

The ‘Bosnian Refugee Crisis’ and the ‘Immigration Crisis in Europe after the Arab Spring’: A comparative study of German and Austrian asylum discourses and policies

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Preface

First of all, I thank my family for their care and support. Thematically, I was especially inspired by discussions with Selman Atici, for which I am very grateful. I would also like to thank my supervisor Mano Delea and fellow students at Erasmus University for their feedback and inspiration. Special thanks to Eva Presber and Benjamin Lenzing who reviewed my work. Finally, this thesis would not have been possible without my girlfriend Kim Bottek, who helped me enormously with discussions, encouragement, and challenges during the writing process.

Alphabetical List of Abbreviations

CDU	- Christian Democratic Union of Germany
CESA	- Common European Asylum System
CSU	- Christian Social Union in Bavaria
Dublin I	- First Dublin Convention
Dublin III	- Dublin II Regulation
EC	- European Communities
EEC	- European Economic Community
EU	- European Union
FPÖ	- Freedom Party of Austria
GDR	- German Democratic Republic
ÖVP	- Austrian People's Party
Schengen I	- Schengen Agreement
Schengen II	- Schengen Implementing Convention
SEA	- Single European Act
SPD	- Social Democratic Party of Germany
SPÖ	- Social Democratic Party of Austria
SPS	- Subsidiary Protection Status
TPS	- Temporary Protection Status
UNHCR	- United Nations High Commissioner for Refugees
WWII	- Second World War

Abstract

More and more asylum seekers are fleeing every year. Current and future global challenges will only reinforce this trend. Moreover, recent history shows that at certain times an exceptional number of people seek asylum in certain regions.

The right to asylum is an internationally agreed legal and moral obligation. However, as states have the sovereignty to provide protection to certain displaced people, the international refugee protection regime is not decisive for the application of the agreed obligations. In Europe, the further development of the European Economic Community into a supranational Union has added another regulatory level, which was assigned national competences and established a regional protection regime. Due to the EU's capacity to advocate norms and values as well as its geopolitical position, many people flee or immigrate to this regional protection regime.

In this paper, I ask about differences in two European countries that have taken in large proportions of people seeking asylum in Europe during both the 'Bosnian Refugee Crisis' (1992-1995) and the 'Immigration Crisis in Europe after the Arab Spring' (2015/2016). How did the discourses and laws in Germany and Austria change and how was refugee protection applied? With my constructive analysis, I offer historical interdisciplinary findings for a political field of international relations that is constantly changing due to the salience of the topic. My theoretical design allows me to include framing, values and norms, as well as national interests in my analysis.

National regimes have undergone changes towards similar regimes as a result of the experience and creation of the CEAS. Nevertheless, both regimes have been destabilised during the crises and by what are presented as appropriate national interpretations of obligations.

Keywords: asylum seekers; refugee protection regime; norms and values; laws; framing; linguistic discourse analysis; logic of appropriateness; interests; political discourse; Austria; Germany; Europe; crisis.

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Chapter 1: Introduction

The first prerequisite, surely, is understanding – first of all, an understanding of the cause and the nature of the disease itself, an understanding of the trends that mark our times and of what is happening among the mass of the population. In short, an understanding of the psychology of every characteristic of our apparently confused and confounded European society.¹

Almost 100 years after Fridtjof Nansen's Nobel Peace Prize Lecture, this quote is still relevant. Still, understanding is the first step to address challenges effectively, and the European society is confounded. Researching refugee protection and its political framing is particularly important. At the end of 2019, the number of asylum seekers worldwide was 79.5 million - twice as many as in 2010.² Migration is a central policy area, and the protection of forced migrants a key challenge that is only becoming more important. In our globalised world, where information is available worldwide via the Internet, where climate change hits some countries sooner and harder than others, and resources and profits are unequally distributed, more and more people are taking on a dangerous and arduous journey. Their destinations are safe countries where they have the prospect of a better life. This trend is reinforced by crises such as wars. At the same time, the fundamental right to asylum is often called into question.

This paper examines Austrian and German asylum policies and discourses. Developments are analysed by mapping national, supranational, and international refugee protection regimes as well as linguistically analysing electoral programmes. These methods enable identifying and explaining differences and commonalities in the approaches of the two countries. Moreover, two 'refugee crises' are examined to find out how policies and discourses evolved over time. The analysis results of the countries' policies and discourses in the wake of the 'Bosnian Refugee Crisis' are compared with the results of the analysis of the countries' policies and discourses in the wake of the 'Immigration Crisis in Europe after the Arab Spring'. Austria and Germany are particularly interesting cases because they are historically and linguistically linked, have akin conservative values on the topic of migration, share a border, and subscribed to the same international as well as supranational regulations.³ Most important, however, is the magnitude of refugee admissions per capita in these countries

¹ Fridtjof Nansen, "The Suffering People of Europe," Nobel Lecture 1922, accessed March 27, 2021, <https://www.nobelprize.org/prizes/peace/1922/nansen/lecture/>.

² Forced Displacement in 2019," Global Trends, UNHCR, published May 15, 2020, <https://www.unhcr.org/globaltrends2019/>.

³ Joelle Hageboutros, "The Bosnian refugee crisis: A comparative study of German and Austrian reactions and responses," *Swarthmore International Relations Journal* 1, no. 1 (Spring 2017): 50.

in both crises.⁴ Despite these similarities, asylum practices in Austria and Germany vary. The comparison of the cases is significant because the question is not whether, but when the next time a large number of refugees will seek asylum in Germany and Austria.

Besides, the two periods were chosen because they were the first and latest refugee challenge for the European Union (EU). The ‘Bosnian Refugee Crisis’ was a consequence of the Bosnian War (1992-1995), one of the ethnic conflicts that facilitated the collapse of the Yugoslav Federation.⁵ An estimated 589,000 refugees of the targeted populations sought protection in European states other than former states of Yugoslavia.⁶ The ‘Immigration Crisis in Europe after the Arab Spring’ was a consequence of the ‘Arab Spring’. In the wake of the self-immolation of Mohammed Bouazizi in Tunisia on 17 December 2010, unrest and, in some places, civil war broke out in Middle Eastern and North African countries.⁷ People were driven from their homes. The Syrian Civil War, for example, has led to the displacement of more than half of the Syrian population.⁸ As a result, more and more displaced people sought asylum in Europe. These ‘crises’ demonstrate that although refugee protection is an international right, states design protection regimes nationally. Moreover, the policy field of refugee protection is becoming politicised in times of ‘crises’.

A standard framework for understanding the complex phenomenon of international migration and forced migration has yet to be developed. Rationality, norms, and socialisation play a role in asylum policies. This thesis utilises the International Relations theory of social constructivism. Since, for example, economic reasons are also considered, this lens of analysis serves as a middle ground between rational and norm-based approaches.⁹

⁴ “Asylum in the EU Member States,” News Release, Eurostat, published March 4, 2016, <https://ec.europa.eu/eurostat/documents/2995521/7203832/3-04032016-AP-EN.pdf/790eba01-381c-4163-bcd2-a54959b99ed6>.

⁵ Marko Valenta and Sabrina P. Ramet, “Bosnian Migrants: An Introduction,” in *The Bosnian Diaspora: Integration in Transnational Communities*, ed. Marko Valenta and Sabrina P. Ramet (Farnham: Ashgate Publishing, 2011), 2.

⁶ Ministry of Human Rights and Refugees, “Comparative Analysis on Access to Rights of Refugees and Displaced Persons,” BiH Ministry of Human Rights and Refugees Report, accessed March 27, 2021, <http://www.mhrr.gov.ba/pdf/default.aspx?id=283&langTag=bs-BA>, 50.

⁷ Annette Jünemann, “Europas Versagen im Arabischen Frühling,” *Informationen zur politischen Bildung* 331 (2016): 45.

⁸ Yasin Koc, and Joel R. Anderson, “Social Distance toward Syrian Refugees: The Role of Intergroup Anxiety in Facilitating Positive Relations,” *Journal of Social Issues* 74, no. 4 (December 2018): 791, <https://doi-org.eur.idm.oclc.org/10.1111/josi.12299>.

⁹ Karin Marie Fierke, “Constructivism,” in *International Relations Theories*, ed. Tim Dunne et al. (Oxford: Oxford University Press, 2016), 165.

1.1 Research Question

My research question is: *How do asylum policies and discourses in Austria and Germany differ from each other concerning the 'Bosnian Refugee Crisis' and the 'Immigration Crisis in Europe after the Arab Spring'?* I will answer this question by analysing the laws and electoral programmes of the two largest parties in Austria and Germany after the beginning of the respective 'crises'. I define the 'crises' periods as 1992-1995, the duration of the Bosnian War, and 2015-2016, the time of the 'Immigration Crisis in Europe after the Arab Spring'. While the classification of the first period is self-explanatory, the latter requires a brief explanation. The number of asylum seekers in Europe more than doubled from 2014 to 2015. Figure 1 illustrates this growth.¹⁰ The aim of my study is to explore the framing of asylum in

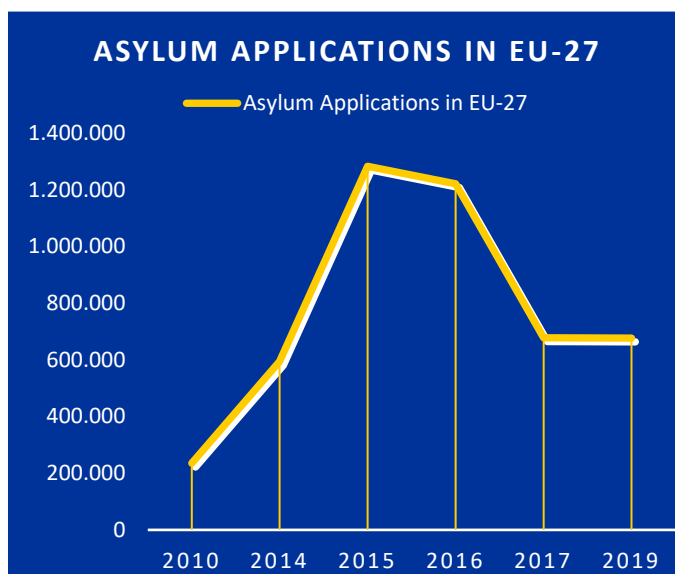


Figure 1: Own presentation based on data provided by: "Number of Asylum Applicants," Eurostat.

Germany and Austria. Frames will be defined as "mental structures"¹¹ that allow humans to make sense of the world. By comparing developments over time, I am able to show changes in policies and framing.

Based on the EU adding another layer of and that more people are fleeing their homes since the end of the Cold War, the premise of this research is that refugee protection has become more institutionalised over

time. At the same time, I believe the regulation has become more restrictive. I expect that framing asylum as well as refugees in political discourses gained salience and increasingly negative connotations. Thus, I assume that Austrian and German asylum policies became more exclusive and asylum discourses more sceptic. With the help of my research question, I intend to verify or falsify this assumption. In order to answer my research question, I will explore the following sub-questions which highlight differences and similarities:

SQ 1: *To what extent have German and Austrian asylum policies changed?*

SQ 2: *How have the positions and linguistic choices of the major parties on asylum changed in their electoral programme?*

¹⁰ "Number of Asylum Applicants," Asylum Applications, Eurostat, accessed January 8, 2021, https://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics.

¹¹ George Lakoff, *Thinking points: Communicating our American values and vision*. Rockridge Institute (New York: Farrar, Straus and Giroux, 2006), 21.

With this set of questions, I explore national and time differences constructively. Question 2 is supported by a questionnaire which I explain in chapter 1.5.5. The focus on asylum is reasoned with it being a value-laden, internationally regulated human right. In contrast to the overarching policy area of migration, since the end of World War II (WWII), states have not had absolute sovereignty in asylum policies. However, differences in the application of asylum laws are evidence of the different interpretations of the international legal framework. Thus, the conflict between values and socialisation will be outlined. By comparing the two 'waves of refugees', conclusions are drawn about the different situations and experiences - in other words rationales - and the underlying norms. The topic of integration is also marginally considered because it provides a space for reflection, since it is a fundamental feature of the national regime, it cannot be disregarded entirely. Still, this thesis primarily concerns asylum seekers and not refugees.

1.2 Overview of Chapters

The structure of this paper is based on these research questions. First, the analyses of the discourses and policies during the two analysis periods are separated. Thus, in the first empirical chapter Austrian and German policies and discourses during the ‘Bosnian Refugee Crisis’ are examined. In the next empirical chapter, the analysis deals with policies and discourses during the ‘Immigration Crisis in Europe after the Arab Spring’. The findings are collected in a subsequent chapter to provide comprehensive answers to the individual sub-questions. This is the basis for my answer to the research question, which can be found in the conclusion.

The respective analysis chapters are also divided into an introductory subchapter and two major parts. The first part of each analysis deals with the policies in place, the second part with the political discourses. Therefore, I go about a descriptive analysis and then compare the findings as well as interpret them further. Causal explanations are supplemented by an analysis of the relationships that give rise to them, combining empirical and hermeneutic interpretations.¹² Before I get into the analysis, I explore the methods, theoretical framework, and literature grounding my research. The theoretical and conceptual foundations are given in this introductory chapter and the following contextual chapter.

¹² Fierke, “Constructivism,” 163.

1.3 Theoretical Framework

My work is based on the International Relations theory of social constructivism. This approach determines my analytical approach as well as my understanding of concepts, which are explained in chapter 2. Social constructivism is based on the constructivist approach to International Relations. Since the 1980s, scholars have felt that the established rationalist or positivist theories were insufficient in explaining issues and raised questions about the link between theory and practice and the changing structure of politics in the world. Consequently, the academic field of International Relations diversified and issues such as migration and human rights gained more attention. Following the studies of Nicholas Onuf, which form the philosophic infrastructure of constructivism, Alexander Wendt aimed to create a social theory for International Relations.^{13, 14, 15} Wendt proposed a moderate approach that relies on the infrastructure within the discipline of International Relations.¹⁶ In this respect, constructivism suggests that neither material nor social factors ignore each other, and neither is dominant because no significant segregation is placed between social and material elements.¹⁷ According to constructivists, norms and values affect identity, whereas identity affects the determination of policy behaviours. Therefore, the constructivist assumption is that behaviours change when new norms emerge, changes in existing norms occur, or norms lose their effect.¹⁸ Furthermore, structures form the agents in the aspects of interests and identities, whereas the structure itself reveals and changes as a result of this mutual interaction with the agents.¹⁹

The social constructivist notion surfaced as a new approach in the International Relations discipline at the beginning of the 1990s and revolves around the assumption that the world is socially constructed and International Relations a social relations network.²⁰ This notion guides my thesis. It does not fully reject material factors either but suggests that these factors find their meaning through the constitutive role of norms and practices, ideas, intersubjective understandings shared by agents and structures, and their preferences and

¹³ Nicholas Onuf, *World of Our Making: Rules and Rule in Social Theory and International Relations* (Columbia: University of South Carolina Press, 1989).

¹⁴ Nicholas Onuf, "Constructivism: A User's Manual," in *International Relations in a Constructed World*, ed. Vendulka Kunálková et al. (New York: Sharpe, 1998), 58-78.

¹⁵ Alexander Wendt, *Social Theory of International Politics* (London: Cambridge University Press, 1999).

¹⁶ Alexander Wendt, "Anarchy is What States Make of it: The Social Construction of Power Politics", *International Organization* 46, No. 2 (1992): 394.

¹⁷ Fierke, "Constructivism," 165.

¹⁸ Martha Finnemore and Kathryn Sikkink, "International norm dynamics and political change", *International Organization* 52, no. 4 (1998): 902.

¹⁹ Richard Price and Christian Reus Smit, "Dangerous Liaisons, Critical International Theory And Constructivism," *European Journal of International Relations* 4, no. 3 (1998): 266-267.

²⁰ *Ibid.*, 261-262.

consequent actions.²¹ Hence, this approach represented a middle ground between the positivist and post-positivist approaches.²² Recently, social constructivists analysed the relations between the state and society, meaning the social composition of constructed international relations.²³ Constructivism has become one of the fundamental approaches that challenges rationalist analytical perspectives.²⁴ Social constructivism will help me to carve out the main reasons for the different attitudes towards asylum seekers in Austria and Germany. This approach will also be used to shed light on some changes that have emerged at both domestic and the EU levels by linking rational motives and maximisation of benefits with the associated norms and values. I interpret social constructivism as an approach that aims to carve out underlying social productions behind state actions and assume that these notions are responsible for policymaking and relations with other state actors. Furthermore, I consider the theory to be suitable for explaining change and my comparative study helps to comprehend how change can be explained with social constructivism.²⁵

Before going into detail about the innovative aspects of this work, I turn to the research field and the state of research. The academic debate around the right to asylum has intensified and experienced debates from which key dividing lines emanate. The intertwined academic debate is explored in the following literature review, thereby allowing me to situate my work in the research field.

²¹ Ted Hopf, "The Promise of Constructivism in International Relations Theory," *International Security* 23, no. 1 (1998): 178.

²² Fierke, "Constructivism," 167.

²³ Stefano Guzzini, "A Reconstruction of Constructivism in International Relations," *European Journal of International Relations* 6, no. 2 (2000): 166.

²⁴ Emanuel Adler, "Seizing the Middle Ground: Constructivism in World Politics," *European Journal of International Relations* 3, no. 3 (1997): 334.

²⁵ Finnemore and Sikkink, "International norm dynamics and political change," 894.

1.3 Literature Review

Migration and its various facets are the subject of a wide range of interdisciplinary research. Hardly any scholars call themselves primarily migration researchers, as the issue is mainly researched by academics from other related disciplines like anthropology, history, economics, law or sociology.²⁶ Thus, the object of study is examined from various angles. Some of the more prominent phenomena in migration studies deal with policymaking, discussing more effective burden-sharing institutions, the history of human migration, or labour migration.²⁷ Another key opposition in the study deals with researching factors that pull migrants to a receiving country and factors that push people from their homelands.²⁸ Even though migration has always been part of mankind, migration as a field of study is a relatively young discipline that is shaped by a variety of influences and therefore has no clear distinction from other research disciplines and lacks a single focus.²⁹ This makes a comprehensive literature review difficult. The scope of the subject makes selections concerning the coverage necessary.³⁰ For this reason, my literature review deals with refugee studies, a subfield of migration studies, and focuses on its most important debates and contributions.

First, I examine the relationship of the field of research and international policy definitions. I then introduce the key debates, all of which revolve around the opposition of idealistic and pragmatic approaches. Thus, the chronological development of refugee studies will be illustrated. My literature review highlights the works of Hathaway, Thielemann, Lavenex, and Goodwin-Gill, while also citing Zetter and Simpson as important scholars in the field of refugee studies. Finally, special reference is made to current developments in the research field. This aspect allows me to locate my work in the academic refugee study.

1.3.1 The Origins of Refugee Studies

The development of migration - as well as refugee - studies is interconnected with international policymaking in the 20th century, the growth in postmodern interdisciplinary examinations since the 1990s, and more recent interest in humanitarian issues. Richard Black

²⁶ Adrian Favell, "Rebooting Migration Theory: Interdisciplinarity, Globality and Postdisciplinarity in Migration Studies," in *Migration Theory: Talking Across Disciplines*, ed. Brettell Caroline and Hollifield James (HAL Archives: Routledge, 2007), 259.

²⁷ Nadine El-Enany, Eiko R. Thielemann, "Forced Migration, Refugees, and Asylum," *Oxford Research Encyclopedia of International Studies* (2010), <https://doi.org/10.1093/acrefore/9780190846626.013.394>, 1.

²⁸ Anna Oltman, and Jonathan Renshon, "Immigration and Foreign Policy," *Oxford Research Encyclopedia of Politics*, August 22, 2017, <https://oxfordre-com.eur.idm.oclc.org/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-344>.

²⁹ Edward Said, *Reflections on exile and other essays* (Cambridge Massachusetts: Harvard University Press, 2000): 181.

³⁰ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 1.

tries to do justice to the history of refugee studies with *Fifty Years of Refugee Studies: From Theory to Policy*.³¹ He claims that refugee studies belong to the overarching discipline of migration studies and have

grown dramatically over the latter part of the twentieth century, in parallel with the significance of the phenomenon of forced migration itself. As the number of refugees and forced migrants in the world soared into the tens of millions, the study of its causes and consequences has acquired an institutional base.³²

Black concludes that the discipline evolved from a study merely researching a label to a legitimate, interdisciplinary field of analysis.³³ Nevertheless, the label attached to forced migrants is crucial to refugee studies, a feature that separates this field from other academic topics. Refugee studies did not develop in an “inward-academic environment, but as a crucial area of policy that affects the lives of millions of people.”³⁴ The close relationship between policy and scholarly work bears risks and the discipline was long demoted from the mainstream.³⁵ Even though this devaluation seems to be overcome, the risk of research being biased towards practical issues, or co-opted by officials remains. The first international organisation focused on studying topics related to refugees was the Association for the Study of the World Refugee Problem.³⁶ It was established intimately connected with policy developments in 1950 and thus the United Nations High Commissioner for Refugees (UNHCR).

Another important establishment was the creation of academic journals in the 1980s like the *Journal of Refugee Studies*. With these publications, the discipline became more defined, scholarly output increased, and specialised research centres emerged.³⁷ It is noteworthy that refugee studies often criticise the constructed term refugee. Several scholars advocate using other terms, as the mainstream label implies a dependence on humanitarian intervention.³⁸ However, in the absence of a suitable alternative and the use of this terminology in policy-making, it is still the primary label used to describe forced migrants. More recent studies on involuntary migration interpret the term more inclusively. Still, the

³¹ Richard Black, “Fifty Years of Refugee Studies: From Theory to Policy,” *International Migration Review* 35, no. 1 (March 2001): 57-78, <https://doi.org/10.1111/j.1747-7379.2001.tb00004.x>.

³² *Ibid.*, 57.

³³ Roger Zetter, “Refugees and Refugee Studies - A Label and an Agenda,” *Journal of Refugee Studies* 1, no. 1 (1988): 1.

³⁴ Black, “Fifty Years of Refugee Studies: From Theory to Policy,” 71.

³⁵ *Ibid.*, 67.

³⁶ *Ibid.*, 58.

³⁷ *Ibid.*, 59.

³⁸ Zetter, “Refugees and Refugee Studies - A Label and an Agenda,” 1.

uncritical use of the mainstream labels remains widespread. Simpson, an earlier refugee researchers British official, already used the terms and the associated exclusions. Of particular note in Simpson's work is his finding that World War I marked a change in the reality for refugees and the scope of those in need of protection.³⁹

1.3.2 Constructing Definitions

Since the first collective definition of refugees at the international level, the “historical evolution of the definition of a refugee has gradually become more restricted and defined.”⁴⁰ Due to adjustment of the definition, the possibilities of being granted asylum have constantly changed. Consulting Ferdinand de Saussure’s linguistic philosophy, structure only arises through difference to other signs and units.⁴¹ In other words, we know who or what something is because we know who or what something is not. While the League of Nations granted the label refugee only to specific communities, the UNHCR’s Refugee Conventions established a universal and sustainable refugee definition. Thus, the contemporary international refugee protection regime has its origins in 1951.⁴² The international refugee protection regime is further explored in chapter 2.

One aspect of the norm-setting agreement often discussed in the academic debate is the right to non-refoulement. It is “hailed by commentators as being the essence of the obligations set out in the Refugee Convention”.⁴³ Manifested in Article 33, it contains the prohibition for signatory states to return a refugee “to the frontiers of territories where his life or freedom would be threatened”.⁴⁴ Vedsted-Hansen argues that asylum seekers benefit from a “presumptive refugee status”⁴⁵, meaning that the asylum status has to be determined before deportation. Alternative readings weaken the protective regime and enable states to evade

³⁹ John H. Simpson, “The Refugee Problem,” *International Affairs* 17, no. 5 (1938): 607, <https://doi.org/10.2307/3020054>.

⁴⁰ El-Enany, Thielemann, “Forced Migration, Refugees, and Asylum,” 1.

⁴¹ Ferdinand De Saussure, *Grundfragen der allgemeinen Sprachwissenschaft*, (Berlin: Walter de Gruyter, 1916/1967).

⁴² UNHCR, “Convention and Protocol Relating to the Status of Refugees,” accessed January, 5, 2021, <https://www.unhcr.org/3b66c2aa10>, 14.

⁴³ El-Enany, Thielemann, “Forced Migration, Refugees, and Asylum,” 3.

⁴⁴ UNHCR, “Convention and Protocol Relating to the Status of Refugees,” 30.

⁴⁵ Jens C. Vedsted-Hansen, “Non-Admission Policies and the Right to Protection: Refugees' Choice vs. States Exclusion?,” in *Refugee Rights and Realities*, ed. Frances Nicholson and Patrick Twomey (Cambridge: University Press, 1999), 275.

their duty.⁴⁶ Furthermore Goodwin-Gill and McAdam characterises the conventions as biased towards Europe.⁴⁷ I will now turn to the central discussions in the research field.

1.3.3 Key Debates: Idealist vs. Pragmatist

Refugee studies is a multidisciplinary and highly fragmented academic field. Still, the key polarisation is perceptible between idealistic and pragmatic approaches.⁴⁸ Other debates can be seen as revisiting this overarching dichotomy. Roughly speaking, scholars who advocate the idealistic approach argue that the current legal refugee categories fail “to protect all those individuals deserving of protection.”⁴⁹ Their criticism entails the demand for a broader definition. Helton and Jacobs, for example, take this position and argue that conventional refugees “constitute only a small part of today’s [...] international migrants, many of whom are forced to move by a variety of disasters, including armed conflict, persecution, severe economic insecurity, environmental degradation, or other grave failures of governance.”⁵⁰ On the other hand, advocates of the pragmatic approach understand refugee protection regimes from lenses corresponding to those of realist International Relations scholars. They mostly focus on states, the actors that provide asylum. The main argument of pragmatic scholars emphasises that the international right to asylum and protection of refugees needs a more palatable framework for states.⁵¹

With *Reconceiving International Refugee Law*, Hathaway provided an “ambitious”⁵² central contribution to this perspective. His premise is that the international refugee law does not determine governmental responses to asylum seekers and refugees. On the contrary, Hathaway argues that states restrict involuntary migrants’ access to refuge procedures. Through this “non entrée”⁵³ regimes are created. He demands that “moral criticality”⁵⁴ is tempered while formulating rules on the international protection of refugees. Otherwise, the “practical feasibility”⁵⁵ is not guaranteed and the policy areas regulations lose significance.

⁴⁶ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 3.

⁴⁷ Guy S. Goodwin-Gill and Jane McAdam, *The refugee in international law* (Oxford: University Press, 2007), 36.

⁴⁸ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 6.

⁴⁹ *Ibid.*, 1.

⁵⁰ Arthur C. Helton, and Eliana Jacobs, "What Is Forced Migration?," *Georgetown Immigration Law Journal* 13, no. 4 (1999): 521.

⁵¹ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 7.

⁵² Walter L. Brill, "Reviewed Works," Review of *Reconceiving International Refugee Law*, by James C. Hathaway, *The American Journal of International Law* 92, no. 4 (1998): 788, <https://doi.org/10.2307/2998149>.

⁵³ James Hathaway, *Reconceiving International Refugee law* (Boston: Kluwer Law International, 1997), 127.

⁵⁴ *Ibid.*, XXIV.

⁵⁵ *Ibid.*

“Equivocation about the real authority of international refugee law”⁵⁶ make accommodating “reasonable preoccupations of governments in the countries to which refugees flee”⁵⁷ impossible. His contribution sparked a controversial debate that tried to help move past a system in which states juggle humanitarian obligations and national interests and thus make the international refugee law relevant again.⁵⁸ By identifying principles for a new paradigm of refugee protection, Hathaway identified key areas that need reevaluation, namely temporary protection, repatriation aid, human responsibility sharing, and fiscal burden-sharing.⁵⁹ His conceivably ambivalent research revitalised the academic field.

A shared feature of the idealist and the realist approach on refugee protection is the view that refugees are not protected adequately. Both are concerned with insufficiencies of the regulation, but scholars hermeneutically deduce different directions off of these shortcomings. Even though a legal framework was established in the 20th century, researchers increasingly spoke of protection crises manifested through various refugee movements.⁶⁰ Another broad agreement among refugee scholars is that some states carry a larger share of the burden of international refugee protection. This is due to a mixture of variations in pull factors and variations in national asylum policies. Developing countries, for example, host a disproportionately large number of asylum seekers. This is also mentioned in the Preamble of the 1951 Refugee Convention, which calls for a commitment to international cooperation.⁶¹ In relation to this, Thielemann and Dewan investigated that free-riding dynamics are less developed than often assumed.⁶² More likely, states shift burdens, remain engaged in refugee protection, and specialise in alternative models of contributing. Furthermore, researchers criticise the international refugee protection regime for its failure to provide and address internally displaced people.⁶³ Lastly, since poststructuralist approaches have gained prominence in the academic debate, gender studies have also been present in refugee studies. Freedman, for example, researched gender inequalities in the refugee regime. Her

⁵⁶ Ibid., 127.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Walter, “Reviewed Works,” 787.

⁶⁰ El-Enany, Thielemann, “Forced Migration, Refugees, and Asylum,” 6.

⁶¹ UNHCR, “Convention and Protocol Relating to the Status of Refugees.”

⁶² Eiko R. Thielemann and Torun Dewan, “The myth of free-riding: Refugee protection and implicit burden-sharing,” *West European Politics* 29, no. 2 (2006): 351-369, <https://doi.org/10.1080/01402380500512742>.

⁶³ El-Enany, Thielemann, “Forced Migration, Refugees, and Asylum,” 6.

observations aim to break down the invisibility of women refugees.⁶⁴ Freedman especially condemns the male-dominated academic and political field.

1.3.4 Key Debates: The search for better burden sharing

Because of the wide consensus regarding shortcomings in the status quo of the international refugee protection regime, a considerable part of the academic asylum literature revolves around burden-sharing mechanisms.⁶⁵ The term burden was applied to forced migrants early on and set the stage for more restrictive interpretations of the human right to asylum. Attempting to level the numbers of asylum seekers and refugees countries need to protect or house is a major focus of this branch of academic work. The implementation of supranational European rules by the Common European Asylum System (CEAS) document this focus of the commitment to international cooperation. Scholars propose multi-dimensional burden-sharing approaches that combine several contribution elements, meaning that disproportionate contributions are recognised and compensated in other elements.⁶⁶ Hathaway proposed the possibility of financial compensatory services.⁶⁷ Other scholars formulate modest proposals and introduce specific ideas like “market-based”⁶⁸ refugee sharing systems with tradable obligations. Talking about burdens and trying to shift them is taken by scholars with more idealistic approaches as a sign that refugees are treated as commodities in interstate deals.⁶⁹ Anker et al. fear that these proposals will exacerbate protection failures.⁷⁰ The conflicting interpretations and individual approaches fragment in the course of the central debates, which led to a fragmentation of refugee studies in general.⁷¹

1.3.5 Key Debates: Regional vs. Global Protection Regimes and the European Union

Another substantial part of the academic debate revolves around the scope of protection regimes. Generalised, advocates of idealist approaches fear that regional protection regimes worsen the already existing protection flaws. Advocates of more pragmatic approaches focus on feasibility and thus beneficial effects of regional regimes. Researching the European

⁶⁴ Jane Freedman, *Gendering the International Asylum and Refugee Debate* (New York: Palgrave Macmillan, 2007), https://doi-org.eur.idm.oclc.org/10.1057/9780230592544_2.

⁶⁵ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 11.

⁶⁶ *Ibid.*, 12.

⁶⁷ Hathaway, *Reconceiving International Refugee law*, 127.

⁶⁸ Peter Schuck, "Refugee Burden-Sharing: A Modest Proposal," *Yale Journal of International Law* 22 (1997): 292.

⁶⁹ Deborah Anker, Joan Fitzpatrick, and Andrew Shacknove, "Crisis and Cure: A Reply to Hathaway/Neve and Schuck," *Harvard Human Rights Journal* 11 (1998): 309.

⁷⁰ Anker, Fitzpatrick, Shacknove, "Crisis and Cure: A Reply to Hathaway/Neve and Schuck," 296.

⁷¹ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 12.

immigration and asylum policies play a major role in that respect. As the biggest supranational protection regime, it offers a comprehensive object of study.

In *Immigration Policy and European Union*, Zaun and Roos argue that since the Schengen Agreement of 1995 came into force, there have been efforts to adopt a common approach toward immigrants from third countries.⁷² Another article by Servant and Zaun deals exclusively with *Asylum Policy and European Union Politics*. In this work, the authors mention that debates have generally concentrated on either the internal or the external dimension of EU policymaking.⁷³ Furthermore, they note that internal failures pushed the EU to push the responsibility for international protection towards third countries. These policies even raise the question about the survival of asylum as an international human right in the years to come and show that asylum continues to be a highly contested EU policy.

The academic debate of regional against global protection regimes takes regulations as the objects of their analysis and critiques. A rather recent approach focuses on civil society efforts, but classically these studies deal with integration, asylum procedures, and the implementation of the rules by the state. Lavenex is an influential contributor to examining regional regulations. With a focus on asylum policies, the professor of European and International Politics at the University of Geneva argues in *The Europeanization of asylum policies: Normative challenges and institutional legacies* that in the absence of an overarching normative framework on the issue, intensive transgovernmental cooperation led to rather restrictive policies during the early 1990s.⁷⁴ Besides, the different Dublin Conventions take a prominent role in the academic research of European regulations on refugee protection. For example, Progin-Theuerkauf - a professor for European law - identifies the lack of solidarity between the member states of the EU and the relatively poor standards of protection of individual rights as the Achilles' heel of the Dublin system.⁷⁵ She concludes that the new proposal reflects the prevailing tendencies in the EU regarding the regulation of migration:

⁷² Natascha Zaun and Christof Roos, "Immigration Policy and European Union Politics," *Oxford Research Encyclopedia of Politics* (2019), <https://oxfordre-com.eur.idm.oclc.org/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1083>.

⁷³ Ariadna Ripoll Servant and Natascha Zaun, "Asylum Policy and European Union Politics," *Oxford Research Encyclopedia of Politics* (2020), <https://oxfordre-com.eur.idm.oclc.org/politics/view/10.1093/acrefore/9780190228637.001.0001/acrefore-9780190228637-e-1057>.

⁷⁴ Sandra Lavenex, "The Europeanization of asylum policies: Normative challenges and institutional legacies," *Journal of Common Market Studies* 39, no. 5 (2001): 851-874.

⁷⁵ Sarah Progin-Theuerkauf, "The «Dublin IV» Proposal: Towards more solidarity and protection of individual rights?," *sui generis* (2017), 62.

regaining control of the situation, ending large-scale “irregular movements and protecting”⁷⁶ the EU’s external borders.

1.3.6 Current Developments in the Research and my Positioning in the Research Field

Many researchers are currently analysing the latest 'refugee crisis'. Overall, case studies are a prominent means of investigation in refugee studies and extremes play an important role. Hageboutros, for example, binds state reactions to a specific refugee ‘crisis’ and has inspired my work. In *The Bosnian refugee crisis: A comparative study of German and Austrian reactions and responses* the author documents and examines how European countries react differently to the same group of refugees.⁷⁷ The ‘Immigration crisis in Europe after the Arab Spring’ reflects a contemporary study focus. At the same time, researching legal adaptations are objects of analysis. One trend in Europe is to externalise European asylum policies, which is very much in line with what Hathaway formulated in *Reconceiving International Refugee law* and since then was heavily researched.⁷⁸

The following demonstrates examples of the current research focus. *The Effects of Syrian Refugee Crises on Europe from the Lens of the Social Constructivist Approach* looks at the variety of negative social and economic effects of Syrian refugees primarily in Germany and Hungary and utilises a social constructivist approach.⁷⁹ Other articles deal with the outsourcing of asylum management and highlight the stronger external dimension of the European asylum protection regime. With *External migration and asylum management: accountability for executive action outside EU-territory*, Rijpma identifies three key policy areas of EU migration and asylum policy: visa policy, refugee resettlement, and border management.⁸⁰ He concludes that restrictive interpretations of the scope of EU law and the multi-level structure of EU executive action pose challenges in holding the EU and its member states to account. The 2016 EU-Turkey Statement is often discussed in contemporary studies on European refugee protection, which documents the prominent role of externalising

⁷⁶ Ibid., 67.

⁷⁷ Hageboutros, "The Bosnian refugee crisis: A comparative study of German and Austrian reactions and responses."

⁷⁸ Hathaway, *Reconceiving International Refugee law*, 127.

⁷⁹ Derya Büyüktanir Karacan, "The Effects of the Syrian Refugee Crisis on the Eu through the Lens of Social Constructivism: The Cases of Germany and Hungary," *Alternatif Politika* 11, no. 1 (2019).

⁸⁰ Jorrit Rijpma, "External migration and asylum management: accountability for executive action outside EU-territory," *European Papers* 2, no. 2 (2017): 571, <https://doi.org/10.15166/2499-8249/169>.

the protection obligations in contemporary research. Arribas questions whether the externalisation respects EU and international law.⁸¹

Crawley's and Skleparis' research indicates a different contemporary field of research. In *Refugees, migrants, neither, both: categorical fetishism and the politics of bounding in Europe's 'migration crisis'* they challenge differentiating categories such as refugees and migrants.⁸² Interviews with people who crossed the Mediterranean to Greece in 2015 document that the dominant categories fail to adequately capture the complex relationship between political, social, and economic drivers of migration or their shifting significance for individuals over time and space. Therefore, current research gives refugees a voice, explores the changing policies of states, non-state actors, and challenges the established concepts and interpretations of the international and regional refugee protection regime.

This literature review examined the main debates as well as the origins of refugee studies. In summary, refugee studies is an interdisciplinary field dealing with foreign policy, humanitarianism, international law, domestic law, and public discourses. The emergence of the academic study was closely linked to the rise in importance of international protection efforts. Although neither the phenomenon of involuntary migration nor its study is a new field of research, the second half of the 20th century has seen its consolidation. Nonetheless, refugee studies remain fragmented and multidisciplinary, as well as multifaced. There is a clear delineation between idealist analysis and realist analysis of evolutions in the refugee protection regime. This fragmentation only amplifies as the phenomena of protection seekers politicises further. Key debates following the overarching discourse deal with ways of better burden-sharing, global versus regional protection regimes, and more recently, alternative ways of describing displaced people. This last point also entails strengthening the agency of neglected or underrepresented groups.

My study is part of refugee studies. By doing a case study, I am using a prominent means of investigation. This research is also interdisciplinary and deals with linguistic, political, and legal issues related to asylum. I deal with asylum seekers and use established terms. Since asylum seekers are the subject of my research and European states are actors, my view on the topic is also a European one. To avoid an idle debate about idealistic or pragmatic approaches, the analysis is practice oriented and I substantiate it with hermeneutically

⁸¹ Gloria Fernández Arribas, "The EU-Turkey agreement: a controversial attempt at patching up a major problem," *European Papers* 1, no. 3 (2016): 1098. <http://www.europeanpapers.eu/fr/node/730>.

⁸² Heaven Crawley and Dimitris Skleparis, "Refugees, migrants, neither, both: categorical fetishism and the politics of bounding in Europe's 'migration crisis'," *Journal of Ethnic and Migration Studies* 44, no. 1 (2018): 48-64, <https://doi.org/10.1080/1369183X.2017.1348224>.

identified facts. In line with current trends in the research field, the most recent 'refugee crisis' is part of my analysis. Lastly, I also include the externalisation of refugee protection.

1.4 Innovative Aspects

This paper takes up current trends in the field of research and tries to sidestep idle debates about idealistic versus realistic protection commitments. My own bias, however, is more on the side of a liberal interpretation of refugee protection. Due to my topic, interdisciplinary structure, and theoretical lens, this work contains several innovative aspects.

Firstly, I look at asylum policies and discourses through the study of two specific states and add information to current developments in European refugee research. The two main ‘refugee crises’ of the EU are researched by looking at two countries that took in a considerable share of asylum seekers in both analysed ‘crises’. Thus, innovation arises from showing developments over time and place. Moreover, the study connects to contemporary discussions about the outsourcing of asylum management by considering the EU-Turkey Statement of 2016.

Furthermore, I utilise concepts and methods from a variety of fields and offer a new way to analyse asylum that nevertheless is consistent with my constructivist approach. Looking at the issue of asylum through a constructivist lens is not necessarily innovative and each approach offers only one particular lens. However, my approach allows to disregard the modelled dichotomy of idealist against pragmatist refugee rights and regimes in the academic field.⁸³ My individualised lens helps me to carve out innovative insights for the examined states and ‘crises’ and represents a middle ground. The fact that I use both the realist and liberalist infrastructure of International Relations is well illustrated by my interpretations of concepts (chapter 2). Moreover, the consideration and integration of different sovereignties adds further value to my work.

Additionally, this analysis deals with the individual political discourses in Austria and Germany. This is innovative because it offers a hermeneutic possibility to explain change. Critics of constructivist methods of analysis claim that the theory cannot explain change. However, my analysis offers an interdisciplinary method that can indeed explain alterations. Therefore, this study includes an opportunity for researchers to reevaluate the limitations of constructivist methods. Likewise, my focus on norms and framing adds to the innovative approach to rational action prevailing in contemporary research.

Further innovation derives from the fact that I focus on asylum seekers. With the focus on a specific group of refugees, I achieve feasibility. Asylum seekers are refugees who have not yet been granted asylum. Therefore, a number of debates and laws are disregarded in my

⁸³ Gert Albert, "Weber-Paradigma." *Handbuch Soziologische Theorien*, (Wiesbaden: VS Verlag für Sozialwissenschaften, 2009), 524.

analysis. Whether this separation makes sense is a question that can explore through this research. Thus, my attempt to make the analysis more specific offers room for academic debate.

Lastly, to address the possible pitfall of Eurocentrism in refugee studies, Western names of phenomena like the ‘Arab Spring’ or ‘refugee crisis’ are mentioned with inverted commas.⁸⁴ This highlights the Western bias of my study and refugee studies in general. Although I use established terms and deal with European states, the inverted commas present the critical perspective towards Western-attributed terms. I am unable to suggest more appropriate terms, but often use the less politicised term displaced people. Overall, this interdisciplinary work combines different facets of refugee studies. The paper adds to the multifaced field of study because it looks at a highly salient policy area. Combining the analysis of legal texts and political discourses allows for an innovative lens of looking at refugee policies, without omitting bias in the academic field and discourses. My twofold approach enables me to carve out well-founded interdisciplinary results.

⁸⁴ Karacan, "The Effects of the Syrian Refugee Crisis on the Eu through the Lens of Social Constructivism: The Cases of Germany and Hungary," 149.

1.5 Research Methods and Primary Sources

In this section, I describe the methods and sources I use to analyse asylum policies and discourses in Austria and Germany. Generally, I build on a Weberian view of understanding.⁸⁵ This means that “action must always be understood from within”, and that social meaning is a function of “what is in people’s heads”.⁸⁶ In other words, I use hermeneutic methods. Hermeneutic means the doctrine of interpreting content.⁸⁷ By focusing less on the ultimate truth of why and more on the social fact that something happened and how it became possible, I reveal the importance of public language and the intentionality embedded in it.⁸⁸

1.5.1 Policy Analysis

To describe German and Austrian principle asylum laws, I first assign the laws to regimes that affect asylum policies. In order to present the norms of each refugee protection regime, I identify specific passages in fundamental treaties on the basis of secondary sources. Using this framework, I identify key legal regulations that establish norms. Contested competences regarding the issue of asylum between different levels of refugee protection regimes make it necessary for me to turn to three regimes for the mapping of Austrian and German asylum policies.⁸⁹ I will differentiate between international, supranational, and national laws and thereby show how regimes comply but also conflict.⁹⁰ The macro-level regime - the international refugee protection regime - is examined in the context section of chapter 2. The mezzo-level - the supranational regime - and the micro-level - national regimes - are also mapped using secondary sources and regime constituting treaties. However, their analysis is part of the respective empirical chapter. I made this division because I perceive the international refugee protection regime as unchanged in its basic rules.⁹¹

Changes in norms, values, fundamental rules, and contracts are of particular importance. Since I am concerned with the regimes in place during the two ‘crises’, the observation periods are 1992 to 1995 as well as 2015 and 2016. My analysis of laws does not

⁸⁵ Fierke, “Constructivism,” 166.

⁸⁶ Adler, “Seizing the Middle Ground: Constructivism in World Politics,” 326.

⁸⁷ Hans-Bernd Brosius, Alexander Haas, and Frederike Koschel, *Methoden der empirischen Kommunikationsforschung* (Wiesbaden: VS Verlag für Sozialwissenschaften, 2012), 132.

⁸⁸ Peter Howard, “Why not invade North Korea? Threats, language games, and US foreign policy.” *International Studies Quarterly* 48, no. 4 (2004): 806.

⁸⁹ Servant and Zaun, “Asylum Policy and European Union Politics,” 12.

⁹⁰ Kai Hirschmann, *Europa zwischen Abbruch und Aufbruch* (Bonn: Bundeszentrale für politische Bildung, 2020), 23.

⁹¹ Servant and Zaun, “Asylum Policy and European Union Politics,” 14.

reflect an all-encompassing but goal-oriented approach. The goal being map the fundamental legal frameworks. Primary sources constituting the respective regime are textual analysed and identified by utilising existing research results.⁹² Since this paper is focused on asylum seekers, I only consider passages of treaties dealing with asylum, not entire texts. The described method allows me to understand the practices in the countries hermeneutically.

1.5.2 Linguistic Discourse Analysis

The second part of my analysis deals with political discourses. To describe and examine these, I utilise linguistic discourse analysis inspired by critical linguistics and politolinguistic, described in chapter 1.5.4. Linguistic discourse analysis can be understood as a further development of text linguistics, thus as a trans-textual analysis that has networks as its object of investigation.⁹³ Therefore, not an individual text is analysed but a collection of texts. The task of linguistic discourse analysis is to compile such text corpora and to analyse them in the next step. Accordingly, the term discourse describes a network of thematically related statements that are to be made accessible via text corpora.⁹⁴ Quantitatively, the boundaries of the underlying materials can be shifted.⁹⁵ Individual statements in the text corpus are "contributions to a conversation"⁹⁶. Since the 1990s, the method of discourse analysis has enjoyed growing popularity.⁹⁷ Criticism of this method is concerned with the arbitrariness of the research method with regard to the selection and scope of the research materials.⁹⁸ Especially in today's world of digital mass media, it is hardly possible to base discourse analysis on complete corpora. Thus, in linguistic discourse analysis the materials studied always represent a selection of contributions.

I complement my linguistic discourse analysis with a method of critical discourse analysis (CDA).⁹⁹ CDA focuses on how power relations are exercised in discourses.

⁹² Norman Fairclough, *Analysing discourse: Textual analysis for social research*, (New York: Psychology Press, 2003), 1.

⁹³ Jürgen Spitzmüller and Ingo Warnke, *Diskurslinguistik. Eine Einführung in Theorien und Methoden der transtextuellen Sprachanalyse* (Berlin: De Gruyter, 2011), 22.

⁹⁴ Thomas Niehr, *Einführung in die Politolinguistik* (Göttingen: Vandenhoeck & Ruprecht, 2014), 127.

⁹⁵ Ibid.

⁹⁶ Fritz Hermanns, "Sprachgeschichte als Mentalitätsgeschichte. Überlegungen zu Sinn und Form und Gegenstand historischer Semantik," in *Sprachgeschichte des Neuhochdeutschen. Gegenstände, Methoden, Theorien*, ed. Andreas Gardt et al. (Tübingen: Niemeyer, 1995), 91.

⁹⁷ Dietrich Busse and Wolfgang Teubert, "Ist Diskurs ein sprachwissenschaftliches Objekt? Zur Methodenfrage der Historischen Semantik," in *Begriffsgeschichte und Diskursgeschichte. Methodenfragen und Forschungsergebnisse der historischen Semantik*, ed. Wolfgang Teubert et al. (Opladen: Westdeutscher Verlag, 1994), 13.

⁹⁸ Niehr, *Einführung in die Politolinguistik*, 130.

⁹⁹ David Machin and Andrea Mayr, *How To Do Critical Discourse Analysis. A Multimodal Introduction* (London: Sage, 2012), 38.

Therefore, who is absent from the conversation is included in my description of the discourses.¹⁰⁰ This allows me to also consider the reproduction of established power relations.¹⁰¹ Hence, my combined critical linguistic approach allows me to study how power relations are exercised and negotiated. Visible ideologies are described in the analysis and invisible elements, or actors named. The letter allows me to include concealment strategies of language. Together this critical language study as the process of analysing linguistic elements allows me to reveal connections between language, power, and ideology that are apparent and hidden.¹⁰² I understand these connections as the linguistic juggling of norms and values with interests that frame the logic of appropriateness. In more general terms, the analysis of language enables me to make statements about the constructed identity of the respective nation.

1.5.3 Creation of the Text Corpora of Political Discourses

The basis of any discourse analysis is the discourse. This chapter is about how I have determined the object of analysis. The creation of the corpus consists of a staged process of restriction, in which a concrete text corpus to be processed linguistically emerges. Linguistic discourse analysis assumes that language is a form of social action constituting reality.¹⁰³ This assumption matches my constructivist theorisations and will be expanded upon in chapter 2. On that basis, discourses are processes of negotiation. Particular attention is paid to recurring patterns.¹⁰⁴ Linguistic discourse analysis, as part of descriptive linguistics, is committed to strict neutrality. In this work, I use the method mainly to describe the discourses. To achieve feasibility, I restrict my corpora extensively. Thus, my corpora only contain examples of the respective discourses.

¹⁰⁰ Ibid., 39.

¹⁰¹ Ibid., 42.

¹⁰² Norman Fairclough, *Language and Power* (London: Longman, 1989), 5.

¹⁰³ Niehr, *Einführung in die Politolinguistik*, 132.

¹⁰⁴ Kersten Sven Roth, "Diskurspragmatik. Zur Analyse kollektiven Wissens anhand teilnahmeorientierter Diskursrealisationen," in *Politik als sprachlich gebundenes Wissen. Erwerb, Entwicklung und (Aus-)Wirkung politischer Sprache im lebenslangen Lernen und politischen Handeln*, ed. Jörg Kilian et al. (Bremen: Hempen, 2012), 272.

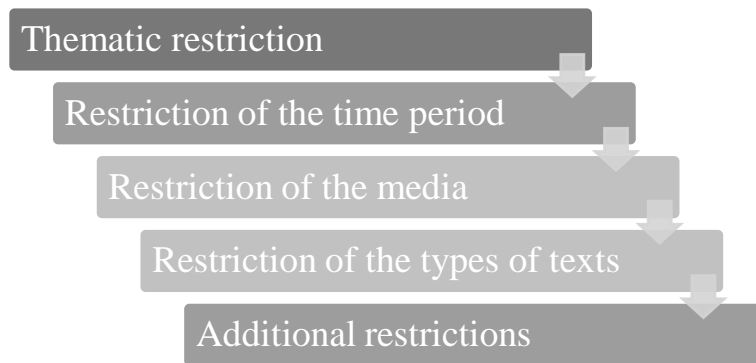


Figure 2: Own presentation of the creation of a concrete text corpus Sources: Niehr, *Einführung in die Politolinguistik*, 132.

Thematically, the corpora are limited to the asylum and refugees. Refugees are included here because public and political statements often do not make a clear distinction between the two. The political discourses are limited in time to the period of the respective ‘crisis’. The ‘Bosnian Refugee Crisis’ is placed between 1992 and 1995. The ‘Immigration Crisis in Europe after the Arab Spring’ is limited to 2015 and 2016. In terms of the media, I restrict the corpus of political discourses to electoral programmes from the first election after the start of each ‘crises’. In order to achieve feasibility, I will only deal with the electoral programmes of the two largest parties in Austria and Germany. In the end, these restrictions yield in two corpora consisting of four conversation contributions. Hence, the linguistic discourse analysis is based on exemplary excerpts of the discourses.

1.5.4 Politolinguistic

I utilise Thomas Niehr's *Introduction to Politolinguistic* to carry out the described linguistic discourse analysis.¹⁰⁵ Assuming that language is a form of social action and crucial for political action, the linguistic study of political communication in discourses is essential for understanding political action. I pursue the analysis of lexis in a focused and methodical way. Keywords, word connotations, frames, and deontic are the subject of my linguistic analysis. Here, these different components are described after an outline of the dominant groups of vocabulary of political lexis. The linguist Walther Dieckmann divides political vocabulary into four areas.¹⁰⁶ For my analysis, the vocabulary of ideology is crucial. It plays a central role in public and political negotiation processes. The vocabulary of ideology is used not only to identify facts but also to evaluate them directly.¹⁰⁷ Consequently, this vocabulary is

¹⁰⁵ Niehr, *Einführung in die Politolinguistik*.

¹⁰⁶ Walther Dieckmann, “Demokratische Sprache im Spiegel ideologischer Sprach(gebrauchs)konzepte,” In *Sprache und Politik. Deutsch im demokratischen Staat Band 6*, ed. Jörg Kilian (Mannheim: Dudenverlag, 2005), 17.

¹⁰⁷ Dieckmann, “Demokratische Sprache im Spiegel ideologischer Sprach(gebrauchs)konzepte,” 17.

descriptive, evaluative, and it directs action. If terms of the ideology vocabulary are conventionalised, a distinction is made between those with positive and those with negative evaluative potential. Certain expressions also "evoke special connotations in the recipients"¹⁰⁸. Individual words have emotive meaning components. Specifically, this means that in addition to denotative meaning words involve deontic and evaluative meaning components. Deontic meaning components are those that can be used to express instructions for action.¹⁰⁹

Moreover, keywords play a central role in these expressions. Modern research refers to expressions as keywords that gain particular importance at a certain time.¹¹⁰ Keywords are supposed to control people's thinking as well as their feelings and behaviour.¹¹¹ This means that a word is not a keyword, but is used as such.¹¹² Emotionalization succeeds particularly well when they are presented as pairs of opposites or slogans.¹¹³ In this sense, I examine the discourse contributions according to overlexicalizations as well as juxtapositions. Affirmation words and stigma words are more specific subgroups of this linguistic phenomenon. The latter denote "something negative"¹¹⁴ and portray people merely as part of a group, creating a homogeneous language without individuality. Affirmation words are keywords with evoking deontic positive connotation. However, this connotation can be ideology-dependent and not universally understood as positive.¹¹⁵

I also invoke frame semantics while examining the political discourses during both 'crises'. I find this necessary because linguistic expressions stand in structural contexts. Frames are linguistic forms that link a certain content and activate predefined standard values.¹¹⁶ Based on our knowledge of the world, we draw appropriate conclusions. Frame semantics explores the activation of background knowledge.¹¹⁷ I use frame theory primarily to analyse metaphors and especially metaphor-networks in political linguistics. The aim is to

¹⁰⁸ Niehr, *Einführung in die Politolinguistik*, 67.

¹⁰⁹ Fritz Hermanns, "Deontische Tautologien. Ein linguistischer Beitrag zur Interpretation des Godesberger Programms (1959) der Sozialdemokratischen Partei Deutschlands," in *Politische Semantik. Bedeutungsanalytische und sprachkritische Beiträge zur politischen Sprachverwendung*, ed. Josef Klein (Opladen: Westdeutscher Verlag, 1989), 74.

¹¹⁰ Thomas Niehr, "Schlagwort," in *Historisches Wörterbuch der Rhetorik Band 8*, ed. Gert Uerding (Tübingen: Max Niemeyer Verlag, 2007) 496.

¹¹¹ Ibid.

¹¹² Walther Dieckmann, *Sprache in der Politik. Einführung in die Pragmatik und Semantik der politischen Sprache* (Heidelberg: Winter, 1975), 102.

¹¹³ Ibid., 103.

¹¹⁴ Fritz Hermanns, *Schlüssel-, Schlag- und Fahnenwörter. Zu Begrifflichkeit und Theorie der lexikalischen politischen Semantik* (Heidelberg: Institut für deutsche Sprache, 1994), 19.

¹¹⁵ Niehr, *Einführung in die Politolinguistik*, 69.

¹¹⁶ Alexander Ziem, *Frames und sprachliches Wissen. Kognitive Aspekte der semantischen Kompetenzen* (Berlin: de Gruyter, 2008), 211.

¹¹⁷ Dietrich Busse, *Frame-Semantik. Ein Kompendium* (Berlin: de Gruyter, 2012), 11.

decode collectively manifested knowledge in discourses. With these focuses derived from politolinguistic and critical linguistic, I go about qualitative linguistic discourse analysis of exemplary corpora. I also invoke quantitative descriptions, meaning I count the usage of the terms asylum and refugee in the designated political corpora.

Finally, according to Grice, communication is based on the maxims of quality, quantity, relation and modality.¹¹⁸ However, contravention can be part of the invoked strategy. Thus, actors sometimes intentionally communicate inefficiently, irrationally and uncooperatively. This linguistic observation is taken into account by highlighting obvious omissions in the sources. These kinds of omissions constitute established understandings, perspectives and allow the authors to remain vague.

1.5.5 Questionnaire for Discourse Contributions

Using the presented methods and my specific adaptation of linguistic discourse analysis, I developed a questionnaire. That guarantees a methodical approach to describing and analysing the language in the primary sources and guarantees comparability. The questions explore connotations, keywords, juxtapositions, overlexicalizations, deontic, frames, and striking omissions. The questions are answered by documenting linguistic peculiarities. This underpins my findings and supports the analysis. The questionnaire consists of the following:

- Is the vocabulary affirmative or stigmatising?
- What are the keywords?
- Are other terms used conspicuously often?
- Are metaphors of a specific subject area used?
- What emotions are triggered?
- Are there any juxtapositions?
- Are statements suggestive of action?
- Are actors or structures missing in the linguistic design?
- Is the topic of asylum linked to another topic?
- Are the same frames used permanently and do they create a narrative?

¹¹⁸ Paul Grice, "Logik und Konversation," in *Handlung, Kommunikation, Bedeutung*, ed. Georg Meggle (Frankfurt am Main: Suhrkamp, 1979), 249.

1.6 Limitations and Ethics

Here, expected challenges, limitations, and shortcomings are presented. Additionally, I explain my ethical prerequisites. The first challenge is that I am no solicitor and have limited capabilities in analysing policies. This limits the expressiveness of my legal analysis. I try to tackle this by driving on secondary sources while examining the regimes and their principal regulations. Another limitation is that my thesis is limited in terms of scope. In terms of refugee protection regimes, I therefore focus on principal norms to achieve feasibility. Likewise, I narrowed down my text corpora extensively. Furthermore, accessibility of the discourse contributions between 1992 to 1995 are limited. The Austrian election programmes had to be obtained from the respective party.

The ethical standards that I set for my research are that I substantiate all findings and do not cherry pick findings that reflect my assumptions. I strive for impartiality without reproducing power structures. Furthermore, to make the findings constructive, I also examine how many refugees were admitted and how many asylum seekers repatriated. Also, I try to not take a Eurocentric view. I make an effort not to stigmatise asylum seekers and at least mention the heterogenous character of this group as well as the personal trauma or loss that comes with forced migration. However, asylum seekers are not presented as immature helpless supplicants but as people entitled to specific basic human rights. The Western names for ‘crises’ in the Middle East and the influx of displaced people also represent a Eurocentric perspective. This will be tackled and all these names are written in inverted commas. The challenge is that these names still present the academic description of developments and are common in research. I will thus use them but in a cautious manner. All in all, I consider my personal bias and try to determine results as inclusively and differentiated as possible. To ensure this I go about a descriptive neutral analysis.

Chapter 2: Concepts and Context

Main concepts utilised in this thesis are introduced in the following. The main concepts that need clarification are norms and values, rationality, language as social action, frames, international law, and the International Relations regime theory. For each concept the core meaning, my interpretation, and how each concept is used in this work is explained. I also describe their relationship to my theoretical framework. Furthermore, sovereignty, nation state, nationality, and identity are important for my work. However, since these are common, I will only explain my definition in passing and in connection with the previously mentioned concepts.^{119, 120, 121} This chapter closes with an examination of the fundamental treaties of the international refugee protection regime. This steady regime provides the starting point and context for other refugee protection regimes and, accordingly, my analysis.

2.1 Norms and Values

Firstly, norms and values are at the centre of the constructivist approach which represents a difference to other prevailing theories in International Relations. I utilise Finnemore and Sikkink's definition which states that norms are “appropriate [behaviour] standards of the actors with a defined identity.”¹²² Norms are instrumental, regulatory, and help transform as well as restore interests and identities of actors.¹²³ They also constitute rights and obligations.¹²⁴ Thus, norms describe rules for action, while values represent general goal orientations. Moreover, norms and values represent the truth that should be followed.¹²⁵ In this way, norms and values become an integral part of identity which in turn determines interests.^{126, 127} Identity, affected by norms and values, is often used as a condition for the legitimacy of political action as well as for political and social cohesion.¹²⁸

¹¹⁹ Immanuel M. Wallerstein, *World-systems analysis: An introduction*, (Durham: Duke University Press, 2004), 42-43.

¹²⁰ Peter Alter, *Nationalismus*, (Frankfurt a. M.: Suhrkamp, 1985), 14.

¹²¹ James Crawford, *The creation of states in international law* (Oxford: University Press, 2006).

¹²² Finnemore and Sikkink, “International norm dynamics and political change”, 891.

¹²³ Onuf, *World of Our Making: Rules and Rule in Social Theory and International Relations*, 272.

¹²⁴ Stephen D. Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables,” in *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*, ed. Jeffrey L. Dunoff and Mark A. Pollack (New York: Cambridge University Press, 2012), 3.

¹²⁵ Finnemore and Sikkink, “International norm dynamics and political change”, 912.

¹²⁶ Karacan, “The Effects of the Syrian Refugee Crisis on the Eu through the Lens of Social Constructivism: The Cases of Germany and Hungary,” 148-149.

¹²⁷ Ole Jacob Sending, “Constitution, Choice and Change: Problems with the Logic of Appropriateness' and its Use in Constructivist Theory,” *European Journal of International Relations* 8, no. 4 (2002): 449.

¹²⁸ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 23.

2.2 Rationality

Hereafter, I describe my constructivist understanding of rationality. With this work, I emphasise social ontology instead of individual ontology. “Ontology refers to the nature of being and focuses on the types of objects the world composes.”¹²⁹ While neorealists examine the state in a competitive environment, I focus on the inseparability of the state and the “context of normative meaning which shapes who they are and the possibilities available to them.”^{130, 131} Consequently, I understand rationality as guided by a “logic of appropriateness”¹³², meaning that the rational is defined by shared norms and values within the social structures rather than purely individual interests.¹³³ Hence, entities justify their actions. Human rights norms “constrain less because of power considerations than because human rights are a constitutive feature of liberal democratic states.”¹³⁴ To me, this understanding also applied to interests. The constructivist assumption is that apart from identity-forming norms and values, interests of the agents can be revealed through practices and arrangements.¹³⁵ For the analysis of regulations and discourses, interests represent the realist position while and norms, as well as values, represent the normative position.¹³⁶ Referring back to the central debate of refugee studies, I take interests as decisive for restrictions and values and norms as decisive for liberal interpretations of protection obligations. Therefore, I recognise the key importance of interests but link them to the identity of the subject of analysis. The latter is shaped by immaterial “social facts”.¹³⁷ These are attributed with relevance and value through cultural, historical, and political contexts and by virtue of human acts of creation. Social facts depend on human agreement and therefore approval.¹³⁸ Examples for social facts are the concept of sovereignty or borders which only exist by virtue of human agreement. Social facts and social structures are ever evolving and constitute each other.¹³⁹

¹²⁹ Fierke, “Constructivism,” 164.

¹³⁰ Robert O. Keohane, *Neorealism and its Critics* (Columbia: University Press, 1986), 63.

¹³¹ Fierke, “Constructivism,” 164.

¹³² James G. March and Johan P. Olsen, “The logic of appropriateness,” in *The Oxford Handbook of Political Science*, ed. Robert E. Goodin (Oxford: University Press, 2011), 478.

¹³³ Thomas Risse, “‘Let’s Argue!’: Communicative Action in World Politics,” *International Organization* 54, no. 1 (2000), 4.

¹³⁴ Fierke, “Constructivism,” 165.

¹³⁵ Karacan, “The Effects of the Syrian Refugee Crisis on the Eu through the Lens of Social Constructivism: The Cases of Germany and Hungary,” 149.

¹³⁶ Karacan, “The Effects of the Syrian Refugee Crisis on the Eu through the Lens of Social Constructivism: The Cases of Germany and Hungary,” 151.

¹³⁷ John Searle, *The Construction of Social Reality* (New York: Simon and Schuster, 1995), 2.

¹³⁸ *Ibid.*, 31.

¹³⁹ Wendt, “Anarchy is What States Make of it: The Social Construction of Power Politics”, 417.

2.3 Language as Social Action

An approach to language consistent with the social ontology of constructivism occupies an epistemological middle ground.¹⁴⁰ Language is understood as a social action.¹⁴¹ Thus, speech acts serve a function once they are communicated and therefore part of acting in the world.¹⁴² John Austin called speech acts and their impact on the physical world performative utterance and distinguishes locutionary, illocutionary, and perlocutionary acts.¹⁴³ Jürgen Habermas summarised Austin's theory and different acts as “to say something, to act in saying something, to bring about something through acting in saying something.”¹⁴⁴ In short, actions find expression in language and language constitutes reality. This happens through the act of speaking and through entailed pragmatic meaning, which was explained in chapter 1.5.4.¹⁴⁵ Furthermore, language is neither purely descriptive nor can it be interpreted isolated from the context.¹⁴⁶ Social constructivists understand language as shaped by rules and infused with norms.¹⁴⁷

When we interpret a text, we bring to the task more than our knowledge of the language – knowledge about the world, beliefs about human nature, assumptions about typical instances of objects, repertoires of stereotypic instances of behavior, and so on.”¹⁴⁸

However, that does not mean that language cannot go against the underlying rules.

I interpret language as fundamentally social and based on norms and rules.¹⁴⁹ Norms and rules as expressed in language are at the centre of my linguistic consideration of political communication.¹⁵⁰ The collapse of Yugoslavia, for example, showed the effect language can have. Nationalist scaremongering language made it possible that neighbours became enemies and victims as well as perpetrators of ethnic cleansing.

¹⁴⁰ Fierke, “Constructivism,” 170.

¹⁴¹ John Austin, *How to Do Things with Words* (Oxford: University Press, 1962).

¹⁴² John Searle, *Expression and Meaning: Studies in the Theory of Speech Acts*, (Cambridge: University Press, 1979).

¹⁴³ Austin, *How to Do Things with Words*, 145.

¹⁴⁴ Jürgen Habermas, *The Theory of Communicative Action, Vol. 1: Reason and the Rationalization of Society* (Boston: Beacon Press, 1984), 288-289.

¹⁴⁵ Francois Recanati, “The Pragmatics of What is Said,” *Mind & Language* 4, no. 4 (1989), 295.

¹⁴⁶ Gebhard Rusch, “Eine Kommunikationsheorie für kognitive Systeme,” in *Konstruktivismus in der Medien und Kommunikationswissenschaft*, (Frankfurt a.M.: Suhrkamp, 1997).

¹⁴⁷ Adler, “Seizing the Middle Ground: Constructivism in World Politics,” 332.

¹⁴⁸ Charles J. Fillmore, “Topics in lexical semantics,” *Current issues in linguistic theory* 76 (1977): 118.

¹⁴⁹ Eviatar Zerubavel, *Time Maps: Collective Memory and the Social Shape of the Past* (Chicago: The University of Chicago Press, 2003), 81.

¹⁵⁰ Sending, “Constitution, Choice and Change: Problems with the Logic of Appropriateness' and its Use in Constructivist Theory,” 467.

2.4 Frames

To analyse the effects of language and speech acts, I mainly use George Lakoff's concept of frames.¹⁵¹ With this, I identify overarching frames forming narratives in the discourses. Lakoff's research is dedicated to the human understanding and perception of reality.¹⁵² The previous paragraph on language as social action is the prerequisite for Lakoff's concept. According to Lakoff, people understand through previously created "mental structures"¹⁵³. He calls these meaning-constructing mental structures "frames"¹⁵⁴. Similar to speech acts, Lakoff argues that we use frames largely unconsciously and automatically.¹⁵⁵ Yet, they facilitate our most basic interactions with the world, structure our ideas and concepts, shape the way we think, and ultimately influence perception and action.¹⁵⁶ Frames are a specific part of language with emotive power. Moreover, I understand consistent sociolinguistic framing as constituting a narrative that shapes further social acts. Narratives are an interpretation of some aspect of the world that is historically and culturally grounded and shaped by human personality.¹⁵⁷ In other words, narratives are the stories we tell ourselves to make sense of the universe which lacks order.¹⁵⁸

Frames utilise language and are a script for the acting world when forming a narrative.¹⁵⁹ Therefore, frames become normalised through repetition and only then define our understanding by offering reasons and contextualisation.¹⁶⁰ Each frame defines the problem in its own way, and constrains the solutions needed to address that problem, the logic of appropriateness.¹⁶¹ When using the term frame I mean social-mental structures that help us make sense of the world. This concept will help me analyse the political discourses.

¹⁵¹ Lakoff, *Thinking Points: Communicating Our American Values and Vision*.

¹⁵² *Ibid.*, 20.

¹⁵³ *Ibid.*, 10.

¹⁵⁴ *Ibid.*, 20.

¹⁵⁵ Lindsay Pérez Huber, "Challenging racist nativist framing: Acknowledging the community cultural wealth of undocumented Chicana college students to reframe the immigration debate," *Harvard Educational Review* 79, no. 4 (2009): 706.

¹⁵⁶ George Lakoff and Sam Ferguson, "The Framing of Immigration," The Rockridge Institute, accessed March 28, 2021, <https://escholarship.org/content/qt0j89f85g/qt0j89f85g.pdf>: 1.

¹⁵⁷ Eviatar Zerubavel, "Social memories: Steps to a sociology of the past." *Qualitative sociology* 19, no. 3 (1996): 287-288.

¹⁵⁸ Zerubavel, *Time Maps: Collective Memory and the Social Shape of the Past*, 12.

¹⁵⁹ Pérez Huber, "Challenging racist nativist framing: Acknowledging the community cultural wealth of undocumented Chicana college students to reframe the immigration debate," 706.

¹⁶⁰ Lakoff, *Thinking Points: Communicating Our American Values and Vision*, 20.

¹⁶¹ George Lakoff and Sam Ferguson, "The Framing of Immigration," 1

2.5 International Law and the International Relations Regime Theory

Next to the linguistic analysis needing previous concepts, I am concerned with the laws defining the right to asylum. Taking a constructivist lens, international law is perceived as a reflection of social purpose.¹⁶² As a follow up to the speech acts of subscribing politics, laws constitute reality. “International legal rules thus shape understandings of interests, perceptions of legitimate behavior, and the nature of justificatory discourse in international affairs.”¹⁶³ Through reference to the international laws, I seek to describe action guiding rules and heuristically identify the underlying norms and principles. However, neither the International Relations nor the International Law scholarship utilises the same concept of law.¹⁶⁴ Rationalists highlight the instrumental terms of international regulation.¹⁶⁵ On the other hand, Austin defined law as “backed by the threat of coercive force.”¹⁶⁶ Because I emphasise norms and principles, I highlight “the very essence of law”¹⁶⁷, its normativity.

Furthermore, to make sense of regulations beyond national laws, I employ the International Relations regime theory and reject solely sanction-centred concepts of law. The “neo-institutionalist”¹⁶⁸ regime theory was developed by Krasner and seeks to make sense of international organisation through reconceiving it as the study of international regimes.¹⁶⁹ Krasner defines regimes as “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations.”¹⁷⁰ Additionally, Keohane and Nye add that regimes are “sets of governing arrangements”¹⁷¹ and therefore have the purpose of facilitating agreements.¹⁷² Hence, regimes provide a “framework”¹⁷³ of rules, norms, principles, and procedures on

¹⁶² Alexander Wendt, *Social theory of international politics*, 10.

¹⁶³ Jeffrey L. Dunoff and Mark A. Pollack, “International law and international relations: introducing an interdisciplinary dialogue,” in *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*, ed. Jeffrey L. Dunoff and Mark A. Pollack (New York: Cambridge University Press, 2012), 8.

¹⁶⁴ Dunoff and Pollack, “International law and international relations: introducing an interdisciplinary dialogue,” 18.

¹⁶⁵ Robert Keohane, “The Demand for International Regimes,” in *Interdisciplinary Perspectives on International Law and International Relations: The State of the Art*, ed. Jeffrey L. Dunoff and Mark A. Pollack (New York: Cambridge University Press, 2012), 18.

¹⁶⁶ Dunoff and Pollack, “International law and international relations: introducing an interdisciplinary dialogue,” 18.

¹⁶⁷ Michael Byers, “Taking the Law out of International Law: A Critique of the ‘Iterative Perspective’,” *Harvard International Law Journal* 38, no. 1 (1997), 205.

¹⁶⁸ Bernhard Zangl, “Regimetheorie,” in *Theorien der Internationalen Beziehungen*, ed. Siegfried Schieder and Manuela Spindler (Opladen: Barbara Budrich/UTB, 2010), 131.

¹⁶⁹ Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables,” 4.

¹⁷⁰ *Ibid.*, 3.

¹⁷¹ Robert O. Keohane and Joseph S. Nye, *Power and Interdependence* (Boston: Little, Brown, 1977), 19.

¹⁷² Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables,” 4.

¹⁷³ Keohane, “The Demand for International Regimes,” 29.

specific issues like human rights. While agreements change with every shift in power or interests, regimes are more resilient and long-lasting.¹⁷⁴ As a constructivist, I draw on both realist and liberalist approaches to develop my interpretation of regime theory. A longer excerpt from Krasner's work provides a better understanding of the difference between laws and regimes:

Principles and norms provide the basic defining characteristics of a regime. [...] Changes in rules and decision-making procedures are changes within regimes, provided that principles and norms are unaltered. [...] Changes in principles and norms are changes of the regime itself. When norms and principles are abandoned, there is either a change to a new regime or a disappearance of regimes from a given issue-area.¹⁷⁵

I utilise Krasner's theory to make sense of international laws and to sort and generalise laws into specific regimes. I assume that regimes affect related behaviour and outcomes as well as they confer legitimacy.¹⁷⁶ At the same time, keeping the consistent constructivist approach in mind, I highlight the fact that regimes function even if they might lack sanction power.¹⁷⁷ Nevertheless, states may be motivated to interpret the norms and principles in ways that suit their situation, rational, and are framed as appropriate. Moreover, I understand regimes and states as mutually constituting each other. Regimes are not only an instrument for states to follow their interests but also coin participatory states and their rationality.¹⁷⁸ They are "embedded in a broader social environment"¹⁷⁹ that nurtures and maintains the conditions necessary for them to function. I take regimes as a pervasive and significant phenomenon in the international arena. Furthermore, I do not see the interests of states as predetermined, but as evolving.¹⁸⁰ Finally, in the context of my interpretation of the regime theory, it should be noted that the non-compliance of contracting parties not necessarily results in exclusion from the regime in question. This reformed approach to international law and regimes allows to account for overall trends in the development of regimes.

2.6 The International Refugee Protection Regime

Concluding the context, this passage introduces the international refugee protection regime. Keeping in mind that asylum seekers are part of the group refugees, the international refugee protection regime is the centre of my attention regarding international law. International law

¹⁷⁴ Ibid., 23.

¹⁷⁵ Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables," 3-4.

¹⁷⁶ Ibid., 15.

¹⁷⁷ Keohane, "The Demand for International Regimes," 31.

¹⁷⁸ Zangl, "Regimetheorie," 151.

¹⁷⁹ Krasner, "Structural Causes and Regime Consequences: Regimes as Intervening Variables," 9.

¹⁸⁰ Zangl, "Regimetheorie," 149.

represents the macro-level of the different layers of asylum regimes. The international refugee protection regime was first institutionalised in the League of Nations. The international organisation of the interwar period established the first shared formal definition of refugees based on “a group identity”¹⁸¹. The corresponding paragraph of the arrangement in the League of Nations’ conference in 1926 defines refugees as: “Any person of Russian origin who does not enjoy or who no longer enjoys the protection of the Government of the Union of Soviet Socialist Republics and who has not acquired another nationality.”¹⁸² A similar definition was adopted for Armenian citizens without the protection of the Turkish Republic.¹⁸³ Definitions were exclusively customised for specific refugee situations.¹⁸⁴ As a result of the horrors of the National Socialist Regime in WWII, “refugees began to be thought of as victims of persecution based on their particular political or religious beliefs.”¹⁸⁵ Established definitions of asylum seekers and refugees were criticised as neglecting the social reality experienced before the emigration.¹⁸⁶ Noteworthy, this does not reflect a global critique.¹⁸⁷ Defining refugees became politicised and aligned with the ideological lines of the emerging Cold War. Distinctively separate positions established and interpreted the term refugee in their spheres of influence. While the West succeeded in “exerting a great deal of influence on both the form and nature of the institutional structure that was established”¹⁸⁸, Eastern countries advocated for the elevation of economic and social rights.

The United Nations General Assembly opted for the UNHCR as a successor of the League of Nations respective organ. States, as well as courts, emphasised that guidance of the UNHCR was not binding.¹⁸⁹ Therefore, the UNHCR’s mandate was limited. The “definition of a refugee [...] anchored around well-founded fear of persecution based on a threat to the individual’s civil and political rights.”¹⁹⁰ The UNHCR “serves as the guardian”¹⁹¹ of the 1951 Refugee Convention and the 1967 New York Protocol. It is the institutionalisation of the

¹⁸¹ El-Enany and Thielemann, "Forced Migration, Refugees, and Asylum," 2.

¹⁸² League of Nations, “Arrangement Relating to the Issue of Identify Certificates to Russian and Armenian Refugees,” 12 May 1926, League of Nations Treaty Series Vol. LXXXIX, No. 2004, accessed January, 5, 2021, <https://www.refworld.org/docid/3dd8b5802.html>.

¹⁸³ League of Nations, “Arrangement Relating to the Issue of Identify Certificates to Russian and Armenian Refugees.”

¹⁸⁴ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 2.

¹⁸⁵ Ibid., 2.

¹⁸⁶ Guy S. Goodwin-Gill, "The dynamic of international refugee law," *International Journal of Refugee Law* 24, no. 4 (2014): 654.

¹⁸⁷ Goodwin-Gill, "The dynamic of international refugee law," 655.

¹⁸⁸ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 2.

¹⁸⁹ Goodwin-Gill, "The dynamic of international refugee law," 655.

¹⁹⁰ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 2.

¹⁹¹ UNHCR, “The 1951 Refugee Convention,” accessed January, 5, 2021, <https://www.unhcr.org/1951-refugee-convention.html>.

international refugee protection regime and most importantly the right to asylum. The 1951 Refugee Convention Article 1(2) introduced the following general definition:

As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is out-side the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹⁹²

According to this definition, someone who has been the subject of some sort of discriminatory human rights violation and is threatened based on the above categories is recognised as a refugee. Even though the document does not define persecution, “certain types traditionally fall within the scope”¹⁹³ while others do not.

After the principle convention, a geographical limitation was added to the norm refugee protection. States were obliged to consider granting refuge to displaced people in consequence of "events occurring in Europe"¹⁹⁴ but could opt for a more comprehensive interpretation. Because of the limited definition of refugees in Article 1 of the 1951 Refugee Convention, the UNHCR could not secure international protection for, for example, non-European refugees in contracting states.¹⁹⁵ The shortcomings of the 1951 Refugee Convention were tackled in the 1967 Protocol.¹⁹⁶ Here, the geographical and temporal limitations were removed.¹⁹⁷ By 2015, 148 countries had subscribed to these regulations that make up the fundamental character of the international refugee protection regime.¹⁹⁸ The number of subscribing countries proves the significance of the Protocol Relating to the Status of Refugees in international refugee law. I perceive the international regime as unchanged because the norms and principles did not change since 1967.

The development of the refugee regime described above proves that it had moved “from international protection schemes based on a collecti[s]ised notion of protection to a regime which is now based on a highly individualized definition of a refugee.”¹⁹⁹ Since the refugee protection regime of the international organisation has established extensive

¹⁹² UNHCR, “Convention and Protocol Relating to the Status of Refugees,” 14.

¹⁹³ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 4.

¹⁹⁴ UNHCR, “Convention and Protocol Relating to the Status of Refugees,” 15.

¹⁹⁵ Ibid., 14.

¹⁹⁶ Goodwin-Gill and McAdam, *The refugee in international law*, 36.

¹⁹⁷ UNHCR, “Convention and Protocol Relating to the Status of Refugees,” 2.

¹⁹⁸ UNHCR, “States parties to the 1951 convention relating to the status of refugees and the 1967 protocol,” accessed January, 6, 2021, <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>.

¹⁹⁹ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 6.

definitions, agreements, as well as the main focus on the phenomenon of forced migration, it has become more restricted and defined.²⁰⁰ However, it is not the only norm-setting regime that affects Austrian and German asylum policies since WWII.

²⁰⁰ Goodwin-Gill and McAdam, *The refugee in international law*.

Chapter 3: Policies and Discourses during the ‘Bosnian Refugee Crisis’

In this chapter, I analyse laws and discourses at the time of the Bosnian War. First, I give a general overview of the historical development in Yugoslavia, focussing on Bosnia and Herzegovina. I do this to explain what motivated especially Bosnians to flee. Afterwards, I look at the numbers of asylum seekers and the situation in Germany and Austria.

The ‘Bosnian Refugee Crisis’ was a consequence of the disintegration of Yugoslavia and the violence that erupted. Fleeing for safety, a large number of people left the Federation of Bosnia and Herzegovina which was geographically located between the Croatian and Serbian part of the former Republic of Yugoslavia. They went to neighbouring as well as European member states. When Serbs and Croats started fighting for independence and supremacy in Yugoslavia, the Bosnian region mutated into one of the severest theatres of war.²⁰¹ Besides its geographical location in the middle of two warring factions, another factor for the violence in the region was due to the heterogenous nature of the Bosnian population. Three different major population groups lived in Bosnia: Bosniaks, Bosnian Croats and Bosnian Serbs.²⁰² Bosniaks identify with Bosnia and Herzegovina as their ethnic state and the majority is Muslims.²⁰³ The latter two ethnic groups describe people living in Bosnia with Croatian and Serbian roots. They identified more with Croatia and Serbia and therefore mostly do not refer to themselves as Bosnians.²⁰⁴ Scholars and the public define these events as civil wars, referencing it “as the as the most deadly crisis in Europe since WWII”²⁰⁵. This is important for my analysis because civil war refugees are not entitled to protection under the Geneva Convention.

With the death of Yugoslavia's autocratic head of state Josip Broz Tito, the multi-ethnic state became increasingly destabilised.²⁰⁶ Fuelled by nationalist politicians states seceded and Croatia and Serbia laid claim to territorial expansion.²⁰⁷ In Bosnia and Herzegovina, Bosnian Croats wanted to lean more heavily on Croatia or join the new Croatian state, while large parts of the Serbian population of Bosnia and Herzegovina argued for

²⁰¹ Susan L. Woodward, *Balkan Tragedy. Chaos and Dissolution after the Cold War* (Washington: The Brookings Institution, 1995), 365.

²⁰² Ministry of Human Rights and Refugees, “Comparative Analysis on Access to Rights of Refugees and Displaced Persons,” 48.

²⁰³ Valenta and Ramet, “Bosnian Migrants: An Introduction,” 14.

²⁰⁴ Valenta and Ramet, “Bosnian Migrants: An Introduction,” 14.

²⁰⁵ Hageboutros, “The Bosnian refugee crisis: A comparative study of German and Austrian reactions and responses,” 1.

²⁰⁶ Bogdan Denitch, *Ethnic nationalism: The tragic death of Yugoslavia* (Minneapolis: University of Minnesota Press, 1996), 104.

²⁰⁷ *Ibid*, 106.

remaining in the Yugoslav Federation. The conflict with Croatia escalated into an open and persistent war.²⁰⁸ On the night of 4 to 5 April 1992, the beginning siege of Sarajevo marked the starting date of the Bosnian War.²⁰⁹ It lasted three and a half years and ended on 14 December 1995 with the Dayton Peace Agreement.²¹⁰

The size of the Bosnian diaspora, estimated at 1.4 million (38 percent), was a consequence of the war.²¹¹ Bosnian emigrants did not only leave their country between 1992 and 1995 but the Bosnian diaspora is dominated by these refugees.²¹² Besides neighbouring countries, Germany, Austria, and Sweden were the largest recipients of Bosnian displaced people.^{213, 214} Austria registered the immigration of 86,500 displaced people from Bosnia and Herzegovina between 1992 and 1995.²¹⁵ Germany registered 320,000 Bosnian people.²¹⁶ Based on figures from the Bosnian authorities, the majority of these asylum seekers are Bosniaks. Calculated per 100,000 inhabitants, these figures correspond to 1,097 Bosnian asylum seekers per 100,000 Austrian inhabitants and 395 Bosnian asylum seekers per 100,000 German inhabitants. I use this indicator to relate the figures to the different population sizes and achieve comparability. For this purpose, I use the approximate cross-section of the population of each country between 1992 and 1995.

Before I turn to the supranational and national refugee protection regimes, I briefly outline the economic and geopolitical situation of Austria and Germany during the ‘Bosnian Refugee Crisis’. In 1992, the West German Federal Republic of Germany recently reunified with the East German Democratic Republic (GDR). In 1991, the Two Plus Four Agreement settled the German question conclusively and the four occupying powers relinquished their sovereign powers over the country.²¹⁷ The Federal Republic of Germany was also a founding member of the European Economic Community (EEC) and signed the Treaties of Rome on 25

²⁰⁸ Ibid.

²⁰⁹ Richard Kreitner and The Almanac, “April 5, 1992: The Siege of Sarajevo Begins,” *The Nation*, April 5, 2015, <https://www.thenation.com/article/archive/april-5-1992-siege-sarajevo-begins/>.

²¹⁰ Organization for Security and Co-operation in Europe, “Dayton Peace Agreement,” 14 December 1995, <https://www.osce.org/files/f/documents/e/0/126173.pdf>.

²¹¹ Valenta and Ramet, “Bosnian Migrants: An Introduction,” 1.

²¹² Marek Kupiszewski, “Labor migration in Southeast Europe: A review of the literature and a look at transversal issues,” *Südosteuropa Zeitschrift für Politik und Gesellschaft* 57, no. 4 (2009), 437.

²¹³ Ministry of Human Rights and Refugees, “Comparative Analysis on Access to Rights of Refugees and Displaced Persons,” 50.

²¹⁴ Hageboutros, “The Bosnian refugee crisis: A comparative study of German and Austrian reactions and responses,” 2.

²¹⁵ Ministry of Human Rights and Refugees, “Comparative Analysis on Access to Rights of Refugees and Displaced Persons,” 50.

²¹⁶ Ibid.

²¹⁷ “Zwei-plus-Vier-Vertrag über die abschließende Regelung in Bezug auf Deutschland,” *Staatsrecht der Bundesrepublik Deutschland*, Bundeszentrale für politische Bildung, accessed May 24, 2021, <https://www.bpb.de/nachschlagen/gesetze/zwei-plus-vier-vertrag/>.

March 1957.²¹⁸ The 1990s in Germany were marked by economic stagnation, mass unemployment, and a reform backlog.²¹⁹ The economic stagnation is visualised in Figure 3 through World Bank data.²²⁰ Stagnation is attributed to countries with an annual economic growth below two percent.²²¹ Germany even experienced negative growth of the gross domestic product in 1993. The unemployment rates from 1992 to 1995 are presented in Figure 4.²²² On average, about 9.8 percent of the working-age population was unemployed. It should be mentioned that unemployment figures and their calculation are not standardised and thus only comparable to a limited extent. Nevertheless, they give an indication of the countries socio-economic situation. In addition, from 1991 to 1993 there was a wave of riots against asylum seekers that continued till the 2000s.²²³

Austria joined the European Community (EC) after a positive referendum on 12 June 1994.²²⁴ However, an official request to join the organisation in 1989, Austria has been preparing accession.²²⁵ The fact that the accession went relatively smoothly is largely due to the fact that Austria was already economically linked to the EU and acted in accordance with European norms and principles. Austria was the first non-neighbouring country of Bosnia and Herzegovina to be reached by refugees due to its geographical location, bordering Slovenia in the south.²²⁶ Therefore, refugees from the territory of the former Yugoslavia had to pass through Austria if they wanted to flee to states of the EC. Economically, Austria's annual gross domestic product grew by slightly more than 2 percent in three years between 1992 and 1995.²²⁷ Only in 1993 did growth stagnate at 0.5 percent. Thus, an economic common feature between the two countries is the slump in economic growth in 1993. But, the unemployment

²¹⁸ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 38.

²¹⁹ “18. Dezember 2007 - Vor 10 Jahren: "Reformstau" wird Wort des Jahres,” Stichtag, WDR, accessed May 24, 2021, <https://www1.wdr.de/stichtag/stichtag2800.html>.

²²⁰ “GDP growth (annual %) – Germany,” Indicator, The World Bank, accessed 24 May, 2021, <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=DE>.

²²¹ Investopedia Stuff and Robert C. Keppy, “Stagnation,” *Investopedia*, March 29, 2021, <https://www.investopedia.com/terms/s/stagnation.asp#:~:text=Stagnation%20is%20a%20prolonged%20period,an%20involuntary%20part%20time%20employment>.

²²² “Registrierte Arbeitslose und Arbeitslosenquote nach Gebietsstand,” Konjunkturindikatoren, Statistisches Bundesamt, accessed 24 May, 2021,

<https://www.destatis.de/DE/Themen/Wirtschaft/Konjunkturindikatoren/Lange-Reihen/Arbeitsmarkt/lrab003ga.html>.

²²³ Matthias von Hein, “Gewalt gegen Flüchtlinge: 10 Anschläge aus 25 Jahren,” *Deutsche Welle*, January 18, 2016, <https://p.dw.com/p/1HeKN>.

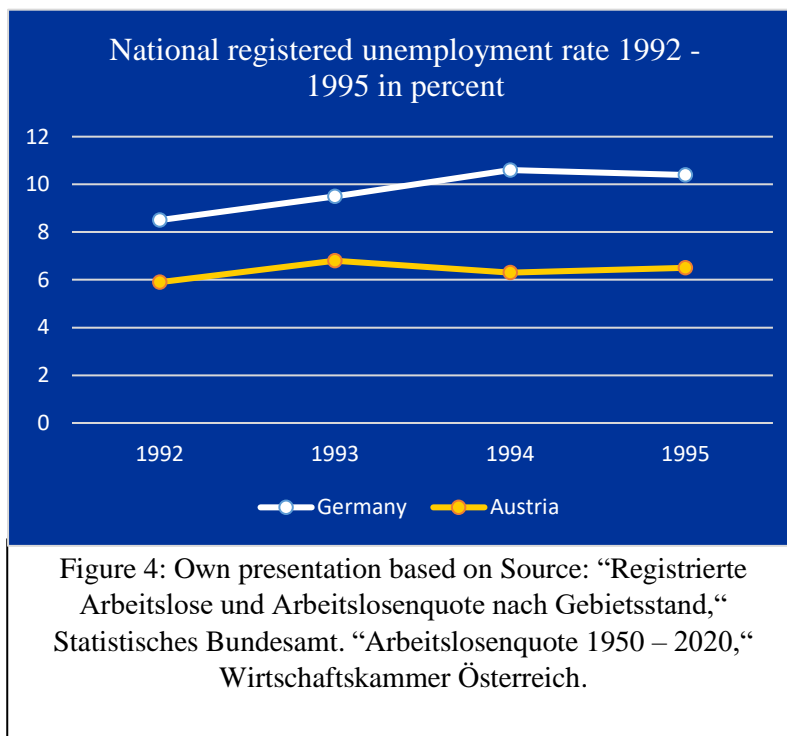
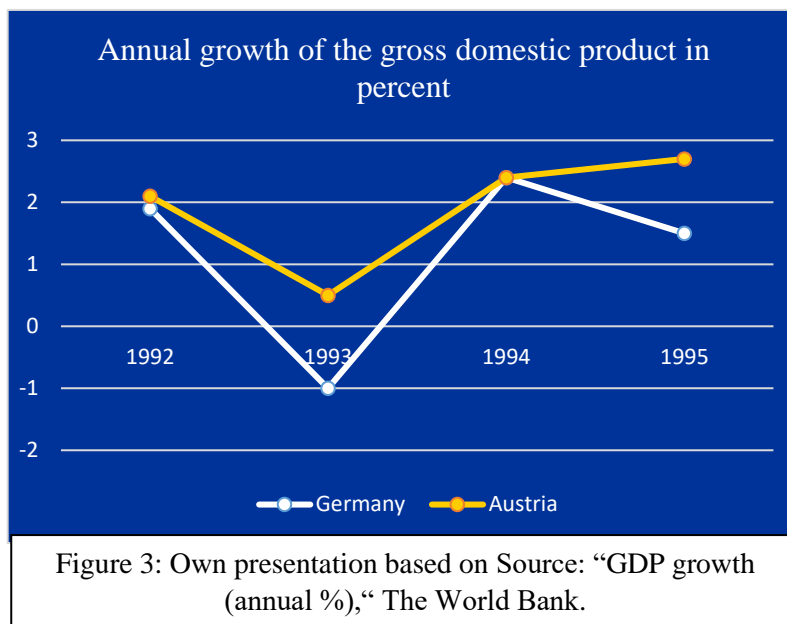
²²⁴ “Österreichs Weg in die Europäische Union,” Bundeskanzleramt, accessed May 25, 2021, <https://www.bundeskanzleramt.gv.at/themen/at25eu/hintergrundinfo/oesterreichs-weg-in-die-eu.html>.

²²⁵ Ibid.

²²⁶ Barbara Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” *Journal of Ethnic and Migration Studies* 29, no. 1 (2003): 8, <https://doi.org/10.1080/1369183032000076696>.

²²⁷ “GDP growth (annual %) – Austria,” Indicator, The World Bank, accessed 25 May, 2021, <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=AT>.

rate of the Austrian working-age population was significantly lower than in Germany, at around 6.4 percent annually.²²⁸



²²⁸ "Arbeitslosenquote 1950 – 2020," Arbeitsmarkt, Wirtschaftskammer Österreich, accessed May 25, 2021, <http://wko.at/statistik/extranet/langzeit/glang-arbeitsmarkt.pdf>.

3.1 Asylum Regulations in Germany and Austria

To understand how Austria and Germany define refugees and which basic laws the countries grant asylum seekers, it is necessary to look at the different levels of legislation.²²⁹ Both countries have surrendered parts of their national sovereignty by signing international and regional agreements, guaranteeing rights for asylum seekers on a supranational level. Therefore, in addition to national policies and laws for asylum seekers, this chapter also looks at regional supranational refugee protection regimes. Even if a liberal interpretation of regime theory assumes that non-binding regimes have a constituting effect, the consideration of refugee protection regimes at the national level is crucial.²³⁰ States decide their own rules and interpretations of the general provisions.²³¹ Besides the micro and macro-level of the legislators are joined by the mezzo-level of the EC. The following chapter examines how far the European refugee protection regime has changed. Subsequently, I will deal with the micro-level, national asylum regulations between 1992 and 1995. Even though border protection regulations or immigration laws also affect the possibilities of refugees and asylum seekers, I will concentrate on fundamental asylum laws.²³² However, to provide context and highlight developments, I occasionally include non-classical asylum laws or laws that came into force before or after my period of study. This last point is particularly important at the European level, as the European institution, with its heterogeneous composition and lengthy procedures, was unable to respond to challenges in an ad hoc manner.

3.1.1 Supranational Law

The integration of the member states into the EU has progressed from a purely EEC towards a supranational organisation. In this respect, the EU has steadily gained importance. The Schengen Agreements, the Dublin Convention, and the Treaty of Maastricht are used to explain the key pillars of the European asylum system. Firstly, however, I categorising the European asylum policy in three distinct phases.²³³ From 1957 to 1990, practices in this policy field were coordinated. From 1990 to 1999, European asylum policy was characterised by increased cooperation between European states. The last phase, which continues to this day, is marked by a common migration and asylum policy. The gradual development from the

²²⁹ Servant and Zaun, "Asylum Policy and European Union Politics," 3.

²³⁰ El-Enany, Thielemann, "Forced Migration, Refugees, and Asylum," 7.

²³¹ Keohane, "The Demand for International Regimes," 34.

²³² Lavenex, "The Europeanization of asylum policies: Normative challenges and institutional legacies," 860.

²³³ Petra Bendel and Marianne Haase, "Wann war das? Geschichte der europäischen Migrationspolitik bis heute," Bundeszentrale für politische Bildung, January 21, 2007, <https://www.bpb.de/gesellschaft/migration/dossier-migration-ALT/56522/geschichte>.

first to the second phase began as early as 14 June 1985 with the first Schengen Agreement (Schengen I). It determined that identity checks were generally abolished within the Schengen area.²³⁴ At the same time, the agreement stipulated that persons were checked at borders with third countries according to a uniform standard.²³⁵ Schengen I was a multilateral agreement between member states of the EEC. The Schengen Implementing Convention (Schengen II) formally regulated which state was responsible for the asylum procedure.²³⁶ The participating states signed this follow-up agreement on 19 June 1990. Schengen II laid down the concrete legal and technical implementation procedures to abolish passport and border controls at their mutual borders.²³⁷ On 1 April 1998, the Schengen Agreements came into full force and the borders between Germany and Austria were opened.²³⁸

Schengen I demonstrated the interest of some member states in fundamentally expanding the EC and in 1986 the Single European Act (SEA) created the institutional preconditions for compliance.²³⁹ This amending treaty is considered the “first intergovernmental conference”²⁴⁰, meaning organised between the governments of the member states.²⁴¹ With the help of the SEA, a binding timetable for the realisation of the so-called four freedoms (free movement of goods, persons, services and capital) was drawn up.²⁴² Which state is responsible for examining an asylum application submitted in a member state of the EC became even more salient.²⁴³

Hence, the first Dublin Convention (Dublin I) was a needed extension and clarification of what the free movement in the Schengen area entailed. Dublin I was concluded outside of the supranational framework because the EC lacked institutional capabilities for political cooperation. Germany and eleven other countries signed Dublin I on 15 June 1990 while Austria joined in October 1997 - the same year as it came into force.²⁴⁴ Dublin I replaced

²³⁴ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 112.

²³⁵ Ibid.

²³⁶ Ibid., 858.

²³⁷ “Schengen Information System,” What We Do, European Commission, accessed June 1, 2021, https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system_en.

²³⁸ “tagesschau vor 20 Jahren, 01. April 1998,” Videos & Audios, tagesschau, accessed June 1, 2021, <https://www.tagesschau.de/multimedia/video/video-389839.html>.

²³⁹ Ibid.

²⁴⁰ “Single European Act (SEA),” The Parliament and the treaties, European Parliament, accessed June 1, 2021, <https://www.europarl.europa.eu/about-parliament/en/in-the-past/the-parliament-and-the-treaties/single-european-act>.

²⁴¹ Martin Grosse Hüttmann, “Hart an der Grenze: Die jüngste Krise der Asyl- und Migrationspolitik der Europäischen Union,” *Deutschland & Europa* 77 (2019): 71, https://www.deutschlandundeuropa.de/77_19/eu_grenzen.pdf.

²⁴² Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 39.

²⁴³ Lavenex, “The Europeanization of asylum policies: Normative challenges and institutional legacies,” 863.

²⁴⁴ “Bekanntmachung über das Inkrafttreten des Übereinkommens über die Bestimmung des zuständigen Staates für die Prüfung eines in einem Mitgliedstaat der Europäischen Gemeinschaft gestellten Asylantrags,”

parts of Schengen I dealing with asylum application processing. The aims of Dublin I were, on the one hand, to guarantee that every foreigner who applies for asylum on the territory of the contracting states is guaranteed an asylum procedure.²⁴⁵ On the other hand, competences and responsibilities between the states were clarified for asylum procedures. Only one contracting state should be responsible for the substantive examination of an asylum application. For this purpose, a specific order of examination was established. Dublin I affected the asylum system in the states as well as national policies even before it was implemented in 1997 and intergovernmental exchange was intensified.²⁴⁶ However, it is only a starting point for the transgovernmental policies of the European states, a mode of interstate cooperation in which lower-level governmental actors act with relative autonomy.²⁴⁷

After these first steps were taken outside the EEC, the Maastricht Treaty of 7 February 1993 marked a “milestone”²⁴⁸ in European integration. It characterises a shift from an economic towards a political institution through its integration of the so-called three pillars of the EC: firstly, a common European internal market; secondly, a common foreign and security policy; and thirdly, cooperation in the field of domestic and legal policy.²⁴⁹ While the rules of the internal market were directly binding for all member states, in the area of the other two pillars action was taken according to the principle of unanimity.²⁵⁰ Asylum was integrated in the third pillar of the EC and became an area of communization through cooperation:

the Council will consider as a matter of priority questions concerning Member States' asylum policies, with the aim of adopting, by the beginning of 1993, common action to harmonize aspects of them.²⁵¹

Unlike the Maastricht Treaty, where asylum policies are only mentioned as a “common interest”²⁵² and do not contain any further clauses, the Amsterdam Treaty contains

Bundesgesetzblatt Jahrgang 1997, Auswertiges Amt, July 2, 1997, https://www.bgbl.de/xaver/bgbl/start.xav#_bgbl_%2F%2F*%5B%40attr_id%3D%27bgbl297s1452.pdf%27%5D_1624704900273.

²⁴⁵ “Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention,” European Communities, *Official Journal of the European Communities* 254, August 19, 1997, [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:41997A0819\(01\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:41997A0819(01)).

²⁴⁶ Lavenex, “The Europeanization of asylum policies: Normative challenges and institutional legacies,” 862.

²⁴⁷ Robert O. Keohane and Joseph S. Nye, “Transgovernmental relations and international organizations,” *World Politics* 27 (1974): 43, <https://doi-org.eur.idm.oclc.org/10.2307/2009925>.

²⁴⁸ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 39.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ “Treaty on European Union,” Council of the European Communities and Commission of the European Communities, February 7, 1992, https://europa.eu/european-union/sites/default/files/docs/body/treaty_on_european_union_en.pdf, 247.

²⁵² Ibid., 131.

extended paragraphs concerning a CEAS. This treaty only came about after the ‘Bosnian Refugee Crisis’ and is mentioned here to offer a preview of chapter 4.1.1. In 1997, the Treaty of Amsterdam revised the Maastricht Treaty. It extended the competences of the European Community by transferring part of the third pillar of Maastricht to the first pillar, making it directly binding on the member states and laying the foundations for a common asylum and immigration policy.^{253, 254} The treaty foreshadows the evolution to come, specifies common asylum policies, and entrusts the institutions with new competences, enabling development in legislation in the field of asylum.²⁵⁵ Firstly, the contract establishes that the right to asylum has to be granted “in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees”²⁵⁶. Moreover, minimum standards on reception and qualification of asylum seekers as well as procedural standards are manifested.²⁵⁷ Furthermore, the then nationally already established category of “temporary protection”²⁵⁸ is introduced. Lastly, the Treaty of Amsterdam calls for measures that balance “bearing the consequences”²⁵⁹ of asylum seekers and refugees.

Based on fundamental contracts, this chapter described the increased cooperation between member states of the European institution in the field of asylum policy. The Maastricht Treaty as well as the Schengen and Dublin regulations represent the starting point of stronger cooperation at the European level in the field of asylum policies.

3.1.2 German National Law

The German refugee protection regime came into being in 1949 when the right to asylum was enshrined in Article 16, Paragraph 2 of the German Basic Law.²⁶⁰ Germany is one of the few countries to have included the right to asylum in its constitutional law.²⁶¹ Moreover, Article 16, Paragraph 2 represented an interpretation of international obligations that went beyond the obligations laid down in the international refugee protection regime. The Basic Law read

²⁵³ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 113.

²⁵⁴ Lavenex, “The Europeanization of asylum policies: Normative challenges and institutional legacies,” 861.

²⁵⁵ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 114.

²⁵⁶ “Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts,” Official Journal of the European Communities, November 10, 1997, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11997D/TXT&from=EN>, 29.

²⁵⁷ Ibid.

²⁵⁸ Ibid.

²⁵⁹ Ibid.

²⁶⁰ Ulrike Hemmerling, “Asylrecht in Deutschland: hoher Anspruch und traurige Wirklichkeit,” in *Verwaltet, entrechtet, abgestempelt – wo bleiben die Menschen?*, ed. Projektutorien ‘Lebenswirklichkeiten von Flüchtlingen in Berlin’ (Berlin: FU Berlin, 2003), 81.

²⁶¹ Lavenex, “The Europeanization of asylum policies: Normative challenges and institutional legacies,” 857.

"Persons persecuted on political grounds shall have the right of asylum"²⁶². In 1993, the German refugee protection regime changed fundamentally. With the help of votes from the parliamentary opposition, namely the SPD, the CDU lead governing coalition amended Article 16 of the Basic Law.²⁶³ Particularly restrictive changes to additional laws were implemented after the amendment of the Basic Law. However, even before the so-called asylum compromise of 1993, conditions and restrictions were created to make the claim to asylum and refugee protection more exclusive, primarily through regulations that shifted refugee protection abroad - namely visa rules, safe countries of origin and transit, collective exclusions from the right to asylum, restrictions in accordance with the Schengen agreements, or responsibilities, and repatriation agreements in the sense of Dublin I.^{264, 265, 266} In effect, these renegotiated and agreed fundamental norms and rules represented efforts to establish a non-entree regime in which the right to asylum still is hailed.

The newly drafted Article 16a of the Basic Law includes five restrictions to the initial wording.²⁶⁷ "In connection with the amendment of Article 16 of the Basic Law, amendments to the Asylum Procedure Act also came into force in 1993."²⁶⁸ The first extension, Paragraph 2, excludes citizens of member states of the EC and of safe countries of origin from the right of asylum. Paragraph 3 explains how a country can be designated as a safe country of origin and who can designate it as such. Paragraph 4 restricts the right of asylum by allowing faster and more frequent measures to terminate the stay of asylum seekers with manifestly unfounded applications. Paragraph 5 explains that the previous paragraphs are compatible with supranational and international law. Here, explicit reference is also made to the responsibilities declared in Schengen II and Dublin I.

The recognition rate for persons entitled to asylum under Article 16a of the Basic Law does not reflect this restriction. While the rate fell to 3.2 percent in 1993, it rose in 1994 (7.3 percent) and 1995 (9 percent).²⁶⁹ These figures also show that only a fraction of the applicants

²⁶² Jochen Oltmer, "Als das Grundgesetz geändert wurde," *Mediendienst Integration*, May 16, 2018, <https://mediendienst-integration.de/de/artikel/als-das-grundgesetz-geaendert-wurde.html>.

²⁶³ "Gesetz zur Änderung des Grundgesetzes (Artikel 16 und 18)," *Bundesgesetzblatt Jahrgang 1993, Bundestag*, June 28, 1993, http://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBI&jumpTo=bgbl193s1002.pdf.

²⁶⁴ Ursula Münch, *Asylpolitik in der Bundesrepublik Deutschland* (Opladen: Leske + Budrich, 1993), 148.

²⁶⁵ *Ibid.*, 150.

²⁶⁶ Hemmerling, "Asylrecht in Deutschland: hoher Anspruch und traurige Wirklichkeit," 82.

²⁶⁷ "Grundgesetz für die Bundesrepublik Deutschland Art 16a," *Grundgesetz*, Bundesamt für Justiz, June 28, 1993, https://www.gesetze-im-internet.de/gg/art_16a.html.

²⁶⁸ Hemmerling, "Asylrecht in Deutschland: hoher Anspruch und traurige Wirklichkeit," 83.

²⁶⁹ "Asyl - Asylbewerber und Entscheidungen über Asylanträge in abs. Zahlen, Gesamtschutzquote in Prozent, 1975 bis 2017," *Zahlen und Fakten*, Bundeszentrale für politische Bildung, April 1, 2018, <https://www.bpb.de/nachschlagen/zahlen-und-fakten/soziale-situation-in-deutschland/61634/asyl>.

could expect a positive application. Nevertheless, the change to an explicit, albeit restrictive, basic right to asylum did not have any negative consequences for the probability of being recognised as a refugee. One consequence, however, was that since 1993 asylum procedures were accelerated.²⁷⁰ The proportion of rejected applications, meaning people who were not entitled to temporary protection under other asylum laws like the Aliens Act, fell by as much as 8 percent in 1993 and 1994.²⁷¹ The changes made it possible for significantly fewer asylum seekers to apply in Germany after the peak of 438,191 applications in 1992.²⁷²

Apart from the statistical effects, the right to asylum enshrined in the Basic Law was restricted and its liberal interpretation changed into a restrictive interpretation of international human rights.²⁷³ Above all, the regime change had an effect on the number of asylum seekers applying for asylum in Germany. The competences of the EC, and later EU, became increasingly important and resulted in Germany adjusting its national asylum law. This promised not only the free movement of EU citizens and a fairer distribution of refugees across the entire community, but also a lower burden for taxpayers in Germany. Germany used the EC and visa restrictions as a means of exerting pressure on potential accession countries to sign repatriation agreements against their preferences.²⁷⁴ These fundamental changes reveal how compliance with the Geneva Refugee Convention and humanitarian obligations has been undermined and German refugee protection has changed from an extraordinarily liberal to a restrictive interpretation of international obligations.²⁷⁵

In addition, more specific regulatory changes were implemented, such as the possibility to reduce social benefits for asylum seekers and refugees, to restrict their freedom of movement, to accelerate asylum procedures, or to expand the possibilities for detention pending deportation.²⁷⁶ Even if these regulations together mean a clearly different refugee protection regime, I interpret them as changes taking place within the framework of the principle norms and values. On the other hand, amending the Basic Law and significantly changing the granting of applications documents a regime change. Contrary to this trend, work bans were lifted. Work bans and access to the labour market for asylum seekers and refugees have been part of the politicised debate on refugee protection since the late 1980s.²⁷⁷ Initially, comprehensive work bans were imposed, but as more asylum seekers arrived in

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Ibid.

²⁷³ Münch, *Asylpolitik in der Bundesrepublik Deutschland*, 130.

²⁷⁴ Ibid., 150.

²⁷⁵ Hemmerling, "Asylrecht in Deutschland: hoher Anspruch und traurige Wirklichkeit," 90.

²⁷⁶ Münch, *Asylpolitik in der Bundesrepublik Deutschland*, 119.

²⁷⁷ Münch, *Asylpolitik in der Bundesrepublik Deutschland*, 123.

Germany, the financial burden on German citizens increased. With the help of new regulations introduced in 1992 and 1993, asylum seekers and refugees were granted access to the labour market after a short period of stay.²⁷⁸ However, this was not intended to promote their integration, as many of them were only granted toleration or a temporary right to stay and were not granted the conventional refugee status. It was intended to reduce the financial costs of protection for German citizens.

Additionally, Germany protected some asylum seekers due to humanitarian considerations, such as deportation to a war zone, despite the fact that they were actually denied their right to asylum. In the course of the analysis period, the temporary protection status (TPS) was established and more frequently applied. This grants residence for a specific time and is explained in chapter 3.1.3. In addition, the toleration status of immigrants grants a postponement of deportation. Effectively, toleration and temporary protection mean that the state has the right to reevaluate the status of displaced people after a certain period of time and, as a result, to expel them from the country.²⁷⁹ Since refugees from civil wars do not have to be granted asylum according to the Geneva Refugee Conventions, Bosnian refugees who could not prove political persecution beyond the extent of the persecution of their ethnic group only received TPS or toleration status in Germany. They were treated as refugees and asylum laws were applied to them. However, this definition allowed the state to deprive the refugee of rights that are otherwise guaranteed. After the end of the Bosnian War the majority of people was deported either abroad or to their home country.²⁸⁰ Germany no longer saw any substantial reason for refugee status and only allowed Bosnians to remain in the Federal Republic in exceptional cases and only then forced their integration.

3.1.3 Austrian National Law

Unlike the German refugee protection regime, the Austrian regime is not constituted by its own fundamental right. Rather, the criteria that guarantee refugee status in Austria “are in principle identical with those put forth in international law.”²⁸¹ At the beginning of the Bosnian War, Austria applied the Asylum Law of 1968, which was amended in 1992.²⁸² Both use the refugee definition and criteria laid down in 1951 in Article 1 of the Refugee

²⁷⁸ Ibid.

²⁷⁹ Hemmerling, “Asylrecht in Deutschland: hoher Anspruch und traurige Wirklichkeit,” 90.

²⁸⁰ Ministry of Human Rights and Refugees, “Comparative Analysis on Access to Rights of Refugees and Displaced Persons,” 50.

²⁸¹ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 9.

²⁸² Ibid.

Convention. However, this agreement also means that the Austrian Federal Asylum Office has rejected the majority of the asylum claims because according to Article 1 of the Geneva Refugee Convention, asylum seekers must prove that they have a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion”²⁸³. Bosniaks, as casualties of violence and war in their country and not direct victims of it, therefore were not protected under the laws of the international regime. Austrian Courts and the Federal Asylum Office thus had no obligations to accept Bosnian displaced people. The crux of many rejections was that it could not be inferred that “perpetrators acted with persecutory intent.”²⁸⁴ Bosnian asylum seekers in Austria benefited from temporary residence status but not political asylum.²⁸⁵

In Austria, the peak in asylum applications per year was already reached in 1992 with about 30,000 applications.²⁸⁶ Due to Austria’s geographical location and bilateral agreements on visas for Bosnians, entry was relatively easy.²⁸⁷ In the following years, the number of asylum applications always remained below 10,000.²⁸⁸ Furthermore, from 1992 onwards, the number of rejected asylum applications was higher than the number of recorded applications. This means that while the majority of applications were rejected, old applications were adjacently processed.²⁸⁹ Hence, most refugees from the former Yugoslavia could not expect a positive asylum decision. Similar to German migration policy, Austrian migration rules have focused on guest workers also known as migrant workers. In this context, a number of bilateral agreements have been implemented, such as visa facilitation.²⁹⁰ Accordingly, refugees were not recognised as such, but in such cases the new legal form of TPS was applied.²⁹¹ With this status, the scope and accessibility of the rules and obligations of the international refugee protection regime were limited. Austria set a “precedent in Europe for

²⁸³ UNHCR, “Convention and Protocol Relating to the Status of Refugees,” 14.

²⁸⁴ Ulrike Davy, “Refugees from Bosnia and Herzegovina: are they genuine,” *Suffolk Transnat'l L. Rev.* 18 (1995): 67.

²⁸⁵ Michael Geistlinger, “Österreichs gegenwärtiger Kampf gegen De-facto-Flüchtlinge,” *Journaldienst der Salzburger Gruppe 1* (1992): 25.

²⁸⁶ “Migration und Minderheiten,” Vielfalt in Kärnten, Plattform politische Bildung, accessed June 7, 2021, <https://plattform-politische-bildung.at/vielfalt-in-kaernten/migration-und-minderheiten>.

²⁸⁷ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 8.

²⁸⁸ “Migration und Minderheiten,” Plattform politische Bildung.

²⁸⁹ Ibid.

²⁹⁰ Wolfgang Taucher, “Ausgewählte Fragen zur vorübergehenden Schutzgewährung im Völkerrecht anhand der Aufnahme von bosnischen Schutzsuchenden in Österreich,” *Austrian Journal of Public and International Law* 49 (1995): 231.

²⁹¹ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 6.

employing TPS for refugees from the Balkan area.”²⁹² With the 1992 Residence Law, which was implemented in 1993, Austria provided displaced Bosnians with a temporary permit with the state deciding its length.²⁹³

Even though the principle norms of the Austrian national refugee protection regime did not change, the authorities progressively limited entry to Austria. To this end, they used more restrictive versions of the previously established rules, such as the Passport Law or the Law of the Alien's Branch of Police.²⁹⁴ After 1992, asylum seekers had to present valid travel documents, financial means or, at the end of the Bosnian War, visas in order to enter the federal welfare state of Austria.²⁹⁵ The different laws and the distribution of competences among the federal states - also formative in Germany - also resulted in inconsistent treatment of Bosnian refugees.²⁹⁶ Bosnians who applied for asylum were issued a temporary right of residence during the asylum process but because not even 5 percent of Bosnian refugees applied for asylum, this fact is negligible.²⁹⁷

A look at special programmes and regulations shows that although hardly any refugees were granted asylum, they were treated as de facto refugees. By this I mean, above all, entitlement to social benefits. Although asylum seekers were pushed to self-finance their livelihoods in order to seek a change of status from TPS to migrant workers and thus long-term residence rights, more than 90 percent of Bosnian refugees benefited from one specific Austrian relief programme.²⁹⁸ In 1992, the *Bund-Länder Aktion* was established.²⁹⁹ Social benefits made available through the programme included the right to accommodation, health insurance, and either money payments or food vouchers. This guaranteed certain social benefits despite their restricted status.³⁰⁰ However, unlike conventional refugees, people with TPS had no right to work in Austria.

The Austrian Federal Ministry of Labour used a priority system.³⁰¹ Foreigners with temporary residence rights were the least prioritised group, which meant that they hardly received employment permits. In addition, a maximum quota of foreign workers (8 percent)

²⁹² Ibid., 8.

²⁹³ Ibid.

²⁹⁴ Ibid.

²⁹⁵ Ibid.

²⁹⁶ Joanne Selm-Thorburn, *Refugee Protection in Europe: Lessons of the Yugoslav Crisis* (The Hague: Martinus Nijhoff, 1998), 193.

²⁹⁷ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 9.

²⁹⁸ Ibid., 14.

²⁹⁹ Ibid., 12.

³⁰⁰ Ibid., 13.

³⁰¹ Selm-Thorburn, *Refugee Protection in Europe: Lessons of the Yugoslav Crisis*, 202.

limited the possibility of opening the Austrian labour market.³⁰² These were mostly conventional refugees and guest workers. “Restrictive Austrian employment policies resulted in the increased participation of Bosnian refugees in the informal labour market.”³⁰³ Structural integration was thus limited but refugees nevertheless pushed into employment. Undeclared work was the only prospect for de facto refugees to obtain unrestricted residence permits, work permits, cash, and social benefits.³⁰⁴ After all, once refugees had (undeclared) work, their employers could request a change of refugee status. Although refugees with TPS were entitled to limited social benefits through the *Bund-Länder Aktion*, they had no prospect of a right to stay. Over time, however, more and more Bosnian refugees obtained a change of status from TPS to migrant workers. This was partly due to their willingness to do jobs that Austrians did not want to do and the demand in the growing Austrian economy.³⁰⁵

In summary, the Austrian refugee protection regime in the 1990s is based on the international refugee protection regime. This means that definitions, rights, and grounds for recognition were applied according to the 1951 Refugee Convention. However, in order to keep state obligations low, the Austrian refugee protection regime is a narrow interpretation of international rights and obligations.³⁰⁶ TPS limited access to the protection regime and the duration of protection obligations. Rules for safe countries of origin, third countries or visa regulations also made the Austrian asylum regime less comprehensive. Only in exceptional cases was asylum granted to Bosnian refugees. Accordingly, integration of those in need of temporary protection was not a maxim. An initiative was created for them outside the actual refugee protection regime - the *Bund-Länder Aktion* - so that displaced people in Austria had access to some welfare state benefits. Access to the labour market was primarily informal. “The inaccessibility of legal jobs in Austria fostered illegal work, especially of female refugees.”³⁰⁷ Over time, however, labour market integration continued to develop and many former de facto refugees became part of Austrian society as migrant workers. This change of status entitled them to all the general provisions of the Austrian welfare state.

³⁰² August Gächter, “Forced complementarity: The attempt to protect native Austrian workers from immigrants,” *Journal of Ethnic and Migration Studies* 21, no. 3 (1995): 383.

³⁰³ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 15.

³⁰⁴ *Ibid.*, 18.

³⁰⁵ *Ibid.*

³⁰⁶ Franz, “Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States,” 21.

³⁰⁷ *Ibid.*, 22.

3.2 Political Discourses in Germany and Austria

In the following chapter, I analyse the electoral programmes of the two largest parties in Germany and the party with the most votes in Austria after the beginning of the ‘Bosnian Refugee Crisis’. Accordingly, all discourse contributions are from 1994, in which the first election in both Germany and Austria since the beginning of the ‘refugee crisis’ was carried out. It should be noted that a snap election was held in Austria in 1995 due to disagreement over the federal budget. The asylum-relevant passages from the electoral programmes of the SPD, CDU, and SPÖ are described with the help of my questionnaire described in 1.5.5. Since the “election programme [of the Austrian People's Party (ÖVP)] from 1994 is neither available digitally nor in print format”³⁰⁸, I excluded this party from the linguistic discourse analysis in 1994. I had to rely on the archives of the parties for the Austrian election programmes and was informed that this election programme was not available. The largest German parties have a foundation which provide the programmes online. Therefore, this chapter answers my sub-question how the positions of the major political parties on asylum changed in their electoral programmes.

3.2.1 The Asylum Discourse in the Electoral Programme of the Christian Democratic Union of Germany (CDU)

The relevant passages of the electoral programme of the governing party in Germany serve as the first contribution to the discourse. The title of the electoral programme of the CDU is *We are Securing Germany's Future*³⁰⁹. In the 60-page document, the terms asylum and refugee are mentioned 21 times with relevance to this research focus. This results in a probability of 35 percent that one of the terms is mentioned on one programme page. The probability is twice as high as in 1990, two years before the beginning of the Bosnian War.³¹⁰ Most of the mentions in the 1994 programme of the Union parties are asylum composites. The quantitative aspects serve as a rough classification, whereas qualitatively, the party uses language that is anything but neutral. The linguistic expressions are primarily stigmatising: "abusing the right of hospitality"³¹¹, "breach of the peace"³¹², "genuinely politically

³⁰⁸ Lisa Wimmer, E-Mail Message to author, June 14, 2021.

³⁰⁹ “Wir sichern Deutschlands Zukunft,” Regierungsprogramm von CDU und CSU, CDU, accessed May 25, 2021, https://www.kas.de/c/document_library/get_file?uuid=98cdb41b-6612-123f-43f8-d8308788511f&groupId=252038.

³¹⁰ “Ja zu Deutschland - Ja zur Zukunft,” Wahlprogramm der Christlich Demokratischen Union Deutschlands zur Gesamtdeutschen Bundestagswahl am 2. Dezember 1990, CDU, accessed May 26, 2021, https://www.kas.de/c/document_library/get_file?uuid=8fadd4c2-d340-08df-f9e5-1bf586baa2f1&groupId=252038.

³¹¹ “Wir sichern Deutschlands Zukunft,” CDU and CSU, 43.

persecuted"³¹³, "illegal immigration"³¹⁴, "fight against smuggling gangs and asylum abuse"³¹⁵, "containment of refugee flows"³¹⁶, and "secure against abuse"³¹⁷. Most of these expressions deal with different sub-areas of the asylum topic, for example specifically with rejected asylum seekers. This is a first indication of restrictive framing of the issue of asylum.

Keywords can be identified by their repeated use and temporal classification.³¹⁸ In the CDU electoral programme, "asylum abuse"³¹⁹ and "asylum law"³²⁰ are used as keywords. The first is an emotive link connoting negativity. "Asylum law"³²¹, on the other hand, imposes a structure on the situation. It is a neutral term, but its repeated use serves to focus the discourse on legality. The keyword frames the issue of asylum as a purely legal "challenge"³²². Accordingly, the party demands the "reform of asylum law"³²³. The noun attached to reform "becomes the locus of the problem and constrains what counts as a solution."³²⁴ Hence, for the conservative party, changing asylum law is a pressing issue that needs adjustment. Actual adjustments were presented in chapter 3.1.2. In addition to the keywords, "expel"³²⁵ is overlexicalised and thus frames the issue.

Metaphors within this text cannot be assigned to one specific subject area. Emotive effects of sea metaphors like "refugee flows"³²⁶ are circumnavigated with neutral lexical choices, like "refugee movement"³²⁷. Overall, the focus on "asylum abuse"³²⁸ and "expulsion"³²⁹ implies overburdening but metaphors of excessive demands are omitted. The party makes rare and inconsistent use of metaphors. Nevertheless, combat metaphors are used three times fitting the security frame already visible in the programme title.³³⁰ The party also speaks of "growing refugee movements worldwide, which also endanger political stability here in the West."³³¹ This expression contains not only the juxtaposition of us against them,

³¹² "Wir sichern Deutschlands Zukunft," CDU and CSU, 43.

³¹³ Ibid.

³¹⁴ Ibid., 47.

³¹⁵ Ibid.

³¹⁶ Ibid., 53.

³¹⁷ Ibid., 47.

³¹⁸ Niehr, "Schlagwort," 496.

³¹⁹ "Wir sichern Deutschlands Zukunft," CDU and CSU, 47.

³²⁰ Ibid., 48.

³²¹ Ibid., 42.

³²² Ibid., 48.

³²³ Ibid., 42.

³²⁴ Lakoff and Ferguson, "The Framing of Immigration," 1.

³²⁵ "Wir sichern Deutschlands Zukunft," CDU and CSU, 43.

³²⁶ Ibid., 53.

³²⁷ Ibid., 52.

³²⁸ Ibid., 43.

³²⁹ Ibid.

³³⁰ Ibid., 47.

³³¹ Ibid., 52.

but also the kinship of refugees and security threats. This framing matches constructed illegal frames.

The party explicitly positions itself against immigration and often ties this topic to the issue of asylum. However, the CDU advocates the basic right to asylum.³³²

CDU and CSU have preserved the right of asylum for the politically persecuted by successfully fighting its continued abuse through an amendment to the Basic Law. The new asylum law has proved its worth: The number of asylum seekers has fallen by over 70 percent. The SPD had persistently refused to solve this problem for years.³³³

The right to asylum is juxtaposed with asylum abuse. Also, the drop in the number of asylum seekers is presented as a success, ultimately discrediting opposition parties. With this last point, they simultaneously claim that the “problem”³³⁴ with asylum is the now reformed laws. The party uses no deontics and almost exclusively negative phrases which signal rejection and a continuation of the same. Additionally, refugees are presented as a “burden”³³⁵ and the CDU appeals for a fairer distribution of the burden. In this way, they advocate a Europeanisation of asylum policy which aligns with the development of European competences. In terms of content, the CDU advocates concluding further readmission agreements with, among others, Austria.³³⁶ The programme lacks humanitarian aspects, the suffering of the displaced people, and uses a general language omitting specifications. Laws remain the sole focus and the party thus tries to de-emotionalise the issue of people's suffering.

In conclusion, the CDU addresses asylum frequently framed as strictly being a legal matter. They do not make a clear distinction between asylum and immigration and usually present the whole complex negatively. Immigration is presented as a security threat and the right to asylum is occasionally promoted. The issue of asylum is nevertheless associated with security, with refugees being unlawful and abusing of the aid.³³⁷ Hence, asylum seekers are depicted as breaking law and order. The consistent narrative is to keep the number of asylum seekers low, but to preserve the right and benefits in a modified form.

³³² “Wir sichern Deutschlands Zukunft,“ CDU and CSU, 47.

³³³ Ibid., 43.

³³⁴ Ibid., 47.

³³⁵ Ibid., 50.

³³⁶ Ibid., 48.

³³⁷ Ibid., 47.

3.2.2 The Asylum Discourse in the Electoral Programme of the Social Democratic Party of Germany (SPD)

Here, I turn to relevant passages from the electoral programme of the SPD. The SPD was elected by 36.4 percent of the electorate in 1994, making it the second largest party in the Federal Republic.³³⁸ It is also the leader of the opposition both before and after the 1994 Bundestag elections. In the 77-page document titled Reforms for Germany, the word asylum or refugee is not used once, regardless of the composition, the party opting instead for discussions about migration, integration and open borders.³³⁹ Nevertheless, the SPD links the protection of foreigners to antifascism and condemns xenophobia and violence against immigrants.³⁴⁰ Interestingly, however, the SPD explicitly describes its position on asylum in its 1990 electoral manifesto:

We are committed to the fundamental right to asylum for those who are politically persecuted. Precisely because we do not want this fundamental right to be undermined, we adhere to a streamlined recognition procedure. Humane accommodation and a reduction of the burden on the community are urgently needed.³⁴¹

Therefore, my questions about the lexical choices the party makes in its 1994 manifesto in relation to asylum and refugees are easy to answer: the Social Democratic Party avoids the issue and refugees as actors altogether. Likewise, the claim could be made that the SPD subsumes asylum seekers and migrants under foreigners. However, since the programme lacks specifics in this context, I do not see sufficient justification for this claim. In terms of content, the SPD demands that all children of foreigners born in Germany have a right to German citizenship.³⁴² It can be guessed that the party also includes children of refugees, but the party's lexical choice is to stick to the general superordinate group and omit specific mentions of asylum seekers.

In summary, the SPD does not address the issue of asylum in its 1994 programme. This is probably because, contrary to its position in the 1990 election programme, the party voted in 1993 to alter Article 16, Paragraph 2 of the Basic Law, the right to asylum. The omission accordingly reflects the power relations and also the abandonment of the principal

³³⁸ "Bundestagswahlergebnisse seit 1949 – Zweitstimmen," Parlament, Deutscher Bundestag, accessed May 26, 2021, https://www.bundestag.de/parlament/wahlen/ergebnisse_seit1949-244692.

³³⁹ "Reformen für Deutschland," Das Regierungsprogramm der SPD, SPD, accessed May 26, 2021, <http://library.fes.de/pdf-files/bibliothek/retro-scans/fa94-02358.pdf>.

³⁴⁰ *Ibid.*, 69.

³⁴¹ "Der neue Weg: ökologisch, sozial, wirtschaftlich, stark," Regierungsprogramm 1990-1994, SPD, accessed May 26, 2021, <http://library.fes.de/pdf-files/bibliothek/retro-scans/fa90-05465.pdf>, 24.

³⁴² "Reformen für Deutschland," SPD, 59.

positioning for a liberal right to asylum. Linking attacks on foreigners with anti-fascism strengthens the emotive effect, but since this is not a specific asylum-related statement, this emotive appeal is general.

3.2.3 The Asylum Discourse in the Electoral Programmes of the Social Democratic Party of Austria (SPÖ)

The most voted party in Austria in 1994 was the SPÖ with 34.9 percent, a loss of 8 percent compared to the election in 1990.³⁴³ 64 percent of the electoral votes went to the SPÖ-ÖVP coalition, which lost the constitutional two-thirds majority. As the government was unable to reach agreement on the 1996 budget, it initiated early elections to the National Council in 1995 and resigned after this election on 18 December 1995.³⁴⁴ In their 28-page document titled *There is a lot at stake. It is about Austria*, the SPÖ mentions the term asylum once. In three other passages synonyms for refugees like "people who are exposed to persecution in their home country"³⁴⁵ are used. The probability that one of the terms is mentioned on one programme page is 14 percent. With the chapter "A clear and fair policy on foreigners"³⁴⁶, the party designates a special place to the topic of asylum and migration in their electoral programme. This section is located after the chapters "A modern criminal law"³⁴⁷ and "So that we can live safely in Austria"³⁴⁸. The location of the topic is not a clear juxtaposition, but nevertheless an implied structural linkage. In addition, two of the four sections refer to asylum seekers and refugees. Furthermore, the party explicitly mentions immigrant Bosnians twice.³⁴⁹

Lexical choices of the SPÖ in relation to asylum are neither clearly affirmative nor clearly stigmatising. At the same time, they are not neutral. Words like "most important prerequisite"³⁵⁰, "understanding coexistence"³⁵¹, or "obvious"³⁵² connote positivity, thus are affirmative. On the other hand, terms like "abuse"³⁵³ or "immigration problems"³⁵⁴ have

³⁴³ Alex Kaimberger, "Ergebnisse aller Nationalratswahlen in Österreich," *stadt-wien.at*, updated May 29, 2021, <https://www.stadt-wien.at/politik/wahlen/ergebnisse-der-nationalratswahlen-seit-1945.html>.

³⁴⁴ "Nationalratswahl vom 17. Dezember 1995 unter Berücksichtigung der Wiederholungswahl vom 13. Oktober 1996," Nationalratswahlen, Bundesministerium Inneres, accessed May 29, 2021, https://www.bmi.gv.at/412/Nationalratswahlen/Nationalratswahl_1995_Wiederholungswahl_1996/start.aspx.

³⁴⁵ "Es geht um viel. Es geht um Österreich," Das Wahlprogramm der Sozialdemokratischen Partei Österreichs, SPÖ, July 10, 1994, 16.

³⁴⁶ Ibid.

³⁴⁷ Ibid., 15.

³⁴⁸ Ibid., 14.

³⁴⁹ "Es geht um viel. Es geht um Österreich," SPÖ, 17.

³⁵⁰ Ibid., 16.

³⁵¹ Ibid.

³⁵² Ibid.

³⁵³ Ibid.

³⁵⁴ Ibid.

negative connotations. I interpret the synonyms used for refugees as an attempt to bypass ideology-dependent words and use more neutral terms for asylum seekers. Still, terms such as "displaced"³⁵⁵ are linked to people's suffering and have an emotive effect.³⁵⁶ The aim is to trigger a sense of responsibility in the reader, which can increase the acceptance of refugee protection. Furthermore, it is possible that the SPÖ decides to use these synonyms in order not to have to recognise refugees as such, but only to grant them TPS.³⁵⁷ Keywords are the general and neutral term "immigration"³⁵⁸ as well as "cooperation"³⁵⁹, and "solidarity"³⁶⁰. Cooperation and solidarity are used in the context of European solutions, proving that the SPÖ is pushing for a CEAS hoping this would benefit the national regime.³⁶¹

In contrast to the German contributions to the discourse, war refugees and particularly Bosnian immigrants are mentioned. I see this as evidence of the salience of this specific group of asylum seekers in Austria. The level of detail also suggests that it is satisfied with its measures and policies. Government parties rarely or only diffusely criticise their own policies of previous years. In contrast, achievements are proudly presented in more detail. The phrasing "[h]ardly any other country in Europe has regulated and solved immigration problems in a similarly comprehensive manner as Austria"³⁶² substantiates my claim. Moreover, the party uses non-pictorial language. The rare instances of metaphors are dominant metaphors of migration belonging to the thematic fields of 'wander' and 'crisis'. These are dominant metaphors of migration and only the second represents an emotive metaphor.

In addition to already mentioned emotive effects, words like "abuse"³⁶³ and "crisis"³⁶⁴ trigger fear and anxiety. At the same time, they contain instruction for action. Juxtapositions are only implied in the text. For example, the sentence "[w]e will ensure that those people who are exposed to persecution in their home countries are accepted in Austria"³⁶⁵ is directly followed by a sentence about "abuse of the right of asylum"³⁶⁶. The party thus makes a latent connection from the right to asylum to asylum abuse. Occasionally, the SPÖ speaks

³⁵⁵ "Es geht um viel. Es geht um Österreich," SPÖ, 17.

³⁵⁶ Fierke, "Constructivism," 176.

³⁵⁷ Franz, "Bosnian refugees and socio-economic realities: changes in refugee and settlement policies in Austria and the United States," 10.

³⁵⁸ "Es geht um viel. Es geht um Österreich," SPÖ, 16.

³⁵⁹ Ibid.

³⁶⁰ Ibid.

³⁶¹ Ibid.

³⁶² Ibid.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Ibid.

specifically about refugees, but never exclusively about migrants who are not refugees. This is further evidenced by the following abstract in which the SPÖ speaks of immigrants but focuses on a specific sub-group, asylum seekers:

We will continue to allow immigration to Austria only to the extent that Austria can offer them housing and work opportunities as well as training places. The number of those whom Austria accepts for humanitarian reasons will be taken into account accordingly.³⁶⁷

In summary, the SPÖ uses neutral as well as affirmative and stigmatising vocabulary. The issue area "immigration"³⁶⁸ is coupled with themes of crisis and threats to security. Even though this includes asylum seekers, the party uses neutral and even positive keywords and language when explicitly mentioning refugees. Fittingly, the SPÖ frames the issue inconsistently and rarely with emotive metaphors. The programme therefore does not provide a clear asylum narrative. In terms of content, however, the party is in favour of asylum and the integration of refugees. I conclude from this a logic of appropriateness that protects basic asylum rights and duties of refugee protection, even if nuances are interpreted more restrictively. Lastly, in their programme *There is a lot at stake. It is about Austria*, the SPÖ appeals for a uniform European regulation.³⁶⁹ I discovered similar demands in the electoral programmes of the two largest parties in Germany.

³⁶⁷ "Es geht um viel. Es geht um Österreich," SPÖ, 16.

³⁶⁸ Ibid.

³⁶⁹ Ibid.

Chapter 4: Policies and Discourses during the ‘Immigration Crisis in Europe after the Arab Spring’

In this chapter, I examine the discourses and policies surrounding the ‘Immigration Crisis in Europe after the Arab Spring’, which I date to 2015 and 2016. The following serves as an introduction to this movement of asylum seekers and focuses on the ‘Syrian Refugee Crisis’, the largest group of displaced people seeking protection.

The self-immolation of Mohammed Bouazizi in Tunisia on 17 December 2010 triggered protest movements in Middle Eastern and North African states that are now known as the ‘Arab Spring’, as many countries in the region, including the Arabian Peninsula, are referred to as the Arab world.³⁷⁰ Decisive criteria in considering states part of the Arab world are the dominance of the Arabic language, the influence of Islam, and membership in the Arab League.³⁷¹ During the ‘Arab Spring,’ people demanded positive changes in their living situation, the breaking up of authoritarian, repressive power structures, freedom, social justice, and respect for their human dignity. The name ‘Arab Spring’ refers to the region as well as a social awakening and originates from Western observers. The spring metaphor reflects the Western framing of these events as hopeful for the democratisation of the region’s political systems.³⁷² The initial euphoria was followed by increasing disillusionment as early as 2012. The weakening of the old ruling systems went hand in hand with violent power struggles and revealed inner-societal conflict as well as structural problems that had long been concealed by state repression.³⁷³

Results included major unrest and, in some places, civil war. The largest, most prominent, and ongoing conflict, the Syrian Civil War, has been raging since March 2011 with massive external involvement, and has led to the displacement of more than half of the Syrian population.³⁷⁴ Apart from the Syrian Civil War, there were protests in many other countries that had very different consequences. In Egypt, for example, sustained pressure led to the removal of Hosni Mubarak and free elections. In 2013, however, the military took

³⁷⁰ Jünemann, “Europas Versagen im Arabischen Frühling,” 45.

³⁷¹ Halim Barakat, *The Arab world: Society, culture, and state*, (Berkeley: University of California Press, 1993), 34.

³⁷² Stephan Rosiny, Thomas Richter, “Der Arabische Frühling und seine Folgen,” Bundeszentrale für politische Bildung, accessed June 26, 2021, <https://www.bpb.de/izpb/238933/der-arabische-fruehling-und-seine-folgen?p=all>.

³⁷³ Amirah El-Haddad, “Redefining the social contract in the wake of the Arab Spring: The experiences of Egypt, Morocco and Tunisia,” *World Development* 127 (2020): 1, <https://doi.org/10.1016/j.worlddev.2019.104774>.

³⁷⁴ Koc, and Anderson, “Social Distance toward Syrian Refugees: The Role of Intergroup Anxiety in Facilitating Positive Relations,” 791.

power in a coup d'état.³⁷⁵ Other examples are the deposition of Muammar Gaddafi in Libya and subsequent turmoil, concessions by autocratic or monarchical governments that proved unsustainable, or the violent crushing of protest movements and the ruthless persecution of sections of the population. The consequences of the 'Arab Spring', even if country-specific, were unrest and subsequent refugee movements. The number of asylum seekers in Europe more than doubled from 2014 to 2015.³⁷⁶ Europe, separated from North Africa by the Mediterranean, appeared to many displaced people as an attractive asylum destination because they anticipated better protection and opportunities. Besides Europe, Turkey, with its geopolitical position and as part of the Arab world, received a large number of refugees, mainly from neighbouring Syria.³⁷⁷

However, the term 'Immigration Crisis' used for the events in Europe in 2015/2016 suggests that it was not only the influx of asylum seekers that challenged European member states. While the number of asylum applications in the EU-27 exceeded 1.2 million applications in 2015, the number of immigrants exceeded 2.5 million.^{378, 379} This number decreased to 2.2 million in 2016.³⁸⁰ Germany documented 1,222,194 million asylum applications in the 'crisis' period.³⁸¹ That equals roughly 1,499 asylum applicants per 100,000 inhabitants. In the same years, Austria registered 130,625 asylum applications, equalling roughly 1,515 asylum applicants per 100,000 Austrian residents.³⁸² In terms of population, these countries not only faced a comparable number of asylum seekers but also documented the highest number of asylum applications per inhabitant of all EU-27. While the majority of asylum applications registered in Austria were submitted in 2015, the majority of applications submitted in Germany were registered in 2016. Based on this, it can already be assumed that

³⁷⁵ El-Haddad, "Redefining the social contract in the wake of the Arab Spring: The experiences of Egypt, Morocco and Tunisia," 7.

³⁷⁶ Eurostat, "Number of Asylum Applicants."

³⁷⁷ WorldData, "Development of incoming asylum applications in Turkey 2000 to 2019," Asylum applications and refugees in Turkey, WorldData, accessed January 25, 2021, <https://www.worlddata.info/asia/turkey/asylum.php>.

³⁷⁸ Eurostat, "Number of Asylum Applicants."

³⁷⁹ Eurostat, "Migration flows: Immigration to the EU from non-member countries was 2.7 million in 2019," Migration and migrant population statistics, Eurostat, accessed April 14, 2021,

https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics#Migration_flows: Immigration_to_the_EU_from_non-member_countries_was_2.7_million_in_2019.

³⁸⁰ Ibid.

³⁸¹ Bundesministerium für Migration und Flüchtlinge, "Schlüsselzahlen Asyl 2020," Entwicklung der jährlichen Asylzahlen seit 2011, June 26, 2021,

https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/SchluesselfzahlenAsyl/flyer-schluesselfzahlen-asyl-2020.pdf?__blob=publicationFile&v=3.

³⁸² Bundesministerium Inneres, "Jahresstatistiken Asylwesen 2020," Jährliche Entwicklung der Asylanträge 2005-2020, accessed June 26, 2021,

https://bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2020.pdf.

the Austrian asylum system has changed during the ‘crisis’. Likewise, both countries were in comparable economic situations. Austria and Germany recorded a low economic growth of up to 2.2 percent per year and their unemployment rates according to the international definition hovered around 6 percent.^{383, 384, 385, 386} Furthermore, both countries achieved budget surpluses, which led to a reduction in public debt.^{387, 388}

The consideration of the facts mentioned above allows me to give a differentiated answer to my research question of how the asylum policies and practices of the two countries differ and correspond to each other. This approach enables me to interpret and hermeneutically explain changes over time through a social constructivist lens.

³⁸³ Statista, “Veränderung des Bruttoinlandsprodukts (BIP) in Deutschland gegenüber dem Vorjahr von 1992 bis 2020,” accessed June 26, 2021, <https://de.statista.com/statistik/daten/studie/2112/umfrage/veraenderung-des-bruttoinlandsprodukts-im-vergleich-zum-vorjahr/>.

³⁸⁴ World Bank, “GDP growth (annual %) – Austria.”

³⁸⁵ Statista, “Arbeitslosenquote in Deutschland im Jahresdurchschnitt von 2005 bis 2021,” accessed June 26, 2021, <https://de.statista.com/statistik/daten/studie/1224/umfrage/arbeitslosenquote-in-deutschland-seit-1995/>.

³⁸⁶ Statista, “Arbeitslosenquote in Österreich von 2010 bis 2020,” accessed June 26, 2021, <https://de.statista.com/statistik/daten/studie/17304/umfrage/arbeitslosenquote-in-oesterreich/>.

³⁸⁷ Trading Economics, “Germany Government Debt to GDP,” accessed June 26, 2021, <https://tradingeconomics.com/germany/government-debt-to-gdp>.

³⁸⁸ Trading Economics, “Austria Government Debt to GDP,” accessed June 26, 2021, <https://tradingeconomics.com/austria/government-debt-to-gdp>.

4.1 Asylum Regulation in Germany and Austria

In this chapter, I examine what rights the different levels of refugee protection regimes in Germany and Austria granted to asylum seekers in 2015/2016 respectively. I focus on fundamental treaties. Because the macro-level - the international protection regime - did not fundamentally change, the principles mentioned in chapter 2.6 still apply. The national and especially the supranational protection regimes did change. It should be noted that the ‘Immigration Crisis in Europe after the Arab Spring’ includes a ‘refugee crisis’, but from a European perspective it is not only a ‘refugee crisis’.

4.1.1 Supranational Law

Since the end of the Bosnian War, the EU has continued to change. Likewise, the institution adjusted the rights granted to asylum seekers. The Treaty of Amsterdam was amended by the Treaty of Nice (2003) and the Treaty of Lisbon (2009). By the time of the latest European constitutional treaty, a common “temporary protection”³⁸⁹ status had been implemented, a “European Border and Coast Guard Agency”³⁹⁰ established, and the responsibilities for the examination of an application for asylum adapted.³⁹¹ These are substantial changes to the supranational refugee protection regime, thereby changing the conditions and opportunities for asylum seekers. The aim of communitarisation of asylum policies was to facilitate the CEAS in accordance with the Geneva Convention.³⁹² The Dublin III Convention (Dublin III) of 26 June 2013 forms the CEAS’s “core”³⁹³. Despite the fact that outlined changes represent major shifts in the mezzo-level’s protection regime, I focus on the Treaty of Lisbon. On the one hand, the treaty adapted the ordinary legislative procedure in asylum matters and, on the other hand, created a common system with uniform status and procedures.³⁹⁴

Firstly, the Nice and Lisbon Treaties establish qualified majority voting which replaced the imperative of unanimity. Qualified majority means that decisions must be approved by 55 percent of the member states and represent 65 percent of the EU

³⁸⁹ “Temporary Protection,” What We Do, European Commission, accessed June 17, 2021, https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection_en#:~:text=Temporary%20protection%20is%20an%20exceptional,to%20their%20country%20of%20origin.

³⁹⁰ “Origin & Tasks,” Who we are, Frontex, accessed June 17, 2021, <https://frontex.europa.eu/about-frontex/who-we-are/origin-tasks/>.

³⁹¹ European Parliament, “Regulation (EU) No 604/2013,” *Official Journal of the European Union* 56 (2013), <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R0604>.

³⁹² “Common European Asylum System,” What We Do, European Commission, accessed June 17, 2021, https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en.

³⁹³ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 115.

³⁹⁴ *Ibid.*

population.³⁹⁵ In theory, this means that decisions can be implemented that involve massive encroachments on national sovereignty. In practice, EU states that did not support a decision did not necessarily act in accordance with the agreement laid down in the Treaty of Lisbon. This occurred especially in 2015/2016, where for example Hungary did not accept and ignored distribution quotas for refugees and multiplied the already increased challenge for the CEAS.³⁹⁶ During the ‘crisis’, all EU states no longer adhered to Dublin III and some allowed refugees to transit to neighbouring states.³⁹⁷ States have thus shirked their responsibility for refugee protection out of national interest. A number of countries also introduced border controls within the Schengen area to prevent unwanted persons from entering their country.³⁹⁸ Hence, the ‘crisis’ was dominated by nationalism and intergovernmentalism at the expense of supranational structures. Application of EU asylum policies did not match their constitutional design.

With the ratification of the Treaty of Lisbon, the pillar structure of the legislation of the European institution was abolished and its contents adapted and transferred to the Treaty on the Functioning of the European Union.³⁹⁹ This established the legal personality of the EU.⁴⁰⁰ Asylum policies evolved from setting minimum standards to an European asylum system.⁴⁰¹ The Treaty of Lisbon and subsequently the CEAS includes:

a uniform asylum status, a uniform subsidiary protection status, a common regime for temporary protection, common procedures for granting and withdrawing asylum status and subsidiary protection status, criteria and mechanisms for determining the Member State responsible for examining an asylum application, standards on reception conditions, and partnership and cooperation with third countries.⁴⁰²

As a result, the asylum regulation of the European organisation is no longer characterised by intergovernmental cooperation but by supranational competencies and thus binding law for member states.

³⁹⁵ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 46.

³⁹⁶ Ibid.

³⁹⁷ “Tausende Flüchtlinge in Zügen nach Deutschland unterwegs,” *ZEIT ONLINE*, September 6, 2015, <https://www.zeit.de/gesellschaft/2015-09/fluechtlinge-ungarn-oesterreich-deutschland-zuege-oebb>.

³⁹⁸ “Deutschland führt Grenzkontrollen wieder ein,” *ZEIT ONLINE*, September 13, 2015, <https://www.zeit.de/politik/deutschland/2015-09/fluechtlinge-grenzkontrollen-oesterreich>.

³⁹⁹ “Consolidated versions of the Treaty on the Functioning of the European Union,” European Union, *Official Journal of the European Union* 326 (2012), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.

⁴⁰⁰ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 113.

⁴⁰¹ “Common European Asylum System,” European Commission.

⁴⁰² Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 115.

Subsidiary protection status (SPS) is particularly interesting because collectively persecuted persons like victims of civil wars are entitled to a supranational legal status.⁴⁰³

The EU thus added the new, internationally unique category of 'beneficiaries of subsidiary protection' to the category of 'refugees' and provided them with legal rights. In this way, EU legislation went and still goes far beyond the protection rights that were and are enshrined in Germany and the other member states.⁴⁰⁴

Despite EU competencies, member states can nevertheless “introduce or maintain more favourable provisions than the standards laid down in [the] Directive”⁴⁰⁵. The EU cites the limitation of secondary movements triggered by different legal frameworks in member states as the motivation for creating SPS.⁴⁰⁶

Additionally, since 2009, Article 80 of the Treaty on the Functioning of the European Union has established the principle of solidarity and fair sharing of responsibilities among member states with regard to asylum.⁴⁰⁷ Furthermore, Article 79 stipulates that the EU has a monopoly of initiative in the field of immigration policies.⁴⁰⁸ Member states are granted the competence to decide which third-country nationalities are prioritised. Thus, “harmonisation”⁴⁰⁹ is not intended to be complete, as there should remain room for different national interpretations and preferences.

Another fundamental shift that the Treaty of Lisbon brought to the regional refugee protection regime was the legally binding nature of the Charter of Fundamental Rights of the European Union.⁴¹⁰ Articles 18 and 19 of the Charter of Fundamental Rights of the European Union deal with asylum and protection, deportation, expulsion and extradition. While Article 18 refers to the wording of the Geneva Convention and the New York Protocol, Article 19 guarantees protection against “collective expulsions”⁴¹¹ and expulsion “to a State where there

⁴⁰³ “Directive 2011/95/EU,” European Parliament, *Official Journal of the European Union* (December 2011), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>.

⁴⁰⁴ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 116.

⁴⁰⁵ “Directive 2011/95/EU,” European Parliament.

⁴⁰⁶ *Ibid.*

⁴⁰⁷ “Consolidated version of the Treaty on the Functioning of the European Union – Article 80,” European Union, *Official Journal of the European Union* (June 2016), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E080>.

⁴⁰⁸ “Consolidated version of the Treaty on the Functioning of the European Union – Article 79,” European Union, *Official Journal of the European Union* (June 2016), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12016E079>.

⁴⁰⁹ *Ibid.*

⁴¹⁰ European Union Agency for Fundamental Rights, *Handbuch zu den europarechtlichen Grundlagen im Bereich Asyl, Grenzen und Migration* (Luxemburg: Amt für Veröffentlichungen der Europäischen Union: 2014), 24.

⁴¹¹ European Union Agency for Fundamental Rights, “EU Charter of Fundamental Rights,” Article 19 - Protection in the event of removal, expulsion or extradition, accessed June 17, 2021, <https://fra.europa.eu/en/eu-charter/article/19-protection-event-removal-expulsion-or-extradition>.

is a serious risk that [...] [a person] would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment."⁴¹² Thus, the Treaty of Lisbon emphasises norms and values. Furthermore, the EU stipulates that asylum seekers must be granted access to the labour market nine months after submitting their asylum application.⁴¹³ On the one hand, this guarantees labour rights and, on the other, motivates states to make quick asylum decisions. EU states can be sued for non-compliance with the Charter.

I also cite the EU-Turkey Statement, which was an attempt to manage the number of Syrian refugees arriving irregularly in Greece and reducing the loss of life in the Aegean.⁴¹⁴ Taking the approval ratings of some officials in Germany as an example, advocates of a liberal protection regime lost approval until 2016.⁴¹⁵ Thus, political pressure to assess the system rose. Both Turkey and the EU wanted to tackle uncontrolled migration, one of their most salient policy fields. The EU-Turkey Statement was a consequence of the 'Immigration Crisis'. The disagreement of the European states regarding the reformation of Dublin III provides a reason why the externalisation of refugee protection has been sought.⁴¹⁶ While EU countries identified design flaws, they could not agree on how to change them. The agreement with Turkey, adopted on 18 March 2016, was intended to circumvent EU-internal backlog. The agreement states: "All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey".⁴¹⁷ These displaced people have no chance of asylum in Europe. A Syrian asylum seeker from Turkey will be brought to the EU in their place.⁴¹⁸ The agreement functions as a disincentive to use Turkey as a transit zone to Europe. The drop in numbers of asylum applications in Turkey since 2017 proves its effectiveness.⁴¹⁹

Decisive for the legal existence of the agreement is the right of non-refoulement.⁴²⁰ Article 33 of the Refugee Convention contains the prohibition for signatory states to return a refugee "to the frontiers of territories where his life or freedom would be threatened"⁴²¹ and in

⁴¹² European Union Agency for Fundamental Rights, "EU Charta of Fundamental Rights."

⁴¹³ European Union Agency for Fundamental Rights, *Handbuch zu den europarechtlichen Grundlagen im Bereich Asyl, Grenzen und Migration*, 219.

⁴¹⁴ "EU-Turkey Statement," Council of the EU, accessed January 16, 2021,

<https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>.

⁴¹⁵ Natascha Zaun, "States as Gatekeepers in EU Asylum Politics: Explaining the Non-adoption of a Refugee Quota System," *Journal of Common Market Studies* 56, no. 1 (2018): 51, <https://doi.org/10.1111/jcms.12663>.

⁴¹⁶ Progin-Theuerkauf, "The «Dublin IV» Proposal: Towards more solidarity and protection of individual rights?"

⁴¹⁷ "EU-Turkey Statement," 1.

⁴¹⁸ Ibid.

⁴¹⁹ "Development of incoming asylum applications in Turkey 2000 to 2019," WorldData.

⁴²⁰ Arribas, "The EU-Turkey agreement: a controversial attempt at patching up a major problem," 1101.

⁴²¹ UNHCR, "Convention and Protocol Relating to the Status of Refugees," 30.

turn means that asylum seekers benefit from a “presumptive refugee status”.⁴²² Repatriating asylum seekers before examining their case thus violates their rights. Likewise, the EU-Turkey Statement does not match the hailed norms and values of the EU and even violates fundamental rights.⁴²³ Apart from the refolement, the agreement is discriminatory on ground of the nationality of the refugee.⁴²⁴ Through alternative interpretations of the fundamental protection obligations and even violating international law, the EU-Turkey Statement has achieved its goal of reducing the entry of irregular migrants into the Schengen area via Turkey.⁴²⁵ Still, it has not provided a solution to the ‘refugee crisis’ as refugees take other routes into the EU.⁴²⁶

In summary, the mezzo- and micro-dimensions of asylum policies can no longer be separated as a result of the Treaty of Lisbon and transfer of competencies.⁴²⁷ However, in 2015/2016, EU states disregarded central agreements of the CEAS and dealt with asylum seekers differently. After Hungary suspended the application, other countries followed and a domino effect occurred. Hence, European states refused to distribute refugees fairly and questioned the sustainability of the EU treaties, the EU's integration capacity, as well as the principle of solidarity. “It was therefore not a failure of the EU, but a failure of the member states of the EU, which were responsible for the implementation of Union law.”⁴²⁸ The EU-Turkey Statement documents restrictive interpretation of rights and obligations that member states took to circumvent internal failures. This treaty also shows that despite the non-observance of supranational rights, states did not leave the regime but changed it in their favour. The norms and values emphasised before the ‘crisis’, represented by asylum rights that go beyond internationally agreed obligations, are neglected in the analysed period.

4.1.2 German National Law

It has already become clear that the German national refugee protection regime in 2015/2016 was determined by European legislation to a much greater extent than in the 1990s. However, since the EU still leaves room for national interpretations - albeit much more limited - it is also necessary to examine the state's fundamental norms and value-creating regulations. At

⁴²² Vedsted-Hansen, “Non-Admission Policies and the Right to Protection: Refugees' Choice vs. States Exclusion?,” 275.

⁴²³ Jenny Poon, “EU-Turkey Deal: Violation of, or Consistency with, International Law?,” *European Papers* 1, no. 3 (2016), 1197.

⁴²⁴ Arribas, “The EU-Turkey agreement: a controversial attempt at patching up a major problem,” 1104.

⁴²⁵ Poon, “EU-Turkey Deal: Violation of, or Consistency with, International Law?,” 1197.

⁴²⁶ “EU-Turkey Statement.”

⁴²⁷ Hirschmann, *Europa zwischen Abbruch und Aufbruch*, 129.

⁴²⁸ Hüttmann, “Hart an der Grenze: Die jüngste Krise der Asyl- und Migrationspolitik der Europäischen Union,” 73.

the outset, it should be noted that the principles of the German refugee protection regime have not changed since the amendment of the Basic Law in 1993. However, they have been clearly divided into individual protection claims and increasingly justified with supranational or international charters. In the follow-up to this analysis, I also look at the significance of this refugee protection.

Still, Article 16a of the German Basic Law guarantees asylum seekers an asylum status. This is based on Article 1 of the Geneva Refugee Convention. In addition, three further forms of protection were established until 2015 in accordance with the provisions of the Qualification Directive.⁴²⁹ The first form of protection is the conventional refugee protection under Article 3 of the German Asylum Act.⁴³⁰ This specifies the fundamental right guaranteed through the Basic Law, the German interpretation of the Geneva Convention. Article 3 of the Asylum Act explains what Germany understands as justified reasons for flight and reasons for exclusion from the asylum procedure like a serious criminal history.

The second protection status is subsidiary protection.⁴³¹ Hence, national regulations follow the supranational guidelines explained in the previous chapter. Article 4 of the Asylum Act codifies this protection status in German law.⁴³² International or domestic conflicts are put forward as valid reasons for admission. Therefore, some foreigners who are not protected under the conventional refugee status are eligible for temporary protection under the SPS, which grants them nearly all the rights that are legally granted to conventional refugees in Germany. However, the right to family reunification, for example, is excluded.⁴³³ By not calling people refugees, their rights are curtailed. What counts as appropriate treatment depends on whether a person is categorised as a refugee. The residence permit of de facto refugees is reviewed after the first year and, if extended, approved for two more years. After five years, sufficient acquisition of German language skills, and the securing of a livelihood, displaced people that acquired SPS are entitled to an unlimited settlement permit.⁴³⁴ The

⁴²⁹ “Asyl- und Flüchtlingspolitik in Deutschland,” Migration, Bundesministerium des Inneren, für Bau und Heimat, accessed June 17, 2021, <https://www.bmi.bund.de/DE/themen/migration/asyl-fluechtlingsschutz/asyl-fluechtlingsschutz/asyl-fluechtlingsschutz-node.html>.

⁴³⁰ “Asylgesetz (AsylG) - § 3 Zuerkennung der Flüchtlingseigenschaft,” Bundesamt für Justiz, accessed June 17, 2021, https://www.gesetze-im-internet.de/asylvfg_1992/_3.html.

⁴³¹ “Asylgesetz (AsylG) - § 4 Subsidiärer Schutz,” Bundesamt für Justiz, accessed June 17, 2021, https://www.gesetze-im-internet.de/asylvfg_1992/_4.html.

⁴³² “Richtlinie 2011/95/EU,” European Parliament, published December 13, 2011, <https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX:02011L0095-20111220>.

⁴³³ “Subsidiärer Schutz,” Asyl und Flüchtlingschutz, Bundesamt für Migration und Flüchtlinge, accessed June 17, 2021, <https://www.bamf.de/DE/Themen/AsylFluechtlingsschutz/AblaufAsylverfahrens/Schutzformen/Subsidiarerschutz/subsidiarschutz-node.html>.

⁴³⁴ Ibid.

German law is based on the Charter of Fundamental Rights of the European Union.

Furthermore, reasons for exclusion from this protection status are similar to reasons for exclusion from the conventional refugee status.

The third form of protection corresponds to TPS described in chapter 3.1.2. They are regulated in German law at the time of the ‘Immigration Crisis in Europe after the Arab Spring’ with the help of deportation bans regulated through Article 60 of the Residence Act.⁴³⁵ Essentially, deportations to countries where life or freedom are threatened because of race, religion, nationality, membership of a particular social group or because of the political convictions of the refugee are prohibited. The ban on deportation is therefore based on the national assessment of third countries.⁴³⁶ If countries of origin are perceived as safe, a refugee may be deported. Toleration is still a last resort and offers a residence permit for a short time that must be renewed on an ongoing basis. This status grants refugees the fewest rights like being prohibited from working.⁴³⁷ After recognition, beneficiaries of protection receive an initial temporary residence permit, which varies in scope depending on their status.

Asylum seekers and refugees can thus be treated the same as Germans in many respects. In particular, they are entitled to social assistance, child benefit, child-raising allowance, integration allowances, and language support. Conventional refugees receive the most equal treatment to German citizens. They are followed by persons with SPS. Foreigners who are granted temporary protection, determined in 2015/2016 by deportation bans, are still entitled to some social benefits and integration. Persons with tolerated status are excluded from integration. The time-limited residence permits of the last two statuses are particularly burdensome for refugees because there is uncertainty about the future and sustainable integration.⁴³⁸ Asylum seekers who did not receive a positive asylum decision had a legal chance of being granted a different protection status. These are guaranteed either by supranational or national fundamental regulations. Even persons whose identity cannot be

⁴³⁵ “Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet - § 60 Verbot der Abschiebung,” Bundesamt für Justiz, accessed June 17, 2021, http://www.gesetze-im-internet.de/aufenthg_2004/_60.html.

⁴³⁶ “Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet - § 60a Vorübergehende Aussetzung der Abschiebung (Duldung),“ Bundesamt für Justiz, accessed June 17, 2021, http://www.gesetze-im-internet.de/aufenthg_2004/_60a.html.

⁴³⁷ “Nationales Abschiebungsverbot,“ Asyl und Flüchtlingsschutz, Bundesamt für Migration und Flüchtlinge, accessed June 17, 2021, <https://www.bamf.de/DE/Themen/AsylFluechtlingsschutz/AblaufAsylverfahrens/Schutzformen/Abschiebeverbote/abschiebeverbote-node.html>.

⁴³⁸ Fethi Mansouri and Stephanie Cauchi, "The psychological impact of extended temporary protection," *Refugee: Canada's Journal on Refugees* (2006): 91, <https://doi.org/10.25071/1920-7336.21357>.

established beyond doubt can be granted temporary toleration.⁴³⁹ Still, however, long-term integration and the possibility of changing citizenship largely works through the labour market and access to it depends on the categorisation.

Numerically, 519,602 of 1,222,194 asylum applications were rejected.⁴⁴⁰ Thus, 702,592 applications were not rejected and the asylum seekers were granted one of the described protection statuses.⁴⁴¹ According to the breakdown of the Federal Office for Migration and Refugees responsible in Germany, 978,459 applications were decided in 2015/2016.⁴⁴² Of these, 393,272 applicants were granted refugee status in accordance with Article 3 of the Asylum Act or the Article 16a of the Basic Law.⁴⁴³ This means that 40 percent of the applicants were recognised as refugees in Germany, a recognition rate twice as high as before and after the ‘refugee crisis’. SPS was granted to 15 percent of applicants and predominantly in 2016. 2 percent were granted protection via deportation bans in 2015/2016, which is negligible in relative terms. In the ‘Immigration Crisis in Europe after the Arab Spring’, Germany granted asylum mainly under obligations fixed in the Geneva Convention. During the ‘Bosnian Refugee Crisis’, most Bosnian asylum seekers were granted TPS, which corresponds to deportation bans and toleration in Germany in 2015 and 2016.

4.1.3 Austrian National Law

The Austrian asylum system has changed between 1995 and 2015 in accordance with European directives. Here, I provide an overview of the crucial laws and rules that make up the refugee protection regime in the analysis period. I primarily focus on changes in the regulations, which were affected by policymaking of neighbouring countries. Then, I examine what awaited displaced people in terms of asylum procedures and practices in Austria.

⁴³⁹ “Gesetz über den Aufenthalt, die Erwerbstätigkeit und die Integration von Ausländern im Bundesgebiet - § 60b Duldung für Personen mit ungeklärter Identität,” Bundesamt für Justiz, accessed June 17, 2021, http://www.gesetze-im-internet.de/aufenthg_2004/_60b.html.

⁴⁴⁰ “Anteil der abgelehnten bzw. eingestellten Asylanträge an allen Entscheidungen über Asylanträge in Deutschland von 2005 bis 2021,” Gesellschaft, Statista, June 10, 2021, <https://de.statista.com/statistik/daten/studie/197867/umfrage/abgelehnte-asylantraege-in-deutschland/>.

⁴⁴¹ “Anzahl der Asylanträge (insgesamt) in Deutschland von 1995 bis 2021,” Gesellschaft, Statista, June 10, 2021, <https://de.statista.com/statistik/daten/studie/76095/umfrage/asylantraege-ingesamt-in-deutschland-seit-1995/>.

⁴⁴² Bundesamt für Migration und Flüchtlinge, “Das Bundesamt in Zahlen 2016 – Asyl, Migration und Integration, 2017,” accessed June 23, 2021, https://www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2016.pdf?__blob=publicationFile&v=16, 47.

⁴⁴³ Ibid.

At the time of the ‘Immigration Crisis in Europe after the Arab Spring’, international protection was granted in two forms. The first is called the status of persons entitled to asylum and grants asylum in accordance with the Geneva Convention.⁴⁴⁴

Since the amendment ‘Asylum for a limited period of time’ (in force since 1 June 2016), persons whose asylum application has been positively decided (persons granted asylum) are initially granted a limited right of residence for three years. If the conditions for the initiation of a revocation procedure are not fulfilled, the right of residence becomes permanent by law.⁴⁴⁵

As in Germany, asylum is not granted indefinitely.⁴⁴⁶ For both countries, this represents a first change in applying the conventional refugee status.⁴⁴⁷ The second form of protection corresponds to the European Qualification Directive and grants SPS to asylum seekers.⁴⁴⁸ Central laws regulating these categories of protection are the Asylum Act and also the Aliens Act. Both laws were amended several times until 2015 and the right to asylum as well as the rights of refugees restricted. Asylum policies are one of the most frequently amended areas of Austrian law from which proves its salience and politicisation.⁴⁴⁹

The federal distribution of competencies has been centralised in asylum matters through administrative restructuring but also constitutional amendments. In October 2015, centralisation was achieved with the help of the constitutional amendment, which gave the federal level the “right to intervention”⁴⁵⁰. This created the legal option for the federal government to override the actual competence of the federal state and enforce accommodation or rules for refugees when public order and internal security are threatened. The new right to intervention makes it possible impose the government’s will on federal administrations.

Before discussing further fundamental changes in the refugee protection regime, it should be noted that the changes in Austrian asylum rules are directly related to changes in electoral behaviour. The anti-immigration far-right Freedom Party of Austria (FPÖ) took over government responsibility for the first time after the end of an SPÖ-ÖVP coalition in 2000. “Thus, an analysis of the 2015 [...] [‘]refugee crisis[‘] from an Austrian perspective has to be

⁴⁴⁴ “Allgemeines zum Asyl,” Asyl, Bundesministerium für Inneres, accessed June 18, 2021, https://www.oesterreich.gv.at/themen/leben_in_oesterreich/asyl/Seite.3210001.html.

⁴⁴⁵ Ibid.

⁴⁴⁶ Selman Atici, Conversation with the author, January 15, 2021.

⁴⁴⁷ Nina Merhaut and Verena Stern, “Asylum Policies and Protests in Austria,” in *Protest Movements in Asylum and Deportation*, ed. Sieglinde Rosenberger et al. (Frankfurt am Main: Springer, 2018), 32.

⁴⁴⁸ “Allgemeines zum Asyl,” Bundesministerium für Inneres.

⁴⁴⁹ Oliver Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” in *The Migrant Crisis: European Perspectives and National Discourses*, ed. Melanie Barlai et al. (Münster: LIT Verlag, 2017), 42.

⁴⁵⁰ Ibid., 47.

read against the background of this permanent commotion.”⁴⁵¹ Until 2007, the ÖVP-FPÖ coalitions pushed for fundamental immigration restrictions. For example, federal support for asylum seekers was capped through amending the Aliens Act.⁴⁵² Furthermore, deportation rules became increasingly strict. As the restriction of social benefits had fatal consequences and left many vulnerable people homeless, the Basic Welfare Support Agreement was concluded in 2004.⁴⁵³

After 2007, the ÖVP spoke out more restrictively on refugee protection and in 2015 and 2016 advocated for the construction of a “Fortress Europe”⁴⁵⁴ and an annual asylum cap. Both were implemented within the Austrian scope of possibilities. As soon as more than 37,500 applicants reached Austria in 2016, the latter emergency decree limiting asylum seekers’ access to Austrian territory would be activated.⁴⁵⁵ This was possible because in April 2016 the corresponding law, Article 36 of the constitution, was passed. In 2016, Austria “re[-]established the very first fortified border separating two countries in the Schengen area”⁴⁵⁶ at the Austro-Slovenian border. Thus, Austrian interests in immigration and asylum policy outweighed supranational principles. Apart from gradually more restrictive amendments to the Asylum and Alien Act (1997, 2003, 2006, and 2010), the asylum cap and a fortified border represented the most important changes to the asylum system in Austria.⁴⁵⁷

Summarised, the refugee protection regime in 2015/2016 involves an “exclusive model of citizenship regime”⁴⁵⁸, more restrictive Asylum and Aliens Acts than in the 1990s, curtailed access to social benefits, basic services to be provided by federal states, non-governmental organisations “integrated into the Austrian asylum framework”⁴⁵⁹ for the care of refugees, expulsion and third country rules under Dublin III, SPS for some refugees not granted conventional asylum, “compulsory labour of asylum seekers during their procedures (so called ‘One-Euro-Jobs’)”⁴⁶⁰, tougher deportation possibilities, and ‘voluntary’

⁴⁵¹ Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 45.

⁴⁵² Ibid., 43.

⁴⁵³ Merhaut and Stern, “Asylum Policies and Protests in Austria,” 32.

⁴⁵⁴ “Österreichs Innenministerin will an ‘Festung Europa’ bauen,” Politik, *Merkur*, October 28, 2015, <https://www.merkur.de/politik/fluechtlingskrise-oesterreich-innenministerin-johanna-mikl-leitner-festung-europa-bauen-zr-5697627.html>.

⁴⁵⁵ Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 51.

⁴⁵⁶ Ibid., 49.

⁴⁵⁷ “Asylpolitik in Österreich im europäischen Kontext,” Timelines, *Demokratiezentrum Wien*, accessed June 19, 2021, <http://www.demokratiezentrum.org/wissen/timelines/asylpolitik-in-oesterreich.html?type=98>.

⁴⁵⁸ Merhaut and Stern, “Asylum Policies and Protests in Austria,” 29.

⁴⁵⁹ Ibid., 32.

⁴⁶⁰ Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 53

repatriation.⁴⁶¹ In 2015, initial welcoming undertakings of the SPÖ-ÖVP soon underwent drastic shifts. Hence, in 2016, the refugee protection regime depicted a “closed borders approach and asylum caps, abandoning the balking supranational efforts by the European Union.”⁴⁶²

The change in the national regime during the ‘crisis’ was also influenced by practices in other countries. In June 2015, the Hungarian government turned its back on the EU's principle of solidarity and the Dublin Convention's allocation of responsibility for processing asylum applications to the country of first entry into the EU.⁴⁶³ For Austria, this meant the arrival of asylum seekers who would not have been allowed to enter due to supranational agreements. The government decided to allow people to enter for humanitarian reasons.⁴⁶⁴ At the same time, however, the narrative of a transit country was emphasised and people forwarded to Germany.⁴⁶⁵ With 88,340, the number of asylum applications in 2015 was more than three times as high as in the previous year.⁴⁶⁶ In the following year, the number fell to 42,285.⁴⁶⁷ This significant decline can be explained above all by the fact that Austrian policy made a U-turn. As the reception of people was in many cases disastrous, the federal government used the created right to intervene and bypassed uncooperative provinces.⁴⁶⁸ The number of applications actually decided in the years reveals the overburdening of the Austrian system.^{469, 470} In 2015, the recognition rate was 37.2 percent, while 42 percent in 2016. Most of the recognised persons were granted conventional asylum and around 5 percent SPS.⁴⁷¹ These figures show very well the different treatment of asylum seekers in Austria between the

⁴⁶¹ Merhaut and Stern, “Asylum Policies and Protests in Austria,” 32.

⁴⁶² Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 39.

⁴⁶³ Stephan Ozsváth, “Orban-Regierung setzt Dublin-III-Abkommen aus,” *Deutschlandfunk Kultur*, June 24, 2015, https://www.deutschlandfunkkultur.de/ungarn-orban-regierung-setzt-dublin-iii-abkommen-aus.2165.de.html?dram:article_id=323480.

⁴⁶⁴ Karin Riss, “Faymann: ‚Wir bauen keinen Zaun, wie ihn Ungarn gebaut hat‘,” *Der Standard*, October 28, 2015, <https://www.derstandard.at/story/2000024654140/faymann-wir-bauen-keinen-zaun-wie-ihn-ungarn-gebaut-hat>.

⁴⁶⁵ Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 47.

⁴⁶⁶ “Asylstatistik 2016,” Sektion III Recht, Bundesministerium für Inneres Republik Österreich, accessed June 19, 2021, https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Jahresstatistik_Asyl_2016.pdf, 4.

⁴⁶⁷ Ibid.

⁴⁶⁸ Irene Brickner and Oona Kroisleitner, “Asylwerber-Höchststand: Knapp 4.300 Flüchtlinge in Traiskirchen,” *Der Standard*, July 27, 2015, <https://www.derstandard.at/story/2000019790796/neuer-rekord-knapp-4-300-fluechtlinge-in-traiskirchen>.

⁴⁶⁹ Gruber, “Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis,” 49.

⁴⁷⁰ “Asylstatistik 2015,” Sektion III Recht, Bundesministerium für Inneres Republik Österreich, accessed June 19, 2021, https://www.bmi.gv.at/301/Statistiken/files/Jahresstatistiken/Asyl_Jahresstatistik_2015.pdf, 14.

⁴⁷¹ Ibid.

two 'crises'. Through the "relaunch of asylum policies"⁴⁷² during the 'crisis', fewer people applied for asylum and the recognition rate increased.

What was considered appropriate has changed fundamentally within months and is related to a reversal in framing identity. However, as refugees continued to enter Austria mainly from Hungary and Slovenia, many people found themselves in a self-declared transit country. The number of asylum applications shows that Austria was not only a transit country for many people.

⁴⁷² Gruber, "Refugees (no longer) welcome. Asylum discourse and policy in Austria in the wake of the 2015 refugee crisis," 50.

4.2 Political Discourses in Germany and Austria

4.2.1 The Asylum Discourse in the Electoral Programme of the CDU

The CDU's election manifesto for the 2017 Bundestag elections is 76 pages long and titled *For a Germany in which we live well and gladly*.⁴⁷³ In the election, the CDU lost 8.6 percent of the votes, but remained the largest party with 32.9 percent.⁴⁷⁴ The grand coalition with the SPD was continued after the election. The programme includes four asylum and six refugee compositions. Also including flight compositions, this results in a probability of 21 percent that one of the terms is used on a page of the programme. The vocabulary used in the CDU's discourse contribution is affirmative in that the suffering of displaced people is acknowledged and emphasised. At the same time, however, lexical choices are also stigmatising. Refugees are portrayed as a homogeneous group and not as individuals, communal suffering is put in the foreground. Although the lexis is not neutral, the attempt to depoliticise asylum and refugees with ideology-independent compounds is noticeable. For example, asylum seekers and refugees are not mentioned in the direct context of adjectives. This is an attempt to remove asylum from the political battlefield and to increase the acceptance of the measures.

Furthermore, I identified the following keywords in the discourse contribution: “safe countries of origin”⁴⁷⁵, “security”⁴⁷⁶, “protection claim”⁴⁷⁷, and “humanitarian”⁴⁷⁸. The conservative party presents security as its key competence and uses this keyword the most. The other keywords serve to justify the CDU's welcoming approach to people entering Germany - paraphrased by Merkel's “We'll make it”⁴⁷⁹ - and “imperative of humanity”⁴⁸⁰. That is also why humanitarian reasons are overlexicalised in the programme. In addition to the keywords, the adjectives “effective”⁴⁸¹ and “stable”⁴⁸² are used conspicuously often. This proves the positioning of the party to adapt laws.

A variety of metaphors and lexical choices in the electoral programme trigger compassion but also feelings of insecurity. While the former is achieved by emphasising the

⁴⁷³ “Für ein Deutschland, in dem wir gut und gerne leben,” Regierungsprogramm 2017 – 2021, CDU, accessed June 23, 2021, <https://archiv.cdu.de/system/tdf/media/dokumente/170703regierungsprogramm2017.pdf?file=1>.

⁴⁷⁴ “Bundestagswahlergebnisse seit 1949 – Zweitstimmen,” Parlament, Deutscher Bundestag.

⁴⁷⁵ Ibid., 62.

⁴⁷⁶ Ibid.

⁴⁷⁷ Ibid., 56.

⁴⁷⁸ Ibid., 63.

⁴⁷⁹ “Wir schaffen das’: Merkel and the 2015 migrant crisis,” DW News, *Deutschewelle*, August 31, 2020, <https://p.dw.com/p/3hnMA>.

⁴⁸⁰ “Für ein Deutschland, in dem wir gut und gerne leben,” CDU and CSU, 66.

⁴⁸¹ Ibid.

⁴⁸² Ibid., 56.

suffering of asylum seekers, the party achieves the latter by using verbs from the field of struggle. Words like “fight”⁴⁸³ or “defend”⁴⁸⁴ trigger unease and insecurity in the reader. “[D]rown miserably”⁴⁸⁵ is one example of word choices triggering compassion. In this context, juxtapositions are also vital, although rarely used. Juxtaposing refugees without a protection claim and those with a claim who are “cheated out of their future”⁴⁸⁶ by states pits one vulnerable group against the other. This suggests the necessity of deciding for protection of one of the groups. In addition, the programme includes a list of all the things that threaten security.⁴⁸⁷ Causes of flight are placed in the same category as drug trafficking or terrorism.

In contrast, instructions for action are incorporated very frequently. The positions of the CDU are presented in the following example with deontic effects as having no alternative:

Europe must effectively protect its external borders against illegal migration, strengthen the border management agency Frontex and complete the European Asylum System. Until the protection of the EU's external borders works, we will maintain internal border controls. Europe must also conclude agreements modelled on the EU-Turkey Agreement with other countries in the region and in Northern Africa. We must prevent thousands of refugees from being smuggled through half of Africa by unscrupulous smugglers, only to drown miserably in the Mediterranean.⁴⁸⁸

The CDU does not want to outsource refugee protection within the region, but outside the EU.

No actors seem to be left out of the programme. For example, the party speaks explicitly about migrants, even if only in the context of the attribute “illegal”⁴⁸⁹. They also position themselves in relation to countries of origin and EU policy.⁴⁹⁰ The EU should have competences that enforce solidarity between the member states.⁴⁹¹ Still, the parties focus lies on refugees and wants to “intensify its efforts to repatriate and, if necessary, deport those whose applications for asylum have been legally rejected.”⁴⁹² In addition, the following paragraph sheds light on the parties norms and interest juggle for positions:

We want the number of refugees coming to us to remain permanently low. This makes it possible for us to fulfil our humanitarian obligations through resettlement and relocation.⁴⁹³

⁴⁸³ “Für ein Deutschland, in dem wir gut und gerne leben,” CDU and CSU, 66.

⁴⁸⁴ Ibid., 55.

⁴⁸⁵ Ibid., 56.

⁴⁸⁶ Ibid., 5.

⁴⁸⁷ Ibid., 6.

⁴⁸⁸ Ibid., 56.

⁴⁸⁹ Ibid.

⁴⁹⁰ Ibid. 56.

⁴⁹¹ Ibid. 56.

⁴⁹² Ibid., 62.

⁴⁹³ Ibid., 63.

Emphasised humanitarian obligations are not described in detail, nor is the Geneva Refugee Convention mentioned, indicating that restrictions on obligations are considered appropriate.

In summary, the issue of asylum is linked to the issue of security and humanitarian obligations. These different links are also the reason why no clear narrative emerges. Both norms and values represented by duties and security interests are emphasised, which make frames partly irreconcilable. The CDU wants to reduce the number of immigrants but grant refugees protection. “Illegal migration”⁴⁹⁴ is a classic frame that is also used in this programme.⁴⁹⁵ Immigration and with it the search for asylum are placed in a tension between legitimate and illegitimate. Moreover, there are frames that portray EU laws as requiring reform. Finally, “Unconscionably traffickers”⁴⁹⁶ are contrasted with the Federal Republic of Germany, which grants shelter. It is precisely with this frame that the CDU portrays Germany as a saviour and uncontrolled migration of asylum seekers as scandalous.

4.2.2 The Asylum Discourse in the Electoral Programme of the SPD

In the following, I deal with the electoral programme of the SPD from 2017. The document is called *Time for More Justice* and comprises 116 pages.⁴⁹⁷ In it, the SPD mentions the word asylum 15 times, as well as 35 relevant mentions of refugee or flight. This results in a probability of 43.1 percent that one of the terms is mentioned on one of the pages of the programme. The party lost 5.2 percent of the vote compared to the 2013 federal election, but remained the second strongest force with 20.5 percent of the vote.⁴⁹⁸ On asylum, the Social Democratic Party positions itself firmly in favour of the right to asylum and proposes liberal interpretation of rights. The vocabulary chosen is mostly neutral. Only in exceptional cases does the party stigmatise through undifferentiated vocabulary.⁴⁹⁹ The programme contains proposals for certain groups of asylum seekers, especially for “refugee children and women”⁵⁰⁰. In terms of origin, asylum seekers are nevertheless stigmatised as a homogeneous group. That the primarily neutral language of the SPD actually has an affirmative effect can be observed in the choice of keywords. I identified “law”⁵⁰¹, “solidarity”⁵⁰², “control”⁵⁰³,

⁴⁹⁴ Für ein Deutschland, in dem wir gut und gerne leben,“ CDU and CSU, 56.

⁴⁹⁵ Lakoff and Ferguson, “The Framing of Immigration,” 5.

⁴⁹⁶ Ibid., 56.

⁴⁹⁷ “Zeit für mehr Gerechtigkeit,“ Unser Regierungsprogramm für Deutschland, SPD, accessed June 23, 2021, http://library.fes.de/pdf-files/bibliothek/down/zeit_fuer_mehr_gerechtigkeit-unser_regierungsprogramm.pdf.

⁴⁹⁸ “Bundestagswahlergebnisse seit 1949 – Zweitstimmen,“ Parlament, Deutscher Bundestag.

⁴⁹⁹ “Zeit für mehr Gerechtigkeit,“ SPD, 75.

⁵⁰⁰ Ibid., 76.

⁵⁰¹ Ibid., 77.

⁵⁰² Ibid., 95.

⁵⁰³ Ibid., 74.

“integration”⁵⁰⁴, and “humanitarian”⁵⁰⁵ as keywords. These affirmation words emphasise the liberal side of asylum and differs from other electoral programmes. Besides the aforementioned buzzwords, “UNHCR”⁵⁰⁶, “refugee women”⁵⁰⁷, “refugee children”⁵⁰⁸, and “cohesion”⁵⁰⁹ are overlexicalised, which also highlight protection obligations and thus norms.

Although the party primarily uses vocabulary that represents neutral lexical choices, the SPD uses emotive effects. First of all, this is achieved by focusing on the most vulnerable of the vulnerable, refugee women and children. For example, the SPD calls for "better recognition of gender-specific reasons for asylum"⁵¹⁰. It is not the only demand that goes beyond the current protection regime.⁵¹¹ Moreover, in exceptional cases, a strong choice of words is used to evoke sympathy: "continue to force many people to flee."⁵¹² In this case, it is suggested that asylum seekers had no choice. Only in exceptional cases does the SPD use terms with a strong emotive meaning. In relation to asylum, the triggering of emotions is predominantly implicit. For instance, the party calls for "expanding our humanitarian commitment and for the international community to live up to its obligations"⁵¹³, which is meant to evoke a sense of responsibility despite the relatively neutral choice of words. At this point I note that linguistic analysis is subjective and I understand my analysis of the programme and my academically informed sense of language to be the basis of this chapter. My political positioning is not without influence, even though I strive to be non-partisan.

In the corpus, juxtapositions are rare but the SPD juxtaposes recognised refugees with rejected refugees.⁵¹⁴ The practice presented as appropriate is the integration of one group of asylum seekers and the repatriation of the other. Apart from that, closed EU external borders are opposed to the open Schengen area and the protection of people is opposed to the economic interests of the state.⁵¹⁵ Sentences in the programme that are formed with the verb “must”⁵¹⁶ are frequent and indicative of action: "The right to asylum must remain untouched

⁵⁰⁴ “Zeit für mehr Gerechtigkeit,” SPD, 76.

⁵⁰⁵ Ibid., 74.

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid., 83.

⁵⁰⁸ Ibid., 76.

⁵⁰⁹ Ibid., 95.

⁵¹⁰ “Zeit für mehr Gerechtigkeit,” SPD, 76.

⁵¹¹ Ibid., 77.

⁵¹² Ibid., 74.

⁵¹³ Ibid., 103.

⁵¹⁴ Ibid., 74.

⁵¹⁵ Ibid., 75.

⁵¹⁶ Ibid., 77.

in the future.”⁵¹⁷ The action-oriented position “[w]ho wants to curb illegal migration must create legal immigration opportunities”⁵¹⁸ is particularly insightful for the parties’ framing.

The programme contains a differentiated representation of the relevant actors. However, since the SPD explicitly focuses on refugee women and children, adult male asylum seekers are pushed into the background. Especially with regard to integration, this group of refugees is only implicitly included in more general and thus more diffuse positions. Apart from this, the SPD mentions all refugee protection regimes, countries of origin and transit actors, as well as civil society groups. The overlexicalization of the keyword "rights"⁵¹⁹ proves what connection the party makes to the issue of asylum. Repeatedly, human rights and thus obligations for refugee protection are mentioned. The party's positions also prove that they favour a liberal refugee protection regime.⁵²⁰ The SPD avoids dealing with the costs and focuses on Germany's "humanitarian and legal responsibility."⁵²¹

From the linguistic discourse analysis of the SPD’s electoral programme, a clear narrative emerges, namely that of the duty to protect and of solidarity. I did not identify clear frames, but the overlexicalization of rights and the demand for "solidary distribution of tasks for refugee aid"⁵²² result in a narrative that linguistically and content-wise represents liberal interpretations of refugee protection. By focusing on refugee women and children, the party achieves an implicit emotionalization as a dominant stigmatisation is used: It’s easier to evoke sympathy for women as victims than men. Keywords have an affirmative effect and the choice of words is predominantly neutral.

4.2.3 The Asylum Discourse in the Electoral Programmes of the SPÖ

The electoral programme of the SPÖ, in power until the election, for the 2017 Austrian National Council election is called *Plan A for Austria. The programme for prosperity, security & good spirits*.⁵²³ On 213 pages, the term asylum or refugee is used 41 times in various combinations. In addition, there are eight mentions of the term flight. This results in a probability of 23 percent that one of the terms is mentioned on one of the pages of the electoral programme. At 26.9 percent, almost as many people voted for the SPÖ as in 2013.⁵²⁴

⁵¹⁷ „Zeit für mehr Gerechtigkeit“, SPD, 74.

⁵¹⁸ Ibid., 75.

⁵¹⁹ „Zeit für mehr Gerechtigkeit“, SPD, 74.

⁵²⁰ Ibid., 77.

⁵²¹ Ibid.

⁵²² Ibid., 74.

⁵²³ „Plan A für Österreich“, Das Programm für Wohlstand, Sicherheit & gute Laune, SPÖ, accessed June 23, 2021.

⁵²⁴ Kaimberger, „Ergebnisse aller Nationalratswahlen in Österreich.“

The SPÖ attempts to talk about the topic of asylum and refugees in an affirmative manner. This is achieved by presenting immigrants as “logical”⁵²⁵ and focusing on their integration, the party.⁵²⁶ Likewise, the experience of flight is included, yet the asylum seekers are usually presented as emancipated people. Even though widely used stigmatisations of displaced people are circumvented, the diverse group is stigmatised as a homogeneous mass. Lexical choices result in an attempt to present a neutral picture, which still contains affirmative and stigmatizing elements.

I identified “integration”⁵²⁷, “massive challenge”⁵²⁸, “reduce”⁵²⁹, “control”⁵³⁰, and “unequal distribution”⁵³¹ as keywords. The keywords already show how the party positions itself on asylum policies. They want fairer European distributions and more control which will “reduce the number of asylum seekers in Austria.”⁵³² Conspicuously often, the party talks about qualification alongside these keywords and the terms refugee and asylum.⁵³³ This is the desired goal of integration. Not only does the SPÖ say that “we must reduce the number of refugees to a level that enables integration”⁵³⁴ but at the same time, the party considers it as its “obligation to offer perspectives.”⁵³⁵ For the SPÖ, this requires asylum seekers to take responsibility: “abide by the rules, learn German, and accept the values”⁵³⁶. The SPÖ focuses on labour market integration.

Even if the party tries to be neutral, some lexical choices provoke feelings of being overwhelmed. Examples include “massive challenges”⁵³⁷, “a problem for the credibility of the rule of law”⁵³⁸, or “absolutely unsatisfactory condition”⁵³⁹. This triggers “fear”⁵⁴⁰. The metaphor “sticking one’s head in the sand”⁵⁴¹ also serves this emotive purpose. Same applies to comparisons. Even if these do not occur frequently, my linguistic discourse analysis nevertheless reveals juxtapositions. On the one hand, people who come to Europe for

⁵²⁵ “Plan A für Österreich,” SPÖ, 190.

⁵²⁶ Ibid., 144.

⁵²⁷ Ibid., 146.

⁵²⁸ Ibid., 188.

⁵²⁹ Ibid., 144.

⁵³⁰ Ibid.

⁵³¹ Ibid., 190.

⁵³² Ibid., 13.

⁵³³ Ibid., 146.

⁵³⁴ Ibid., 114

⁵³⁵ Ibid.

⁵³⁶ Ibid.

⁵³⁷ Ibid., 188.

⁵³⁸ Ibid.

⁵³⁹ Ibid., 191.

⁵⁴⁰ Ibid., 8.

⁵⁴¹ Ibid., 144.

economic reasons are juxtaposed with people with recognized reasons for fleeing.⁵⁴² On the other hand, the moral Europe is contrasted with the "mafia-like crime of trafficking"⁵⁴³. Additionally, the SPÖ suggested that a lack of integration, especially of young asylum seekers, inevitably leads to criminality and thus advocates measures that enhance "employment prospects". Thus, the demand for a qualification programme for young asylum seekers is presented as without alternative.⁵⁴⁴

This example also suggests necessary action. The party frequently uses deontic meaning and suggest that SPD positions must be followed: "We must prevent this."⁵⁴⁵ The following example indicating action also contains an Austria-specific demand:

We must limit immigration and have control over who comes to us. That is why we have an upper limit that makes it clear: we can, want and will help people fleeing up to here. We will support them and take them in. But that's all we can do. The upper limit applies because it defines what we can achieve. We must give Austrians security.⁵⁴⁶

Statements suggestive of action are a common device in election manifestos, yet it is striking that parties use more statements suggestive of action in 2017 than in 1994. Moreover, the party emphasises the effective policy changes it made in the 1990s, appealing to the current regime to change accordingly.⁵⁴⁷ Thus, the dominant technique of portraying laws and regimes as needing reform is invoked.⁵⁴⁸ This is both suggestive of action and framing.

Lastly, a clear link to another topic is omitted. Only the related area of integration is permanently linked to the topic of asylum and refugees. In this context, the SPÖ demands that integration efforts be modelled on those in Sweden or Germany.⁵⁴⁹ They propose concrete measures such as agreements with large companies to help integrate refugees into the labour market.⁵⁵⁰ Frames are those of difference, "our values have to be taught to the others first"⁵⁵¹, as well as those of excessive demands. The narrative that results from this is constant: protection seekers should only come to Austria to a limited extent in accordance with the asylum cap and integrate: "The cap stands because it defines what we can provide."⁵⁵² Above all, integration and reform of the integration regime are focal points of the SPÖ electoral

⁵⁴² "Plan A für Österreich," SPÖ, 188.

⁵⁴³ Ibid., 191.

⁵⁴⁴ Ibid., 147.

⁵⁴⁵ Ibid., 188.

⁵⁴⁶ Ibid., 144.

⁵⁴⁷ Ibid., 188.

⁵⁴⁸ Lakoff and Ferguson, "The Framing of Immigration," 1.

⁵⁴⁹ "Plan A für Österreich," SPÖ, 193.

⁵⁵⁰ Ibid., 146.

⁵⁵¹ Ibid., 188.

⁵⁵² Ibid., 144.

programme. The SPÖ claims that “[w]hen Europe is confronted with migration that goes beyond this integrable level, our values come under pressure. We must prevent that.”⁵⁵³

4.3.4 The Asylum Discourse in the Electoral Programmes of the Austrian People's Party (ÖVP)

In the 2017 National Council elections, the ÖVP increased its share of vote to 31.5 percent.⁵⁵⁴ This meant that the ÖVP became the leading party and a ÖVP-FPÖ coalition. The 2017 election programme of the ÖVP is called *The new way. New justice & responsibility. Back to the top.*⁵⁵⁵ It is divided into three parts which together make up 200 pages of programme. On these, the ÖVP uses 39 asylum or refugee composites and five times the term subsidiary protection. This results in a probability of 22 percent that one of the terms is mentioned on one page of the programme. The vocabulary chosen is primarily stigmatising. No clear distinction is made between asylum seekers and migrants, which conceals the special status of asylum seekers. In the ÖVP's asylum corpus, crisis vocabulary like “explosive”⁵⁵⁶ is frequent, implying that refugee influx like in the “disaster year 2015”⁵⁵⁷ is fatal. Stigmatising paraphrases are enhanced by adjectives, which reinforces emotionalization.⁵⁵⁸

Keywords are “illegal immigration”⁵⁵⁹, “locally”⁵⁶⁰, and “minimum income”⁵⁶¹. In addition, “integration”⁵⁶², “control”⁵⁶³, “strict”⁵⁶⁴, and “reduce”⁵⁶⁵ are overlexicalised. The keyword “locally”⁵⁶⁶ is linked to the ÖVP's demand to set up reception centres in countries from which refugees are fleeing. The parties want to prevent uncontrolled immigration and flight. While the overlexicalised words prove that the party wants to limit refugee admission, the word integration foregrounds the perceived “problem”⁵⁶⁷. It is noticeable, however, that although the term is used often, integration demands and positions remain diffuse.

⁵⁵³ “Plan A für Österreich,” SPÖ, 188.

⁵⁵⁴ Kaimberger, “Ergebnisse aller Nationalratswahlen in Österreich.”

⁵⁵⁵ “Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze,” Das Programm der Liste Sebastian Kurz – die neue Volkspartei zur Nationalratswahl 2017, ÖVP, accessed June 23, 2021.

⁵⁵⁶ “Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze,” ÖVP, 18 3/3.

⁵⁵⁷ Ibid., 20 3/3.

⁵⁵⁸ Ibid., 20 3/3.

⁵⁵⁹ Ibid., 46 1/3.

⁵⁶⁰ Ibid., 116 1/3.

⁵⁶¹ Ibid., 64 1/3.

⁵⁶² Ibid., 67 1/3.

⁵⁶³ Ibid., 18 3/3.

⁵⁶⁴ Ibid., 20 3/3.

⁵⁶⁵ Ibid., 64 1/3.

⁵⁶⁶ Ibid., 20 3/3.

⁵⁶⁷ Ibid., 18 3/3.

Both, keywords and overlexicalised terms indicate triggered fear due to insecurity and loss of control. In addition, emotionalised word choices suggest excessive demands. Crisis metaphors such as "earthquake"⁵⁶⁸ or "shock"⁵⁶⁹ are particularly expressive. The following text section presents the figurative language of the ÖVP particularly well:

Hundreds of thousands from all parts of the world made their way, mainly at Europe's invitation - but many of them not because they were seeking protection, but because they were in search of a better economic future.⁵⁷⁰

Here, the figurative lexical choices also represent an exaggeration, which in turn further emotionalises. Moreover, a competition between asylum seekers and local people is being constructed. Of all the discourse contributions, this electoral programme has the most emotionalised language. Emotionalizations are effective because they do not aim to convince the voters' heads but their guts, which also is a populist strategy.⁵⁷¹ Asylum and protecting the nation are connected and asylum seekers thus alienated.

Furthermore, the party establishes a link between refugee admission and costs: "in order to make it possible to finance relief, immigration into the social system must be stopped."⁵⁷² Likewise, it is noticeable that the party makes frequent use of us versus them dichotomies. Apart from the established links, the party frequently suggests action. It does this by using the modal verb must, recommending action, and suggesting a lack of alternative.⁵⁷³ Although the party talks extensively about refugees and asylum, political refugees are not mentioned. Hence, the party emphasises that protection is given to people who are entitled to it, but such formulations remain vague. In combination with the demands for asylum decisions in 'crisis' areas and cooperation with countries of origin and transit, it becomes clear why the party remains diffuse. A politically persecuted person will hardly get a fair asylum procedure in the state that threatens the persons' freedom. Austria's interests are made concrete, those of asylum seekers not. The party focuses on the representation that Austria rescues and takes in people.⁵⁷⁴ Austria's duties are concealed and international human rights are only mentioned in relation to the otherness of immigrants, not in relation to the given and guaranteed rights.

⁵⁶⁸ "Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze," ÖVP, 18 3/3

⁵⁶⁹ Ibid.

⁵⁷⁰ Ibid., 18 3/3.

⁵⁷¹ Gabor Steingart, *Weltbeben. Leben im Zeitalter der Überforderung* (München: Knaus, 2017), 173

⁵⁷² Ibid., 46 1/3.

⁵⁷³ Ibid., 18 3/3.

⁵⁷⁴ "Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze," ÖVP, 117 1/3.

From these observations, I analyse a clear link between asylum and the costs for Austria. The ÖVP focuses on the burdens on the social system and proposes measures to bring costs down.⁵⁷⁵ Immigrants and refugees are often framed as “illegal”⁵⁷⁶. In this way, the party presents the action of the persons as illegitimate and thus criminal.⁵⁷⁷ Differences in identity are emphasised and laws presented as ineffective. This results in the frame that the system needs to be reformed and that asylum seekers are a burden. These frames determine what the ÖVP considers appropriate action. In addition, the party uses emotionalised language. The frames, although multifaceted, result in a clear narrative: refugee influx must be limited and people must be kept in their home countries. People are portrayed as illegitimate and fundamentally different, endangering Austria. The positioning reflects this narrative, as the ÖVP advocates a strict asylum cap, limited social benefits, and an exclusive citizenship model.⁵⁷⁸ Integration is mentioned frequently but diffusely. The ÖVP sees the “problem”⁵⁷⁹ in the entry of people: “Integration policy cannot fix wrong immigration policy.”⁵⁸⁰ Lastly, migrants and refugees are through linguistic choices and demands equated. The special rights of asylum seekers are thus concealed and their status attempted to be downgraded to mere migrants. The party wants to transform the asylum system towards a restrictive protection outsourced system like in Australia.⁵⁸¹

⁵⁷⁵ “Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze,” ÖVP, 64 1/3.

⁵⁷⁶ Ibid., 20 3/3.

⁵⁷⁷ Lakoff and Ferguson, “The Framing of Immigration,” 5.

⁵⁷⁸ Ibid., 65 1/3.

⁵⁷⁹ Ibid., 18 3/3.

⁵⁸⁰ Ibid., 28 3/3.

⁵⁸¹ Ibid., 20 3/3.

Chapter 5: Comparison

Subsequently to the separate analyses of the laws during the respective 'refugee crises' and the political discourses represented by the linguistic analyses of the electoral programmes, I now compare the results. In doing so, I differentiate two comparisons that guide answering my research question in the conclusion. First, I turn to the development of asylum laws and portray differences and similarities between Austrian and German regimes. Next, I examine the development of political discourses and display national commonalities and differences. Both refer to the conclusions of the individual analytical chapters. This provides a collection of my results, which implicitly answers how far laws and discourses differ over time and between countries.

5.1 Development of Asylum Laws

First, I answer my sub-question about how the German and Austrian asylum policies changed. Summarised, asylum law in the countries was continuously formulated over time. Restrictions accompanied the formulation but since especially the European refugee protection regime has created new categories that offer protection beyond the obligations of the Geneva Convention, speaking of mere restriction would be misleading. Nevertheless, the development towards uniform regimes in EU-27 has been marked by a race to the bottom. National policy changes regarding social benefits, the circumvention of the actual refugee status, which allows further restrictions of rights for asylum seekers, and the outsourcing of refugee protection represent that. This last point relates to what Hathaway calls non-entree regimes and is illustrated in policies by visa requirements, exclusions and restrictions on recognition, and third-country regimes.⁵⁸² In the following, I describe changes in the individual regimes determining refugee protection, starting at the macro-level. Three refugee protection regimes determine asylum seekers rights and refugee protection in the countries.

The international refugee protection regime established definitions, rights, and obligations that have now been signed by the majority of nation states. Regional and national regimes refer to the macro-level. The Refugee Convention of 1951 and the New York Protocol of 1967 constitute the international refugee protection regime. This regime lacks sanctioning power, but the UNHCR “serves as the guardian”⁵⁸³ of the agreed fundamental rights. However, the references to the above-mentioned treaties in lower levels of refugee

⁵⁸² James Hathaway, *Reconceiving International Refugee law*, 127.

⁵⁸³ UNHCR, “The 1951 Refugee Convention.”

protection regimes demonstrate the importance of these agreements. During both ‘crises’, the protection of civil war refugees played a major role, but, according to the international rights catalogue, states do not have to grant universal protection to displaced people. Since 1967, the macro level has not changed fundamentally.

This is different for the supranational refugee protection regime. Even though a European institution was established well before, it was only during the 'Bosnian Refugee Crisis' that the institution developed into a regional refugee protection regime and thus the mezzo-level constructing laws and obligations for European member states. The European refugee protection regime - the mezzo-level - was built during the 'Bosnian Crisis' and characterised by developing cooperation between states. Still, the European refugee protection regime between 1992 and 1995 entails little and often diffuse European asylum regulation. Over time, the fundamental treaties, the Dublin and Schengen agreements and the European treaties (Maastricht, Amsterdam, Nice, and Lisbon), constituted the CEAS that theoretically distributed responsibilities among member states in solidarity during the 'Immigration Crisis in Europe after the Arab Spring'. In practice, this has not been the case. As member states refrained from maintaining this regulation, Austria and Germany also reverted to national sovereignty. In 2015, Austria took in many people and partly outsourced refugee protection in 2016. Germany maintained liberal immigration rules in both years, although border protection was reintroduced, and took in most asylum seekers in 2016. My analysis has also shown that laws are only one part of the story. Their application during ‘crises’ does not necessarily follow the fundamental rights. National sovereignty prevails in times of ‘crisis’.

Fundamental changes at the European refugee protection regime highlight norms and establish protection measures like the SPS beyond the internationally established obligations. However, the application of the CEAS on the mezzo-level in times of ‘crisis’ was not guaranteed and thus not adhered to, which does not result in the regime’s end but temporary return to national sovereignty in asylum policies. Nevertheless, Germany and Austria argue for a CEAS documented by the electoral programmes and the EU-Turkey Agreement, intended to change the challenges in such a way that EU rules can function again. Metaphorically speaking, humanitarian values and principles of the EU, such as solidarity, are emphasised during sunshine, but national and regional interests prevail during stormy conditions. The EU-Turkey Agreement, in particular, proves this assertion. Academics question whether the agreement is compatible with the most fundamental obligations of the international refugee protection regime. Previous efforts to offer protection and prospects to people who are not eligible for asylum status under the Geneva Convention are thus

relativised. Those who seek to deny people access to the refugee protection regime, no matter how liberal the rules in the regime, are creating a non-entree regime relativising international rights and obligations. In line with findings about alternative models of contribution, the EU pays for fewer people to seek asylum in the Schengen area.⁵⁸⁴ As I understand it, values and norms are subordinated.

The national refugee protection regime is the final decision-maker designing refugee protection. As described, it may even neglect other commitments. The micro-level invokes and interprets rights or duties established at other refugee protection levels. Over time, further protection categories were introduced in Austria and Germany. As a result of regional communitarisation of refugee policymaking, national refugee protection developed in the same direction, with more explicit rules and stricter conditions. Thus, federal law changed according to the new distribution of competencies and adaptation on the supranational level. While Germany, in the beginning had a diffuse but liberal asylum law, over time, it has been restricted more drastically than Austria's. Austria introduced the TPS, which was then adopted by Germany and incorporated into EU law through the Amsterdam Treaty after the 'Bosnian Refugee Crisis'. Despite this, the law application and interpretation vary between countries and different crises. With the growing importance of the European refugee protection regime, a national practice has also been adapted to this level: outsourcing protection obligations. While external dimension of EU regulation became more important, the analysis of the 'Immigration Crisis in Europe after the Arab Spring' has shown that the analysed cases also outsource protection in the EU and did not act harmoniously.

During the 'Bosnian Refugee Crisis', the categories dividing asylum seekers into different protection statuses were the conventional refugee status and TPS. In addition, deportations were suspended in exceptional cases in both analysis periods. During the 'Immigration Crisis in Europe after the Arab Spring', TPS was replaced by various residence permits – de facto meaning a limited entitlement to protection – and the European-introduced SPS. Thus, asylum seekers had more legal prospects for protection in 2015/2016. Conventional protection was only granted in exceptional cases in the 1990s. A look at special programmes and regulations shows that, although hardly any refugees were granted asylum, they were treated as de facto refugees. During the second period of analysis, conventional refuge - and thus the most extensive integration - was granted more often than the other categories. Specifically, while Bosnians were rarely expelled from Austria and Germany

⁵⁸⁴ Eiko R. Thielemann and Torun Dewan, "The myth of free-riding: Refugee protection and implicit burden-sharing," *West European Politics* 29, no. 2 (2006): 351-369, <https://doi.org/10.1080/01402380500512742>.

between 1992 and 1995, they were given little prospect of long-term residence. This partly changed in Austria during the ‘crisis’ due to economic opportunities for asylum seekers. Many Bosniaks achieved structural integration and changed their status through unregistered employment. Although labour market integration was guaranteed by law in Germany during the ‘Bosnian Refugee Crisis’, this offered almost in no case a prospective residence permit beyond the Bosnian War. Also due to the economic and political situation, Germany deported most of the people with TPS who were admitted during 1992-1995 within days of the end of the war. Overall, my analysis has shown that rationality in integration considerations depends more on interests than on norms.

How deportations of Syrian beneficiaries of SPS will develop remains to be seen. In light of current developments in Denmark, where Syrians are being sent back to Syria on the grounds that their region of origin is considered a safe country of origin, this could be a step towards a restrictive dilution of the right to refuge and the SPS.⁵⁸⁵ The practice is reminiscent of Germany's interpretation of temporary protection in 1995. If the EU does not provide a uniform guideline for the duration of SPS, there will be a race to the bottom between states, as with TPS. The extent to which refugee protection is curtailed depends on what is presented as appropriate. My analysis showed that in times of crisis, interests become more important in juggling humanitarian obligations and state preferences. As long as rules in the CEAS are not uniform, European directives will cause discontent in some states and mean a return to national applications. Not to mention the injustices and psychological consequences for the refugees.

⁵⁸⁵ Florian Elabdi, “Denmark: What may happen to Syrian refugees who refuse to return?,” News, *Al Jazeera*, accessed June 27, 2021, <https://www.aljazeera.com/news/2021/4/20/denmark-what-may-happen-to-syrian-refugees-who-refuse-to-return>.

5.2 Development of Political Discourses

In this chapter, I answer my sub-question asking how the positions and lexical choices of the major parties in Germany and Austria concerning asylum have changed in their electoral programmes. Already the quantitative analysis of the political discourse in question reveals that the refugee issue has become an integral part of political discourse in Austria and Germany. The salience of the issue has increased considerably. While the social democratic parties in Austria and Germany dealt less with asylum and refugees in their 1994 programmes than the conservative CDU, the conservative parties positioned themselves less frequently on the topic in their 2017 electoral programmes. The SPD in particular stood out in the analysis, as they did not mention asylum and refugees at all in 1994 - after they had supported the asylum compromise - but more than twice as likely as the other parties in 2017.

In terms of positioning, all parties advocate the Europeanisation of asylum policies. In 1994, they called for a CEAS and in 2017 for a new more binding version. Thus, despite their departure from European guiding treaties and principles, the parties were in favour of a European solution. In 2017, they showed more similarities to the other national party than to the ideologically related party in the other country. The demand for faster asylum procedures is dominant, regardless of party and time. In terms of linguistic design, the analysed electoral programmes consistently use both stigmatising and affirmative vocabulary. This proves the juggling of values, norms, and interests. The most frequent frames are those of responsibility, security threat, crime, and humanitarian obligation. These also demonstrate the ambivalence of the activated structures.⁵⁸⁶ Hardly any programme solely emphasises affirmative or stigmatising words, structures, and thematic links.

In all cases, stigmatising frames coincide with calls to reduce the number of asylum seekers, lowering costs. The fact that parties focus on, stigmatise certain sections of refugees, or only generalise refugees in the group of immigrants reproduces power relations. Refugees are the object of political discourses and have to deal with the outcome, the laws. Overall, the framing of the issue of asylum is presented strictly as a legal matter, resulting in the narrative that when laws are changed, the issue loses significance. The reasons why refugees flee are mentioned comparatively rarely.

Different is that more metaphors and emotive lexis appears in the electoral programmes of 2017. There has been a change in how clearly narratives emerge. While in 1994 only the programme of the CDU contained a distinct narrative against the influx of

⁵⁸⁶ Dietrich Busse, *Frame-Semantik. Ein Kompendium* (Berlin: de Gruyter, 2012), 11.

refugees, three of the four electoral programmes of 2017 contain a consistent narrative. Whereas the Austrian parties build a negative narrative, the SPD constructs a clearly positive one in which refugee protection is presented as a legal and humanitarian duty. All of the 2017 programmes include significantly more emotive and deontic effects. Thus, the corpus after the ‘Immigration Crisis in Europe after the Arab Spring’ contains more instructions for action, which indicate that asylum became an even fiercer political battlefield. In this context, the ÖVP even uses populist strategies such as concealing certain facts or presenting decisions as without alternative.

In their 2017 programmes, Austrian parties emphasise the difference between asylum seekers and the Austrian population and contrast legitimate immigration with illegitimate immigration. To prevent illegitimate immigration, the parties want to make asylum decisions locally and refool all illegal arrivals. The framing of the parties is primarily stigmatising and the logic of appropriateness is focused on Austria's interests rather than norms and values. For example, both parties are in favour of the asylum seeker cap introduced in Austria, which does not seem compatible with the values emphasised in the supranational or international refugee protection regime before the ‘crisis’. While the SPÖ sees integration as the main task, the ÖVP attributes immigration policy as in need of reform. Contrarily, in 2017, the analysed electoral programmes in Germany emphasise values. The CDU in particular designates a lot of space for interests, links asylum with security policy, and uses the classic frame of illegals or metaphors of struggle with emotive effects. Nevertheless, the CDU also emphasises humanitarian obligations and thus produces a field of tension between two different framings. The SPD focuses exclusively on affirmative keywords and neutral lexical decisions. They emotionalise by focusing on refugee women and children and bypassing costs. With the SPD's focus on humanitarianism and legal responsibility, it positions itself substantively and linguistically for a liberal interpretation of refugee protection.

Lastly, the two predominant frames are migrants and refugees as illegal and laws in need of reform. Furthermore, the issue of asylum is primarily linked to threads of security and crises. This is less apparent for the social democratic parties. Both in 1994 and 2017, the cost of protecting refugees is associated with excessive demands. However, the German parties use this tactic less often in 2017. It is also striking that parties that want to limit refugee protection obligations refrain from clearly separating migrants from asylum seekers. Especially the ÖVP degrades asylum seekers from their special rights and situation. These frames, connections, and concealment strategies change the radius of what is understood as an appropriate scope for action. However, all parties are fundamentally committed to the right to

asylum and, measured by linguistics and positioning, want to preserve it. To varying degrees, the analysed parties cite values and norms in their programmes and refer to international human rights. While in 1994 these were more common among the Austrian parties, in 2017 humanitarian obligations were emphasised more by the German parties. The juggling of norms and values and interests is evident in all programmes.

In summary, the tension between values, norms, and interests remains, as proven by the mixture of stigmatising and affirmative lexical choices. While the German parties prioritised interests over values and norms through clear positioning or omission in 1994, the Austrian parties did so in 2017. If parties focus on interests and are less specific, they position themselves for a pragmatic application of refugee protection, which means more restrictive measures and laws. Parties advocate Europeanisation and protect the fundamental right to asylum in both 1994 and 2017. Despite calling for restriction, emphasizing values and norms limits what is considered reasonable restriction of refugee protection. However, primarily the Austrian parties in 2017 call for measures that facilitate a non-entree regime and contradict international rights and obligations. Asylum is primarily framed as a burden and threat. Overall, asylum laws are singled out as the problem and in need of reform. This results in the narrative that when laws are changed, the issue loses significance. The reasons why refugees flee are mentioned comparatively rarely. In 2017, development aid is also presented as a way to reduce the number of people seeking protection.

Chapter 6: Conclusion

The afore explained analysis allows answering my research question about how asylum policies and discourses in Austria and Germany differ from each other concerning the 'Bosnian Refugee Crisis' and the 'Immigration Crisis in Europe after the 'Arab Spring'. This conclusion answers my research question and then provides space for reflection.

Firstly, the states while being linguistically, cultural, and politically linked show fundamental differences in the asylum policies. This is especially true for the beginning of the 'Bosnian Refugee Crisis'. While in Germany the right to asylum was enshrined in the 1949 Basic Law, in Austria it has been legally regulated since the 1960s. German law lacked comprehensive legal regulation and restriction, while Austrian law was a more exclusive interpretation of internationally established obligations. Both countries focused on labour migration, not refugee immigration. Additionally, Germany was part of the European institution that started to cooperate intergovernmental in the policy field of asylum in the early 1990s. However, European asylum cooperation was still in its infancy and Austria was not yet part of the mezzo-level during the 'Bosnian Refugee Crisis', despite having started a reception procedure. Differences in national refugee protection regimes have decreased over time. With the development of the European institution towards a supranational and thus political entity, the national refugee protection regimes adapted and consequently assimilated. Practices, however, differed in the beginning and still differ during the 'Immigration Crisis in Europe after the Arab Spring'. During the Bosnian refugee crisis, more than twice as many refugees came to Austria as to Germany relative to the number of inhabitants. In 2015/2016, this figure was comparable for both countries and significantly higher than 1992-1995.

Both Germany and Austria integrated Bosnian refugees only slightly. While in Austria Bosnians were gradually integrated more, they were able to obtain long-term residence permits through a change of status. In Germany, Bosnian asylum seekers had no chance of obtaining long-term residence permits. Due to financial policy interests, de facto refugees were integrated into the labour market. Still, Germany withdrew the residence status of most Bosnian refugees after the Dayton Peace Treaty. Labour market integration, immigration laws, and social benefits differ significantly in the respective regimes. A look at the situation of the states provides a starting point for explanation. Germany had to deal politically and economically with the integration of GDR and xenophobia. Austria's economic situation, measured by growth rates and unemployment figures, was more stable.

Even though the European Union faced difficulties in 2015/2016, the economic and political situation in Austria and Germany was comparatively stable. Although xenophobic parties won votes in both countries, integration of asylum seekers with different protection statuses was advanced. In Austria, however, social services for and accommodation of asylum seekers were sometimes catastrophic at the beginning of the 'refugee crisis' due to federal quarrels. Asylum processes were also not being processed quickly enough. The government changed the possibility for displaced people to apply for asylum in Austria and reframed the national identity. Politicians framed Austria as a transit country in 2016. Thus, outsourcing of refugee protection was presented as appropriate. Germany, on the other hand, framed itself as a country of immigration - unlike in the 1990s - and parties emphasised humanitarian obligations. While people were allowed access to basic security and housing, asylum applications were also examined too slowly. Germany took in the most asylum seekers in 2016 when Austria already tried to establish a non-entree regime. In both countries, an average of about 40 percent of asylum seekers were granted some form of protection or residence permit during the 'Immigration Crisis in Europe after the Arab Spring'.

These practices are determined foremost by regulations but also by the logic of appropriate representing the rationale. Dominant frames in both examined political discourses are common stigmatising frames also used for the topic of immigration in general. Laws are the focal point of critique and portrayed as the problem and in need of reform. Framing some migrants as illegal invokes criminal connotations and discredits their claim as well as personal story. When parties focus on the suffering of displaced people, they emotionalise the topic and hope to invoke feelings of obligation. Likewise, parties emphasise humanitarian obligations when certain rights are presented as guaranteed, thus narrowing the frame for appropriate regime adaptations. Even if the changing regimes impact the framing of what is appropriate, the fundamental right to asylum remains unchallenged and emphasised in the political discourse in both Germany and Austria to varying degrees.

While national practices and discourses differ in the logic of appropriateness, in 2016 EU states searched for solutions limiting the influx into the Schengen area and make the CEAS applicable and relevant again. As the European society was confounded and states did not adhere to solidarity and distribution principles on refugee protection of the EU, a domino effect set in that led to a return to national practices during the 'crisis'. This not only owes to national interests but also to functional problems of the EU. Majority voting and unequal distribution of responsibilities in the CEAS have fuelled discontent and non-compliance. Therefore, the EU-Turkey Statement represents an externalisation of refugee protection

between a supranational institution and the country harbouring the most refugees in the world. Turkey in return got financial allocations for the protection of refugees and the prospect of better relations. Accordingly, not only did the institution change the members, but the members changed the institution. The outsourcing of refugee protection and development towards non-entree regimes, carried out by nation states in the 1990s, has been partly transferred to the mezzo-level. During and after the recent 'refugee crisis', the external component of EU laws has played an increasingly important role. Still, Germany and especially Austria also partly outsourced refugee protection nationally by closing borders or third-country arrangements.

The only ones without say in the issue of asylum and the design of the refugee protection regime are refugees. While socialisation, interpretation of the international protection claim, historically developed laws, political distribution of competences, and national identities are considered, the opinion and consequences of those affected are not. Refugees are the object of laws and discourses and have to deal with the popularised result. It seems only logical that those affected seek ways out of and around these laws.

In summary, possibilities within the framework of these laws have varied enormously over time. The German and Austrian asylum systems are similar in certain interpretations and practices, invoking international obligations. However, the national regimes differ fundamentally and the law application at the beginning of my period of analysis was also unequal. With progressing Europeanisation, national regimes began to converge. Still, refugees headed and head for different countries in the European Union because of varying national conflicts and nuances. Once there, states categorise people into refugee statuses, navigating restrictive systems of varying degrees. As welfare states, Germany and Austria open a range of social benefits to citizens. Depending on the frame, benefits are cut or extended. Particularly restrictive measures were chosen during the 'crises'. Refugee protection is often granted outside of conventional refugee status due to identity policy considerations but also interests. During the latter 'crisis' more people were granted conventional refuge. Moreover, the SPS constructed in the EU offered civil war refugees a legal protection possibility. However, the international refugee protection regime itself has not developed comprehensive refugee protection. People are forced to flee into uncertainty and depending on the causes of flight, only some of the asylum seekers receive protection. With the previously mentioned additional categories, Germany and Austria accept more people, but they relativise the special status of conventional refugees.

Finally, I reflect on my work. This case study contributes to the comparison and understanding of asylum practices in Europe. Identarian kinship, as my work shows, does not mean that refugee protection is equally granted and regulated. With the help of my constructive approach, I linked values and norms with interests. The reconciliation and tension of these became striking. Their juggling was evident at all times. My approach also allowed me to draw out the logic of appropriateness. I first tried to separate discourses and laws on immigration from asylum-specific one's. Even if this worked for fundamental agreements, the focus on asylum seekers was almost impossible. Fundamental laws affect asylum seekers and refugees. Moreover, political discourse does not distinguish between asylum seekers and refugees and often not even between refugees and immigrants. In the end, Despite the Eurocentrism of the topic, I have achieved a balance between non-partisanship, a critical stance, and the empowerment of asylum seekers. Future research can, on the one hand, use my theoretical framework and method to examine interdisciplinary comparisons through a constructivist lens and, on the other hand, learn from the weaknesses of my work. Due to the multifaceted elements and aspects, my work also offers room for more in-depth research. For example, a comparison of different regimes within the EU would be illuminating. This could be used to test the theory and the findings presented here.

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Appendix I

As the analysed Austrian party programmes (ÖVP, 2017; SPÖ, 2017; SPÖ, 1994) are not freely accessible online, the identified corpus extracted from these documents is provided in the following.

Extracts from the ÖVP Programme for 2017

[Extracted from: ÖVP. “Der neue Weg. Neue Gerechtigkeit & Verantwortung. Zurück an die Spitze.“ Das Programm der Liste Sebastian Kurz – die neue Volkspartei zur Nationalratswahl 2017. Accessed June 23, 2021.]

#Lösung für die Mindestsicherung: Deckelung bei 1.500 Euro, Konsequenzen bei Missbrauch, eine reduzierte BMS light für Asylberechtigte (S. 64 1/3)

Für Asylberechtigte wollen wir die Leistungen auf eine „Mindestsicherung light“ in der Höhe von maximal 560 Euro reduzieren. (S. 64 1/3)

Die Mindestsicherung ist eine Überbrückung für Personen in schwierigen Situationen, nicht aber ein bedingungsloses Grundeinkommen. Die Mindestsicherung soll jenen zugutekommen, die keinen Anspruch auf Leistungen aus der Arbeitslosenversicherung haben und auch über kein Vermögen verfügen, damit sie sich selbst erhalten können. Die Mindestsicherung hat im Jahr 2011 die Sozialhilfe abgelöst. Gleichzeitig wollte man eine bundesweit einheitliche Lösung schaffen. Das ist leider nicht gelungen. Der Betrag für einzelne Bezieher der Mindestsicherung liegt derzeit zwischen ca. 830 und 924 Euro je nach Bundesland. Für Familien mit mehreren Kindern kann der Gesamtbetrag auch bis zu 2.500 Euro und mehr ausmachen. Im Jahr 2012, dem ersten vollen Jahr der Mindestsicherung, sind wir mit ca. 220.000 Bezieherinnen und Beziehern der Mindestsicherung gestartet. Im Jahr 2016 waren es bereits über 307.533. Bedenkt man jene Asylwerber, die wahrscheinlich in absehbarer Zeit einen positiven Asylbescheid bekommen werden, wird diese Zahl sicher noch stärker steigen. (S. 64 1/3)

Besonders dramatisch stellt sich die Entwicklung bei Personen mit nichtösterreichischer Staatsbürgerschaft dar. [...] Insgesamt bezogen 150.280 Personen Mindestsicherung, davon 75.200 ohne österreichische Staatsbürgerschaft. Der Großteil (42.772) davon wiederum sind anerkannte Asylwerberinnen und Asylwerber sowie subsidiär Schutzberechtigte. (S. 65 1/3)

Schlagen vor: Eine „Mindestsicherung light“ für Asyl- bzw. subsidiär
Schutzberechtigte in den ersten 5 Jahren (S. 66 1/3)

Für Asyl- bzw. subsidiär Schutzberechtigte soll außerdem bundesweit eine
„Mindestsicherung light“ eingeführt werden. Die Höhe der Mindestsicherung wird an die
Aufenthaltsdauer gekoppelt und damit dem direkten Zuwandern in die volle
Mindestsicherung ein Ende bereitet. Der Anspruch auf den vollen Bezug soll erst nach fünf
Jahren rechtmäßigem Aufenthalt geltend gemacht werden können. Die Höhe der
Mindestsicherung in den Jahren davor soll 560 Euro pro Einzelperson betragen. Dieser Betrag
setzt sich aus der Grundversorgung (365 Euro), dem Integrationsbonus (155 Euro) und einem
Taschengeld (40 Euro) zusammen, die Auszahlung ist aber an das Erreichen von
Integrationszielen geknüpft. Ein Übergang in die reguläre Mindestsicherung ist nur möglich,
wenn in den ersten fünf Jahren auch einer regulären Vollzeitbeschäftigung für mindestens 12
Monate nachgegangen wurde – sonst verlängert sich die „Mindestsicherung light“
automatisch. (S. 67 1/3)

Eine „Mindestsicherung light“ für Asyl- bzw. subsidiär Schutzberechtigte in den
ersten 5 Jahren (S.67 1/3)

Gerade in Afrika steigt auf Grund der demographischen Entwicklungen der
Migrationsdruck nach Europa. Um dem entgegenzuwirken, braucht es mehr Zusammenarbeit
vor Ort, aber auch die entsprechenden Konsequenzen, wenn ein Staat nicht kooperationsbereit
ist und beispielsweise abgelehnte Asylwerber nicht zurücknimmt. (S. 116 1/3)

Streichung der EZA, wenn abgelehnte Asylantragsteller nicht zurückgenommen
werden (S. 117 1/3)

Die EU ist mit knapp 60 % der Entwicklungszusammenarbeitsleistungen der größte
Geber der Welt. Sie darf aber nicht nur als „Global Payer“ agieren, sondern muss als „Global
Player“ die eigenen Interessen viel stärker international verfolgen und Außen- und
Handelspolitik sowie Entwicklungszusammenarbeit viel enger miteinander verschränken. (S.
117 1/3)

Gerade die Migrationskrise macht eine Neudefinition der EU-Beziehungen mit Staaten
in Afrika oder im Mittleren Osten erforderlich. Diese gegenseitigen Pflichten beziehen sich
auch auf die völkerrechtliche Verpflichtung zur Aufnahme und Rückübernahme von
Staatsbürgerinnen und Staatsbürgern. Wir fordern in der EU deshalb ein „Less-for-Less-
Prinzip“: Wenn ein Drittstaat abgelehnte Asylwerberinnen und Asylwerber nicht
zurücknimmt oder kooperiert, sollen entsprechend auch Zahlungen wie beispielsweise EZA-
Mittel an diese Staaten gekürzt oder gestoppt werden. Ebenso ist vorzugehen, wenn

universelle Grundwerte wie etwa Meinungsfreiheit, Religionsfreiheit und Gleichberechtigung fundamental verletzt werden. (S. 117 1/3)

Ein Punkt, den wir als wichtig ansehen, um eine Finanzierung der Entlastung zu ermöglichen, ist die Zuwanderung ins Sozialsystem zu stoppen. Der Fiskalrat geht davon aus, dass im Jahr 2018 2,7 Milliarden zusätzliche Kosten für die Flüchtlinge in Österreich entstehen. Wenn wir weiterhin illegale Migration nach Österreich zulassen, müssen wir in diesem Bereich mit immer höheren Kosten rechnen – nicht nur im Bereich der Sozialhilfe, sondern auch in der Bildung, im Gesundheitswesen und anderen Bereichen. (S. 46 1/3)

Zuwanderungs-Stopp – ins Sozialsystem 1,5 Mrd. [Gegenfinanzierung/Entlastung] (S. 46 1/3)

Kapitel: Keine Illegale Zuwanderung zulassen:

Das Jahr 2015 war ein Schock für viele Menschen in diesem Land. Durch die Politik des Weiterwinkens hat sich die Anzahl der Asylanträge explosionsartig auf fast 90.000 erhöht. Wir müssen selbst entscheiden, wer in Österreich einreist, und die Obergrenze für illegale Zuwanderung auf null setzen. Begleitend brauchen wir mehr Hilfe vor Ort, effektive Resettlement-Programme, ein verbessertes Punktesystem für legale Zuwanderung und zielgerichtete Integrationsmaßnahmen. (S. 18 3/3)

Das Jahr 2015 war ein politisches Erdbeben, ein Schock für viele Menschen in diesem Land und hat das Vertrauen in den Rechtsstaat massiv belastet. Das politische Establishment hat bei der großen Flüchtlingskrise versagt. Hunderttausende aus allen Teilen der Welt machten sich vor allem auf Einladung Europas auf den Weg – viele von ihnen aber nicht, weil sie Schutz suchten, sondern weil sie auf der Suche nach einer besseren wirtschaftlichen Zukunft waren (S. 18 3/3)

Wir haben das Problem illegaler Migration deswegen aber noch nicht unter Kontrolle, wie man vor allem an der Mittelmeer-Route sehen kann. Immer noch kommen jeden Monat zahlreiche illegale Flüchtlinge nach Österreich. Solange wir als Europa das Signal aussenden, jeden, der in Afrika in ein Boot steigt, zu retten und aufzunehmen, so lange werden sich immer mehr Menschen auf den Weg machen und so lange werden Menschen im Mittelmeer ertrinken. (S. 18 3/3)

Von den knapp 90.000 Asylantragstellern im Jahr 2015 kamen 29 % aus Afghanistan und 28 % aus Syrien, 16 % aus dem Irak und der Rest aus verschiedenen anderen Ländern. 66 % der Anträge wurden von Männern gestellt und insgesamt 74 % der Antragstellerinnen und Antragsteller waren unter 30 Jahre alt. Ein Großteil hat nur einen Pflichtschulabschluss aus

dem jeweiligen Heimatland vorzuweisen und 9 % hatten überhaupt keine Schulbildung. Die nachhaltige und vollständige Integration dieser Menschen in unseren Arbeitsmarkt und in unsere Gesellschaft ist eine der großen Herausforderungen der kommenden Jahre und Jahrzehnte. (S. 18 3/3)

Die einzige Alternative, die wir haben, ist, die illegale Zuwanderung rigoros zu stoppen. Wir sprechen hier von einer Obergrenze gleich null. Das heißt nicht, dass wir gar keine Migration mehr nach Österreich ermöglichen. Das heißt auch nicht, dass wir uns unserer Verantwortung gegenüber den verfolgten Menschen auf der Welt entziehen wollen. Aber wir dürfen es nicht den Schleppern überlassen, wer nach Österreich kommt. (S. 18 3/3)
Das europäische Asylsystem neu gestalten. (S. 20 3/3)

Wo es Krisen auf der Welt gibt, leistet auch Österreich seinen Beitrag, die notleidenden Menschen vor Ort zu versorgen. Diese Hilfe kommt vor allem den Schutzbedürftigsten wie Frauen, Kindern und alten Menschen zugute. Flüchtlinge aus Krisengebieten sollten in Zukunft nur legal, geordnet durch Resettlement-Programme, zu uns kommen. Die Auswahl von Flüchtlingen soll in Zusammenarbeit mit internationalen Organisationen wie dem UN-Flüchtlingshilfswerk (UNHCR), der Internationalen Organisation für Migration (IOM) oder dem Europäischen Unterstützungsbüro für Asylfragen (EASO) vor Ort in den Krisenregionen und Flüchtlingscamps erfolgen. (S. 20 3/3)

Zuwanderung aus Drittstaaten läuft jetzt schon über ein Punktesystem, das noch weiter zu entwickeln ist. Besonders hochqualifizierte Personen, die in bestimmten Schlüsselbereichen (Industrie, Forschung, Kunst und Kultur) arbeiten wollen, für die ein nachgewiesener Bedarf besteht, der nicht durch eigene Ressourcen gedeckt werden kann, sollen unbürokratisch angeworben werden können, um die besten Köpfe in Österreich zu haben. Gerade für diese Gruppe sollen vereinfachte Formen der Beantragung bzw. der Administration eingeführt und die Rot-Weiß-Rot-Karte entbürokratisiert werden. Der österreichische Staat muss aber auch klare Regelungen über die Länge des Aufenthalts in Österreich schaffen, wenn der Bedarf nicht mehr besteht. (S. 20 3/3)

Diese Ziele können wir aber nur erreichen, wenn wir selber entscheiden, wen wir als Flüchtling bzw. als Zuwanderer in die EU holen und wie wir am besten vor Ort helfen. Deswegen brauchen wir eine Neugestaltung des Asylsystems in Europa, das klare Regeln vorgibt, an die sich auch alle zu halten haben. Menschen, die auf See gerettet werden, sollen in ein „Rescue Center“ außerhalb der EU gebracht werden und nicht mehr auf das Festland der Europäischen Union gelangen. Illegalen Migranten, die dennoch in die EU einreisen, werden im Fall von Schutzbedürftigkeit in ein „Protection Center“ in einem Drittstaat

gebracht, anderenfalls in die Herkunftsländer rückgestellt. Und nur jene, die durch mobile Teams internationaler Organisationen als besonders Schutzbedürftige in Flüchtlingszentren vor Ort bzw. in Krisenherden ausgewählt werden, können mittels Resettlement entsprechend spezifischer Kapazitätsgrenzen innerhalb der EU Aufnahme finden. Der Fokus liegt hier in erster Linie auf Frauen, Kindern und Familien. Voraussetzung dafür ist, dass wir die illegale Migration stoppen, wie etwa jene über die Mittelmeer-Route. Dabei gilt es, den Transitstaaten beim Aufbau von Kapazitäten zur Unterbringung und Rückführung von Migranten zu helfen sowie die nordafrikanischen Staaten bei der Grenzsicherung ihrer Landesgrenzen zu unterstützen. Vorbild kann uns hier vom Prinzip her Australien sein, das auf einen Mix aus Hilfe vor Ort, Sicherung der Außengrenzen und Resettlement-Programme setzt. (S. 20 3/3)

Jährliche Entwicklung der Asylanträge (S. 20 3/3)

In einem weiteren Schritt müssen wir auch innerhalb von Österreich alles daransetzen, die Zuwanderung von unqualifizierten Arbeitskräften so weit wie möglich einzudämmen. Jene, die bei uns bleiben dürfen, sollten sich auch von Anfang an so gut wie möglich integrieren und wir werden ihnen einen sinnvollen Auftrag geben. Asylwerber erhalten im Rahmen der Grundversorgung eine Vielzahl an Leistungen. Gemäß dem Grundsatz „Leistung für Gegenleistung“ sollen sie in Zukunft auch einen Beitrag erbringen (z.B. die Erhaltung und Pflege ihrer mit Steuergeld finanzierten Quartiere, Mitarbeit in der Gemeinde etc.). Das hilft ihnen bereits früh, sich an ein reguläres Arbeitsleben zu gewöhnen, und gibt ihnen die Möglichkeit, einen positiven Beitrag in dem Land zu leisten, in dem sie Aufnahme suchen. Um hier auch die entsprechenden Anreize zu schaffen, soll ihre Mitwirkung bzw. ihre Bereitschaft aber auch über den Erhalt bestimmter Leistungen (wie zum Beispiel das „Taschengeld“) entscheiden. (S. 20 3/3)

Es wird Jahre brauchen, das verlorengegangene Vertrauen nach dem Katastrophenjahr 2015 zurückzugewinnen. Aber wir dürfen keinen Tag damit warten, daran zu arbeiten. Durch die Flüchtlingskrise wurden wir vor enorme Herausforderungen in der Integration gestellt. Damit sind sowohl die soziale Ordnung und das gesellschaftliche Leben als auch letztlich die Frage von Identität massiv erschüttert worden. Wer nach Österreich zuwandert, muss ganz klar wissen, dass es kulturelle Prägungen, Werte und Regeln gibt, über die wir nicht verhandeln und von denen wir erwarten, dass sie uneingeschränkt respektiert werden. Zuwanderung hat im Interesse des Staates und seiner Bürger zu erfolgen. Es braucht demnach ganz klare Kriterien und eine strenge Ordnung. (S. 20 3/3)

Unsere Maßnahmen: Neugestaltung des Asylsystems in Europa und effektive Sicherung der EU-Außengrenzen (S. 20 3/3)

Integrationspolitik kann falsche Einwanderungspolitik nicht reparieren. (S. 28 3/3)

Integration durch Leistung braucht Sprach- und Wertevermittlung und strengere Spielregeln für den Erwerb der Staatsbürgerschaft. (S. 28 3/3)

„Integration durch Leistung“ (S. 28 3/3) (Keyword)

Ziel der Integration für jene, die einen unbefristeten Aufenthaltstitel haben, kann der Erwerb der österreichischen Staatsbürgerschaft sein. Was den Zugang dazu betrifft, sollte es gegenüber anderen Zuwanderern keinen Vorteil darstellen, in Österreich als Asylberechtigter zu leben. Die österreichische Staatsbürgerschaft ist ein hohes Gut und sollte nicht zugänglich für jene werden, die sich nicht an die Gesetze unseres Staates halten. (S. 28 3/3)

Gleiche und damit längere Fristen für die Einbürgerung von Asylberechtigten wie bei anderen, regulären Einbürgerungen (S. 28 3/3)

Knapp 1.500 Asylsuchende unter 18 Jahren sind in Deutschland als verheiratet registriert. Davon sind 361 unter 14 Jahre alt . Umgerechnet auf Österreich kann man davon ausgehen, dass hierzulande etwa 150 Jugendliche verheiratet sind, 35 von ihnen sind unter 14 Jahren. Mehr als die Hälfte aller Frauen, die in Frauenhäusern Zuflucht vor häuslicher Gewalt suchen, sind Migrantinnen. Wir müssen noch härter gegen Gewalt und Misshandlung von Frauen und Kindern vorgehen. Strafen sollen erhöht, Beratung und Betreuung ausgebaut werden. Bei jeder Form der Gewalt gegenüber Frauen und Kindern liegt unsere Toleranzschwelle bei null – nicht ein einziger Fall darf ohne Konsequenzen bleiben! (S. 54 3/3)

Kapitel: Parallelgesellschaften verhindern:

Im Zuge der Flüchtlingswelle sind hunderttausende Menschen nach Europa gelangt, die aus Ländern stammen, in denen keine Demokratie, Rechtsstaatlichkeit und Gleichberechtigung von Mann und Frau herrscht. Leider wird dabei auch oft der teilweise vorhandene Antisemitismus der Muslime negiert oder zu einer Randerscheinung verharmlost. (S. 26 3/3)

Extracts from the SPÖ Programme 2017

[Extracted from: SPÖ. “Plan A für Österreich.” Das Programm für Wohlstand, Sicherheit & gute Laune. Accessed June 23, 2021.]

Viel hat sich seit damals verändert. Globalisierung, Digitalisierung, Fluchtbewegungen und Klimawandel sind nur die besonders sichtbaren Punkte einer internationalen Entwicklung, die vielen Menschen in unserem Land Angst macht. (s. 8)

Wir setzen uns für die Bekämpfung der Fluchtursachen ein und haben einen 7-Punkte-Plan zur Reduktion der Fluchtbewegungen, der die Zahl der Asylsuchenden in Österreich verringern wird. (S. 13)

Integration wird uns als zentrale gesellschaftspolitische Herausforderung noch einige Zeit begleiten. Den Kopf in den Sand stecken kann keine brauchbare Strategie sein. Niemandem ist geholfen, wenn wir über tatsächliche Probleme hinwegsehen und diese verharmlosen. Es gilt: Die Anzahl der Flüchtlinge müssen wir auf ein Niveau reduzieren, das Integration ermöglicht. Wer kommt, muss sich an unsere Regeln halten, Deutsch lernen, die Werte akzeptieren. Wer das tut, ist Teil von Österreich. [...] Wer Rechte in Anspruch nimmt, muss auch Pflichten erfüllen. [...] Je schneller Integration funktioniert und je schneller sich die Menschen selbst erhalten können, desto einfacher ist es für alle. Darum setzen unsere Bemühungen bereits bei den AsylwerberInnen an. Das Integrationskonzept, das mit ExpertInnen, NGOs, VertreterInnen der Länder und der Sozialpartner erarbeitet wurde, fordert Engagement und fördert Eigenverantwortung. (S. 144)

Wir haben die Verpflichtung, den ÖsterreicherInnen und den Menschen, die legal bei uns sind, eine Perspektive zu geben, indem wir diese Herausforderungen meistern. Wir brauchen: klare Ansagen, realistische Ziele und umsetzungsstarke Strukturen. Wir müssen Zuwanderung begrenzen und die Kontrolle darüber haben, wer zu uns kommt. Deshalb haben wir eine Obergrenze, die klar macht: Bis hierher können, wollen und werden wir Menschen auf der Flucht helfen. Wir werden sie unterstützen und aufnehmen. Mehr geht dann aber nicht. Die Obergrenze gilt, weil sie definiert, was wir leisten können. Wir müssen den ÖsterreicherInnen Sicherheit geben und wir haben einen Plan für alle, die zukünftig unsere Gesellschaft mitbauen wollen. (S. 144)

1. Arbeitsmarkt und Selbsterhaltungsfähigkeit

Durch die Fluchtsituation im Jahr 2015 ist mit einer steigenden Anzahl arbeitslos gemeldeter Asylberechtigter zu rechnen. Die durchschnittliche Vermittlungsdauer beträgt je nach Qualifikationsniveau drei bis sieben Jahre. Die logische Konsequenz liegt darin, den Integrationsprozess vom ersten Tag an zu starten. Denn Verzögerungen und Erschwernisse im Integrationsprozess bedeuten langfristig Mehrkosten.

- Verpflichtendes Integrationsjahr für Asylberechtigte und AsylwerberInnen: Integrationsvereinbarung, Integrationspfad, Betreuung durch IntegrationsberaterInnen, Kompetenzchecks, Sprachmaßnahmen, Arbeitstraining, Bewerbungstraining. Das haben wir erfolgreich durchgesetzt – seit diesem Jahr ist das verpflichtende Integrationsjahr in ganz Österreich Realität.
- Ausweitung »Implacementstiftungsprogramm« zur arbeitsplatznahen Qualifizierung. Mit großen Unternehmen wird eine Vereinbarung verhandelt, sich zu verpflichten, für Asylberechtigte 1000 Stellen bereit zu stellen. Qualifizierungsprogramme und eine 80-Prozent-Deckung des Gehalts für das 1. Jahr kommen von staatlicher Seite.
- »Fast-Track-System«: Sozialpartner einigen sich auf Mangelberufsfelder, in denen Asylberechtigte mittels Qualifizierung in der Muttersprache auf schnellstem Weg in Beschäftigung gebracht werden. (S. 146)

2. Klare Zuständigkeiten bei Asylverfahren und im Integrationsprozess

Im Zuge des Asylverfahrens gibt es in der Grundversorgung wechselnde Zuständigkeiten zwischen mehreren Ministerien, den Ländern bis hin zu Gemeinden. Folge sind lange Verfahrensdauern, fehlendes Schnittstellenmanagement und fehlende Dokumentation der Integrationsbemühungen. Engagierte Gemeinden, die aufgrund der fehlenden flächendeckenden Angebote integrationspolitisch in Vorlage gegangen sind, dürfen nicht im Stich gelassen werden.

- Klare Zuständigkeiten: Es braucht klare Verantwortlichkeiten.
- Beschleunigung der Asylverfahren
- Eine Behörde, vom Asylantrag bis hin zur Integrationsbegleitung oder zur Rückführung. Nur so haben wir einen klaren Überblick über die Integrationsbestrebungen, können steuern und besser vollziehen. Internationale Beispiele in Schweden und Deutschland zeigen, wie es geht. (S. 146)

3. Struktur auch für nicht mehr schulpflichtige AsylwerberInnen

10 Prozent der AsylwerberInnen sind minderjährig, der Großteil davon ist nicht mehr schulpflichtig. Für diese Zielgruppe gibt es keine flächendeckende Beschäftigungsstruktur. Perspektivlosigkeit und langfristige Integrationsprobleme sind die Folge.

- Ausrollung Projekt Jugendcollege: Qualifizierungsprogramm für nicht mehr schulpflichtige jugendliche AsylwerberInnen, Asylberechtigte und Drittstaatsangehörige
- Qualifizierungsverpflichtung bis 25: Aktuell können jugendliche AsylwerberInnen nur in Mangelberufen eine Lehre absolvieren. Gerade, um dieser Gruppe möglichst rasch eine Beschäftigungsperspektive zu geben und um sie nicht zum Nichtstun zu verdammen und einem Abrutschen in die Kriminalität Vorschub zu leisten, müssen wir sie für unseren Arbeitsmarkt tauglich machen.
- Überregionale Lehrstellenvermittlung (S. 147)

Einsatzfähige Exekutive

Unsere PolizistInnen sollen echte Polizeiarbeit leisten können und nicht als Lückenbüßer in der Verwaltung tätig sein. So sollen zeitintensive Erstbefragungen im Asylverfahren nicht von ihnen durchgeführt werden, sondern von den ExpertInnen im zuständigen Bundesamt. Das ermöglicht schnellere Verfahren und bringt mehr PolizistInnen auf unsere Straßen. (S. 160)

2. Freiwilliges Engagement gehört gefördert.

Eine unserer Stärken ist das freiwillige Engagement unserer Zivilgesellschaft. Ein Alleinstellungsmerkmal Österreichs in der Welt, das immer dann sichtbar wird, wenn es drauf ankommt. Rund 3,3 Millionen Menschen in Österreich engagieren sich freiwillig, davon 43 % Jugendliche zwischen 18 und 29 Jahren. Das reicht von der Mitarbeit in Blaulichtorganisationen über Hilfe für ältere Menschen oder Flüchtlinge, Jugendarbeit, Engagement im Sport- oder Kulturbereich bis hin zur Nachbarschaftshilfe. (S. 170)

Als Europa eint uns eine gemeinsame historisch gewachsene Tradition. Demokratie, Religions- und Meinungsfreiheit, Gleichheit und Gerechtigkeit sind Werte, die in Europa über Jahrhunderte hart erkämpft worden sind und die Basis des europäischen Lebensmodells bilden. Eines Modells, das den Ausgleich zwischen individuellen Freiheiten und den Interessen der Gemeinschaft schafft und auf Toleranz und Respekt beruht. Diese Werte müssen und werden wir verteidigen. Und es sind Werte, die Menschen, die nach Europa kommen, oft erst kennenlernen müssen. Dieses Erfahren braucht Zeit und die Bereitschaft, es

zu tun. Deshalb müssen wir Migration so lenken, dass diese Integrationsaufgabe gelöst werden kann. Wenn Europa mit Migration konfrontiert ist, die über dieses integrierbare Maß hinausgeht, geraten unsere Werte unter Druck. Das müssen wir verhindern.

Modell Balkan

Heute entscheiden Schlepper und der Zufall, wer es nach Europa schafft. Menschen kommen ebenso aus wirtschaftlichen Gründen nach Europa wie jene, die anerkannte Fluchtgründe vorzuweisen haben. Europas Staaten müssen am Ende der Flucht Menschenleben retten, weil wir bis dorthin keinen Zugriff und keine Kontrolle über die Bewegungen haben. Es gibt aber Möglichkeiten, aus der Vergangenheit zu lernen. Gerade im Kontext des Balkans hat Europa seit den 90ern gezeigt, wie mit einer Fluchtbewegung auch anders umgegangen werden kann. Nach dem Ende des Balkankriegs haben wir klare Maßnahmen gesetzt, um die Staaten der Region zu stabilisieren und in eine Lage des wirtschaftlichen Aufschwungs zu versetzen. Der erste und beste Weg, Migration zu verhindern, sind Herkunftsstaaten, die Menschen nicht verlassen müssen oder in die sie sogar wieder zurückkehren wollen. Bis heute setzen wir am Balkan Maßnahmen, um europäische Werte zu stärken, stabile Staaten und Zusammenarbeit unter ihnen zu schaffen.

2017: Geringerer Anteil an Flüchtenden aus Kriegsgebieten

Im ersten Halbjahr 2017 erreichten 86.000 Menschen die Küste Italiens, zumeist über Libyen. Der Großteil stammt aus Nigeria, Bangladesch, Elfenbeinküste, Gambia, Senegal und Marokko. Im Unterschied zu 2016 handelt es sich also zu größeren Teilen um Personen, die nicht aus von der Genfer Flüchtlingskonvention geschützten Gründen ihr Land verlassen haben. Weniger als 20 % der Personen aus diesen Staaten haben in der EU Recht auf internationalen Schutz zuerkannt bekommen (Marokko sogar weniger als 4 %). (S. 188)

Unterschiedliche Belastungen und Entscheidungen in der EU

Aktuell sehen wir in der EU massiv unterschiedliche Anerkennungsquoten bei AsylwerberInnen aus den gleichen Herkunftsstaaten. 2015 variierte die Quote der Asylzuerkennung z. B. für Personen aus Eritrea von 47 % (UK) bis 98 % (NL). Bei Flüchtlingen aus Afghanistan: in Italien 44 % Asyl, in Griechenland nur 2 %. (S. 188)

Die logische Folge: Flüchtlinge ziehen bevorzugt in Richtung jener Länder, in denen sie die höchste Chance auf Anerkennung haben. Begrenzte Relocation-Programme, die nur kurzzeitig die Erstankunftsländer Griechenland und Italien entlasten (und in denen auch Staaten wie Deutschland und Österreich, die selbst vor massiven Herausforderungen stehen,

weitere Personen übernehmen müssen) können hier keine Lösung sein. Es braucht eine grundsätzliche Reform des europäischen Asylsystems.

Problem: Rückführungen

Die tatsächlichen Rückführungen stehen in keinem Verhältnis zu den negativen Entscheidungen in den Asylverfahren. Das ist für die Glaubwürdigkeit des Rechtsstaates ein Problem. 2015 haben europaweit nur 36 % der Personen, gegen die Rückführungsentscheidungen getroffen wurden, tatsächlich die EU verlassen. Der größte Teil der rückgeführten Personen 2015 kam aus Albanien, dem Kosovo oder Serbien. Dorthin ist eine Rückführung leicht möglich. 2015 standen 31.800 Rückführungsentscheidungen gegen marokkanische Staatsbürger nur 8.600 Rückführungen gegenüber. Erschwerend kommt hinzu, dass auch Rückführungen nicht europaweit gleichmäßig funktionieren, sondern vor allem bilateral (etwa von Spanien/Marokko oder Großbritannien/Pakistan).

Die ungleiche Verteilung von Asylsuchenden in Europa ist nach wie vor eklatant: Während in Deutschland 2016 auf 1 Million Einwohner 8.789 Asylanträge kamen und in Österreich 4.587, waren es in der Tschechischen Republik 114 und in der Slowakei nur 18. (S. 190)

1. Ein klarer Plan für die Länder Westafrikas

Europa muss einen klaren Plan zur Zusammenarbeit mit den Ländern Westafrikas entwickeln. So wie ein Verfahrenszentrum in Niger entstehen soll, müssen wir klare Antworten und Perspektiven für Herkunftsstaaten von MigrantInnen und Flüchtlingen wie in Nigeria, der Elfenbeinküste oder in Gambia anbieten. Dazu brauchen wir auch eine enge Zusammenarbeit mit den Staaten der G5 der Sahelzone (Mauretanien, Mali, Burkina Faso, Niger, Tschad). (S. 190)

4. Ein europäisches Asylsystem

Im Moment hängen die Chancen auf Asyl davon ab, in welchem europäischen Land man ansucht. Ein absolut unbefriedigender Zustand. Es braucht ein gemeinsames europäisches Asylsystem, einheitliche Asylverfahren und eine Lastenverteilung mit standardisierten Leistungen. Dafür braucht es Verfahrenszentren außerhalb der EU (zum Beispiel im Niger). Dort sollen die Asylverfahren in Kooperation mit dem UNHCR nach Menschenrechtsstandards durchgeführt werden. MigrantInnen, die auf illegalem Weg nach Europa kommen, müssen in diese Zentren zurückgebracht werden. Das würde der mafiösen Schlepperkriminalität die Geschäftsgrundlage entziehen und damit illegale Migration stark eingrenzen. Das Sterben im Mittelmeer hätte ein Ende. (S. 191)

6. Ein Europa – eine Aufgabe

Jene Menschen, für die im Verfahrenszentrum nach einem rechtsstaatlichen Verfahren entschieden wurde, dass sie Asyl bekommen, sind gerecht auf die Staaten der EU zu verteilen, wobei auf die Kapazitäten der EU-Staaten Rücksicht zu nehmen ist. Europa muss diese Herausforderung gemeinsam bewältigen – Trittbrettfahrer und Europafeinde können wir uns nicht leisten. (S. 191)

7. Verstärkte Rückführungen

Die EU muss signalisieren, dass rechtsstaatliche Entscheidungen auch durchgesetzt werden. Jene, die Asyl auf Basis einer rechtsstaatlichen Entscheidung benötigen, sollen Asyl bekommen – und alle jene, die kein Recht auf Asyl haben, müssen in ihre Heimatländer zurück. Nur wenn wir diesen rechtsstaatlichen Weg konsequent gehen, werden wir auch in Zukunft in der Lage sein, jenen helfen zu können, die tatsächlich Hilfe und Schutz brauchen. Es gilt von Seiten der Spitzen der Europäischen Union Anstrengungen zu intensivieren, Rückübernahmeabkommen zu schließen. Wir schlagen vor, auch auf europäischer Ebene eine Person speziell mit dieser Aufgabe zu betrauen. (S. 191)

Noch dringender ist eine Stärkung der Entwicklungszusammenarbeit: Auch wenn die österreichischen Beiträge zu Entwicklung auf dem Papier zuletzt von 0,32 % des Bruttonationaleinkommens (BNE) auf 0,38 % gestiegen sind, so war dies insbesondere auf angerechnete Kosten aus der Flüchtlingsbetreuung zurückzuführen und wird daher auch wieder sinken. Österreich bleibt damit deutlich hinter den zugesagten 0,7 % zurück und gibt auch wesentlich weniger aus als vergleichbare Länder wie die Schweiz (0,52 %) oder Schweden (1,4 %). (S. 193)

Extracts from SPÖ Programme for 1994

[Extracted from: SPÖ. "Es geht um viel. Es geht um Österreich." Das Wahlprogramm der Sozialdemokratischen Partei Österreichs. Published July 10, 1994.]

Eine klare und faire Ausländerpolitik

Kaum ein anderes Land Europas hat die Zuwanderungsprobleme in ähnlich umfassender Weise geregelt und gelöst wie Österreich. Wir Sozialdemokraten werden diesen Weg fortsetzen, der einerseits unser Land vor unkontrollierbarer Zuwanderung schützt, andererseits jenen Ausländern, die bei uns Aufnahme finden, anständige Lebens- und Arbeitsbedingungen sichert. Wir betrachten diese Politik als die wichtigste Voraussetzung dafür, daß unserem Land auch weiterhin ausländerfeindliche Gewalt erspart bleibt. Wir werden uns - wie bisher - entschlossen gegen jede Art von Ausländerfeindlichkeit zur Wehr setzen und zu einem verständnisvollen Zusammenleben von In- und Ausländern beitragen.

Wir werden dafür sorgen, daß jene Menschen, die in ihrer Heimat Verfolgungen ausgesetzt sind, in Österreich Aufnahme finden. Jeden Mißbrauch des Asylrechtes werden wir jedoch weiterhin verhindern.

Wir werden die Zusammenarbeit mit den anderen westeuropäischen Staaten - vor allem den Mitgliedsstaaten der EU - intensivieren. Das von Österreich vorangetriebene Projekt einer internationalen Wanderungskonvention - die einheitliche Standards bei der Aufnahme und in der Behandlung von Zuwanderern sicherstellen soll - muß endlich Wirklichkeit werden.

Wir werden uns auch um vermehrte internationale Solidarität zur Bewältigung der Folgen der Balkankrise bemühen. Gemeinsame Maßnahmen zur Sicherung der Existenz sind ebenso notwendig wie die Unterstützung jener Staaten, die - wie Österreich - bereits große Lasten bei der Aufnahme von Kriegsvertriebenen tragen. Nach der Wiederherstellung friedlicher Verhältnisse werden wir diese Vertriebenen bei ihrer Rückkehr und beim Neubeginn in ihrer Heimat unterstützen. Zuwanderung nach Österreich werden wir auch künftig nur in jenem Ausmaß zulassen, in dem Österreich derern Wohn- und Arbeitsmöglichkeiten sowie Ausbildungsplätze anbieten kann. Dabei wird die Zahl jener, die Österreich aus humanitären Gründen aufnimmt, entsprechend berücksichtigt. Es ist selbstverständlich, daß nur jene Ausländer, die das Aufenthaltsrecht haben, sich in unserem Land aufhalten können.

Wir werden alle Anstrengungen für eine erfolgreiche Integration der in unserem Land lebenden Ausländer unternehmen. Dies gilt in besonderem Maße für jene Bosnier, die nicht in ihre Heimat zurückkönnen.