

## Does Austria Have a Uniform Concept of Integration for Migrants?

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## I. Introduction

Migration challenges states. This applies in particular to immigration<sup>1</sup> and the consequences that come with it, especially regarding the question as to how states should respond to immigration processes in the long run.<sup>2</sup> This question is usually discussed under the headline “integration” – a dazzling term. State actors seem to agree that integration is important.<sup>3</sup> But when it comes down to how integration is to be achieved, opinions begin to differ. It is controversial, for instance, who should bear which amount of responsibility in the whole integration process: do migrants have to integrate themselves into society or is it up to society to integrate migrants? Here ideological differences surface, not least because migration and integration are entangled in distribution struggles.<sup>4</sup> With all these tensions, debates about integration in Austria have been going on since the 1990s.<sup>5</sup> When immigration increases, the debate boils up, like it did in 2015. This has led Austria to take on a number of measures which, as politicians phrase it, “demand and promote” (*fordern und fördern*) integration.

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<sup>1</sup> Cf. Arnd Uhle (ed.), *Migration und Integration. Die Migrationskrise als Herausforderung des Rechts* (Berlin: Duncker & Humblot, 2017) 5-13 (preface).

<sup>2</sup> Cf. Uhle, ‘Migration und Integration’, p. 8 and Gabriele Buchholtz, ‘Die Herausforderungen der “Integrationsverwaltung” im Spiegel der neuen Verwaltungsrechtswissenschaft’ (2018) *Der Staat* 407-22, p. 407.

<sup>3</sup> This can be seen, e.g., in the numerous integration concepts (*Integrationsleitbilder*) that have been developed at federal, provincial and municipal level to structure and coordinate the respective integration policies; for examples see the *Nationaler Aktionsplan Integration* for the federal level (available at <https://www.bundeskanzleramt.gv.at/agenda/integration/nationaler-aktionsplan.html>), the *Integrationsleitbild* of Upper Austria for the provincial level (available at <https://www.land-oberoesterreich.gv.at/202568.htm>), and the *Integrationsleitbild* of Bregenz for the municipal level (available at <https://www.bregenz.gv.at/leben/integration-und-migration/integrationsleitbild/>) (all accessed on 15 December 2020).

<sup>4</sup> Cf. Magdalena Pöschl, *Migration und Mobilität*, 19. ÖJT Band I/1 (Wien: Manz, 2015) pp. 150-1.

<sup>5</sup> Julia Mourão Permoser and Sieglinde Rosenberger, ‘Integration Policy in Austria’, in James Frideres and John Biles (eds.), *International Perspectives: Integration and Inclusion* (Montreal and Kingston: Queen’s Policy Studies Series, McGill-Queen’s University Press, 2012) 39-58, p. 45.

To speak of “Austria” is, of course, simplistic because Austria is a federal state. Besides the federal government, the provinces also perform legislative tasks. However, it is not only the distribution of competencies that is relevant here, but also the execution of laws, which involves different levels of government. Moreover, many of the integration measures are carried out within the framework of private sector administration, in which the municipalities also play an important role.<sup>6</sup> Therefore, in the area of integration, all three levels of government take measures at the same time.

This raises the question whether the aims pursued by those three levels of government align with a uniform concept of integration; such a concept would require that the different levels pursue the same aims under the title of integration or that these aims – should they be different – are at least compatible with each other. To answer this question, I will analyse the aims that the federal, provincial and the municipal levels pursue with their integration work and what instruments they use in order to implement them. I will do so by examining each level individually: first, I will take a close look at the federal level (II.). Since the federal government has extensive regulatory powers in the area of integration, the analysis of this level is given more space than the other levels in the following study. An overview of the measures taken on this level over the last 20 years will show that the legislator provides very different integration measures for different migration groups because it is more interested in the immigration of some migrants and – to put it mildly – less interested in others. Once I have established addressees of integration measures on the federal level, I will move on to the provincial level (III.) and in the next step to the municipal level (IV.). On these two levels, my inquiry is focused on the group of asylum seekers as a comparison group, because this is where I found the biggest differences between the levels. Finally, I will draw some conclusions (V.) from my research.

## II. Integration on the Federal Level

Until the end of the 1990s, the federal government was mostly concerned with providing integration assistance.<sup>7</sup> However, in the following decade it started to not only promote integration, but also to demand it from migrants.<sup>8</sup> Ever since, the

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<sup>6</sup> For more details see Peter Bußjäger, ‘Integration als Querschnittsmaterie’ (2007) *Integration im Fokus* 18-21, p. 21.

<sup>7</sup> Mourão Permoser and Rosenberger, ‘Integration Policy in Austria’, p. 47.

<sup>8</sup> A first sign towards this development can be found in the 1998 amendment of the Citizenship Act (*Staatsbürgerschaftsgesetz - StbG*), Austrian Federal OJ 1985/311 as amended by Austrian Federal OJ I 1998/124 (all Austrian federal statutes can be accessed via <https://www.ris.bka.gv.at/Bund/> with their title, amendments can be found by their OJ number): This amendment made integration an

federal government has steadily expanded its integration measures. As this chapter will show, the federal government has set out more and more integration obligations for an ever-larger group of people while continuously and increasingly institutionalizing the integration agenda and thus promoting the visibility of integration as a particular policy area.

### 1. Third-Country Nationals: Obligation to Learn German (2003)

This development was kicked-off by the introduction of the so-called “Integration Agreement” (*Integrationsvereinbarung*) in 2003.<sup>9</sup> The friendly word “agreement” suggests that the state and immigrants can negotiate cooperatively in individual cases, with both sides contributing to integration. In fact, however, the term “Integration Agreement” conceals a unilateral legal obligation of certain migrants to learn German within a certain period after obtaining a residence title.<sup>10</sup> Anyone who fails this duty can face administrative penalties<sup>11</sup> and even the termination of residence<sup>12</sup>. If you learn German well enough, however, you will be rewarded with the right to permanent residence,<sup>13</sup> provided you have lawfully been based in Austria for five years and other requirements are met.

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important criterion for granting citizenship. According to the explanatory remarks on this bill, citizenship represents the last step in the successful integration process of foreigners in Austria, RV 1283 BlgNR 20. GP 6. Citizenship should therefore be a reward *for* integration rather than a legal means *of* integration (translation by the author). For additional details on this development see Anuscheh Farahat, ‘Soziale Mobilität von Migrantinnen und Migranten: Verfassungs- und menschenrechtliche Anforderungen an eine erfolgreiche Integration’ (2019) JRP 24-33, pp. 26-9 and Albert Kraler, ‘The Case of Austria’, in Giovanna Zincone, Rinus Penninx and Maren Borkert (eds.), *Migration Policymaking in Europe. The Dynamics of Actors and Contexts in Past and Present* (Amsterdam: Amsterdam University Press, 2011) 21-59, pp. 43-8.

<sup>9</sup> Implemented in §§ 50a-d Aliens Act (*Fremdengesetz - FrG*), Austrian Federal OJ I 1997/75 as amended by Austrian Federal OJ I 2002/126; by now, the provisions of the Integration Agreement can be found in §§ 7-14 Integration Act (*Integrationsgesetz - IntG*), Austrian Federal OJ I 2017/68 as amended by Austrian Federal OJ I 2020/42.

<sup>10</sup> For a more detailed examination of this obligation see e.g. Magdalena Pöschl, ‘Die Integrationsvereinbarung nach dem österreichischen Fremdengesetz - Lässt sich Integration erzwingen?’ in Konrad Sahlfeld et al. (eds.), *Integration und Recht* (München: C.H. Beck, 2003) 197-241, pp. 201-18.

<sup>11</sup> § 23 para 1 IntG.

<sup>12</sup> § 52 para 4 subpara 5 Aliens Police Act (*Fremdenpolizeigesetz - FPG*), Austrian Federal OJ I 2005/100 as amended by Austrian Federal OJ I 2020/27.

<sup>13</sup> The residence title “long-term resident - EU” currently requires knowledge of German at level B1 according to the Common European Framework of Reference for Languages (CEFR); § 45 para 1 subpara 2 Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz - NAG*), Austrian Federal OJ I 2005/100 as amended by Austrian Federal OJ I 2020/24 in conjunction with §§ 10 and 12 IntG.

Initially, the group of migrants subject to this obligation in 2003 was relatively small: only third-country nationals who wanted to settle permanently in Austria had to learn German,<sup>14</sup> whereas highly qualified migrant workers and their families<sup>15</sup> as well as the third-country families of Austrians and EEA citizens were exempted.<sup>16</sup> However, since 2006, the family members of Austrians are also obliged to learn German.<sup>17</sup> The same applies to highly qualified migrant workers and their families – but only at first glance: surprisingly, a closer look reveals that the legislator irrefutably assumes that these people meet the language requirements anyway.<sup>18</sup> Since 2011, however, this presumption does no longer apply to family members of highly qualified workers.<sup>19</sup> Ultimately, the obligation to comply with the Integration Agreement mainly affects third-country nationals who wish to immigrate to Austria within the framework of family reunification.<sup>20</sup>

In addition to expanding integration obligations to more and more migrants, over the years, the legislator has demanded an ever-higher level of German<sup>21</sup> while also

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<sup>14</sup> § 50a para 1 FrG.

<sup>15</sup> These included key employees and their families whose settlement in Austria lasted for less than 24 months (§ 50b para 1 subpara 3 FrG). Furthermore, key employees and their families with an intended settlement of more than 24 months, provided that they worked in an international company or international research institute and that there was a general economic interest in their settlement (§ 50b para 1 subpara 4 FrG) and researchers and their families whose settlement in Austria lasted for less than 36 months (§ 50b para 1 subpara 8 FrG); this list was adopted from Magdalena Pöschl, 'Die österreichische „Integrationsvereinbarung“ – Rechtswissenschaftliche Einordnung und Beurteilung' (2012) ZAR 60-5, p. 62.

<sup>16</sup> § 50b para 1 subpara 1 FrG.

<sup>17</sup> § 14 NAG, Austrian Federal OJ I 2005/100, no longer explicitly excluded family members of EEA citizens and Austrians. Implicitly, however, family members of EEA citizens were still exempt from the integration obligation, see in detail Magdalena Pöschl, 'Das österreichische Modell: Die Integrationsvereinbarung', in Ulrike Davy and Albrecht Weber (eds.), *Paradigmenwechsel in Einwanderungsfragen? Überlegungen zum neuen Zuwanderungsgesetz* (Baden-Baden: Nomos, 2006) 102-24, pp. 118-9.

<sup>18</sup> See § 14 para 5 subpara 8 in conjunction with § 14 para 5 last sentence NAG, Austrian Federal OJ I 2005/100. The irrefutability of this presumption results from the explanatory remarks on this bill, RV 952 BlgNR 22. GP 126; cf. Pöschl, 'Die österreichische „Integrationsvereinbarung“', p. 63.

<sup>19</sup> They were no longer included in the relevant exemption, see § 14a para 4 NAG, as amended by Austrian Federal OJ I 2011/38.

<sup>20</sup> Cf. Albert Kraler, Christina Hollomey, Christoph Hurich, Alexandra König and Gerhard Muzak, 'Family Reunification: a barrier or facilitator of integration? Country Report Austria' (2013) ICMPD p. 47, available at <http://research.icmpd.org/projects/migration-governance/family-reunification-project/> (accessed on 15 December 2020) and Johannes Peyrl, *Zuwanderung und Zugang zum Arbeitsmarkt von Drittstaatsangehörigen in Österreich* (Wien: Verlag Österreich, 2018) p. 239.

<sup>21</sup> Cf. Mourão Permoser and Rosenberger, 'Integration Policy in Austria', p. 48; Pöschl, 'Die österreichische „Integrationsvereinbarung“', pp. 61-5.

reducing financial support for language courses.<sup>22</sup> At the same time, migrants have to learn German in less and less time, and since 2011 even before moving to Austria.<sup>23</sup> In the end, it is again family members who are mainly affected by this requirement.<sup>24</sup>

This shows that not all migrants initially addressed by the federal government with an obligation to learn the language have to fulfil this duty to the same extent: highly qualified workers have always been excluded from the scope of this obligation, whereas an ever-larger group of family members has to fulfil increasing requirements, with less and less support. This illustrates that the legislator – through integration measures – distinguishes between “wanted” and “unwanted” migration.<sup>25</sup>

## 2. Institutionalization of the Integration Agenda (2011)

Another step in Austrian integration policy was taken in 2011. A State Secretariat for Integration was established within the Ministry of the Interior. Thus, the integration agenda was institutionalized and detached from the unfavourably viewed migration administration, which offered the opportunity to frame integration policy as something positive.<sup>26</sup> The new State Secretary seized this opportunity to promote his policies according to the motto “integration through achievement” (*Integration durch Leistung*).<sup>27</sup> In 2013, this State Secretary became Foreign Minister and as such, he took the integration agenda with him to the Foreign Ministry, which was then called Federal Ministry for Europe, Integration and Foreign Affairs.<sup>28</sup> The integration agenda has thus arrived on the highest level of administration. Recently it has been

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<sup>22</sup> Cf. Pöschl, ‘Die österreichische „Integrationsvereinbarung“’, pp. 61-5.

<sup>23</sup> § 21a para 1 NAG, as amended by Austrian Federal OJ I 2011/38; see in detail Pöschl, ‘Die österreichische „Integrationsvereinbarung“’, p. 64.

<sup>24</sup> Cf. Kraler, Hollomey, Hurich, König and Muzak, ‘Family Reunification’, pp. 42, 47 and Peyrl, ‘Zuwanderung und Zugang zum Arbeitsmarkt’, p. 230.

<sup>25</sup> Cf. Kraler, Hollomey, Hurich, König and Muzak, ‘Family Reunification’, p. 47 and Peyrl, ‘Zuwanderung und Zugang zum Arbeitsmarkt’, p. 230.

<sup>26</sup> For more details on these effects see Oliver Gruber and Sieglinde Rosenberger, ‘Politikwandel durch Institutionalisierung? Die österreichische Integrationspolitik und das Staatssekretariat für Integration (2011-2013)’ (2016) IPW Working Paper 1/2016, pp. 11-2, available at <https://inex.univie.ac.at/academic-publications/working-papers/> (accessed on 15 December 2020).

<sup>27</sup> See a press release of the State Secretary for Integration, 11 October 2011, that says that it’s not the origin of a person that counts, but the achievements one attains (translation by the author), available at [https://www.ots.at/presseaussendung/OTS\\_20111011\\_OTS0257/pflichtschulabschluesse-staatssekretaer-kurz-begruess-t-den-plan-von-bildungsministerin-schmied](https://www.ots.at/presseaussendung/OTS_20111011_OTS0257/pflichtschulabschluesse-staatssekretaer-kurz-begruess-t-den-plan-von-bildungsministerin-schmied) (accessed on 15 December 2020).

<sup>28</sup> See the Federal Ministries Act 1986 (*Bundesministeriengesetz 1986 - BMG*), Austrian Federal OJ 1986/76 as amended by Austrian Federal OJ I 2014/11.

transferred to the Federal Chancellery (*Bundeskanzleramt*)<sup>29</sup> where there is now a minister responsible for the integration as well as the women's agenda.<sup>30</sup>

### 3. Refugees:<sup>31</sup> Cultural and Labour Market Integration (2017)

In response to the refugee movement in 2015, policymakers increasingly turned to the integration of refugees. In 2017, for example, the Integration Act<sup>32</sup> was passed, which now also demands that refugees learn German. Besides language courses, refugees also have to attend courses in what is considered to be Austrian values (*Werte- und Orientierungskurse*). These courses teach participants about “the democratic system and its fundamental principles [...] and about the rules of peaceful coexistence”<sup>33</sup> and are provided by the federal government. Besides that, the federal legislator passed a law obliging unemployed refugees to complete an “Integration Year” (*Integrationsjahr*) in which they are to be integrated into the labour market through German courses and different training programs.<sup>34</sup>

Those who do not complete these integration measures face cuts in social welfare benefits.<sup>35</sup> Conversely, this means that those who do not need welfare benefits are not affected by integration measures.<sup>36</sup> Thus, if refugees are integrated into the labour

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<sup>29</sup> See the Annex to § 2 part 2 section A subsection 20 BMG, as amended by Austrian Federal OJ I 2020/8.

<sup>30</sup> See para 1 subpara 1-5 Entschließung des Bundespräsidenten, mit der die sachliche Leitung bestimmter, zum Wirkungsbereich des Bundeskanzleramtes gehörender Angelegenheiten einer eigenen Bundesministerin übertragen wird, Austrian Federal OJ II 2020/18.

<sup>31</sup> For the purpose of this article the term ‘refugee’ covers beneficiaries of asylum and beneficiaries of subsidiary protection.

<sup>32</sup> Austrian Federal OJ I 2017/68; for an overview of this Act see Jakob Taubald, ‘Vom Fordern und Fördern im Integrationsgesetz’ (2018) *juridikum* 334-9.

<sup>33</sup> § 5 para 3 IntG.

<sup>34</sup> For the different measures see § 5 Integration Year Act (*Integrationsjahrgesetz - IJG*), Austrian Federal OJ I 2017/75; for details see Philip Czech, ‘Integriert Euch! Ein Überblick über Integrationsgesetz und Integrationsjahrgesetz’ (2017) *FABL* 23-35, pp. 30-4.

<sup>35</sup> Originally regulated in § 6 para 2 IntG, Austrian Federal OJ I 2017/68; now regulated in § 16c para 1 IntG in conjunction with § 9 para 3 Fundamental Act on the Principles of Social Welfare (*Sozialhilfe-Grundsatzgesetz - SH-GG*), Austrian Federal OJ I 2019/41 as amended by Austrian Federal OJ I 2019/108; see also § 3 para 2 IJG; critical in regard to the compatibility of this sanction for refugees with Constitutional and European law Marina Kaspar, ‘Integrationspflicht und Sanktionen nach § 6 Abs 2 IntG - Kritische Anmerkungen aus Perspektive des Verfassungs- und Unionsrechts’ (2018) *juridikum* 361-72.

<sup>36</sup> Cf. Sandra Saywald-Wedl, ‘Deutschkurse für Flüchtlinge’, in Simon Burger et al. (eds.), *Recht und Sprache* (Wien: Jan Sramek, 2019) 205-23, p. 220 and Taubald, ‘Fordern und Fördern’, p. 338.

market, they are exempted from integration obligations. However, if they apply for state support, they must adapt culturally.

#### 4. Asylum Seekers: “Unwanted” Integration (2018)

Asylum seekers on the other hand are treated quite differently by the legislator: they are not obliged to integrate; on the contrary, one has the impression that their integration is made more difficult or prevented altogether. Between 2016 and 2018 both the federal and provincial governments supported German language courses for asylum seekers, whereas in 2018, the federal government discontinued this measure.<sup>37</sup> Furthermore, only asylum seekers with a high chance of being granted asylum are allowed to participate in the “Integration Year”<sup>38</sup> – currently these are only persons from Syria,<sup>39</sup> who account for about one fifth of all asylum seekers in Austria.<sup>40</sup> Additionally, this option was severely limited in 2018 by significantly reducing the funding for the “Integration Year”.<sup>41</sup>

At the same time, access to the labour market is highly restricted for asylum seekers:<sup>42</sup> during the first three months after admission to the asylum procedure, they are not allowed to work at all.<sup>43</sup> After this period, an employment permit can be issued theoretically, but in practice such permits are only granted for harvesting or seasonal

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<sup>37</sup> See European Migration Network, ‘Annual Policy Report Austria 2018’ (2019) p. 36, available at <https://www.emn.at/de/publikationen/jahresberichte/> (accessed on 15 December 2020); SOS Mitmensch, ‘Zugang zu Deutschkursen für Asylsuchende – Ein Bundesländervergleich’ (2020) p. 3, available at <https://www.sosmitmensch.at/deutliche-verschlechterung-bei-deutschkursen-fuer-asylsuchende> (accessed on 15 December 2020).

<sup>38</sup> § 2 IJG.

<sup>39</sup> Cf. the AMS homepage with information on the integration year, available at <https://www.ams.at/arbeitsuchende/arbeiten-in-oesterreich-und-der-eu/das-integrationsjahr> (accessed on 15 December 2020).

<sup>40</sup> In 2019, 12,886 asylum applications were submitted, 2,708 of which were from nationals of Syria, see Statistik Austria, ‘Statistisches Jahrbuch “Migration & Integration 2020”’, p. 40, available at <https://www.bundeskanzleramt.gv.at/agenda/integration/integrationsbericht.html> (accessed on 15 December 2020).

<sup>41</sup> Gudrun Biffl, ‘SOPEMI Report on Labour Migration Austria 2017-18: Report of the Austrian SOPEMI correspondent to the OECD’ (2019) Monograph Series Migration and Globalisation, Krems (Edition Donau-Universität Krems), pp. 13, 30-1, 172, available at <https://door.donau-uni.ac.at/view/o:202> (accessed on 15 December 2020).

<sup>42</sup> See also Farahat, ‘Soziale Mobilität’, pp. 28-9.

<sup>43</sup> Cf. § 4 para 1 subpara 1 Foreign Employment Act (*Ausländerbeschäftigungsgesetz – AuslBG*), Austrian Federal OJ 1975/218 as amended by Austrian Federal OJ I 2020/98.

work,<sup>44</sup> and only up to six weeks<sup>45</sup> or six months.<sup>46</sup> For those seeking self-employment things do not look much brighter. Theoretically, asylum seekers are allowed to become self-employed after the three-month blocking period.<sup>47</sup> In practice, however, they often lack the necessary certificates – be it because they actually do not have them or cannot produce them – as well as the capital for most of these businesses, thus, reducing their job opportunities and only opening limited doors in professional fields, one of them being sex work.<sup>48</sup> Unsurprisingly, there is already a call to ban sex work during the asylum procedure – allegedly to protect the persons concerned.<sup>49</sup> Since 2012, asylum seekers have been allowed to complete an apprenticeship in occupations that were facing labour shortages.<sup>50</sup> In 2018 this option was also abolished.<sup>51</sup> At the same time, the government started deporting asylum seekers still completing an apprenticeship as soon as their asylum application was rejected.<sup>52</sup> After

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<sup>44</sup> This is due to a decree (so called *Bartensteinerlass*) of the Federal Ministry of Economics and Labour, EU-Erweiterungs-Anpassungsgesetz; Durchführungserlass, GZ: 435.006/6-II/7/2004 (2004). For details on this de facto restriction and its (in)compatibility with national and international law see Margit Ammer, 'Zugang zum Arbeitsmarkt für Asylsuchende aus menschenrechtlicher Perspektive' (2013) *juridikum* 28-36, pp. 31-6; Achim Brandt, 'Unselbständige Beschäftigung von Asylwerbern' (2017) *nigraLex* 78-84, pp. 79-80 and Peyrl, 'Zuwanderung und Zugang zum Arbeitsmarkt', pp. 305-9.

<sup>45</sup> This applies for harvesting work, see § 5 para 5 AuslBG.

<sup>46</sup> This applies for seasonal work, see § 5 para 3 AuslBG.

<sup>47</sup> Cf. § 7 para 2 Federal Basic Care Act (*Grundversorgungsgesetz - GVG-B*), Austrian Federal OJ 1991/405 as amended by Austrian Federal OJ I 2019/53.

<sup>48</sup> Cf. the report of ExpertInnenkreis „Prostitution“, 'Prostitution in Österreich. Rechtslage, Auswirkungen, Empfehlungen' (2008) p. 46-7, available at <https://www.bundeskanzleramt.gv.at/en/agenda/women-and-equality/prostitution> (accessed on 15 December 2020).

<sup>49</sup> See the demand of the Austrian Freedom Party (FPÖ) in September 2019: Der Standard, FPÖ fordert Prostitutionsverbot für Flüchtlinge, 2 September 2019, available at <https://www.derstandard.at/story/2000108116717/fpoe-fordert-prostitutionsverbot-fuer-fluechtlinge> (accessed on 15 December 2020).

<sup>50</sup> See the relevant decrees of the Federal Ministry of Labour, Social Affairs and Consumer Protection of 2012, 2013 and 2015, Erweiterung der Beschäftigungsmöglichkeiten für Asylwerber/innen, GZ: BMASK-435.006/0005-VI/AMR/7/2012 (2012), Erweiterung der Beschäftigungsmöglichkeiten für Asylwerber/innen; Altersgrenze für jugendliche Asylwerber/innen, GZ: BMASK-435.006/0005-VI/B/7/2013 (2013) and Lehrlingsbewilligung für jugendliche AsylwerberInnen, GZ: BMASK-435.006/0009-VI/B/7/2015 (2015).

<sup>51</sup> Decree of the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, Beschäftigung von Asylwerberinnen und Asylwerbern; Erlass, GZ: BMASGK-435.006/0013-VI/B/7/2018 (2018); cf. Asylkoordination Österreich, 'Country Report: Austria' (2018) in ECRE (ed.) p. 82, available at <https://www.asylumineurope.org/reports/country/austria> (accessed on 15 December 2020).

<sup>52</sup> Biffl, 'Labour Migration Austria', p. 30.

months of political wrangling, parliament reached a compromise, which protects at least those asylum seekers who have started an apprenticeship from immediate deportation even when their asylum application is rejected.<sup>53</sup>

Ultimately, asylum seekers are left with very few options: apart from harvesting and seasonal work, e.g., they may also carry out simple household services in private households or auxiliary activities in their accommodation or for the federal or provincial governments, or the municipalities. For auxiliary activities, asylum seekers receive a remuneration of about 2.50-5 euros per hour.<sup>54</sup> In spring 2019, the Minister of the Interior reduced this amount to 1.50 euros.<sup>55</sup> However, this measure did not last long: the then Minister of the Interior left office shortly afterwards and his successor revised the reduction of the remuneration only one day after it had been implemented because he obviously did not see any added value in it.<sup>56</sup>

If asylum seekers find employment and thus have an “income”, they immediately face another disadvantage: their basic care (*Grundversorgung*), which is provided by the state and includes in particular support services for food and accommodation, may be reduced because any income earned by asylum seekers is deducted from the benefits granted.<sup>57</sup> In practice, this means that asylum seekers are left with only a 110 euros allowance in most of the provinces, while the rest of their money is used for the cost of reception.<sup>58</sup>

## 5. Union Citizens: Cultural and Labour Market Integration (2019)

In addition to refugees, the federal government began to include Union citizens in its integration efforts in 2019. Union citizens, from now on, receive social benefits only

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<sup>53</sup> § 55a FPG, as amended by Austrian Federal OJ I 2019/110; for details and critical remarks on this regulation see Johannes Peyrl, ‘Neuregelung der Möglichkeit zur Beendigung einer Lehre von AsylwerberInnen nach negativem Abschluss des Asylverfahrens’ (2020) DRdA 121-4.

<sup>54</sup> Asylkoordination Österreich, ‘Country Report: Austria’, p. 82.

<sup>55</sup> § 3 Verordnung des Bundesministers für Inneres über die Heranziehung von Asylwerbern und bestimmten sonstigen Fremden für gemeinnützige Hilfstätigkeiten und die Höhe des hierfür zu leistenden Anerkennungsbeitrags, Austrian Federal OJ II 2019/123.

<sup>56</sup> Verordnung des Bundesministers für Inneres, mit der die Verordnung des Bundesministers für Inneres über die Heranziehung von Asylwerbern und bestimmten sonstigen Fremden für gemeinnützige Hilfstätigkeiten und die Höhe des hierfür zu leistenden Anerkennungsbeitrags aufgehoben wird, Austrian Federal OJ II 2019/131.

<sup>57</sup> Johannes Peyrl, Thomas Neugschwendtner and Christian Schmaus, *Fremdenrecht* (Wien: ÖGB, 2018) pp. 325-6.

<sup>58</sup> Asylkoordination Österreich, ‘Country Report: Austria’, p. 82; Biffl, ‘Labour Migration Austria’, p. 30.

after a five-year stay.<sup>59</sup> Furthermore, the legislator provided that Union citizens can only receive these benefits in full if they learn German and complete the necessary qualification measures needed for the labour market.<sup>60</sup> However, this provision was annulled by the Constitutional Court because it violated the equal protection clause of the Federal Constitution.<sup>61</sup> Thus, for the time being, federal integration attempts regarding Union citizens have been put on halt.

## 6. Aims and Instruments of Integration on the Federal Level

As it turns out, the federal legislator assesses the integration needs of migrants very differently and it appears that it does not aim to integrate all migrants equally into society, but rather to exclude some of them.

In the case of highly qualified workers, the federal legislator does not see any particular need for integration, firstly, because the state wants to attract these workers; therefore, it does not want to discourage them from moving to Austria with annoying integration obligations.<sup>62</sup> And secondly, the legislator might assume that integration already takes place through their place of work.<sup>63</sup>

As soon as refugees and Union citizens become dependent on social welfare, the federal government does see an urgent need for integration. In other words, if the government provides aid through public funds, the legislature demands (in the case of Union citizens at least tried to demand) cultural adjustment in return.<sup>64</sup>

Furthermore, the federal government sees a particular need for integration for family members of third-country nationals and of Austrians, even if they do not receive social benefits. Although integration demands are not explicitly directed at family members, they are the group most affected by them. One possible explanation for

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<sup>59</sup> Before expiry of this period, social welfare may only be granted to Union-, EEA- and Swiss citizens as well as third-country nationals within the framework of an individual case examination to the extent that International or European law imperatively requires this, § 4 para 1 SH-GG.

<sup>60</sup> § 5 para 7 subpara 1 and 2 SH-GG, Austrian Federal OJ I 2019/41.

<sup>61</sup> Austrian Constitutional Court (VfGH), 12 December 2019, G 164/2019, G 171/2019; decisions of the VfGH can be accessed via <https://www.ris.bka.gv.at/Vfgh/> with their case number.

<sup>62</sup> Cf. the explanatory remarks on the government bill proposing § 50b para 1 subpara 4 FrG, RV 1172 BlgNR 21. GP 33; see also Ewald Wiederin, 'Verwaltungsrechtliche Instrumente der Integration und ihre Ausgestaltung in den Mitgliedstaaten', in Hartmut Bauer, Pedro Cruz Villalón and Julia Iliopoulos-Strangas (eds.), *Die neuen Europäer - Migration und Integration in Europa* (Athen: Sakkoulas, Baden-Baden: Nomos, Brüssel: Bruylant, 2009) 425-48, pp. 438-9.

<sup>63</sup> For details on this effect see Friedrich Heckmann, *Integration von Migranten. Einwanderung und neue Nationenbildung* (Wiesbaden: Springer, 2015) pp. 95-117.

<sup>64</sup> See chapters II.3. and II.5.

this is that the legislator associates family migration with the immigration of low-skilled workers who are viewed sceptically with regard to their integration.<sup>65</sup> However, by increasing the required level of German and by cutting back on financial support for language courses the legislator selects within this group: migrants who are used to studying and with a good financial background will probably reach the required level of German, while migrants without these prerequisites will have a hard time doing so, thus keeping them from obtaining a permanent residency status.<sup>66</sup>

When it comes to asylum seekers, the federal government hinders their integration to prevent them from circumventing the asylum law:<sup>67</sup> because the more integrated an asylum seeker actually is, the more likely it is that he or she is granted a (humanitarian) right of residency in case his or her asylum application is rejected.<sup>68</sup>

To achieve these goals, the federal government uses various instruments. It mainly does so by enforcement measures: if family members fail to comply with integration obligations, they are threatened with administrative penalties and the termination of residence. International and European law do not allow such measures for refugees and for Union citizens, which is why they instead face a reduction in social benefits.<sup>69</sup> As a consequence, therefore, persons not intending to claim social benefits can escape integration obligations. In the case of highly qualified migrant workers, the federal government works with a sort of fiction of enforcement measures: on the surface, it looks like they are required to learn German, whereas in fact the law irrefutably assumes they already know German sufficiently. In the case of asylum seekers, a lack of integration is in turn enforced by excluding them from the labour market and training opportunities.

My following analysis of the provincial and municipal level will focus on the group of asylum seekers. Their integration is not only not promoted on the federal level, but even prevented. This raises the question whether the provincial and municipal levels pursue the same concept as the federal government in this regard.

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<sup>65</sup> Kraler, Hollomey, Hurich, König and Muzak, 'Family Reunification', p. 47.

<sup>66</sup> Pöschl, 'Migration und Mobilität', p. 153.

<sup>67</sup> This was the reason given by the government for the end of apprenticeships for asylum seekers, cf. Salzburger Nachrichten, Ende der Lehre für Asylwerber fix, 27 August 2018, available at <https://www.sn.at/politik/innenpolitik/ende-der-lehre-fuer-asylbewerber-fix-39255745> (accessed on 15 December 2020).

<sup>68</sup> Cf. Melina Oswald, *Das Bleiberecht. Das Grundrecht auf Privat- und Familienleben als Schranke für Aufenthaltsbeendigungen* (Wien: Verlag Österreich, 2012) pp. 300-1.

<sup>69</sup> In the case of Union citizens the legislator at least tried to do so, see chapter II.5.

### III. Integration on the Provincial Level

#### 1. Institutionalization of the Integration Agenda

The political task of integration has also gained importance on the provincial level. As on the federal level, this is reflected in institutional terms: each of the nine Austrian provinces has a provincial minister (*Landesrat/Landesrätin*) responsible for integration;<sup>70</sup> at the same time, the offices of the provincial governments (*Ämter der Landesregierung*) have departments to support integration measures.<sup>71</sup>

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<sup>70</sup> See for Burgenland: Art 1 Verordnung der Burgenländischen Landesregierung vom 18. Februar 2020, mit der die Referate auf die Mitglieder der Landesregierung aufgeteilt werden, State OJ 2020/7 as amended by State OJ 2020/55; Carinthia: Anlage zu § 1 der Verordnung der Landesregierung vom 12. April 2018 mit der die Referateinteilung erlassen wird, State OJ 2018/30 as amended by State OJ 2020/1; Lower Austria: § 2 para IX subpara 5 Verordnung über die Geschäftsordnung der NÖ Landesregierung, State OJ 0001/1-0 as amended by State OJ 2020/82; Upper Austria: section G subsection 7 Anlage zur Verordnung der Oö. Landesregierung, mit der die Geschäftsverteilung der Oö. Landesregierung in der XXVIII. Gesetzgebungsperiode erlassen wird, State OJ 2020/52; Salzburg: § 3 para 1 subpara D Verordnung der Salzburger Landesregierung vom 28. April 2004, mit der die Geschäftsordnung der Salzburger Landesregierung neu erlassen wird, State OJ 2004/43 as amended by State OJ 2020/101; Styria: section F subsection 3 der Anlage zur Verordnung der Steiermärkischen Landesregierung vom 18. Juni 2015, mit der die Geschäftsordnung der Steiermärkischen Landesregierung erlassen wird, State OJ 2015/45 as amended by State OJ 2020/14; Tirol: Anlage zur Verordnung der Landesregierung vom 30. März 1999 über die Geschäftsordnung der Tiroler Landesregierung, State OJ 1999/14 as amended by State OJ 2020/47; Vorarlberg: § 6 para 1 subpara b Verordnung der Landesregierung über die Aufteilung ihrer Geschäfte auf die Regierungsmitglieder, State OJ 2019/74 as amended by State OJ 2020/48; in Vienna, there is a city counselor responsible for the areas Education, Youth, Integration and Transparency, who is elected according to § 36 Verfassung der Bundeshauptstadt Wien, State OJ 1968/28 as amended by State OJ 2019/47.

<sup>71</sup> See for Burgenland: Abteilung 7 - Bildung, Kultur und Gesellschaft, Anlage zur Verordnung des Landeshauptmannes von Burgenland vom 13. April 2016, mit der die Geschäftseinteilung des Amtes der Burgenländischen Landesregierung erlassen wird, State OJ 2016/35 as amended by State OJ 2020/77; Carinthia: Abteilung 13 - Gesellschaft und Integration, Anlage zur Verordnung des Landeshauptmannes vom 3. Juli 2019, Zl. 01-GEA-1/2-2019, mit der die Geschäftseinteilung des Amtes der Kärntner Landesregierung erlassen wird, State OJ 2019/56 as amended by State OJ 2020/77; Lower Austria: Abteilung IVW2 - Staatsbürgerschaft und Wahlen, Geschäftseinteilung des Amtes der NÖ Landesregierung, Verlag Österreich (ed.), *Österreichischer Amtskalender 2020/2021* (Wien: Verlag Österreich, 2020) p. 463; Upper Austria: Abteilung 5.4. - Soziales, Aufgabengruppe Soziales para 7 Anlage zur Verordnung des Landeshauptmanns von Oberösterreich über die Geschäftseinteilung des Amtes der Oö. Landesregierung, State OJ 2020/51; Salzburg: Referat 2/06 - Jugend, Generationen, Integration, Anlage zur Verordnung des Landeshauptmannes von Salzburg vom 1. Oktober 2014, mit der für das Amt der Salzburger Landesregierung eine Geschäftseinteilung erlassen wird, State OJ 2014/81 as amended by State OJ 2019/75; Styria: Abteilung 11 - Soziales, Arbeit und Integration, Geschäftseinteilung des Amtes der Stmk Landesregierung, Verlag Österreich, 'Österreichischer Amtskalender', p. 708; Tirol: Abteilung Gesellschaft und Arbeit, § 1 Verordnung des Landeshauptmannes vom 25. Juni 2019 über die Geschäftseinteilung des Amtes der Tiroler Landesregierung, State OJ 2019/78 as amended by State OJ 2019/124; Vorarlberg: Abteilung Soziales und Integration (IVa), § 6 para a Verordnung des

## 2. Integration Tasks: Predetermined and own

The tasks of the provinces are in part predetermined by the federal government: the provinces have to specify, e.g., how exactly social benefits are reduced if integration obligations are not met, and they also have to implement these cuts.<sup>72</sup> In addition, the provinces coordinate the integration work in their respective regions on their own initiative: they connect different stakeholders, including policy makers, NGOs, and experts.<sup>73</sup> Furthermore, the provinces organise information events and training courses for these stakeholders and they also support the municipal levels with their integration projects.<sup>74</sup>

In all of this, the perspective of the provinces differs from that of the federal government. Since they are in closer contact to the persons concerned, they perceive the needs of the individuals more precisely, but also see deficits in integration work more accurately.<sup>75</sup>

## 3. Asylum Seekers: Conflicting Integration Management

These different perspectives sometimes lead to diverging aims between the federal government and the provinces. When, for example, the federal government stopped financing German courses for asylum seekers in 2018, the provinces took over the costs to continue these courses.<sup>76</sup> On the provincial level, there was broad agreement

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Landeshauptmannes über die Geschäftseinteilung des Amtes der Vorarlberger Landesregierung, State OJ 2019/44 as amended by State OJ 2020/41; Vienna: Magistratsabteilung 17 – Integration und Diversität, Geschäftseinteilung für den Magistrat der Stadt Wien, State OJ 2020/24.

<sup>72</sup> See e.g. § 9 para 3 SH-GG or § 3 para 2 IJG.

<sup>73</sup> For example at integration conferences such as those held in Carinthia, Upper Austria and Vorarlberg, for details see <https://www.ktn.gv.at/Service/News?nid=30559>, [https://www.integrationsstelle-ooe.at/integrationskonferenz\\_DEU\\_HTML.htm](https://www.integrationsstelle-ooe.at/integrationskonferenz_DEU_HTML.htm), and [https://vorarlberg.at/web/land-vorarlberg/contentdetailseite/-/asset\\_publisher/qA6AJ38txu0k/content/integrationskonferenz?article\\_id=449555](https://vorarlberg.at/web/land-vorarlberg/contentdetailseite/-/asset_publisher/qA6AJ38txu0k/content/integrationskonferenz?article_id=449555) (all accessed on 15 December 2020).

<sup>74</sup> For example, Upper Austria grants subsidies to municipalities for their local integration measures, for details see [https://www.integrationsstelle-ooe.at/7951\\_DEU\\_HTML.htm](https://www.integrationsstelle-ooe.at/7951_DEU_HTML.htm) (accessed on 15 December 2020).

<sup>75</sup> This will be shown e.g. in the following chapter III.3. by the commitment of many provincial ministers to a pragmatic solution with regard to the discussion about asylum seekers in apprenticeships; cf. also Bußjäger, ‘Querschnittsmaterie’, p. 21.

<sup>76</sup> However, the actual extent of support for German courses for asylum seekers in the provinces varies, see SOS Mitmensch, ‘Zugang zu Deutschkursen für Asylsuchende’, pp. 7-10.

that integration should begin “on the first day” and that the time during the asylum procedure should therefore not pass unused.<sup>77</sup>

The differences between the federal and the provincial level can intensify if the federal government not only ceases funding, but also imposes coercive measures that counteract the aims of the provinces. For example, when the federal government abolished the possibility for asylum seekers to pursue an apprenticeship and stepped up the process of deporting asylum seekers during this training, these measures were met with considerable resistance among the provinces<sup>78</sup> and led to a petition demanding a practical solution from the federal government.<sup>79</sup> In December 2019 – after a change of power in government<sup>80</sup> – this petition claimed its first success, by achieving protection from immediate deportation at least for those asylum seekers who have started an apprenticeship even when their asylum application is rejected.<sup>81</sup> The provinces were not only concerned with “humanity”, however, but also had substantial economic interests, because skilled workers are urgently needed in occupations that face labour shortages.<sup>82</sup> The provinces were similarly dismissive of other measures by the federal government, such as the abolition of independent legal counsel for asylum seekers or the above-mentioned reduction of the hourly wage for auxiliary activities to 1.50 euros.<sup>83</sup>

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<sup>77</sup> Only two out of nine provincial ministers were of a different opinion, see Die Presse, Länder protestieren gegen Deutschkurs-Kürzung der Regierung, 22 June 2018, available at <https://www.diepresse.com/5451648/lander-protestieren-gegen-deutschkurs-kurzung-der-regierung> (accessed on 15 December 2020).

<sup>78</sup> Only one out of nine provincial ministers was of a different opinion, see Der Standard, Acht Landesräte gegen Asylkurs der Regierung, 16 May 2019, available at <https://www.derstandard.at/story/2000103279755/acht-landesraete-gegen-den-asylkurs-der-bundes-regierung> (accessed on 15 December 2020).

<sup>79</sup> This was initiated by the former provincial minister for integration of Upper Austria, Rudolf Anschöber, see <http://ausbildung-statt-abschiebung.at/> (accessed on 15 December 2020).

<sup>80</sup> The Austrian Freedom Party (FPÖ) was replaced by The Greens (Die Grünen) as a coalition partner of the Austrian People’s Party (ÖVP).

<sup>81</sup> See chapter II.4.

<sup>82</sup> In Tirol, for example, 16,000 skilled workers with completed apprenticeships will be missing in 2030 if current trends continue, see the statistics of the *Fachkräftemonitor*, available at <http://www.fkm-tirol.at/fachkraeftemonitor.html#nvTldL> (accessed on 15 December 2020).

<sup>83</sup> See Der Standard, Acht Landesräte gegen Asylkurs der Regierung, 16 May 2019, available at <https://www.derstandard.at/story/2000103279755/acht-landesraete-gegen-den-asylkurs-der-bundes-regierung> (accessed on 15 December 2020).

#### 4. Aims and Instruments of Integration on the Provincial Level

In some areas the provinces therefore tend to assess the integration needs of migrants differently than the federal government, which has been particularly evident among asylum seekers: in contrast to the federal government, the provinces see a need for integration at an earlier stage (e.g. in language training) and work against obstacles to integration which exist on the federal level (e.g. in terms of access to the labour market).

Also, the provinces do not rely as much on enforcement measures to pursue integration aims, simply because in many cases they lack the competence to do so.<sup>84</sup> Rather, they resort to “softer” instruments, such as financial incentives, exemplified by their funding of German courses. In addition, as with the above-mentioned petition, they try to voice their aims on the federal level through the political channel.

### IV. Integration on the Municipal Level

#### 1. Integration Measures in General

The tendency to support integration regardless of the current residency status – which already became visible on the provincial level – is yet stronger on the municipal level, which is even more closely involved in the integration process.<sup>85</sup> Local authorities immediately see where integration works and where it does not.<sup>86</sup> Here, migration has a face, hence for the local communities the individual migrant is paramount.

Communities with many migrants have institutionalised the integration agenda by creating integration offices.<sup>87</sup> These offices coordinate integration work within the communities and connect relevant stakeholders, but also pursue their own projects:

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<sup>84</sup> For example, only the federal legislature can threaten the termination of residence by law if integration obligations are not fulfilled, see Art 10 para 1 subpara 3 and 7 Federal Constitutional Law (*Bundes-Verfassungsgesetz - B-VG*), Austrian Federal OJ 1930/1 as amended by Austrian Federal OJ I 2019/57; see in detail Rudolf Thienel, ‘Integration als rechtliche Querschnittsmaterie’, in Heinz Fassmann (ed.), *2. Österreichischer Migrations- und Integrationsbericht 2011-2006* (Klagenfurt: Drava, 2007) 83-126, pp. 92-6.

<sup>85</sup> Cf. with further references Marika Gruber, *Integrationspolitik in Kommunen* (Wien: Springer, 2010) pp. 83-4; eadem, ‘Kommunale Handlungsfelder im Bereich Integration’, in Kathrin Stainer-Hämmerle and Florian Oppitz (eds.), *Handbuch Gemeindepolitik* (Wien: Verlag Österreich, 2013) 393-420, pp. 400-1.

<sup>86</sup> Cf. Gruber, ‘Kommunale Handlungsfelder im Bereich Integration’, p. 393.

<sup>87</sup> See Gruber, ‘Kommunale Handlungsfelder im Bereich Integration’, p. 412.

for example, they organise language courses and create meeting places for migrants and members of the local community.<sup>88</sup>

## 2. Asylum Seekers: Conflicting Integration Management

Once again, the example of asylum seekers shows that integration work does not always run smoothly in the multi-level system. The fact that the federal government increasingly hinders asylum seekers from taking up work has a direct effect on the municipal level: this is where asylum seekers live and some of them wait for years for the outcome of their asylum proceedings.<sup>89</sup> Even auxiliary activities in municipalities (as mentioned in chapter II.4.) are made more difficult by the framework set up by the federal and provincial governments. This holds especially true for the de facto rule that caps the remuneration per person at 110 euros per month. Not only can exceeding this limit result in a reduction of basic care services, it also leads to a considerable administrative burden for municipalities, as they constantly have to train new asylum seekers for these activities. If this burden is disproportionately high, it can result in municipalities no longer offering this work opportunity for asylum seekers at all.<sup>90</sup>

## 3. Aims and Instruments of Integration on the Municipal Level

The municipal level also assesses the integration needs of asylum seekers differently than the federal government does: at the municipal level early involvement in the work process is desired<sup>91</sup> and efforts focus on integration as early as possible.<sup>92</sup> The municipalities, however, have a limited range of options as they are constrained by

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<sup>88</sup> See for example the various integration measures of Dornbirn, <https://www.dornbirn.at/leben-in-dornbirn/leben/zusammenleben> (accessed on 15 December 2020); a detailed description of integration measures in Dornbirn up to the year 2010 can be found in Gruber, 'Integrationspolitik in Kommunen', pp. 159-81.

<sup>89</sup> See the Inquiry Response of the Federal Minister for Constitution, Reform, Deregulation and Justice for the year 2017, 370/AB 26. GP.

<sup>90</sup> As is the case in Leoben, for example (information from Margit Keshmiri, local councilor /*Gemeinderätin*/ in Leoben), E-Mail of 27 January 2020).

<sup>91</sup> Gruber, 'Integrationspolitik in Kommunen', p. 89.

<sup>92</sup> See for this the following manual which is the result of several networking meetings of mayors in 2015 and 2016 and which contains experiences and recommendations for the successful integration of refugees by mayors for mayors: Vernetzungstreffen für Bürgermeisterinnen und Bürgermeister, 'Offenes Handbuch für Gemeinden. „Auf dem Weg zur integrationsfreundlichen Gemeinde“' (2016) pp. 31, 65, 74, 88-9, available at <https://www.alpbach.org/de/oesterreichweite-vernetzungstreffen-fuer-buergermeisterinnen-und-buergermeister/> (accessed on 15 December 2020).

the federal and provincial level. They too depend on “soft” instruments such as money and political pressure to pursue their integration goals.

## V. Conclusion

After examining the different state levels included in framing integration policies I want to get back to my initial question: does Austria have a uniform concept of integration for migrants, in the sense that different levels of government pursue the same - or at least compatible - aims under the title of integration?

This does not seem to be the case *within* the federal level, where the legislator evaluates the need for integration differently for various groups of migrants: it does not impose integration obligations on highly qualified workers, because it does not want to discourage them from moving to Austria with annoying integration obligations.<sup>93</sup> However, it intentionally keeps asylum seekers from working, even if they hold jobs that the labour market urgently needs.<sup>94</sup> When it comes to refugees, an obligation to integrate only arises if they claim social benefits.<sup>95</sup> A similar selective effect occurs when the government reduces support for language courses for family members of third-country nationals or Austrians: only those who can afford to reach the required higher level of language skills get a realistic chance for a permanent residence, which requires sufficient knowledge of German.<sup>96</sup>

In addition, significant differences surfaced *between* the three levels. The provincial and municipal level do not tend to distinguish between migrants as strictly as the federal government does, but rather support them, regardless of their current residency status or their reason for migrating; this became especially obvious in the case of asylum seekers, where the provincial and municipal level - in contrast to the federal level - push ahead with integration.

However, the federal level does not differ between migrants according to their actual (individual) integration needs. Rather, it pursues another aim under the title of integration, namely the management of migration. Only by considering this goal, one can make sense of the differentiations made by the federal level when it comes to integration measures. The more undesirable a particular form of immigration is, the more likely it is that obligations to integrate will be imposed, support to fulfill these

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<sup>93</sup> See chapters II.1. and II.6.

<sup>94</sup> See chapters II.4. and II.6.

<sup>95</sup> See chapters II.3. and II.6; the federal legislator tried to implement a similar rule for Union citizens, see chapter II.5.

<sup>96</sup> See chapters II.1. and II.6.

obligations will be reduced or integration opportunities will be completely denied. Through these measures, the legislator promotes desired migration on the one hand, and tries to contain the “unwanted” kind, on the other. In the case of refugees<sup>97</sup> another aim is even added: the legislator is not only managing migration, but also pursuing a specific social policy. By linking social benefits to integration obligations, it tries to reduce social expenditure, to make it easier for the host society to share (which seems to be easier among equals<sup>98</sup> even if people are only culturally adapted) and sets a sign against “benefit tourism” (“*Sozialtourismus*”), which again is aimed at containing unwanted migration. When it comes to the implementation of integration measures, the federal government also does not fulfil its own credo to “demand and promote” integration: it primarily demands and leaves the promotion of integration to others.

The picture at the provincial and municipal level is a different one: It seems to make a difference how close the acting level is to the persons targeted with the respective integration policies. Also, the fact that these levels have no competencies to manage migration could be a reason for their different approach. This apparently helps to pursue a genuine integration policy, untainted by contradicting migration goals. Integration policies on these levels – since excessive demands are already being made on the federal level – naturally shift to offering support.<sup>99</sup>

As it turns out, very different aims are being pursued under the title of integration – sometimes *within* a level, sometimes *between* different levels. Pursuing several goals at once is not problematic in itself. However, if the goals pursued contradict each other (as is at least partly the case when integration and migration are managed with one and the same measure), the one can automatically only be achieved at the expense of the other. An integration policy worthy of its name should therefore not be undermined by the pursuit of contradicting aims.

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<sup>97</sup> For Union citizens the legislator tried to go in the same direction, see chapter II.5.

<sup>98</sup> Cf. with further references Daniel Thym, ‘Migrationsfolgenrecht’, in *VVDStRL Band 76* (Berlin: De Gruyter, 2017) 169-210, p. 196 and Ewald Wiederin, ‘Sozialstaatlichkeit im Spannungsfeld von Eigenverantwortung und Fürsorge’, in *VVDStRL Band 64* (Berlin: De Gruyter, 2005) 53-84, pp. 81-2.

<sup>99</sup> See chapters III.4. and IV.3.

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