

**Submission by the United Nations High Commissioner for Refugees  
for the Office of the High Commissioner for Human Rights' Compilation Report**

**Universal Periodic Review: 4<sup>th</sup> Cycle, 51<sup>st</sup> Session**

**AUSTRIA**

**I. BACKGROUND INFORMATION**

Austria ratified the *1951 Convention relating to the Status of Refugees* in 1954 and its *1967 Protocol* in 1973. Austria also ratified the *1954 Convention relating to the Status of Stateless Persons* in 2008 and the *1961 Convention on the Reduction of Statelessness* in 1974 (hereinafter the *1954 Convention* and the *1961 Convention* respectively). Austria is party to numerous international (and regional) human rights instruments.

As of end-2024, Austria hosted an estimated 285,000 recognized refugees, beneficiaries of subsidiary protection and beneficiaries of temporary protection coming mainly from Syria, Ukraine and Afghanistan (since no official figures are available this number includes all persons granted international protection during the past ten years) and 29,000 asylum-seekers. The total number of stateless persons in Austria is unknown. At end-2024 some 3,900 persons registered as stateless or having an “unknown” or “undetermined” citizenship.

**II. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS**

**Issue 1: Immediate guardianship for unaccompanied or separated children**

**Linked to 3<sup>rd</sup> Cycle UPR recommendation no. 139.199:** “Ensure the immediate assignment of a legal guardian to all unaccompanied minors who arrive in the country, without delays or preconditions” (Uruguay)

While unaccompanied or separated children (UASC) are assigned a legal representative as soon as they apply for asylum, separate legal guardians are appointed only after children are admitted to the asylum procedure and placed in a provincial reception facility. The legal representatives represent UASC in first and second instance asylum and aliens police procedures, but children lack representation for such procedures before the high courts. Also, children lack legal representation in all aspects of life other than the asylum procedure, e.g. concerning their reception conditions, education and healthcare which a guardian would cover. Also, a designated guardian would be responsible for ensuring the child’s well-being, education and upbringing and managing the child’s finances responsibly. Although recommendations were made during the 3<sup>rd</sup> UPR Cycle that provision of a guardian should take place immediately, in reality it often takes many months, sometimes longer than a year, and in at least one recent case, no guardians were appointed until a final asylum decision had already been taken.

The belated appointment of guardians has been found to be at variance with children’s and general human rights norms by both national and international bodies.<sup>1</sup> While the government programme for the period 2020-2024 committed to ensure a speedy

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<sup>1</sup> See e.g. the [Report by the Commission for the Best Interests of the Child](#) established in 2021 to advise the Minister of Justice; views of an [Expert advisory board of the Federal Ministry of the Interior, 2021](#); Council of Europe Commissioner for Human Rights, [Report on the visit to Austria, 2021](#); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, [Concluding observations on the seventh periodic report of Austria, 2024](#); Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), [Evaluation Report Austria, 2025](#).

appointment of a guardian for UASC through the child protection authority, this has not implemented. The programme of the current Government for the period 2025-2029 foresees the legal enshrinement of consideration for the best interests of the child in all asylum and immigration proceedings and in basic care, through guardianship from day one.<sup>2</sup> This would be a welcome change if implemented fully.

Recommendation:

- (a) Amend national legislation to ensure that all unaccompanied or separated children, without delay or pre-condition (such as age assessments), are supported in all aspects of their life by guardians, from day one of their arrival or immediately upon their identification.<sup>3</sup>

**Issue 2: Family reunification for beneficiaries of international protection**

**Linked to 3<sup>rd</sup> Cycle UPR recommendation no. 141.67:** “Review section 35(2) of the asylum law, granting the right to family reunification without undue restrictions, in particular to unaccompanied minors” (Uruguay)

Since 2016, according to section 35(2) of the Austrian Asylum Act, beneficiaries of subsidiary protection face a mandatory three-year waiting period, starting from the day they are granted status, before their core family members can apply for family reunification. In addition, they must prove sufficient living space, income, and health insurance for the family members who seek family reunion. Exceptions from these requirements might be granted pursuant to Article 8 of the European Convention on Human Rights but are rarely approved for families who depend on social assistance. Formal requirements (e.g. religious weddings are not accepted) and practical barriers (such as high fees, that applications ought to be lodged in person with the Austrian embassy, or that family members require passports) pose additional obstacles. In 2025, the Austrian Parliament adopted a legal basis for a temporary suspension of family reunification for family members of recognized refugees and subsidiary protection holders until September 2026. The suspension was put into effect as of 3 July 2025 by a Federal Government decree that was approved by Parliament and is valid for a duration of six months which can be prolonged. The Government and Parliament argued that this measure was necessary to maintain law and order and safeguard internal security. The new legislation only foresees one exemption whereby the suspension shall not apply if urgent action is required to process the application within six months in accordance with the right to family and private life. UNHCR had issued legal comments to the draft law and called on multiple occasions for a reconsideration of these measures.<sup>4</sup>

Recommendations:

- (a) Reduce legal and administrative barriers for family reunification with beneficiaries of international protection in Austria.
- (b) Lift the suspension of family reunification for family members of recognized refugees and subsidiary protection holders.

<sup>2</sup> [Jetzt das Richtige tun. Für Österreich. Regierungsprogramm 2025–2029, p.79.](#)

<sup>3</sup> For detailed recommendations in German see UNHCR, [Vorschläge für ein verbessertes Obsorgesystem für unbegleitete Kinder und Jugendliche in Österreich](#)

<sup>4</sup> [IOM, UNHCR und UNICEF appellieren an Regierung, die Aussetzung der Familienzusammenführung zu überdenken.](#)

### **Issue 3: Social protection and family benefits of beneficiaries of temporary and subsidiary protection**

Since 24 February 2022, Austria has granted temporary protection to more than 130,000 refugees from Ukraine, some 85,000 of whom still remain in Austria. Unlike recognized refugees, beneficiaries of temporary protection from Ukraine are still in the so-called ‘basic care’ system, which was designed mainly for asylum-seekers for short stays. The same is the case for beneficiaries of subsidiary protection in seven out of nine provinces. The basic care benefits for persons living in private housing (e.g. a maximum of around 440 euros per month for a single adult to cover all costs such as rent, food, hygiene, clothing, etc.) are hardly sufficient for survival without help from civil society, as a survey by UNHCR among refugees from Ukraine clearly showed. UNHCR thus calls for their full access to social protection including social assistance. This would also eliminate the disadvantages they face when entering the job market as unlike social assistance, the basic care system is not designed to enable beneficiaries to become self-sufficient (e.g. in some provinces they lose basic care entitlements once they earn more than 110 EUR in a month; often they would need to leave reception centres before they have made enough savings for a deposit and other costs for self-organised housing). Since basic care allowances are far below the minimum subsistence level in Austria, the fact that beneficiaries of temporary protection currently receive additional child benefits for their children, on a par with Austrian nationals and recognized refugees, is particularly important. However, their unconditional entitlement to child benefits and childcare allowance will expire at the end of October 2025 and might not be prolonged.<sup>5</sup> Subsidiary protection holders are generally only entitled to these benefits if they are working and do not receive State welfare support.

#### **Recommendations:**

- (a) Ensure that all beneficiaries of temporary and subsidiary protection have full access to social protection.
- (b) Amend national legislation to grant the same treatment with respect to social assistance as is accorded to Austrian nationals to beneficiaries of temporary protection and beneficiaries of subsidiary protection.
- (c) Amend national legislation to ensure that beneficiaries of temporary protection and beneficiaries of subsidiary protection have the same entitlement to family benefits as Austrian nationals.

### **Issue 4: Statelessness**

**Linked to 3<sup>rd</sup> Cycle UPR recommendation no. 14170: “Establish an efficient procedure for determining statelessness, and approve residence permits on the basis of statelessness” (Mexico)**

The findings of UNHCR’s report *Mapping Statelessness in Austria*<sup>6</sup> published in 2017 remain valid. It found that the status and rights of stateless persons in Austria depend largely on whether or not they qualify for a residence status for other reasons, since statelessness is not a ground for granting a residence permit. Stateless people who are in an irregular situation including those whose asylum applications have been finally rejected, often receive a decision to terminate their residence. In this situation, stateless persons neither have the right to work nor receive any social assistance benefits. Once it has been established that stateless persons cannot be deported, they are granted a so-called “tolerated stay” which, after one year, entitles them to a residence permit.

Moreover, stateless persons in Austria do not receive a more favourable treatment in naturalization proceedings, which is at variance with the *1954 Convention relating to the*

<sup>5</sup> [Zweifel an zielführender Nutzung: Plakolm lässt Familienhilfen für Ukrainer prüfen – DiePresse.com. Tausende Betroffene - Ukrainische Kinder bangen um Familienbeihilfe | krone.at](#)

<sup>6</sup> UNHCR, [Mapping Statelessness in Austria](#), January 2017.

*Status of Stateless Persons.* According to Article 32 of that Convention, Contracting States shall as far as possible facilitate the assimilation and naturalization of stateless persons and in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

Statelessness can also be “inherited” in Austria. Under Article 14 of the Austrian Nationality Act, children born stateless in Austria can acquire nationality by application only after reaching 18 years of age and not later than three years thereafter. While a 2022 amendment to the law increased the upper age limit for this application from 20 to 21, thereby aligning it with the minimum standards under the *1961 Convention*, UNHCR continues to advocate for measures that would enable children born stateless in Austria to acquire nationality at or soon after birth, in line with Austria’s obligation under the *Convention on the Rights of the Child* to act in the best interest of the child.

The programme of the current Government for the period 2025-2029<sup>7</sup> commits to improving protection for stateless persons. It acknowledges the need to examine the establishment of an accessible, fair, and efficient procedure for determining statelessness in Austria, in line with international standards, in order to verify the statelessness status of affected persons and guarantee their rights.

Recommendations:

- (a) Establish an accessible, fair and efficient procedure to determine statelessness conducted by a specialized authority; introduce a residence permit on account of statelessness; and ensure full human rights for all stateless persons in Austria.
- (b) Facilitate the naturalization of stateless persons by, at a minimum, reducing the number of years of lawful residence required for applying for naturalization to six from ten and reviewing and addressing existing barriers to naturalization for stateless persons.
- (c) Accord Austrian citizenship to otherwise stateless children born in the territory of the State, unless a child can acquire citizenship of one of his or her parents immediately after birth through a non-discretionary procedure.

**UNHCR**  
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<sup>7</sup> See footnote 2.