a straightforward information policy. They would be prepared to support specific and concrete projects. If they were to sponsor the fund, they would not want to simply donate money, but would expect direct and intense cooperation with the fund and involvement in its workings and would generally want to adopt a hands-on approach. Smaller (up to 10 employees) and medium-sized (10–100 employees) companies felt that the fund model was aiming at larger companies with separate sponsoring programmes and would want the fund's model to be adapted to the specific needs of companies of their size, in order to allow them to take part. Social responsibility programmes of companies would have to be seen in connection with sponsoring programmes. Written codes of conduct play a subsidiary role in the reality of dealing with companies and were not usually mentioned. Though there are exceptions (such as Magna-Steyr – see below), final participation depends primarily on networking and identifying personnel willing to consider the project – which may turn out to be both an advantage (ensuring a certain flexibility when a partner can be convinced) and a disadvantage (when access to the relevant circles can not be gained).

A non-starter are personnel-leasing companies – not supportive due to their businesses' nature and often featuring dubious structures. We know of one personnel-leaser, though, that is run as a non-profit organisation and therefore has to take a more socially responsible approach.¹⁹⁰

For a statistical overview on the results of our questionnaire see Appendix II.

It should be noted once more, as was echoed by Ms Biffl, that personal relations, invitations for coffee etc., are key strategies in getting something from Austrian business people – a straightforward approach is doomed to fail, even when it is not about financial contributions but just information. It turned out that while a survey meets much scepticism, personal conversations with company representatives can create a far more sympathetic environment.

4.3 Business Communities

What are Business Communities in the Austrian context? We are back to the issue of social partners here.¹⁹¹

Importance: It may be common practice in Austria to deride them, but their importance is not to be underestimated. On one hand they play a role as social partners. On the other hand the smaller companies rely on them for aid in meeting the challenges of globalisation and rapidly changing national economic structures. Also, they are where Austrian capital is chiefly located.

Response from them was varied:

Chambers appear in vast numbers and are usually characterised by compulsory membership and strictly hierarchical structures. We wrote to all of them, getting only a marginal response. The Chamber of Labour (Arbeiterkammer), an employees' representative body, did not respond. From the Chamber of Commerce two departments responded: the Department for Education and Training and the Gründerservice (start-up service). Closely affiliated with the latter Chamber is the Industriellenvereinigung (association of industrials), which did not respond. The Junge Wirtschaft (Junior Chamber, mostly a networking agency) is in a way a daughter of the Industriellenvereinigung and the Chamber of Commerce. The idea to approach them more directly was created from hearing that they had been part of an unsuccessful bid for an IMMUN-project and had thus shown their

¹⁹⁰ Flexwork Gemeinnützige Arbeitskräfteüberlassung GmbH, an enterprise founded by the WAFF.

¹⁹¹ SCHWARZ Walter / LÖSCHNIGG Günther, Arbeitsrecht, Wien (ÖGB-Verlag) ⁹2001, pp. 927ff. The sides can be divided again: With the employees we talk about a freiwillige Berufsvereinigung (voluntary association) such as the ÖGB and legal lobbies (such as the AK); the employers feature the Wirtschaftskammer (Chamber of Commerce) based on economic criteria and then chambers of the professions. Yet we do not follow this order, divided into an employers and employees side, but mention them separately in their own right.

relatively new willingness to invest in projects of such nature. The project in question had, apart from the “Bundesgeschäftsstelle” of the Junge Wirtschaft, also featured the “Sozialversicherungsträger”. The group in question had been that of unemployed recognised refugees and others who possess a working permit. The Junge Wirtschaft may also become a partner for EQUAL-projects. Another institution in the context of the Chamber of Commerce is the Wirtschaftsförderungsinstitut, its educational institution, which has some record in vocational training, although its programmes are costly and its interest in social issues is modest – they did not respond to our request. Relations with the Innungen (guilds) and other Arbeitgeberverbände (employers’ associations) are still in the process of development.¹⁹² For a comment on FREE by the association of trade unions (ÖGB) see the database.

Perspectives: In terms of funding and PR work these are a key to success for such a project – potent financially, pivotal socially, well versed in running projects and with a record of supporting them. Access to them is often dependent on membership of the appropriate circles, i.e. it is all-important to approach the right people in person. This may sometimes make it necessary to ignore ideological boundaries.

4.4 Educational Institutions

Sample size:

All relevant institutions of the tertiary sector (universities etc.) were written to; all received a description of FREE. Of the institutions of higher secondary learning we wrote to all job-oriented institutions (commercial, technical, pedagogical, social work-oriented schools etc.). We left out the primary sector, which seemed relatively unproblematic to us, and vocational schools (Berufsschulen), as they only become relevant for pupils who have landed a place for an apprenticeship. Other institutions of post-school learning were also written to, but access to them is generally unrestricted (Volkshochschulen etc.).

The questions we put to them would first touch on the relevance of the topic for them, in the shape of their students with foreign origin. Then we tried to assess the status quo to a degree, asking for services provided, activities set. Questions concerning their willingness and ability to cooperate should gradually lead them towards the idea of the fund and help them to voice their opinions and conditions towards the fund.

Reactions:

Twenty-one universities have been contacted, and seven have answered. Additional phone-calls have been made to eleven. Positive reactions came from three. Thus altogether nine have indicated their will to cooperate. Thirty-six Fachhochschulen were targeted, producing few replies – in general it appears to be rather difficult to get involved with them, though one of the replies was enthusiastic. From the large number of schools, hardly any have reacted. It took some time to get a decent response from the University of Graz, of which the ETC is a symbiont – support which is vital for credibility. This pointed to another fact – that with universities it is usually not the institution as such, which will cooperate, but individuals from its ranks. All educational institutions that were contacted and showed some interest in a cooperation, wanted more information than could be given in a restricted telephone conversation. Once interest was kindled, institutions would themselves seek further information actively. Artistic colleges and universities were more keen to get in touch than others, but would, upon detailed discussion, find it difficult to discover a niche for themselves – their standards for entry examinations are a taboo for obvious reasons, and they usually claim to have too little resources for additional courses or the initiation of particular projects. The response from school-level institutions was generally poor, which may have something to do with the timing – holiday season. For Fachhochschulen more intense efforts, targeting specific contacts, would need to be made.

¹⁹² For some information on the Handelsverband see case-study 2. The Innungen are important in the context of the Gewerberecht.

Interpretation:

One suggestion for all those institutions would be to identify and target individuals from their ranks, for example people who are known to have a soft spot for social issues, or are actively supporting projects themselves. Those people could then be persuaded to lobby for the project internally and push ahead with it, or act as mediators for the fund's activities. Otherwise the institutions' representative will pay lip service to the need to support refugees and maybe even the fund, but that would be as far as it goes. In schools such contacts could more likely be found among the teachers than at the headmasters' level. For universities it has been suggested to approach departments for public international or European law, or other professors/lecturers with a public record for being proponents of social initiatives. On a more technical note, few institutions have information material, courses or guidelines in different languages. This holds true especially for all smaller institutions. Support for foreign students is seldom institutionalised and most of them rely on their communicative abilities, saying they would always handle the situation somehow. The array of excuses was fairly rich, including declaring themselves incompetent or unable to take decisions, quoting lack of money, saying they could not plan far ahead because of changing legal regulations,¹⁹³ and blaming a lack of concrete information on the project.

The educational market for foreigners is basically differentiated based on the status of residence they have. Recognised refugees have access to the mainstream educational market. What is necessary for them are mostly courses and other programmes to bridge gaps to national skill or knowledge levels. Material support for education builds mostly on the means of the Arbeitsmarktservice. This creates a no-chance situation for asylum seekers and others with a temporary status of residence, for example according to §§ 8, 15 AsylG. What would thus be interesting is if an alternative system to complement the Arbeitsmarktservices could be developed. A study on the qualifications of recognised refugees would appear to be sensible but is missing to date.

A further step we took was to write to independent research institutions. This is a small but diverse scene, ranging from the Akademie der Wissenschaften, to the IFK (International Research Centre for Cultural Studies) or the European University Centre for Peace Studies, the IHS (Institute for Advanced Studies), some technical research institutes, and the Austrian Research Fund for Developmental Aid. The one institution from which we got some helpful support, albeit on an informal level, was the "Österreichische Institut für Wirtschaftsforschung (WIFO)".

4.5 Authorities / Government Institutions

The structure:

A vast number of institutions has been named in this report, reflecting the complex interplay of countless bodies and institutions in Austria. Our effort to spread our messages and questionnaires widely was undertaken in part with the intention of using this as a tool to map the true relations in the Austrian scene. To outsiders it may be useful to develop a picture of the basic structure of the Austrian state and society.¹⁹⁴ The *realverfassung* and true power and activity-relations give a completely different and somewhat more organic picture – though it would be overly ambitious to hope to be able to map this. The sample was again vast, targeting institutions on local, regional, Provinces and federal level – plus the relevant authorities and political parties. Others, that could count as public state institutions, have already been discussed among business communities.

E-mails were first sent in order to spread knowledge of the project and inform institutions about it. A detailed questionnaire was attached for those interested, to give additional information and to raise awareness of some relevant issues. The most popular answer was to declare themselves not responsible. A common misunderstanding in this context was that only a body or institution that is

¹⁹³ The UniStG, the law regulating university studies has indeed been changed recently and the effects are causing some confusion.

¹⁹⁴ See DACHS Herbert (Ed.), Handbuch des politischen Systems in Österreich. Die Zweite Republik, Wien (Manz) ³1997.

directly responsible for aliens' affairs could have anything to say about aliens or would come in contact with aliens. A relatively rich response came from various departments of the municipalities, especially Vienna. Some AMS-branches did respond, but given the importance of the AMS, this can only be a first step. The Sozialamt (social welfare department) of Graz wanted more information, but was in principle open to cooperation. Social insurance institutions that phoned saw many points of relevance which would need to be discussed in detail. UVS, UBAS and BAA did not react and the bodies responsible for enacting Aliens' Law simply said they had too much to do and no time for such fuss. The Ministry for the Interior has given an official opinion, which is described in detail in the database – the attitude is generally positive yet non-committal. Of the political parties, representatives of the green party wrote back (suggesting a role for the fund that would verge towards influencing decision makers and other lobbying activities), as did the ÖVP (Austrian Peoples Party). The UNHCR took notice of the project, referring to its own well-known role in the Austrian system in its answer. The Ausländerbeiräte (the advisory councils for foreigners described in an earlier part of this report) did not react. The executive (police etc.) would still be a further target for interviews, the emphasis there being on a consciousness-building effect.

Basic obstacles:

Even when the first reaction was positive, most answers would refer the responsibility to a superordinate body. With the supreme administrative authorities, answers and decision-making simply require more time. Once the relevant actors have been identified, cooperation seems to be a distinct possibility, but at the time of writing, official answers are still in the making. Lower-ranking bodies on the other hand would cooperate only if told to do so by a higher-ranking authority. One recurring obstacle was that the AMS, normally as the best source, has no comprehensive statistics with regard to refugees and asylum seekers. The issue of refugee status is only referred to by the way, otherwise only the usual parameters are recorded – who was registered as employed or unemployed. We also heard stories circulate that in some homes run by government institutions, people were advised not to register with the AMS. Also the labour market in general does not differentiate between asylum seekers and refugees; only legal regulations do. Incidentally, the AMS are no longer classic authorities, but they pass as government institutions and fit in here better than anywhere else.

Another obstacle was that, if they were not directly responsible for refugee issues, authorities resisted answering our questions, not understanding that we wanted a cross-institutional investigation of relevant issues, even when bodies were concerned only marginally. In general organs acting on behalf of authorities were more hard-pressed to answer our questions than were representatives of other entities, as they were often afraid to issue statements which did not bear a stamp of official approval – they would not discuss the issue, but try to phrase an official opinion.

A few details were also mentioned: Bodies that are directly responsible for aliens' issues are usually equipped to meet their special needs, for example having multilingual information material, staff that speak the most relevant languages, and access to interpreters. They are nevertheless confronted with problems of trans-cultural interaction, including communication difficulties with refugees and asylum seekers, the impression that decisions taken by female civil servants are not accepted, and quibbles over the unreliability of foreign clients (punctuality, adherence to appointments etc.). "Interkulturelle Öffnung der Verwaltung" (inter-cultural opening of the municipal civil service)¹⁹⁵ as a concept had been heard of, but was rarely associated with particular contents.

Sending questionnaires to a wide range of authorities when in theory a small number would suffice had an additional reason (for example with regard to the Gewerbeordnung): different departments do sometimes give contradictory information or legal opinions on one and the same matter. Thus for example the "Gewerbeberechtigung" as an obstacle to self-employment does also depend on the rating

¹⁹⁵ This is a concept using a top-down-approach: Building up international competence by employing civil servants of foreign origin, training measures for Austrian nationals in the civil service etc. – the model has been imported from Munich. See SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002.

of an authority. One further aspect that caused some confusion was that many former state-run bodies have recently been privatised and are in real terms somewhere between a business enterprise and an authority, though they attach high importance to being seen as a private enterprise. Also, for many authorities for whom refugees and asylum seekers are only part of their clientele, the extent to which foreign nationals make use of their programmes clients could be evaluated more concisely.

One characteristic aspect of all answers was, that all the institutions would only refer to potential support they could give to the fund. It occurred to none of them, not even upon further inquiry, that the fund could actually offer some support or relief to them.

The most relevant authorities:

A core of the system is provided by a certain number of bodies which directly bear the responsibility for handling refugee's cases one way or another. Those include the BAA, the UBAS, the Aliens' Police, social welfare offices etc. In practice cooperation with them is indispensable, yet not decisive for setting up a project. They have got relatively little leeway in their activities. Their task usually is to enact a legal provision, and they sometimes show some impatience towards people proposing such "ivory tower"-projects. Yet many of their superordinate larger entities have introduced sections with the task of handling and developing exactly those issues: the Ministry for the Interior notified us that the department III/15 for "Integration und Wanderungswesen" (integration and migration) was responsible; in the Magistrat Wien there is the "Bereichsleitung für Integrationsangelegenheiten"; in Graz, the creation of a department for integration matters is discussed as well.¹⁹⁶ The obvious danger with such institutions is that departments like these are expected to handle all integration matters, allowing others to ignore the topic. This might lead to integration becoming sidelined as a topic that would be talked about, but excluded from the hard core of tasks that matter. Thus while these departments will have to be seen as the main partners in a FREE cooperation, others should not be left aside.

Yet within the ministries a couple of actors can be identified that must not be circumvented in the realisation of such a project. In the Ministry for the Interior this is the Büro des Fonds zur Integration von Flüchtlingen (Office of the Fund for the Integration of Refugees) – the fund mentioned above in connection with refugees' entitlements under asylum law – currently headed by Dr. A. Janda.¹⁹⁷ We have had a friendly meeting with Dr. Janda – he would like to be informed about further steps, and will otherwise wait to see if the fund is materialising. In the Ministry for Economic Affairs it would be Dr. H. Deutsch of the Abteilung II/7, Ausländerbeschäftigung und bilaterale Abkommen (employment of foreign nationals and bilateral agreements).

4.6 NGOs / Others

The number of NGOs approached was relatively small – in total about 50. We restricted ourselves to those we knew to play a role in practice. The Austrian Vereinsgesetz¹⁹⁸ (association law) allows the founding of an organisation without notable obstacles. This leads to a proliferation of groups and names in the records, creating the illusion of a blossoming NGO scene. Once involved in actual work, one recognises quickly that the relevant field is in reality a lot smaller.

We chose to ignore charitable institutions for their lack of relevance. To the NGOs we only introduced the project and invited them to participate. Gathering further information about their activities did not seem necessary, as we are familiar with their scope of activities.

¹⁹⁶ SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002, pp 220ff.

¹⁹⁷ Which is an entity connected to Abteilung III/15 of the ministry, which has the field of duties in connection with integration and migration. It has an intermediate role, which troubles the fund itself, as it is seen as part of the ministry by the NGOs and part of the NGO-scene by authorities. We have, after the completion of the initial report, had a conversation with Dr. Janda, who will benevolently observe what the fund is developing into.

¹⁹⁸ Vereinsgesetz 2002, which provides the most common legal framework for all sorts of clubs, associations and NGOs. It was reformed recently.

Previous relations:

Among the NGO scene more than with the other entities, the ETC, its director, and to a smaller degree the researchers, already had a certain name or reputation. This predictably worked both ways, having the positive effect of some inside knowledge and sometimes the disadvantage of personal prejudice or dislike.

The Austrian NGO scene:

We have already tried to give a brief introduction in the Overview chapter of this paper, trying to convey the gist of what is a somewhat muddled discourse. Responses came in part from the Asylkoordination, which organised a meeting for us to introduce the project, which was attended by a small number of NGOs – those participating in similar projects that are mentioned below (Volkshilfe, Integrationshaus). Otherwise we got answers from small individual initiatives such as Baodo, Helping Hands and others. The main and big players did not get in touch – and based on previous experiences we are tempted to say that was to be expected. We lean towards the interpretation that those NGOs perceive us as a new competitor, rather than a potential partner. One thing that was to be expected with regard to the thriving topic of social responsibility and labour-market oriented projects, but that it would be unwise to ignore, is that there are currently three projects underway (a fourth one in Styria has not come to fruition), working on ventures very similar to ours in outlook, yet different in strategy. The projects are undertaken by the Volkshilfe¹⁹⁹ in cooperation with others and are funded by the EQUAL initiative in Austria. They are located in three different Provinces and boast a number of activities for the integration of asylum seekers into the labour market. Their structure and planning and the materials we received feature the typical sophisticated EQUAL system of Entwicklungspartnerschaften (development partnerships), modules etc.²⁰⁰ Some NGOs actually pursue a multiple approach to be able to mine different sources of funding, such as the ERF, ESF etc. The initiators of these three projects have an interest in networking on the issue,²⁰¹ which FREE proponents should have as well; it can create a valuable exchange of information and might be advisable for political reasons too. Our interlocutors at this meeting also raised concerns as to the relation of this project's steering group to ECRE, and as to the future of the ERF in Austria. The first issue is based on the fact that ECRE membership is a slightly delicate question in the NGO scene, with in principle only the Asylkoordination being an ECRE member due to financial reasons, while others do occasionally cooperate as well. The other issue is about the fear that such a fund would in the end be located at the Ministry for the Interior, which would thus bind ERF means, making them unavailable for other projects. What is feared is that the Ministry for the Interior and to a degree also the European Commission might pursue a strategy of influencing the national scene and refugee policy by manipulating the allocation of funds. We leave it to the steering group to develop an opinion on this matter, but want to draw attention to the fact that the balance in the Austrian NGO scene is somewhat delicate and that there is a constant willingness to spot conspiracies, plus a regular paranoia against newcomers. Frictions are not restricted to classic divides – for example, we were also confronted with hostilities that exist between the refugee organisations and some prominent human rights organisations for political reasons. Some boards are not to be ignored either in the context of such a project, such as the TOEF (“Treffen Österreichischer Flüchtlingsorganisationen”).

Results:

One can always rely on the support of some and the hostility of other national NGOs. Words given are not always reliable, because neither is the internal structure of many NGOs. They can provide some valuable help, but a professional and functioning organisational base must be able to stand

¹⁹⁹ As the responsible partner in a network including the Volkshilfe, Efdö, Caritas, UNHCR, Arbeiterkammer, Integrationshaus, a ministry and others. We are not talking about ERF matters here, but about the European Social Fund – which goes to show that the same organisations are working along both lines in Austria.

²⁰⁰ We were provided with some materials for their projects, but asked to treat them confidentially at this point in time and will therefore not quote extensively from them.

²⁰¹ They are also going to undertake a study, which will be done by the Institut für Sozialforschung der Arbeiterkammer (Institute for Social Research of the Chamber of Labour).

independently. The Austrian NGO scene can give many contributions, but it is not good ground on which to build. For example, ISOP and Zebra in Graz run projects concerning the integration of unemployed foreigners into the labour market, but for personal reasons beyond our understanding they would not react to our approach concerning FREE. NGOs' work is often of a high quality and coverage of some needs of refugees, asylum seekers and others is intense in some aspects. Yet the system is unbalanced and patchwork due to its unregulated development. A sensible strategy for the introduction of FREE would thus fill gaps, cooperating with others in their long-standing strongholds. Having said that, the level of organisation within civil society as such is comparatively low in Austria, compared with for example the UK, something which is partly overshadowed by the number of clubs and organisations that exist. Therefore this structure of organisation within the civil society provides a solid ground on political and religious issues, but not with regard to the labour market or social issues. Cooperation with some of the larger NGOs is an inevitable precondition for a simple reason – they have the clients, who stay in homes run by them and frequent their offices.

4.7 Company Case Study 1: Holz-Moser / Maschinenbau Ritzer

For a more complete picture of the feasibility of FREE, it could be helpful to briefly discuss the cases of two typical medium-sized Austrian enterprises, in order to make their attitudes and lines of argumentation more transparent. This first case is that of two companies from Salzburg, one being the “Firma Holzspielgeräte Moser” from A-5591 Thomatal, a producer of wooden equipment for children’s playgrounds; the other being the steel-construction and boiler-producing company “Maschinenbau Stefan Ritzer” from A-5570 Mauterndorf. Both companies are small- to medium-sized contractors and are located in a rural environment.

At the beginning of the personal meeting we discussed the general reception of our e-mail and questionnaire. The questionnaire seemed to be clearly structured and understandable and they appreciated the fact that it could be answered on-line. On the other hand they regarded the introduction as rather long. This reflects one problem we had – representatives of small companies are usually unwilling to invest more time than absolutely necessary into a request; this makes it rather difficult to convey extensive and complicated information to them. The representatives of both companies were generally appreciative of the basic idea of FREE. One of them expressed reservations as to the general situation regarding employment, which presently makes it difficult to find a workplace for many residents from the area. Both companies approved of the idea of integrating refugees by creating the possibility of working for them. They would themselves consider participating in the programme once it was up and running. Positive aspects mentioned included the ability a refugee employee would have to speak a foreign language, or their knowledge of a foreign mentality, which could be helpful in the export business. Both interlocutors would associate their participation in the programme with advantages for their company. They imagine a direct financial subsidy, that could be a subsidy to a refugee in order to enable his integration. Both potential partners also expressed the wish to conduct the training process for a refugee within their own company as part of the programme. In the eyes of these two representatives this would be the only way of making the project transparent for enterprises and outsiders. One of the interlocutors also requested that a basic budget should be guaranteed, possibly from an EU source. Otherwise he would not consider the success of the project to be secure enough and would deem a contribution by himself to be too risky. Both representatives were anxious to participate in the construction of the project and wanted to help ensure the success of this study. This can be seen as a sign of the appreciation that is meeting the project, and an open-minded attitude towards refugees. General enthusiasm for the venture, that was evident in the discussions, could provide a base and engine for future cooperation.

4.8 Company Case Study 2: “Zur Briefftaube”²⁰² /HandelsgesmbH²⁰³

As for a well-situated, traditional Austrian family establishment in the retail trade,²⁰⁴ we chose “Zur Briefftaube” as reasonable subject-matter for a case study. This company represents the branch of the clothing industry in retail trade – a sector with around 3000 companies, 34,253 employees and a gross value of nearly €900 million per year.²⁰⁵ According to turnover, the clothing industry is the third biggest bearer in the Austrian retail trade²⁰⁶. The wholesale trade sector employs more than 500,000 people overall in over 20 different branches²⁰⁷ and is one of the dynamic economic factors with new economy forms such as e-commerce. The trade association “Handelsverband”²⁰⁸ is an influential representative body of the employers’ interests and encompasses the 500 largest trading companies including “Zur Briefftaube”. The legal representative of the wholesale trade is the Department of Finance and Trade of the Austrian Chamber of Commerce²⁰⁹. The company was established 140 years ago and has always been in the hands of the family. Today “Zur Briefftaube” consists of four subsidiaries and employs 35 people, one of whom is a third country national. The size of the company is representative of Austrian businesses which are predominately small- to medium-sized (up to 100 employees). “Zur Briefftaube” is active internationally but has no subsidiary companies abroad.

In accordance with all the questionnaires returned, our example thinks information given about the employability of foreigners is accessible easily enough. Another wish that was reiterated by “Zur Briefftaube” was that vocational training might be offered by FREE instead of the employer. Due to the structure as a retail trader sponsoring, is not among their main interests and the “no” answer to potential support of FREE has to be seen in this context. In spite of the latter answer however, “Zur Briefftaube” could imagine taking over a “Parenthood” for certain refugees in terms of educational/vocational training. Also the employment of refugees graduating from FREE-supported educational programmes seems to be an option for “Zur Briefftaube”, according to the answers to our questionnaire.

Asked for the conditions of investment/cooperation with FREE the questionnaire returned did not give any information. We therefore got in personal contact with Dr. Peter Bernert²¹⁰, the owner-manager, and received the following answers:²¹¹ From his point of view nationality is of no relevance for an occupation in his company. Thus all that counts in this respect is the individual ability of the employee which includes a certain degree of language (German) skills and knowledge of our culture. Dr. Bernert then took one of his employees, a Turkish lady, as an example: She was employed at the very beginning of her educational career and has been trained on the job until she is now one of his store managers. This career example confirms Dr. Bernert’s belief in investing in personal skills and qualifications, though integration, which he understands as knowledge of culture and language, is the necessary prerequisite. He sees the potential of FREE in fulfilling these “conditions” for employment of foreigners/refugees on the educational level. An investment in this regard as well as for any kinds of specific individual measures of educational/vocational training seems feasible according to the owner-manager.

We chose “Zur Briefftaube” for two reasons: In our view the firm is representative of the Austrian business scene because of its size and structure. The second reason was the result of further research

²⁰² Zur Briefftaube, Graben 11, 1010 Vienna; tel.: +43 1 512 5129; Dr. Peter Bernert +43 1 319 00 620.

²⁰³ Incorporated corporation.

²⁰⁴ Which features around 34,000 enterprises (predominately small ones), 270,000 employees and a gross value €7 billion; see STATISTIK AUSTRIA, Hauptergebnisse der Leistungs- und Strukturhebungen 1999, or <http://www.statistik.at/frameset/jahrbuch.htm>.

²⁰⁵ Ibid.

²⁰⁶ See ÖSTAT/Handelsverband, 1998.

²⁰⁷ See <http://www.handelsverband.at/customer>.

²⁰⁸ Alser Straße 45, 1080 Vienna, tel: +43 1 406 22 36, fax:+43 1 408 6481, e-mail@handelsverband.at.

²⁰⁹ Bundessektion Handel der Wirtschaftskammer Österreich, see <http://portal.wko.at/>, head: Dr. Fidelis Bauer.

²¹⁰ Who, we learned, filled out the questionnaire himself!

²¹¹ Telephone- call of July, 30th by Verena Lahousen.

on the company. We found out that Dr. Bernert is a member of the steering committee of the Austrian trade association²¹² as well as member of the board of EuroCommerce.²¹³ Hence he seems to be a perfect interface for further implementation of FREE regarding not only the trade sector but also the very potent employers lobby.

4.9 Company Case Study 3: Magna Int.

Magna is a global supplier of technologically advanced automotive systems, components and complete modules. With core operating groups in North and South America, Europe and Asia, Magna is the most diversified automotive supplier in the world. Magna is also engaged in non-automotive activities through its controlling interest in Magna Entertainment Corp., which is the non-automotive subsidiary of Magna International Inc. In this context, we do not consider conversion or balance, but to the means of “social responsibility”, Magna’s corporate constitution and “Employees’ Charter?” within this enterprise.

“Social responsibility”:

As outlined in Magna’s Corporate Constitution under Social Responsibility, Magna allocates a maximum of 2% of its pre-tax profits to support charitable and non-profit organisations in the areas of health, culture, social, community, education, sport and politics. For more than ten years, Magna International Inc. Founder and Chairman Frank Stronach has hosted one of York Region’s (Ontario) best-known and biggest community fundraising events. What started out as a small local event, drawing about 1,000 people from the area to enjoy good food, dancing and live country music in support of local charities, the Hoedown has now become York Region’s largest annual community fundraiser. The country fest draws 4,000 people from the town of Aurora and surrounding communities, helping to raise more than CDN\$4 million to date for local charities and community groups.

Magna’s corporate constitution:

Magna’s Corporate Constitution publicly declares and defines the rights of employees and investors to participate in the Company’s profits and growth, while also imposing certain disciplines on management. These features strike a balance between employees, investors and management, while allowing the Company to maintain an entrepreneurial environment, which encourages productivity.

Here are some examples taken from the constitution: Ten per cent of Magna’s profit before tax will be allocated to employees. These funds will be used for the purchase of Magna shares in trust for employees and for cash distributions to employees, recognising length of service. Magna will allocate seven per cent of its profit before tax for research and development to ensure the long-term viability of the company. In the constitution, the “social responsibility” is mentioned as a main topic.

The rights of the shareholders: Magna will distribute, on average, 20 per cent of its annual net profit to shareholders. Class A and Class B shareholders, with each class voting separately, will have the right to approve any investment in an unrelated business in the event such investment together with all other investments in unrelated businesses exceeds 20 per cent of Magna’s equity. Any change to Magna’s Corporate Constitution will require the approval of the Class A and Class B shareholders, with each class voting separately.

“Employees’ Charter”:

The Employee’s Charter outlines Magna’s commitment to an operating philosophy which is based on fairness and concern for people. In today’s global market, every employee has an important role to play in making sure the Company stays competitive by "making a better product for a better price" and delivering them on time. The Charter was created to focus on the needs of the employee so they can best contribute to the Company’s success. It includes the following principles:

²¹² See <http://www.handelsverband.at/>.

²¹³ The retail wholesale and International Trade Representation of the EU, see <http://www.eurocommerce.be/>.

Job Security: Being competitive by making a better product for a better price is the best way to enhance job security. Magna is committed to working together with employees to help protect their job security. To assist this, Magna will provide: Job Counselling; Training; Employee Assistance Programs.

A Safe and Healthy Workplace: Magna strives to provide employees with a working environment which is safe and healthy.

Fair Treatment: Magna offers equal employment opportunities based on an individual's qualifications and performance, free from discrimination or favouritism.

Competitive Wages and Benefits: Magna will provide employees with information which will enable them to compare their total compensation of total wages and total benefits with those earned by employees of their competitors, as well as with other plants in their community. If their total compensation is found not to be competitive, then their wages will be adjusted.

Employee Equity and Profit Participation: Magna believes that every employee should own a portion of the Company.

Communication and Information: Through regular monthly meetings between management and employees and through publications, Magna will provide everyone with information so that they will know what is going on in their Company and within the industry.

The Hotline: Should employees have a problem, or feel the above principles are not being met, they are encouraged to call the Hotline or use the self-addressed Hotline Envelopes to register their complaints. Employees do not have to give their name, but if they do, it will be held in strict confidence. Hotline Counsellors answer all calls. All concerns will then be forwarded to the Magna Corporate Employee Relations Department. The Magna Corporate Employee Relations Department is committed to investigate and resolve all concerns or complaints and must report the outcome to the Employee Relations Advisory Board.

As will have been evident, the material above is taken from Magna's own sources.²¹⁴ The company has become prominent in Austria over the past few years. It is known to have a major role in sports sponsoring. It has also become known for trying to undermine existing legislation by trying to introduce its own schedules – i.e. there has been a line of opinion saying that Magna did not need workers' councils, as it had its own charter. Stronach invented its own participation system for his company. In this system there are "men of confidence", "fairness committees", a co-worker Charter and internal hotlines. Is this paradise? By no means. There is a substantial difference from the Austrian system of workers' councils: the work of those representing Magna's employees according to the Charter is not regulated by law as are the workers' councils. The latter have a right to certain information, for example about the company's balances, planned modifications, releases etc. Workers' council representatives are granted the necessary time they need in order to represent their colleagues by law. Workers' councils can conclude contracts or agreements with employers. Workers' councils representatives enjoy a special protection against being released, so that they can fulfil their functions without fear of coming under pressure in the case of a controversy.²¹⁵ When we tried to contact Magna, they employed the time-honoured strategy of not saying no, but dragging the process along.

4.10 Case Study 4: Magistratsabteilung 48 –MA 48 Wien²¹⁶– Municipal department 48 of the City of Vienna

This case study attends to an administrative body in Vienna with the characteristic of an additional business activity or operational task. To better understand the structure and functionality of the MA 48 we shall give a brief overview of this peculiarity of Austrian(Viennese) administration.²¹⁷ The MA 48 is the Municipal Department of the City of Vienna in charge of Waste Management, Street Cleaning and Vehicle Fleet. The approximately 70 municipal departments are part of the City Administration

²¹⁴ Company info: www.magnaint.com, last seen 31st July 2002.

²¹⁵ KAUFER Nani, Vertrauen ist gut – Betriebsrat ist besser, Reportage, www.glueckauf.at/ga_10_99/rep.html, last seen 30th July 2002.

²¹⁶ Magistratsabteilung 48, Einsiedlergasse 2, 1050 Wien/Vienna.

²¹⁷ See <http://www.wien.gv.at/english/organisation/>.

("Magistrat") which administers both the City of Vienna (municipal competence) and the administrative district of Vienna (district competence). In practice, the various tasks are carried out by the Chief Executive Office (Magistratsdirektion), the municipal departments mentioned above and the municipal district offices. Departments are headed by Heads of Department (Abteilungsleiter). These have full responsibility for their departments and are authorised to give instructions to all members of their staff. Departments thus have a *monocratic* structure. They have a basic "right of self-organisation", which means that they are entitled to determine the internal structure of their department in accordance with the tasks assigned to it. As a rule, departments have only limited competencies, particularly with regard to the utilisation of funds for the tasks assigned to them. The extent to which the City Administration (i.e. the municipal departments) may dispose of these funds without consulting the City Council (Stadtrat) / the Council Committee is determined once a year by the City Council. Important stipulations on the implementation of the budget (i.e. the budget estimate) are laid down in the City's budget regulations. It should be noted that every project the City Administration plans to implement must be provided for in the budget (budget decision by the City Council). Projects exceeding a certain sum must be decided on by the relevant Council Committee and reassessed by the City Council during preparation of the final balance. The Council Committees are responsible for approving tasks and services of administrative departments which exceed clearly defined cost limits. For undertakings established in accordance with section 72 of the Vienna City Statutes (i.e. municipal departments in charge of operational tasks such as water management, waste disposal, maintenance of the vehicle fleet), cost limits above which the competent Council Committee must be consulted are set much higher.

Based on these facts let us examine both the administrative and operational tasks of the MA 48. It belongs to the Administrative Group for Environment and Transport Coordination which is currently headed by Dipl.Ing. Isabella Kossina²¹⁸ from the SPÖ²¹⁹ and is responsible for the following tasks: organisation and implementation of domestic waste disposal in Vienna, including separation of toxic waste and recoverables; operation of waste treatment plants, domestic waste disposal sites, and two compost plants; removal of bulky household waste; cleaning of roads and pedestrian areas, including snow removal and winter safety; operating the central workshop and garages for the municipal mobile fleet; planning, construction, and maintenance of public toilets.²²⁰ The MA 48 is headed by Dipl.Ing. Peter Bortenschlager²²¹; correspondence by e-mail and post is conducted with a "Referent", Mr. Podkowicz.²²² In addition, the MA 48 has its own representative for foreigners and integration matters, Mr. Springer.²²³

The answers to our very detailed questionnaire for administrative bodies were as detailed as enlightening. In our understanding, to a certain extent the MA 48 could give an example for Austrian administration's good practice concerning relations to foreigners and refugees. The MA 48 administers the City waste management and therefore is in contact with those sections of the population who stem from a foreign country which has been numbered (details given) by approx. 200 customers/month in comparison to approx. 340 Austrian nationals/month. Concerning the administrative work with the foreign/refugee clientele they tell us that the MA 48 is not only prepared to employ them, but is also equipped with multilingual information material as well as a pool of interpreters administered by the City of Vienna. As for the progressiveness in matters of "intercultural opening"²²⁴ of Municipal Civil Service, the MA 48 offers language courses among the staff.²²⁵ As to

²¹⁸ Executive city councillor ("Umweltstadträtin), post@ggu.magwien.gv.at, tel: +43 (0) 1 4000-81341.

²¹⁹ Austrian Social Democratic Party, which holds the majority in Vienna.

²²⁰ Extract from the legal provisions for the municipality of the City of Vienna, -Geschäftseinteilung für den Magistrat der Stadt Wien, 01.01.02.

²²¹ post@m48.magwien.gv.at, tel: +43 (0) 1 588 17-96 111.

²²² Tel: +43 (0) 1 588 17-96 104, fax: +43 (0) 1 588 17-99-96128.

²²³ Tel: +43 (0) 1 588 17-96 229.

²²⁴ See SPRUNG Anette / HOLZER Daniela, Kulturelle Vielfalt und Integration, Kommunalpolitische Handlungsperspektiven für ein friedliches Zusammenleben in Graz, Graz 2002, pp.20 ff.

the employment of refugees as civil servants, administrative bodies in Austria fall in the competence of the Provinces. The provisions, however, all enclose the unemployability of non-EEA nationals as civil servants. The official regulations²²⁶ and the regulation for civil servants²²⁷ are the two relevant acts that apply for the Province of Vienna²²⁸. The MA 48 refers in this regard to the staff appointment scheme (“Dienstpostenplan”) which does at present not allow any more engagements irrespective of nationality. Regarding the operational tasks of the MA 48 as an employer (the civil servants excluded), they have approximately 3,400 employees with 100 of them of foreign origin. As problems, language barriers were mentioned in an initial phase of work contracts, which diminish later on. Trans-cultural problems occur occasionally with religious or social differences but the prohibition of alcohol for religious reasons is noted as facilitation of the working morale. Also habits of paying more attention to clean clothing were stated, which also facilitates working conditions according to the MA 48. The exercise of religious duties does not evoke any problems.

The overall impression given²²⁹ is the equality of treatment both of employees and of customers of different origin, which they call themselves “good practice”. As for cooperativeness, the MA 48 calls itself part of a network of administrative bodies, which includes the labour market services (AMS), the relevant social insurance carriers as well as the municipal post for coordination of integration affairs²³⁰ and in sub-areas other EU-administrative bodies.

The MA 48 sees in FREE a chance to make the topic of refugees and asylum seekers more transparent in the public opinion and is generally willing to cooperate if further points of contact are given. Generally speaking, a cooperation with larger administrative bodies such as the Viennese municipal departments seems more likely as they are in closer contact with foreign nationals or refugees. A double-structured post such as the MA 48 as both administrative and operational body seems to be a good starting point.

4.11 Conclusions on the Feasibility of FREE

It will be the task of the readers of this report to assess the feasibility of realising a fund in the shape of FREE in Austria. We have tried to convey a large amount of information here. The result is, we believe, an ambivalent picture. The creation of such a fund is definitely possible, but the obstacles are not to be underestimated, and the shape and scale of the fund will depend very much on the professionalism and intensity of the activities that are launched.

Businesses are sceptical about FREE, but are prepared to be won over by a professionally working fund with a solid reputation, and involved and cooperative staff. One attempt that we believe might lure some companies into participation, might be to link FREE activities with programmes for vocational training – an aspect that they are all concerned about, while finding it difficult to offer a satisfactory programme. Authorities may passively support the fund – this requires patience and a great deal of diplomacy. Flexible and unbureaucratic support is a possibility, but will not be the norm.

NGOs must be won over. This may be easier for outsiders. In order to alleviate their worries, participation in the fund must truly create a win-win situation.

²²⁵ Vocational training in general in this regard seems to be relatively wide spread at least among the cities with its own statutes.

²²⁶ Wiener Dienstordnung 1994, LGBI.56/1994, see <http://www.wien.gv.at/recht/landesrecht-wien/rechtsvorschriften/html/d0800000.htm>.

²²⁷ Vertragsbedienstetenordnung 1995, LGBI. 50/1995; see <http://www.wien.gv.at/recht/landesrecht-wien/rechtsvorschriften/pdf/d3000000.pdf>.

²²⁸ § 3 Wiener Dienstordnung for the unemployability of Non-EEA nationals.

²²⁹ Other administrative bodies such as the MA 4 - General Financial and Economic Affairs mentioned the same.

²³⁰ “Bereichsleitung Integration”, Executive City Councillor: Mag. Renate Brauner, renate.brauner@gif.magwien.gv.at.

Educational institutions will not be willing participants as such, but they will not create obstacles on purpose. Individuals from their ranks may help to take the project forward.

We will close by discussing a few aspects, that could play a role in future research towards the fund. Down to simply a decision comes the question if such a project should be restricted to recognised refugees or extended to asylum seekers and non-refoulement-refugees. Recognised refugees are a small minority, who, through their common characteristics as recognised refugees, might be identified as a minority, though far from homogeneous, group.²³¹ A modest and pragmatic approach would likely choose such a group as the fund's target. A further-reaching project would include asylum seekers and similar groups. In our eyes this would seem more attractive politically and conceptually. It would throw up far greater organisational challenges though. What precisely the decision would entail for the corporate sector's response is difficult to gauge: Sticking to recognised refugees would be a relatively safe, ethically sound approach – a small project that a small number of companies could invest in with good conscience. The inclusion of other groups would transfer the project to another level, involving crucial social problems of nationwide importance. In doing so, a more controversially regarded project would be created, potentially attracting more far-reaching support from a higher number of institutions, but also more hostile reactions from others. It should be noted in this context that the corporate sector as well as the general public do associate refugee issues strongly with migration and thus social issues (if not with refugee camps in Afghanistan, i.e. an issue remote from Austria) and far less with the narrow question of refugee status in accordance with the Geneva Refugee Convention.

In short: the model of the fund as it was introduced and mediated in the course of this study, is, given Austrian circumstances, directly applicable only to recognised refugees. They could benefit from grants and scholarships and aid for integration into the regular system. In the case of asylum seekers, non-refoulement-refugees and temporarily accepted residents, only the creation of a whole new structure, coming close to the institution of a second labour market but in any case providing for a comprehensive package of education, placements and job search, can have any effect.

A conference in connection with a joint ECRE project has taken place in Vienna in October 2002, including a workshop on education, continuing education and vocational training for refugees, coordinated by World University Services (WUS)-UK. Another international conference took place which was organised by the IOM in cooperation with the City of Vienna under the title "Integration in the capitals of countries neighboring Austria" – which comprised a workshop that is directly relevant for our topic. Two important fora in order to really negotiate the fund with the Austrian NGOs would be the regular TOEF meeting²³², and the UNHCR-NGO-Forum which took place in November this year and brought together the majority of NGOs. So cooperation with the NGOs is necessary for the reasons described above. A suitable platform is provided in the form of the Asylkoordination and the fora mentioned just above. Exchange with the EQUAL projects seems advisable.

An open information policy by the project is something that would not only soothe worried NGOs, but is also a condition that was raised by a number of companies with regard to potential sponsoring. In this context it would also be sensible to lay open internal relations and ties – such as between WUS, ECRE etc.

A satisfactory result will need a bigger effort beyond the means of a feasibility study. Otherwise attracting funds will not be feasible. Intense efforts, networking and building personal contacts will be required, and anything that has the air of being officially pursued by the European Union will leave a strong impression with the heads of Austrian business enterprises.

²³¹ See REITERER Albert F., *Moderne Gesellschaften. Sozialstruktur und Sozialer Wandel in Österreich*, Wien (WUV) 1998, pp. 124ff.

²³² TOEF – Treffen österreichischer Flüchtlingsorganisationen, an informal board consisting of Amnesty International, Asylkoordination, Caritas, Efdö, SOS Menschenrechte Oberösterreich, UNHCR, Verband der arbeitsmarktpolitischen Beratungsstellen and Volkshilfe.

A strategy and concept will have to be devised relatively soon. Some careful planning is not only paramount for the success of the project, but also something that potential partners will want to see. Depending on the scope of the final project and the model finally chosen, a division of tasks could be considered – due to the smaller size probably not in a model as sophisticated as in EQUAL initiatives, but maybe some hints can be drawn from there. It would seem advisable to make use of competent partners for the tasks involved. Thus not only the issue of funding should be spread onto a number of partners, but also that of organisation. In the latter context, some NGOs have a wealth of experience and most Austrian projects honour a tradition of cooperation between NGOs and authorities on these aspects.

As is probably evident to all involved, clear decisions will have to be taken on the scope of the fund. The number of clients, the kind and intensity of the services offered, the amount of time invested, the number of staff required, etc. must be decided to allow for the calculation of the financial requirements for such a fund. This is mentioned here, because clear ideas and plans towards these aspects will be valuable when talking to potential partners even at an early stage, making it possible to let them know what they can expect to get from the partnership. Next to a more professional appearance, it would also allow us to provide estimations on costs, such as personnel etc.

One area for which a strategy has to be devised, is how to approach and handle media work concerning the FREE fund. Despite the existence of a high number of open-minded and dedicated journalists, the media relationship in total is still one of the more problematic parts of such work. Constantly under pressure from an ever aggressive tabloid sector, once more an environment where Austrian players know each other very well and where activities are usually based on a delicate balance of personal relationships - initiatives here must be undertaken with care and certainly do require a hands-on approach. In our work so far we have left this aspect aside, as we would prefer to undertake it in the context of a controlled strategy.

In the discussion of many obstacles in detail, it should not be forgotten that the biggest obstacle of all is the political situation. Large-scale initiatives, both for legal or political change and in using influence on the corporate sector's willingness to donate, would have to come from the political arena. The distribution of funding as handled by the EU lends itself to criticism as well: funds are spread between countless projects, which are then left to create networks themselves. Had we not discovered the other relevant projects in Austria more by chance than design, parallel projects would have created further inefficiencies and hostilities sooner or later.

We were also partly unhappy with the notion of quasi selling refugees to companies as a source or pool of human capital in the country – this is playing on conservative and liberal-elitist notions,²³³ and ignores the complexity of issues of identity and integration.²³⁴

²³³ It may at some stage be attractive to read Hegel again, on master and slave: HEGEL Georg W. F., *Phänomenologie des Geistes*, Frankfurt am Main et al (Ullstein) 1973, pp. 113ff.

²³⁴ See REITERER Albert F., *Soziale Identität*, Frankfurt am Main et.al. (Peter Lang) 1998.

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Bundesgesetz vom 27. Juni 1979 über das Dienstrecht der Beamten (Beamten-Dienstrechtsgesetz 1979 – BDG 1979) BGBl. Nr. 333/1979 idF BGBl. I Nr. 87/2002

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5.4 Webpages

Included are solely sites that contain materials used in the report, not sites used in the process of our research.

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Asylkoordination: www.asyl.at

Arbeitsmarktservice: www.ams.or.at

Berufsförderungsinstitut – Bfi: www.bfi.or.at

Bundeskammer für Arbeiter und Angestellte: www.arbeiterkammer.at

Bundesministerium für Bildung, Wissenschaft und Kunst: www.bmbwk.gv.at

Bundesministerium für Inneres: www.bmi.gv.at

Bundesministerium für Wirtschaft und Arbeit: www.bmwa.gv.at
Caritas: www.caritas.at
Megaphon: www.megaphon.at
Die Grünen: www.gruene.at
Europäisches Trainings- und Forschungszentrum für Menschenrechte und Demokratie: www.etc-graz.at
Evangelischer Flüchtlingsdienst Österreich: members.eunet.at/efdoe
Fonds zur Integration von Flüchtlingen: www.fif.at
Flüchtlings- und Deserteursberatung: www.deserteursberatung.at
Freiheitliche Partei Österreichs: www.fpoe.or.at
Gewerkschaft der Privatangestellten: www.gpa.at
Gründerservice: www.gruenderservice.net
Industriellenvereinigung: www.iv-net.at
Junge Wirtschaft: www.jungewirtschaft.at
Karl-Franzens-Universität Graz: www.kfunigraz.ac.at
Kleine Zeitung: www.kleinezeitung.at
Kommunistische Partei Österreichs: www.kpoe.at
Lions Klub: www.lions.at
Magna: www.magnaint.com
Omega: www.omega-graz.at
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Sozialpartner: www.sozialpartner.at
Statistik Austria: www.statistik.at
Unabhängiger Bundesasylsenat: www.ubas.gv.at
UNHCR: www.unhcr.at
Volkshilfe: www.volkshilfe.at
Wiener ArbeitnehmerInnen Förderungsfonds (WAFF): www.weiterbildung.at
Wien.at: www.wien.gv.at
Wiener Integrationsfonds: www.wif.wien.at
Wirtschaftsförderungsinstitut – Wifi: www.wifi.at
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