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I. What’s in a name?

In March 2019, Herbert Kickl, the interior minister of the right-wing populist Freedom Party of Austria (FPÖ), issued a decree renaming the refugee reception centres. In these centres, the decision will be taken as to whether a Dublin procedure, a “fast-track-procedure”, or a full procedure will be used to deal with an application for asylum. The decree renamed the reception centres into “departure centres” (Ausreisezentren).


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As lawyers, we are used to focusing on the operative consequences of legal acts. We understand law as an instrument to influence the behaviour of its addressees. We compare the rights and duties of the persons concerned before and after the enactment of a given regulation, and we analyse the incentives and the sanctions the law creates in the hope people will behave as intended. Sometimes we criticize the law for not being effective enough, and sometimes we advise persons on what they should do to satisfy the legal requirements or how they could circumvent them.

What to make of the renaming decree? The act does not create or change the rights or duties of anyone. It does not affect their status, nor does it influence anyone’s behaviour. Kickl commented on it in the following manner: “The message has to be that those not granted protection don’t have a chance in Austria. They don’t get an entrance card but a one-way ticket back home.” However, I doubt that refugees in Syria or Libya took notice of the renaming and therefore decided not to apply for protection in Austria, or that they, once in Austria, saw and understood the new doorplate, lost their hope, withdrew their application and accepted a one-way ticket back home without resistance.

Although the renaming did not have any obvious consequences for anyone it was a highly debated issue. Legally, one could discuss if the administrative decree complied with the parliamentary statute calling the same institutions reception centres. (It did


3 See, in particular, § 4 Bundesgesetz über die Einrichtung und Organisation des Bundesamtes für Fremdenwesen und Asyl (BFA-Einrichtungsgesetz - BFA-G) (Federal Office for Immigration and Asylum Establishment Act), Austrian Federal OJ I 2012/87 as last amended by Austrian Federal OJ I 2018/56, and section 1(1) - (3) Verordnung der Bundesministerin für Inneres zur Durchführung des BFA-G (BFA-G - Durchführungsverordnung - BFA-G - DV) (Order of the Minister of the Interior Implementing the Federal Office for Immigration and Asylum Establishment Act), Austrian Federal OJ II 2013/453, where the affected facilities are explicitly designated as “reception centres”. The term ‘reception centres’ is also used in §§ 10(3) and (6), 11(1), 34(7), 43(1)(1), (2 a) and 49(4) Bundesgesetz, mit dem die allgemeinen Bestimmungen über das Verfahren vor dem Bundesamt für fremdenwesen und Asyl zur Gewährung von internationalem Schutz, Erteilung von Aufenthaltstiteln aus berücksichtigungswürdigen Gründen, Abschiebung, Duldung und zur Erlassung von aufenthaltsbeendenden Maßnahmen sowie zur Ausstellung von österreichischen Dokumenten für Fremde geregelten werden (BFA-Verfahrensgesetz - BFA-VG) (Federal Office for Immigration and Asylum Procedures Act), Austrian Federal OJ I 2012/87 as last amended by Austrian Federal OJ I 2019/53, and in §§ 28(1), 29(4), 31(1) and (3), 32(1) and 33(1) and (4) Bundesgesetz über die Gewährung von Asyl (Asylgesetz 2005 - AsylG 2005) (Federal Act Concerning the Granting of Asylum), Austrian Federal OJ I 2005/100 as last amended by Austrian Federal OJ I 2019/53. (All Austrian statutes and ordinances can be accessed via the Federal Laws Information System,
not and the subsequent Minister of the Interior repealed it, by the way.) Its legality was not the core of the matter, though. The core of the matter was its message. In this respect, Kickl was right; however, it was not a message to asylum seekers but a message to the voters of the Freedom Party living in Austria. As such, the decree was migration law for non-migrants.

II. Operative and expressive functions of the law

Let us take a step back for a minute and look at this episode from a more general perspective. It reminds us that law has not only operative (or instrumental) functions, like creating rights and duties in order to protect individuals and to pursue certain policies. Linguistics teaches us that language also has performative aspects and a much more pragmatic dimension, utterances can be considered as speech acts, and legal theory and everyday experience tell us that law can have symbolic or expressive functions.  

In many instances, law is not so much concerned with directly influencing people’s behaviour as with making statements: expressing values which the legislator deems
important (eg, “Austria is a federal state”, as our constitution stipulates\textsuperscript{6}), creating an identity for society (eg, Europe is a “death-penalty-free zone”, the Council of Europe proclaimed\textsuperscript{7}), officially recognizing groups of people (eg, minorities\textsuperscript{8}), condemning certain kinds of behaviour (in particular via criminal law\textsuperscript{9}), reaffirming, corroborating, sometimes changing social norms (like the acceptance of intersexual persons\textsuperscript{10}). Sometimes such a statement may guide further legislation; sometimes it is meant to indirectly influence the behaviour of people; often it should convince voters that something is being done about a problem; and sometimes it may just stand for itself.

Our renaming decree is an extreme example in the sense that it is purely expressive. The other end of the scale is marked by mostly operative measures, e.g. technical rules or certain traffic regulations.\textsuperscript{11} In many cases, however, operative and expressive functions of the law go hand in hand. Let us take statutes on sexual harassment as an example to this effect. On the one hand, they directly ban certain forms of behaviour and provide for controlling mechanisms and sanctions; on the other hand, they are also important to create a general awareness of the problem, to change attitudes, to

\textsuperscript{6} Art. 2 Bundes-Verfassungsgesetz 1920 (B-VG), Austrian Federal OJ 1930/1 as last amended by Austrian Federal OJ I 2019/57.

\textsuperscript{7} See https://www.coe.int/en/web/portal/10-october-against-death-penalty.

\textsuperscript{8} E.g. Art. 8 § 2 B-VG: “The Republic (Federation, provinces and municipalities) subscribe to its linguistic and cultural multiplicity having grown, expressed in the autochthonous ethnic groups. Language and culture, existence and preservation of these ethnic groups are to be respected, safeguarded and to be supported.” For constitutional recognition of minorities, see also Jürgen Pirker, ‘Recht und Symbolik. Die neue Verfassung des Landes Kärnten in Volksgruppenfragen’ (2017) 74 europa ethnica 2-8.

\textsuperscript{9} See, e.g. the Austrian Constitutional Court (VfGH), 13 December 2017, G 408/2016 et al., holding that the stigmatizing effect is relevant for the distinction between criminal and administrative offenses. (All decisions by the Austrian constitutional court can be accessed via https://www.ris.bka.gv.at/Vfgh/ by their case numbers.) For an example of symbolic condemnation of noncriminal Nazi-style nonsense in public forums, see Franz Merli, “Unfug” im Einführungsgesetz zu den Verwaltungsverfahrensgesetzen”, in Mathias Lichtenwagner and Ilse Reiter-Zatloukal (eds.), „... um alle nazistische Tätigkeit und Propaganda in Österreich zu verhütern“. NS-Wiederbetätigung im Spiegel von Verbotsrecht und Verwaltungsstrafrecht (Chio, Graz, 2018) 35-45.


\textsuperscript{11} Of course, even traffic rules can (and do) express something: e.g. order, safety, reliability, care for the weak or the environment, openness for high-tech-solutions, freedom for urban street life, ... or the respective opposite.
make clear what is not tolerable and to reinforce the respective norms in a social sphere poorly accessible to the law.\(^{12}\)

Once we focus on the expressive function, we see it almost everywhere. This is particularly true for migration law.

### III. Expressive migration law: Some examples

After the so-called “refugee crisis” of 2015 had ended, the government, then led by chancellor Faymann of the Social Democratic Party of Austria, announced a decree setting a ceiling on asylum applications.\(^{13}\) A limit for applications is a very operative measure. The proposed decree was, of course, also highly controversial: the government claimed that it was in conformity with international and European law, but most experts did not agree. However, the gist of the idea was that the ceiling of applications was deliberately chosen so that it would not be reached. The ceiling of 37,500 asylum-seekers was not attained, the proposed decree did not come into force, and a statutory emergency mechanism enacted later\(^{14}\) was never applied. In the end, it was only the expressive function that mattered: We, the government, are in control of the situation and will not tolerate an unlimited influx of refugees anymore.

Deploying the Austrian armed forces to the eastern border in 2015 had sent a less clear message between control and helplessness.\(^{15}\) At any rate, the role of the army


\(^{14}\) §§ 36-41 AsylG 2005.

(which is still there today) has been largely symbolic, as the troops deployed consist of young conscripts with hardly any training and without special powers in a mere supporting role for the regular border police.

A real highlight was a large-scale border patrol exercise held in 2018 on the Austrian border with Slovenia at Spielfeld/Šentilj. 200 soldiers and 500 policemen practiced stopping refugees, in a one hour and a half long exercise that saw police trainees pretending to cross the border and being turned back. A platform was set up for the photographers. Two Black Hawk helicopters circled overhead. Two hundred students from the police academy were enlisted as “refugees”. A video was produced. Heinz-Christian Strache, then Austria’s Vice-Chancellor, described the training exercise as a “major police and army” event and said it would send a “clear signal” that Austria wanted to protect its borders.16

A second set of examples of expressive migration law concerns financial subsidies for asylum seekers and those who were granted asylum or subsidiary protection. Asylum seekers are not allowed to work in the first three months after their application but they can be employed by government and municipal entities for domestic and garden work or transport services.17 These entities paid varying wages up to 5 Euro per hour.

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Kickl, the former Minister of the Interior, considered these amounts excessive and drafted a decree limiting the hourly wage to 1.50 Euro.  

For recognized refugees and third country nationals in general, social allowances were severely cut in a legislative reform which was passed in May 2019 with the votes of the two right-wing parties then in power: Foreigners without German or English language skills should receive about 300 Euro less than the regular amount of about 900 Euro per month. The full amount was to be paid not before the persons concerned had taken an exam proving that they had achieved level B1 in German or C1 in English, a rather demanding standard, in particular for refugees with low levels of formal education. Child allowances would decrease with the number of children: € 221 for the first child, € 133 for the second child, and only € 43 for the third and any additional child. Single parents have no legal entitlement to higher payments. Some 70,000 children would have been directly affected by these changes. Families


20 The Common European Framework of Reference for Languages (CEFR) (available at https://rm.coe.int/1680459f97, last accessed 5 September 2020) 24, defines B1 as “Can understand the main points of clear standard input on familiar matters regularly encountered in work, school, leisure, etc. Can deal with most situations likely to arise whilst travelling in an area where the language is spoken. Can produce simple connected text on topics which are familiar or of personal interest. Can describe experiences and events, dreams, hopes and ambitions and briefly give reasons and explanations for opinions and plans” and C1 as “Can understand a wide range of demanding, longer texts, and recognise implicit meaning. Can express him/herself fluently and spontaneously without much obvious searching for expressions. Can use language flexibly and effectively for social, academic and professional purposes. Can produce clear, well-structured, detailed text on complex subjects, showing controlled use of organisational patterns, connectors and cohesive devices”.


Merli, Migration Law for Non-Migrants
living in Vienna, for example, had previously received € 233 for each child. By cutting benefits of people with lower language skills and larger families, the law mainly targeted foreigners. As several experts noted, the new regulation did not provide any savings for the federal and state budgets but specifically disadvantaged certain groups, especially immigrants.

Of course, these are rigorous operative measures. They also have an expressive function, though: the official reasoning for the different treatment of the needy is that people without adequate language skills are not prepared for the labour market so they should be motivated to improve their German, but this is just a pretext. What really matters is another effect: these measures shall ensure that foreigners receive less than Austrians in a comparable situation whatever the reason. By putting foreigners in their place, they endorse a certain form of justice, which is as popular as it is in tension with European law: “Austrians first”.

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22 Georg Renner, ‘Mindestsicherungs-Reform: Neue Sozialhilfe kostet noch mehr als bisher’, Kleine Zeitung, 14 March 2019; for the experts’ statements at the public hearing in the Labour and Social Affairs Committee of the Austrian National Council, see the parliamentary correspondence PK Nr. 406, 15 April 2019; for the estimated costs of the reform, see the parliamentary correspondence PK Nr. 268, 15 March 2019 and the impact assessment of the government bill RV 514 BlgNR 26. GP - Vorblatt und WFA Art. I + II and RV 514 BlgNR XXVI. GP - Vorblatt und WFA Art. III. (parliamentary documents and bills can be found at https://www.parlament.gv.at/).


24 Meanwhile, in a decision of 12 December 2019 (G 164/2019, G 171/2019), the Constitutional Court repealed central provisions of the law: The declining scale of child benefits discriminated against large families and did not guarantee the subsistence of the concerned children; and language skills on such a high level were obviously not necessary for the employability of foreigners. See Franz Merli, ‘Zweck verfehlt’ (2020) at https://verfassungsblog.de/zweck-verfehlt/ (last accessed 7 February 2020).
The third set of examples includes consecutive bans of face covering in public\(^25\) and head scarfs first in kindergarten,\(^26\) then in elementary school\(^27\) and finally in secondary school.\(^28\) From a legal point of view, these are hard cases because they claim to protect gender equality and the freedom of religion while restricting the rights of Muslims and women; it is not easy to entangle goals and effects or good reasons and pretexts and to assess proportionality questions in a confusing variety of social settings. The expressive function of the respective regulations is quite clear, though: They require assimilation and a symbolic submission to the majority culture.
Instead of giving more Austrian examples, let us continue with some general observations which might apply to other countries, too.

IV. Expressive use of migration law: Some characteristics

As mentioned, an expressive use is not unique to migration law. In migration law, we can find special characteristics of the expressive function, though.

- Migration law deals with difficult, highly controversial, and emotional questions, which make people long for moral simplification rather than for legal sophistication. Therefore, an expressive use meets a higher demand in migration law than in other, more technical areas of law-making.

- Migration law’s operative content is decided to a large degree on the European level. National law-making is, therefore, often reduced to implementation - or, politically more promising, it can be used to serve expressive needs culminating in overt non-compliance. In this way, the expressive use of the law compensates for its operative weakness.

- Usually, the law addresses the same people both in its operative and expressive functions. Constitutional equality proclamations or sexual harassment rules, e.g., are designed to regulate the behaviour and to influence the values and attitudes of the same public. In other instances, the two functions part: a provision of criminal law may concern just a small group of perpetrators while demonstrating toughness on crime to all voters. In migration law, too, the addressees of the two functions are often not identical. While its operative function is directed at migrants, its expressive function addresses the longstanding residents of the country; or at least those who came earlier: migration law for non-migrants, as shown above.

29 For regulations conveying the message that foreigners are potential free-riders, possible tricksters, unreliable, suspicious and dangerous, see e.g., the papers of Julia Reisinger, Reinhard Klaushofer and Lamiss Khakzadeh-Leiler, in Franz Merli and Magdalena Pöschl (eds.), Das Asylrecht als Experimentierfeld (Vienna: Manz, 2018) pp. 129-46, 147-73, 175-187.


- Legal theory often describes the expressive function of the law as a primarily progressive and educational endeavour. Antidiscrimination law is a standard example because of its aim to change social norms, to help people overcome their prejudices and to explicitly recognize minority ways of life. We should not forget, however, that it was precisely discriminatory law that raised our awareness for the expressive dimension of legal instruments. Migration law reminds us that expressive functions can be used with bad intentions as well: e.g., as we have seen, to reject, devalue and submit foreigners and to symbolically reaffirm the dominance of the resident population – a somewhat sobering finding.

- Finally, migrants have no right to vote. Therefore, expressive law at their expense is more likely to go democratically unpunished.

For all these reasons, migration law is a fertile ground for an expressive use, in Austria and elsewhere, and we should not be surprised by an expressive focus of migration law.

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34 In Austria, only Austrian citizens have the right to vote in regional and national elections. Naturalisation usually requires, i.a., 10 years legal and continuous residence in Austria.

V. Instead of a conclusion: Some questions about expressive harm and insincere legislation

Let me conclude with some lawyerly questions.

The first question would be whether the expressive function is relevant for legal analysis.

Two reasons speak in favour of an affirmative answer. First, although a certain expressive effect seems to be an unavoidable by-product of any regulation, a given law may express more than is automatically conveyed with its operative content. This is most easily seen if we imagine a “People from Shitholes Act” or an “Islamic Terrorism Act”. Such laws convey a message that does not depend on their operative content. If the expressive effect can thus be a separate and distinct feature of a given law it cannot always be controlled by dealing with its operative content alone.

Second, it seems plausible that expressive harms can constitute legal injuries. This depends on the scope and content of rights which may be infringed by the expression. Art. 8 ECHR on the protection of private life may provide such a right, and the


37 Propaganda titles of statutes are very common: See, e.g., the “uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act” of 2001 (https://www.govinfo.gov/content/pkg/STATUTE-115/pdf/STATUTE-115-Pg272.pdf#page=1), the “Defense of Marriage Act” (https://www.govinfo.gov/content/pkg/STATUTE-110/pdf/STATUTE-110-Pg2419.pdf#page=1), the (German) “Gesetz zur zielgenauen Stärkung von Familien und ihren Kindern durch die Neugestaltung des Kinderzuschlags und die Verbesserung der Leistungen für Bildung und Teilhabe (Starke-Familien-Gesetz-StaFamG)”, or the (Austrian) “Bundesgesetz, mit dem ein Gesetz zur Bekämpfung von Lohn- und Sozialdumping erlassen wird (Lohn- und Sozialdumping-Bekämpfungsgesetz – LSD-BG)” (https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=2000955) and, in some sense, also the “Integrationsgesetz” (https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009891); not to compare, of course, to the infamous Nazi-Gesetz zur Wiederherstellung des Berufsbeamtenstandes” (Law for the Restoration of the Professional Civil Service) http://alex.onb.ac.at/cgi-content/alex?aid=dra&datum=1933&page=300&size=45.


39 See European Court of Human Rights (ECHR) (Grand Chamber), Aksu v. Turkey (Application nos. 4149/04 and 41029/04), Judgment of 15 March 2012, § 58: “In particular, any negative
Austrian provisions of the constitution on equality before the law not only prohibit discrimination but also include, at least in an academic reconstruction of the jurisprudence of the Constitutional Court, a (non-comparative) right of all persons to basic respect by the government. A good example was the “separate-but-equal” distinction of marriage for opposite-sex couples and registered partnerships for same-sex couples under Austrian law: The Constitutional Court found this to be an untenable discrimination of same-sex couples even if the rights and duties in both institutions were almost the same. Similarly, the Court repealed the duty to register the sex as either male or female in official documents as a violation of the right to privacy under Art. 8 of the European Convention of Human Rights, because it ignored the self-determination of persons with an alternative sexual identity. So purely expressive harm can be illegal, too.

The second question would be as to how can we take account of the expressive dimension, e.g. in judicial review, if it really matters.

Here, we probably can distinguish between two situations. In some cases, we can attribute the expressive harm to a separate part of the law which can be revoked by a court: e.g. its title; the humiliating conditions on which it offers a benefit to a certain group; a discriminating distinction as such. In many cases, however, the expressive harm will be entrenched in the core operative content of the law. Here, the operative part may be unconstitutional irrespective of expressive effects. But in some instances, the expressive harm might make an arguably useful legal distinction between groups of people to a prohibited discrimination; or a well-reasoned restriction of a freedom to an excessive interference.

stereotyping of a group, when it reaches a certain level, is capable of impacting on the group’s sense of identity and the feelings of self-worth and self-confidence of members of the group. It is in this sense that it can be seen as affecting the private life of members of the group.” See also ECHR 15 October 2019, Lewit v. Austria, application no. 4782/18, § 46.


41 (Austrian) ViGH 4 December 2017, G 238/2017 ua.


43 Striking down a mere title of a law is not self-evident, though, at least in cases, in which the constitutionality review is limited to those provisions of a law that were applied in the respective case before another court.
A final question would be as to how we should deal with legislative pretexts. History abounds in laws that proclaim to serve an honourable purpose while actually pursuing less respectable goals. In particular, laws expressing the inferiority of certain people are often veiled by an elaborate reasoning – a kind of deception often inflicted with the tacit consent of the deceived.

At first glance courts have developed four techniques to handle such situations: a court can take the official reasoning seriously and revoke the norms because they do not serve the official purpose or are not necessary to achieve it. A court may take the pretext as a starting point and annul the norms because they lack coherence against the backdrop of the pretended purpose. In this context, the suitability test is much stricter; if the law fails it, this might hint at another hidden motive. A court can reveal the “real” purpose and repeal the law for its prohibited motivation. Although finding true reasons is an inconvenient exercise for judges, there are more than just a few cases of this kind decided by various courts. Finally, in Germany,

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45 See, e.g., the decision on the Austrian Constitutional Court cited in note 22; or its ruling VfGH 10 October 2005, G 87/05 va, V 65/05, holding that the exclusion of same-sex partners from public health co-insurance could not be justified by the proclaimed aim of supporting families with children as the co-insurance of opposite-sex partners did not depend on children, either; or the decision of the German Constitutional Court (BVerfG), 6 July 2004, 1 BvL 4/97 et al. (accessible at https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2004/07/b20040706_1b_vl000497.html), voiding a cut of benefits for children of foreign nationals because there were no grounds to assume that it would decrease incentives for immigration (the official reasoning), while it discriminated against foreigners lawfully residing in Germany.

46 See, e.g., the European Court of Justice (ECJ) Judgment 6 November 2003, Gambelli and Others, C-243/01, ECLI:EU:C:2003:597, holding that while restrictions of gaming activities may be justified by imperative requirements in the general interest, such as consumer protection and the prevention of both fraud and incitement to squander on gaming, they must also be suitable for achieving those objectives, inasmuch as they must serve to limit betting activities in a consistent and systematic manner; and leaving it to the national court to determine whether such legislation actually serves the aims which might justify it.

47 See, e.g., VfGH 23 June 1986, G 14/86, striking down a law which limited the number of taxi licenses allegedly in order to enhance traffic safety and consumer protection because the real purpose of the law was to protect the existing license holders from competition; or the ECHR (Grand Chamber), A. and Others v. the United Kingdom, Application no. 3455/05, Judgment of 19 February 2009, § 186, qualifying anti-terrorism legislation supposedly justified as immigration measures a violation of the Convention: “The Court, however, considers that the House of Lords was correct in holding that the impugned powers were not to be seen as immigration measures, where a distinction between nationals and non-nationals would be legitimate, but instead as concerned with national security. [...] The choice by the Government and Parliament of an immigration measure to address what was essentially a security issue had the result of failing adequately to address the problem, while imposing a disproportionate and discriminatory burden of indefinite detention on one group of suspected terrorists.” The ECJ Judgment 24 June 2019, Commission v. Poland, C-619/18,
court may consider a discrepancy between the reason for the law and its content as a violation of legislative “truthfulness”, a requirement derived from the rule of law-principle. At last in Austria, there are no recipes in our textbooks and methodological manuals to deal with an insincere legislator, institutionalized hypocrisy, legal populism and unfulfillable legal promises. Maybe migration law can be a starting point for reflections to this effect. I am afraid it is time for it.

ECLI:EU:C:2019:531, §§ 82-6, did not believe that the goal of the contested justice reform in Poland was standardizing the general retirement age, but supposed that in fact its aim might be to exclude a pre-determined group of judges of the Supreme Court. The majority of the Supreme Court of the U.S.A, 27 June 2019, Department of Commerce et al. v. New York et al., 588 U.S., concluded that that the official rationale for adding a citizenship question to the census (to aid enforcement of the Voting Rights Act) was a pretext and therefore did not meet the reasoned explanation requirement of administrative law.


VI. Bibliography


Benjamin Davy, Folgenloses Umweltrecht (Wien: Service Fachverlag an der Wirtschaftsuniversität Wien, 1989)


Federal Ministry of the Interior, ‘Einladung zum Medientermin im Rahmen der Grenzschutz-Übung 'ProBorders”’, OTS0015 5 CI 0120 NIN0001, 22 June 2018, available (in German) at


Justin Huggler, ‘Austria closes its borders to almost all asylum-seekers’, The Telegraph, 31 March 2016


Reinhard Leprich, ‘Frage: Was passiert bei einem Migrationsstrom wie 2015 an Österreichs Grenzen?’, 26 June 2018, available (in German) at https://www.bmi.gv.at/news.aspx?id=73624A61743351515366413D&fbclid=IwAR3OLb8-6Lmkn1a2mJKBGLKUdSmpnv_a5tUNiOwbTWANA7QZ9npGST3Dok


Franz Merli and Magdalena Pöschl (eds.), Das Asylrecht als Experimentierfeld (Vienna: Manz, 2018)


Georg Renner, ‘Mindestsicherungs-Reform: Neue Sozialhilfe kostet noch mehr als bisher’, Kleine Zeitung, 14 March 2019


Markus Salzmann, ‘Austrian government ties welfare payments to German language skills’, WSW, 3 May 2019, available at https://www.wsws.org/en/articles/2019/05/03/aust-m03.html


Abby Young-Powell and Nick Squires, ‘Austria conducts anti-migrant border exercise in show of defiance against Angela Merkel’, The Telegraph, 26 June 2018, available
Merli, Migration Law for Non-Migrants