Applicants with special needs - Austria

Overview

Content updated on: 15/05/2025

Relevant EU legislation

Austria is bound by the recast Asylum Procedures Directive has transposed its provisions through the Asylum Act (Federal Act on the granting of asylum), AsylG: Bundesgesetz über die Gewährung von Asyl, StF: BGBl. I Nr. 100/2005

Austria is bound by the recast Reception Conditions Directive has transposed its provisions through the Basic Care Act, Grundversorgungsgesetz: Bundesgesetz, mit dem die Grundversorgung von Asylwerbern im Zulassungsverfahren und bestimmten anderen Fremden geregelt wird (Bund 2005 – GVG-B 2005).

National legislation

01/01/2005: Asylum Act (Federal Act on the granting of asylum), AsylG: Bundesgesetz über die Gewährung von Asyl, StF: BGBl. I Nr. 100/2005

01/01/2015: Aliens Law Amendment Act, Fremdenrechtsänderungsgesetz: Bundesgesetz, mit dem das BFA-Einrichtungsgesetz, das BFA-Verfahrensgesetz, das Asylgesetz 2005, das Fremdenpolizeigesetz 2005, das Niederlassungs- und Aufenthaltsgesetz und das Grundversorgungsgesetz – Bund 2005 geändert werden (Fremdenrechtsänderungsgesetz 2015 – FrÄG 2015)

Last amended by:

amending BFA-G, BVFA-VG, AsylG 2005, Aliens Police Act 2005, Basic Care Act 2005

01/01/2019: Federal Law on the Establishment of the Federal Agency for Reception and Support Services, BBU-G: Bundesgesetz über die Errichtung der

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Bundesagentur für Betreuungs- und Unterstützungsleistungen Gesellschaft mit beschränkter Haftung StF: BGBl. I Nr. 53/2019

01/01/2012: BFA Procedures Act (Federal Act regulating the general provisions on the procedure before the Federal Office for Immigration and Asylum for the granting of international protection, the granting of residence permits for reasons worthy of consideration, deportation, toleration and the issuance of measures terminating residence as well as the issuance of Austrian documents for aliens (BFA Procedure Act – BFA-VG), Bundesgesetz, mit dem die allgemeinen Bestimmungen über das Verfahren vor dem Bundesamt für Fremdenwesen und Asyl zur Gewährung von internationalem Schutz, Erteilung von Aufenthaltstiteln aus berücksichtigungswürdigen Gründen, Abschiebung, Duldung und zur Erlassung von aufenthaltsbeendenden Maßnahmen sowie zur Ausstellung von österreichischen Dokumenten für Fremde geregelt werden (BFA-Verfahrensgesetz – BFA-VG)

01/01/2012: Federal Act on the Implementation and Organisation of the Federal Immigration and Asylum Office, BFA Einrichtungsgesetz BFA-G: Bundesgesetz über die Einrichtung und Organisation des Bundesamtes für Fremdenwesen und Asyl, idF BGBl. I Nr. 68/2013 StF: BGBl. I Nr. 87/2012

01/01/1991: General Administrative Procedures Act, Allgemeines Verwaltungsverfahrensgesetz AVG, StF: BGBl. Nr. 51/1991

Competent authority and other stakeholders

Identification: Reception centre/Police

Legal representation: Federal Care Agency BBU

Reception: Ministry of the Interior/Child and Youth Agency

Age assessment: Federal Office for Immigration and Asylum or the Federal Administrative Court

Training initiatives

There are regular training sessions providing targeted information on applicants with special needs/vulnerabilities to BFA staff.

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Training is provided to specific case officers handling minor applicants, in particular taking into account age, maturity, cultural differences and experiences.

Advanced training is provided to staff of reception centres, basic care facilities and police detention centres on the risk of human trafficking of unaccompanied minors.

Special needs in reception

Identification of special needs

Identification: The law does not require specialised case officers to handle applicants with special needs/vulnerabilities and there is no identification mechanism in place. Special needs and vulnerabilities are assessed on an individual basis and measures for procedures and accommodations are then defined.

Unaccompanied minors: According to Article 10, para 6 of the Federal Office for Immigration and Asylum Procedures Act, unaccompanied minors up to 14 years and younger must be interviewed at the reception centre in the presence of a legal counsellor representing the applicant. The interview cannot take place without a legal counsellor. The applicant is usually questioned directly only if required to gather more information about them, escape routes and reasons for fleeing. Minors aged 13 and younger may not be held in detention pending removal.

Unaccompanied minors aged 14 and older are usually interviewed in the presence of the legal counsellor by the police at the reception centre. If the legal counsellor was not present at the initial interview, he/she may request the repetition of the interview i his/her presence (Art. 10(3), BFA-VG). Minors aged 14 and older may be kept in detention pending removal for a maximum of two months, with no possibility of extension

Referral of applicants with special needs

Referral

There is no specific referral mechanism in place for vulnerabilities. According to Art. 30 of the Asylum Act regarding victims of violence, applications shall not be

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dismissed in the admissibility procedure if vulnerabilities are deemed to be highly probable.

Victims of human trafficking

There is no systematic identification of victims of human trafficking but the authority's assessment of an individual as a (potential) trafficked person has an impact in status determination procedures and criminal prosecution. A person can be identified as a victim of trafficking in accordance with the criminal procedures act. This means if e.g. a caseworker of the BFA identifies a person potentially being a victim of trafficking, the caseworker will contact the criminal police office of the respective federal province and criminal investigations are initiated if those suspicions are confirmed.

NGOs provide special care and support to victims of trafficking, e.g. the NGO "LEFÖ-IBF", which is formally contracted by the Austrian Ministry of Interior and the Women's Department of the Federal Chancellery.

Reception and care of applicants with special needs and vulnerabilities

The reception system in Austria follows the principle of shared responsibilities, which means that the tasks are shared between the Federal State and the Federal Provinces.

GVG-B 2005, Article 2(1) states that special attention should be given to vulnerable persons with special reception needs when an asylum seeker is registered in the Reception System (in practice, the Federal Ministry of the Interior in cooperation with the Federal Ministry of Health developed an anamnesis sheet for applicants, which is the basis for the subsequent initial medical examination). Material reception conditions shall safeguard human dignity at least.

Reception facilities and other housing arrangements

Initial Reception Centres (*Erstaufnahmestellen*) during the admissibility procedure have dedicated places for applicants with special needs:

Women: The initial reception centre of Traiskirchen accommodates single women, who are accommodated in a separate building. There are special facilities in some federal provinces for single women and mothers. NGOs also

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offer facilities for single women.

Applicants with disabilities and special health needs: There also some places in facilities of the state or run by NGOs for applicants with disabilities and special health needs, e.g. Special Care Centre (*Sonderbetreuungsstelle*) in Graz Andritz, or persons with special needs accommodated in separate rooms in the Federal Reception Centre in Traiskirchen during the admissibility procedure.

Detention of vulnerable persons and applicants with special reception needs

The Aliens Police Act, Article 76(1) provides that children younger than 14 years may not be detained.

Families: According to Article 79(5), if the facility ensures family and child-appropriate accommodation, migrants detained shortly before deportation may be allowed to be accompanied by their children.

Reception of unaccompanied minors

Reception centres for unaccompanied children are managed by the Ministry of the Interior at the federal level, e.g. 1 reception centre is a separate facility for unaccompanied children in the Federal Reception Centre EAST in Traiskirchen (initial reception centre).

The Child and Youth Agency is responsible for providing adequate care. The Ministry of the Interior and the competent department of the federal provinces agreed on a quota system for unaccompanied children in basic care facilities. Some federal provinces also offer the possibility to unaccompanied minors to live with families.

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Age assessments

Classification: Public

Age assessment in the asylum procedure is requested by the Federal Office for Immigration and Asylum or the Federal Administrative Court. If the applicants' alleged minority cannot be verified, authorities may order a medical examination, including a radiological examination. According to the Asylum Act, the multifactorial examination methodology for determining the age can be on three individual medical examinations (in particular physical, dental and X-ray examinations) based on current scientific knowledge.

Access to education

Access to the regular state education system is given according to the national provisions. Generally, school is mandatory for all children in Austria between the age of 6 and 15 years. In principle children will participate in regular classes as (extraordinary) pupils.

Language courses and “bridge classes” (school classes in selected reception centres) are available for children, with a focus on the German language, classes on social values, Austria (history, geography, politics, etc.), sports, handicrafts, etc. School attendance is compulsory for all children who have permanent residence in Austria (without distinction between Austrian children and regardless of the permanent residence status).

Access to healthcare

Beneficiaries of material reception conditions are covered by health insurance in Austria. They are entitled to the same medical care as any other Austrian citizen. Emergency care and essential treatment are always granted.

Transition to adulthood

When unaccompanied minors reach the age of majority, there is a cut-off point for some support and services, following a period of transition.

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There will be only general support services available within the framework of material reception conditions for unaccompanied minors turning 18, who are granted material reception conditions in Austria (Art. 2 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act). Additional services are no longer available (Art. 7 Agreement between the Federal State and the Provinces on Basic Care - Art. 15a Federal Constitutional Act). Therefore, former unaccompanied minors have to move to an organised reception centre for adults or to their own apartment. Unaccompanied minors who are in the care of child and youth welfare institutions also need to leave the institution for minors when they reach the age of majority. Some NGOs offer aftercare places for former unaccompanied minors, e.g. Caritas offers aftercare places in shared apartments in Vienna, Lower Austria and Burgenland.

Depending on the provincial regulations in place (e.g. Art. 42 Lower Austrian Child and Youth Service Act), unaccompanied minors can still receive support within the framework of child and youth welfare services until they reach the age of 21, and in exceptional cases, stay in their reception centre for a limited period of time.

Detention of unaccompanied minors

The Aliens Police Act, Article 76(1) provides that children younger than 14 years may not be detained.

Special procedural guarantees

First instance determination for applicants with special needs

There is no specific mechanism in place for vulnerabilities. According to Art. 30 of the Asylum Act regarding victims of violence, applications shall not be dismissed in the admissibility procedure if vulnerabilities are deemed to be highly probable.

Access to information

Written leaflets inform applicants in initial reception centres about the necessity of informing the doctor or legal advisor in case of a psychological problem.

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Personal interview

At the beginning of the interview, applicants are asked if they have any special needs or health issues that could have an impact on their ability to cooperate. In initial reception centres, psychologists are requested by the BFA to assess if the asylum applicant has any mental health issue, e.g. as a result of torture, which may prevent the applicant from defending his/her interests during the procedure.

Legal assistance

The BFA appoints a legal representative for unaccompanied minors (UAM) as soon as they apply for international protection. UAMs are provided with free legal representation and counselling at all stages of the procedure.(EUAA Factsheet on Dublin transfers)

Since January 2021, the Federal Agency For Reception and Support Services BBU is in charge for the legal representation of unaccompanied children. Legal representatives have to be present at interviews organised. Once the unaccompanied minors has been admitted to the regular procedure, the Child and Youth Service (*KJH Kinder- und Jugendhilfe*) takes over the legal representation, in accordance with the Asylum Act or by court decision.

Queer Base has an agreement with BBU and they provide training on LGBTI in the asylum procedure for legal counsels at the BBU.

Guarantees for unaccompanied minors

The Asylum law has special provisions regarding unaccompanied minors on family tracing and on legal representation. Unaccompanied minors have to lodge their application for asylum at the police station of Traiskirchen, which is nearby the initial reception centre. They have the same obligation to cooperate in the procedure as adults but no legal capacity to act by themselves during the asylum procedure.

Making, registering and lodging an asylum application

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Information provision

The BBU GmbH has an information brochure for children and adolescents on the asylum procedure which is available in German, English, Arabic, Dari, Pashto and Somali

Best interests of the child in the Dublin procedure

There is no specific procedure for assessing the best interest of the child in the Dublin context. The case assessment is always based on individual circumstances and always takes family ties into consideration.

Personal interview

Interviews with unaccompanied minors only take place in the presence of a legal representative from the Youth Welfare Authority (*Jugendwohlfahrtsträger*) or - in the framework of the admission procedure - in the presence of a legal advisor. Furthermore, they are interviewed in a manner appropriate for children.

Legal representation during the asylum procedure

The BFA appoints a legal representative for unaccompanied minors (UAM) as soon as they apply for international protection. Since January 2021, the Federal Care Agency BBU is in charge for the legal representation of unaccompanied children.

Legal representatives have to be present at interviews organised by BFA (and hearings at the Federal Administrative Court). During the admissibility procedure, the legal advisers (who are contracted by the Ministry of Interior) act as legal representatives of the UAM.

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Once the unaccompanied minors has been admitted to the regular procedure and transferred to one of the federal provinces, the Child and Youth Service (*KJH Kinder- und Jugendhilfe*) takes over the legal representation, in accordance with the Asylum Act or by court decision.

Legal assistance and counselling

Legal representatives have to be present at interviews organised by BFA (and hearings at the Federal Administrative Court). During the admissibility procedure, the legal advisers (who are contracted by the Ministry of Interior) act as legal representatives of the UAM.

Once the unaccompanied minors has been admitted to the regular procedure and transferred to one of the federal provinces, the Child and Youth Service (*KJH Kinder- und Jugendhilfe*) takes over the legal representation, in accordance with the Asylum Act or by court decision. Guidance and care for unaccompanied minors is managed by the Youth Welfare Agency (Children and Youth Assistance).

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