



Actors Interviewed:

- Civil society: NGOs, trade unions, migrants' organizations: 8
- Media: 1
- Governmental representatives: 3

1. DESCRIPTION OF WORK AND TARGET GROUP

Policy Brief:

"Apprehension statistics distinguish between persons being smuggled to Austria and persons entering or staying illegally without any help of a smuggler. In 2008 the most important country of citizenship among smuggled persons was the Russian Federation (23%), followed by Afghanistan (10%) and Serbia (8%). Among persons apprehended due to illegal entry or residence in Austria the three most important nationalities were Serbia (12%), India (6%) and Romania (5%). The impact of the EU accession of Romania (and Bulgaria) is clearly reflected in data on apprehensions – apprehensions of persons from Romania dropped from 21,293 in 2006 to 294 in 2007. More than half of the persons apprehended for illegal employment in 2008 were citizens from the 'young' EU10 countries.

The majority of persons apprehended were men with a share of 72% among smuggled persons and a share 84% among persons staying/ entering illegally in 2008. Almost half of the persons illegally staying/ entering and of the smuggled persons were between 19 and 30 years old (46% and 44% respectively). Although not always determinable, the majority of persons apprehended had entered Austria from Italy". (p. 2)

According to the interviewees, the majority of undocumented migrants entering the country are men. A governmental representative pointed out that not only men but also many children are undocumented. Another policy maker believed that gender varies across the different economic sectors that migrants work. One respondent from a local authority refrained from providing any answer.

Although men represent the majority of undocumented migrants in Austria, a journalist noted that women and children should also be taken into account. A trade union representative expressed his skepticism as regards the validity of any statement on the matter. A lawyer said that all the clients he deals with are men. An NGO representative stated that although single young men are the most commonly mentioned group of irregular migrants, a great number of single women are moving from one country to another on their own. She added that the number of children is also increasing.

One respondent argued that the majority of undocumented migrants are men whereas women coming to Austria represent approximately 38%, according to figures gathered within the field of work of her NGO.

As regards the number of undocumented migrants NGOs deal with, three respondents noted that their organizations regularly assist men (single or with their families), and usually they are asylum seekers. It was reported that women are quite a few though. Moreover, another NGO representative said that her organization has a particular focus on helping women; the latter, therefore, represent the majority of undocumented migrants assisted.

There was consensus amongst the respondents towards the argument that migrants mainly come from the former Yugoslavia, Russia, Macedonia, Belarus, Moldova and Ukraine. The new EU member states before entering the European Union, Turkey, Africa, Nigeria especially, were also mentioned as important sending countries. Indian, Bangladeshi, Pakistani, Afghani are other nationalities that one NGO representative and a lawyer most often come across in their daily work.

**Terminology.* Governmental representatives and a trade union representative used the term "illegal". "Irregular" and "undocumented" were instead employed by the NGOs representatives, the journalist and lawyer interviewed.

2. ESTIMATES, DATA, ASSESSMENT OF SIZE AND COMPOSITION OF THE IRREGULAR MIGRANTS' POPULATION

Policy Brief:

"In the Austrian context, the main data sources are administrative records, which provide indirect indications or 'traces' of irregular migration. These datasets include (1) enforcement statistics of the aliens police, notably apprehension statistics and statistics on rejections at the border, expulsion orders and deportations (2) asylum statistics, notably statistics on asylum applications, discontinued procedures and negative decisions, and (3) crime statistics of the police. All available sources are subject to serious limitations, including incomparability between different datasets and partly between different years, multiple counting, close relationship to enforcement practices". (p. 2)

"In Austria, five principle pathways into irregularity can be distinguished: (1) irregular entry (irregular border crossing); (2) overstaying after the expiry of a visa or residence permit; (3) loss of status because of non-renewal of permit for not meeting the residence requirements or breaching conditions of residence; (4) absconding during the asylum procedure or failure to return after a negative decision and (5) impossibility to enforce a return decision for legal or practical reasons (toleration). The exact quantitative importance of those different ways into irregularity is not known due to a lack of appropriate data or estimates". (p.3)

Pathways into Irregularity

Irregular migrants seek general assistance and legal advice (counselling) from NGOs. It seems that general assistance concerns mainly unemployed migrants. In Austria, NGOs and associations of migrants are mainly focused on policy work through campaign and information sessions in order to raise awareness amongst undocumented migrants and the civil society. Health care, housing, employment and education are the main areas of work NGOs are

involved in. Policy work is regarded as an important element of their activity since it aims to empower migrants to deal with their problems. A journalist stressed that access to healthcare and housing are two major concerns for undocumented migrants. Moreover, trade unions in Austria provide specific plans only as regards the integration of regular migrants. Undocumented migrants are not their target group.

The majority of the interviewees (NGOs, the trade union, a governmental representative, and a lawyer) felt that the denial of refugee status is the most common pathway into irregularity; visa overstay was perceived as another significant pathway by three respondents among the NGOs. While one interviewee argued that migrants who enter the country irregularly represent one of the biggest shares amongst the undocumented migrant population, three others believed that their percentage is rather low.

Moreover, one respondent related the undocumented status of migrants to trafficking while another interviewee remarked that migrants who apply for family reunification and do not obtain it constitute another group raising specific concern. According to an NGO representative, dependents of a regular migrant who lost their visa due to family breakdown could easily fall back into irregularity hence be an additional pathway into irregularity.

Flows of Undocumented Migrants Coming to Austria

Three respondents, an NGO representative and a governmental representative felt that the total yearly number of irregular migrants is decreasing; three, a local authority, a representative of a governmental body and a journalist thought that is increasing whereas only a governmental representative believed it is variable.

According to the first group of respondents, the number of undocumented migrants coming to Austria is decreasing due to the recent EU enlargement. Restrictions on the asylum procedure and free border crossing towards the Eastern European countries were considered as other important reasons. One journalist argued that the trend is increasing due to the fact that there are fewer ways to regularly enter the country. She also noted that stricter eligibility requirements make migrants fall more easily into irregularity.

According to a governmental representative, migration trends vary and depend on the currency rates of different countries.

Numbers of Undocumented Migrants Receiving Assistance from Organizations

Three NGOs representatives pointed out that the number of undocumented migrants receiving assistance from their organizations has been increasing over the past few years due to the restrictions imposed by the recent legislation put into force in 2006.

Moreover, another NGO representative added that the number of regular migrants in Austria is decreasing due to the same reason.

However, it is difficult to provide exact figures regarding the number of undocumented migrants receiving assistance by the organisations interviewed. Moreover, NGOs are unwilling to show migrants' status to the general public. It was said that statistics make no difference. Sometimes data are collected but they are not regarded as a potential useful tool.

According to an NGO representative, and based upon her NGO database, approximately 40 undocumented migrants referred to the NGO in 2008. One respondent noted that 1,000 people assisted by his organization per year are undocumented; additionally, 700 up to 800 undocumented migrants contact yearly the NGO by email. The total yearly number of phone calls of undocumented migrants being provided counseling is approximately 2,000.

Figures and Percentages of Undocumented Migrants Living in a Given Geographical Area (Vienna)

Estimating the total population of undocumented migrants in the working region of the interviewees is difficult. Some respondents stated that since the status of migrants is something that their NGOs are not required to collect, their number remains vague and unattainable. Some others added that collecting data is not a priority and that statistics are not of great value.

Only three interviewees were able to provide figures:

- One respondent believed that there are a few thousand undocumented migrants living in Vienna. His estimate relies upon feedback from lawyers he works with.
- According to the personal opinion of an authority representative, the number of undocumented migrants living in Vienna ranges from 50,000 to 100,000.
- A lawyer argued that there has been a sharp decrease of the irregular population living in Vienna. He related this with the fact that last year only 10,000 undocumented migrants applied for asylum while some years ago the number of applications was three times more than that (30,000).

Estimates of Undocumented Migrants in Austria

Policy Brief:

"A recent estimate based on crime statistics of the police and using a multiplier method to estimate the irregular migrant population indicates that the number of persons with an irregular residence status has decreased significantly in the past years from some estimated 78,000 in 2001 to appr. 36,000 in 2008. The recent waves of EU enlargement in 2004 and 2007 as well as the decrease irregular inflows from third countries to Austria, which in turn is partly related to EU enlargement, are the main explanations for this decrease". (p. 2)

The majority of the respondents argued that estimating the total population of undocumented migrants living in Austria is impossible.

Providing estimates seems unrealistic due not only to lack of reliable data but also for other reasons. Most of all, their invisibility as a group hinders any estimation. "Nobody can say it", stated an NGO representative. A policy maker argued that since undocumented migrants are clandestine no estimation could reflect their real number.

Figures were however indicated by one interviewee:

- According to an authority representative and based upon the annual report his unit releases, the number of people who irregularly entered or were irregularly living in Austria increased from 4,416 in 2007 to 5,914 in 2008.

To sum up, even though the tables provided by CLANDESTINO were shown to the interviewees no estimates were provided except from one respondent. The majority showed a lack of interest in figures due to lack of reliable information on the topic. It seems that counting undocumented migrants does not influence the NGOs' agendas and activities.

Assessment Regarding Estimates and Views on their Reliability

Most of the interviewees are sceptical as regards the usefulness of data. They believe that reliable data do not constitute a valuable tool that would influence policy makers in designing and implementing new policies on irregular migration.

"Although I do not believe in data, you might need them to show the magnitude of the problem", a journalist was quoted.

A lawyer emphasized his personal disbelief in statistical data by pointing out that they would not make any difference for policy makers. An NGO representative argued that in the current political climate, figures will not influence neither affect the existing policies; instead, only courts' decisions could. He said he would personally avoid using numbers.

According to another respondent, there is no intention to change the current policies regardless of figures; for instance, "there is no interest at all in having any regularization or amnesty". One NGO representative underlined that data are a 'big lie' which could easily be exploited. He said that figures would only show how many refused asylum seekers are living in the country and, therefore, prove the inefficiency of the police as regards the expulsions which were not carried out in the past few years.

An interviewee believed that trustworthy statistics could be useful for advocating new policies and providing political arguments to politicians. She said data would be of great importance in order to evaluate the needs migrants have and design projects accordingly.

According to another NGO representative, data could indeed be a useful tool to denounce the current situation but it would require and most likely take time and resources from the main focus of NGOs; that is to help irregular migrants. To a trade union, clear-cut numbers could influence the labour market and indicate towards the regularization of migrants; lack of information at the national level decreases any chances for such a development. While believing that reliable figures do not exist, a policy maker argued that they might contribute to drawing a clearer picture of the undocumented population and outlining the dimension of the problem. She said numbers would probably kick off a debate that could envisage solutions.

According to one governmental authority reliable statistics could be the first step in order to recognize initial trends and alert towards a more careful planning of relevant policies and strategies.

Moreover, another governmental representative stressed instead that the impact of figures on irregular migration management would very much depend on the random prevailing political discourse. She was very sceptical about statistics and data. According to her, regularisations would constitute an enormous pull effect, and irregular migrants will not pay their contributions. "These people come to Austria to work irregularly (...); they work here without paying taxes", she was quoted.

3. DISCUSSION AND POLICY IMPLICATIONS

Policy Brief:

"The main conclusion from the CLANDESTINO study on Austria – namely that irregular migration is likely to have significantly declined in recent years, both in terms of stocks and flows – seems to support a pragmatic approach. At the same time the complexity of the phenomenon demands a comprehensive approach including a review of the overall framework for legal migration, prevention and control, avoidance of putting persons at risk of falling into irregularity, measures regarding the irregular resident population (return and regularisation), as well as monitoring and analysis". (p. 4)

State Policy Responses and their Implementation on the Ground. Examples of State Beneficial Policies Employed

Most interviewees stated that there are no beneficial state policies implemented on the ground which could be beneficial for undocumented migrants. However, responses at the local level are perceived to be more effective. Expulsions, border controls, detention, deportation and stricter enforcement measures are the main policy responses of the Austrian government.

According to a journalist, there is no debate about irregular migration; since irregular migrants are not supposed to exist, they do not exist. "They have to be deported; in fact, if you do not have papers, you are either deported or you go to jail", she was quoted. On top of that an NGO representative emphasized that irregular migration is not perceived as a problem by politicians.

Furthermore, another respondent said that the police are getting more organized and efficient in expelling irregular migrants and accelerating the asylum procedure. A lawyer argued that the government is not in favour of any regularization for fear of a pull effect; "politicians want to stress that they are strict and that instead of envisaging a general solution, they prefer solving the individual case", he was quoted. He also added that some years ago it was easier to regularize undocumented migrants. One interviewee pointed out that the government is focused on implementing stricter regulations as regards laws related to aliens, whereas another noted that irregularity is considered as a crime by politicians.

A member of a trade union stressed that the government avoids any consideration on regularizations' schemes since "in this time of crisis regular migrants have the priority as it would be difficult to create work for irregular people. (...) We have to raise the labour employment rate of regular migrants first", he said.

While a local authority representative emphasized that the city of Vienna has a liberal approach, she also said that different responses have been undertaken. Laws may have become tougher and legislation has continuously been tightened up over the last few years. But from a random look at the ways individual cases of irregular migrants are dealt with, one may notice detours from the official line adopted by the Ministry of Interior.

One governmental representative believed that the political responses reflect a middle right wing view where migration interacts with integration; "if there is not integration, migration is not possible; (...) No mayor or politician wants to deal with an overflow of migrants", he said.

Another policy maker argued that providing information to employers as well as to irregular migrants, fighting against "illegal" networks of smugglers and control enforcement represent the main policy responses regarding irregular migration in the country. As regards the particular case of asylum seekers, she underlined that the percentage of irregular work amongst them is very high; while saying that not allowing them to work is inhuman, she argued that opening the labour market to them would cause a pull effect for further immigration. "Immigration would irreversibly be perceived as a right", she stated. She also argued that it would be inhuman to expel people with running working contracts on the grounds of rejected asylum claims.



Education for Children and Health Care

Although a great number of respondents stressed that there are no state policies that are beneficial to undocumented migrants, three interviewees said that free education to undocumented children is provided by some schools. Undocumented children in these cases are entitled to go to school, be registered and attend classes regardless of the status of their parents.

The existing yet limited access to health care for basic medical treatments and urgent aid was also considered as an additional beneficial state policy by the same respondents. One interviewee added that access to health care ironically is provided only to undocumented migrants who use the 'e-card' of their relatives (the e-card is a credit-card-sized card issued by Austria's public social insurance association for the use of health services).

Moreover, an NGO representative and a member of a trade union underlined that the humanitarian clause enunciated in article 8 of the European Convention on Human Rights which enables irregular migrants to stay in the country and even regularise their status under the reform of the humanitarian stay in April 2009 constitutes another positive response as regards the irregular migration phenomenon. One interviewee added that unless they cannot be deported, irregular migrants should be entitled to obtain the residence permit.

A governmental representative argued that access to health care is an issue that does not concern irregular migrants; she also said that 'illegal workers' have the same rights that Austrian nationals have (such as benefits with regard to wages, social security etc) but they have to be able to claim these rights in court.

With regard to the role of the civil society on irregular migration, one NGO and a local authority, said that although Vienna tends to be more liberal than the other cities, the pressure from the national government is high to stiffen up this trend.