Living in the Shadows

NAVIGATING AUSTRIA'S EVOLVING ASYLUM POLICY

DAMASO REYES

Vienna—Hans Jörg Ulreich grew up in rural Austria near the Hungarian border, far from Vienna. The son of a farmer, Ulreich left for university to pursue a degree in economics while his brother took over the family business. After getting his master's degree in business administration, Ulreich worked at Vienna's Bawag Bank for a month before switching to property development at a small firm called Lenikus. He worked there for seven years before striking out on his own in 1999.

Today, Ulreich's company has 30 properties throughout Vienna, and Ulreich is one of the city's most successful entrepreneurs. He should, given his resume, align himself with the Freedom Party of Austria [FPÖ], the country's far right, anti-immigrant party. Or, at least, he's a fine candidate for involvement in the center

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right Austrian People's Party [ÖVP]. Instead, Ulreich has become the face of the movement defending Austria's tens of thousands of asylum seekers. He has lent his name to their cause and, even more surprisingly, he has put his business interests on the line. In September, Ulreich held a press conference announcing that one of the apartment buildings his company was renovating would become a safe haven for families about to be deported because their asylum claims had been denied. Ulreich publicly stated that Austria's president should be ashamed and all but challenged the authorities to call his bluff and deport his building's tenants.

In a city where society revolves around the lavish Opera Ball, where history, tradition and—most importantly—authority reign supreme amid the cream of European wealth, this former farm boy from Eastern Austria is standing up to defend the country's immigrants. Many are asking, why? But the real question is how did Austria come to the point where such a question was necessary?

A HISTORICAL REFUGE

"The granting of asylum has always been a holy duty for us, which we have honestly fulfilled in spite of all sacrifices," Julius Raab, Austria's Federal Chancellor and member of the ÖVP, said in 1959, at the founding of the Austrian committee for the year of refugees. While Austria is now at the center of a rightward shift in Europe's asylum and immigration policy, this wasn't always the case. After the Second World War, the country's borders with Hungary and Czechoslovakia comprised 495 miles of the Iron Curtain. Austria accepted hundreds of thousands of asylum seekers from Hungary, Poland, Yugoslavia and the Soviet Union. "Somebody was a hero [if they] tried to leave their country and come to Austria," says Gerhard Muzak, an expert in asylum law and professor at the University of Vienna.

Since then, much has changed in central and eastern Austria. The wall between East and West came down. The Cold War was shuffled into the dustbin of history. And, fast forward two decades, this year's hotly contested elections in Vienna featured a campaign slogan from the FPÖ that includes the phrase, "More Courage for our Viennese Blood!" Party leader Heinz-Christian Strache later explained that the slogan referred to a famous waltz, and was celebrating Vienna's multicultural history rather than reliving the era in which hundreds of thousands of Austrians lined the roads to welcome the troops of the Third Reich during the Anschluss. While Austrians have long been proud of their historic role as a destination for those fleeing oppression, the truth (much like the nation's role during World War II) is far more complex.

In 1946, a decade before Chancellor Raab declared Austria's holy duty to be a sanctuary, Felix Stika of the center left Social Democratic Party (SPÖ), said Austrians "must care and spend horrendous amounts of money for these criminals' camps... These persons should be repatriated or deported, because they only cause us trouble." Oskar Helmer, a member of the slightly more moderate SPÖ, took a more tactful approach, observing that "although it's an honor to be seen as a country where notions of humanity haven't died, we must appeal to the whole world that our poor country won't cope with the heavy burdens when left alone."

Damaso Reyes is an international journalist and photographer who has spent three months in Austria studying its asylum policies under a Ford Foundation grant.

Jörg Ulreich, left, defends Austria's asylum seekers, including Dorentina and Daniella Komani (pictured, bottom right). Top right: an FPÖ ad that reads "Because I believe in you."

DAMASO REYES

Half a century later, the asylum debate still hangs on Stika and Helmer's sentiments. Anti-immigration arguments either reference crime rates or the economy—though Austria is among Europe's wealthiest nations.

"It's a shame for our rich country to throw out children who speak like us," Ulreich says. He is sitting in a building he owns—an empty restaurant under renovation, around the corner from the apartment block where he houses asylum seekers. He describes himself as fairly apolitical, never joining so much as a soccer club let alone a political party. What spurred him to action was the deportation of his son's young friend, a nine-year-old boy whose family was from Kosovo. "He was as good as all his classmates," Ulreich recalls. "He spoke perfect German. I didn't even know he was a refugee." Ever so slightly, Ulreich's demeanor changes and his voice becomes even softer, barely a whisper. "No one wanted to get involved. They hid behind the law. This made me very angry."

Ulreich is proud that his business success stems from the fact that everyone knows he always keeps his word, and he promised his son he would do something. After more than a decade of battling steely bureaucrats in city government, Ulreich was fed up with a culture that, he says, is unduly deferential to authority. The Kosovo boy's case surfaced the developer's long-felt disenchantment and moved him to action.

A NEW ENEMY

During the reign of the Soviet Union, Austria had defined itself as a frontline opponent of communism which, unlike America, lived right next door. After the

fall of communism, with the enemy gone, politicians of all stripes cast about for a replacement. Jörg Haider had movie-star good looks and the political acumen to match. He and his Austrian Freedom Party [FPÖ] rose to prominence in the early 1990s on a wave of anti-immigrant sentiment. During his campaign in 1993, Haider released a 12-point "Austria First" plan that put a stop to all immigration and added a constitutional amendment affirming that Austria was no longer a country that welcomed, or even accepted, immigrants. It was a shocking move at the time, and though it didn't pass, many of Haider's ideas have entered the mainstream.

"We needed a new enemy because communism no longer existed," says Anny Knapp, director of Asylum Coordination, an umbrella group for organizations working with asylum seekers. She began her work more than 20 years ago, just as the rightward shift in Austrian politics gained momentum. Like many Austrians, she stresses the mentality of her fellow citizens, and how that directly informs the country's politics and outlook. "People feel like there is no security," says Knapp. "Despite the fact that crime in Austria is very low people feel that around the next corner there will be a robbery. There is this kind of insecurity that leads to looking for someone who is guilty for all your problems." She pauses and frowns, unhappy with the English translation for the German word.

"Scapegoat?"

"Ah yes," she smiles.

WHAT'S WRONG WITH DUBLIN

Seven major revisions of Austrian legislation in the last decade have complicated the country's asylum law. The ostensible goal has been to speed up the review of asylum cases, which sometimes stretch to ten years. But to understand Austria's current policy, it is essential first to understand Dublin.

In 2003, the EU passed the Dublin Regulation, legislation concerning asylum seekers—specifically, who should deal with them. Under the new regulation, passed just before a group of East European nations joined the EU, the first country asylum seekers enter is responsible for their asylum applications—a boon to Austria. As a country surrounded by other EU members, Austria can only receive refugees that first pass through another nation. If proven, then the refugee would be sent back to Greece, Slovakia or Hungary—countries whose asylum policies make Austria look like Club Med.

"Dublin can only work if we have a harmonized asylum area all over Europe, so that it really doesn't make a difference whether the person is processed in Greece, Italy, Spain, Austria or Sweden, because the result will always be the same," says Christoph Pinter, head of the legal unit of the United Nations High Commission on Refugees [UNHCR]. "We all know that this is not the case. We are far away from having this perfect system and therefore Dublin in itself is not fair." While exceedingly tactful, Pinter is a very precise man and quite clear regarding what his organization thinks about Dublin and the way it is being used by Austria. Even before establishing the legitimacy of a claim, Austrian authorities can use the Dublin accord to deport a refugee. Pinter questions the political motivation behind the reduction of asylum applications. "We're talking about numbers that shouldn't be a problem for a country like Austria."

The UNHCR is not the only organization skeptical of the Dublin system and

the way Austria uses it. "The Dublin agreement is a completely useless and inhuman ping-pong game with human beings," says Heinz Patzel, head of Amnesty International Austria. Reed thin with a professorial air, Patzel has spent years battling an asylum system which he says has become increasingly restrictive. But the problem isn't simply a legal one. "What is missing in Austria is a qualified migration policy. There should be options presented by politicians for the people to select the kind of migration policy they want in a country like Austria. If I look at the situation in 2010," Patzel continues, "I really wonder where have we gone to? What has happened to the humanity of Europe?"

In the living room of a third-floor apartment in one of Vienna's residential districts, Wolf Szymanski sits fidgeting on a sofa, lying back then leaning forward. The walls are dotted with wood cut prints of historical Austria, a small brass chandelier hangs from the ceiling. Szymanski once held the lofty title of director general of asylum, migration and integration affairs in Austria. Forced out after a change of government because he is a well-known Social Democrat, Szymanski had a front-row seat to Austria's changing asylum policies. He recalls a family of Romanians approaching him in the early 1980s, when he was still working in Vienna's police department. They told him they wanted asylum and he accompanied them to the proper office. "When they got there, the policeman said, 'Welcome to the free west,'" he says, pausing for a brief chuckle. "It's a thing unimaginable these days, a policeman saying to an asylum seeker 'Welcome to Austria.'"

If the current government were to apply the criteria in place during the Cold War, Szyanski is confident that at least half of those currently applying would receive asylum. But during the Cold War, Austria wasn't the primary destination for most refugees because it was still too geographically close to the horrors they had just fled, and there were stories of refugees kidnapped and returned. However, as more refugees began to stay, local voices increasingly called for limiting asylum. Ironically, many of today's asylum seekers also think of Austria as more of a way station than a home, but that's because the environment has become so hostile.

> FRANCIS DESCRIBED HOW HE FELT ABOUT HIS LIFE IN AUSTRIA. "I'M OUTSIDE THE PRISON BUT I STILL EXPERIENCE PRISON ALL AROUND ME"

ESCAPE DANGER

The ready smile is still there when I stumble upon Francis, a former asylum seeker from Nigeria. I first encountered him in 2008, while waiting at a bus stop in one of Vienna's far western districts. I am genuinely surprised to see him here. Earlier in the year, Francis was deported from Austria after being arrested at the airport on his way back to Spain, where he had married and gained legal residence. There should have been no problem for him to travel anywhere in Europe, yet the Austrian authorities seized his Spanish residency papers, held him for two weeks, then sent him back to Nigeria. He was stuck there for five months as he waited for the Spanish authorities to investigate his story and issue him new documents. When he was finally allowed to return to Spain, Francis was banned from entering Austria for three years. He has only returned this

time to gather some personal belongings and collect some money owed to him.

He is staying with a friend in a nearby studio apartment. The walls are a powder blue and discs of Nigerian films like "Sister's Betrayal" sit on the coffee table next to a Bible bookmarked with lottery tickets. Francis leans back on the bed and recounts the past few months. He says he was detained by authorities who knew "no one would come after them." Francis's arrest was his fourth since he first came to Austria, in 2007, seeking asylum. His nearly year-long odyssey took him across the Sahara. As soon as he arrived, he was held for five months while authorities tried to decide whether to send him packing under the Dublin Regulation. In his fourth month, he went on a hunger strike—a disturbing, though rising, trend in Austria's detention centers, and a device that asylum seekers imprisoned for long stretches are using to get out. He lost more than 30 pounds over 16 days before he was released. "I tried it because it was the only means of my release," he says. It is almost impossible to challenge detention without legal assistance—a luxury few detainees can afford.

When the discussion turns to conditions in Spain, his face immediately brightens. "Being in Spain is like you are home. It means being well treated. Spain is a place to stay and to live, hoping that your future and tomorrow will be assuredly better." He feels the Spanish treat him like a citizen—a far cry from what he endured in Austria, a country he would never have entered if he were to do it all over again. Back in 2008, Francis had described how he felt about his life in Austria at the time. "I'm outside the prison but I still experience prison all around me."

These kinds of psychological effects worry Elena, a 35-year-old doctor who has worked for the past three years inside Vienna's detention centers for a charity group under contract to the Austrian government. As someone working on the inside, she is as baffled by the system as those who are subject to it. Elena, anonymous because she is not authorized by her organization to speak up, does not know why many of her patients are being detained. "People haven't done anything; they come to Austria and want asylum," she says softly, shaking her head. "They don't know why they are in prison. And some of them stay [in detention] a very long time."

Over the past few years, hunger strikes have caused a number of deaths, leading authorities to establish a highly regulated system. If you want to go on a hunger strike, you must sign a form saying that you understand the risks. Each day, vitals are checked to make sure the prisoner hasn't starved too long. When a prisoner's vital signs fall below a certain point, they are released—not to a hospital, but onto the street, regardless of whether they have any form of support.

"They see it as their last chance to get out," says Elena. "They stay weeks and weeks and weeks in a small room with the same policeman every day, and they can't do anything," she adds. Sometimes refugees are forced to stay in rooms where no one else speaks their language. Without knowing when or if they will be released, some still resort to the drastic, potentially lethal measure of voluntary starvation.

BEYOND THE WALLS

As Francis suggests, prison for asylum seekers extends beyond the walls of Austria's detention facilities. Those seeking asylum are legally forbidden to work—a situation that often continues for many years—leaving them totally dependent on

the state. While a native Austrian on welfare receives more than €900 a month, an asylum seeker is granted €302. If a refugee takes advantage of government housing, then the state provides them with even less money. Without work, many asylum seekers turn to the black market, taking jobs that no one else will for far less money and no legal protection.

"They hardly have a chance to access the labor market," UNHCR's Pinter says. He accepts that certain limitations protect local workers, but he argues that fully and permanently excluding people while their asylum cases are decided is not only unfair to refugees, but also detrimental to Austria. "This would be a win-win situation because they could earn money and they wouldn't have to rely on social assistance during their asylum procedure."

Labor has concerned Austrians for decades. The country's powerful unions, rather than aligning against the government, actually helped write many of the labor regulations, including the 2004 statute which prevents asylum seekers from working in all but seasonal jobs, like agriculture. Refugees can also be self-employed, which has led to the perverse situation that one of the few legal jobs for an asylum seeker is prostitution. Colonel Rudolf Gollia, of the Austrian Interior Ministry, told me that many of the smaller crimes asylum seekers are charged with—petty theft, riding the metro without a ticket—stem from the fact that they are not allowed to work, and the money received from the state is limited. I asked if the ministry believed that Austria's laws should be changed to allow asylum seekers better access to the labor market. "I can give you no answer to this question," Gollia replied.

Yves Ekoue Amaizo first came to Austria from Togo in 1967, returning in 1987 to work at the UN Industrial Development Organization after getting his Ph.D. in economics. He has lived in Austria ever since, and has a unique perspective as a highly educated immigrant from the developing world. Amaizo believes that the migration policies of Austria and much of Western Europe are economically flawed. Falling birthrates make it clear to him, and many other economists, that developed European nations will have to import labor if they are to maintain high standards of living. "Austria cannot live without foreigners," he says simply. "They cannot avoid making foreigners a part of the creation of value and wealth." Facing his own challenges in Austrian society, Amaizo started his own think tank a few years ago after finding it difficult to secure an appointment at an Austrian university.

"THE LAW HAS BECOME SO COMPLICATED THAT NOT EVEN I KNOW ALL THE RULES AND TRICKS. NO ONE UNDERSTANDS IT FULLY"

Whatever the impact on the economy, Austria's asylum policy is sending a powerful message to those who would come here. The number of asylum applications in 2009 was less than half of the number in 2002. The acceptance rate of asylum applications has dropped precipitously as well, partly due to tougher Dublin enforcement and a push by government leaders to shrink the number of asylum seekers entering the country. From 2004 through 2007 the acceptance rate ranged from 40 percent to 50 percent; last year it dropped to less than 20 percent. The policy of the government as expressed by its political leaders is to control and curb asylum at the source—namely, the border.

POINT OF NO RETURN

If you get a parking ticket in Austria you can appeal to the administrative high court. The same holds for a wage dispute or civil problems. In 2008, asylum seekers lost their appellate rights. As part of the now yearly revision to the asylum process, this appeal, known locally as the third instance, was eliminated to streamline the process. Currently, asylum cases are heard by the *Bundesasylamt,* a department of the interior ministry that determines the validity of the person's claim and investigates why they left their country. If their case is denied, which it often is, one used to be able to appeal to the asylum court. Meant to be an independent body, its members were still appointed by the government. Before the appeal to the administrative high court was abolished, as many as 20 percent of the asylum court's decisions were overturned. Now, those petitioners have no recourse.

"It's clear and obvious legal discrimination," Amnesty International's Patzelt says of the abolition of the right to petition. Nadja Lorenz, a lawyer who has been working in this field for more than 20 years, says that "the law has become so complicated that not even I know all the rules and tricks. No one understands it fully. Instead of changing the system in a way that resolves the problem at its roots…they just said 'Let's drop the administrative high court.' The signal is, 'Let's treat asylum seekers legally worse than normal people.'" The root cause of this attitude is found deep within the Austrian mentality, Lorenz explains. "Everything is very traditional," she says. "Everything is neat and nice and fine, and people don't want that to change."

Colonel Gollia's response? If the system wasn't fair, people wouldn't come here. That people come to Austria, he says, is "a sign that asylum seekers also accept the system." Gollia points out that Austria has one of the highest percentages of refugees in Europe per capita. What should exist to insure fairness is a standardized system throughout the EU. "Of course," Gollia says, "Standardizing the European asylum system is still in progress. It is an important goal. Without a system of allocation, a few countries have to cope with a large amount of asylum seekers." And Austria is undoubtedly one such nation.

Wearing a black head scarf and a blue and white dress, Qamarey Cisman is accompanied by her eight-year-old twins, a son and daughter, when she arrives at the makeshift offices of Purple Sheep, a small organization that helps asylum seekers. Lorenz describes the Dublin process as akin to sending people across Europe like parcels. Qamarey's own experience is proof. Since leaving her native Somalia in 1998, she passed through Ethiopia and Sudan, before arriving in Libya. Like many before her, she traveled by boat to Italy. She had good reason to run. Two of her six children, along with her husband, were killed in Somalia. She was pregnant when she entered Sudan, and gave birth to twins. When Qamarey finally arrived in Italy she thought she had reached freedom.

If Austria has a strict asylum policy at least it is, in the words of UNHCR's Pinter, well-developed. Italy, on the other hand, is rather hands off. Qamarey was forced to live on the streets for more than a year. She stayed with a friend in Finland for several months so she and her children wouldn't have to spend the winter homeless. She then moved to Sweden where she was deported back to Italy. In a desperate bid to find some kind of home, she crossed the border to Austria, nine years after she had left Somalia. Immediately, she was identi-

fied as a Dublin case but was not deported. The asylum court told her that although she was clearly a Dublin case she could make an asylum claim in Austria. Then, this year, the ministry reversed its opinion, and told her she must leave—more than three years after she arrived.

"If they were planning on bringing me back to Italy, why didn't they do it very quickly?" she asks. On the table before her is the ubiquitous sheaf of folded documents that almost every asylum seeker carries. She points to a document that grants permission for her to stay and another telling her she must leave. Since she arrived, her twins have been attending school and speak fluent German. As difficult as things have been for her in Austria, Italy's rough streets will be worse. "I was traumatized in my own country, so I thought human rights would be respected here."

"I THINK THEY WILL LISTEN"

Hans Jörg Ulreich sits silently at a small table during a press conference in his favorite gutted restaurant where he often receives visitors. Ulreich is listening to a staff member from Purple Sheep describe yesterday's raid on the organization. At around six o'clock, armed police officers, one with a rifle, came into his safe haven to deport a Kosovar family who had been part of his campaign. August Komani and his twin eight-year-old daughters Dorentina and Daniella were taken into detention before being flown back to Kosovo. Their mother, already fragile from the stress of being told that they faced deportation, had a nervous breakdown and had to be hospitalized. Her husband and daughters were sent back without her.

The family had been in Austria for six years—most of the young girls' lives. The children speak perfect German, which is an important litmus test for Austrians to judge foreigners. But that was of little consequence. Their asylum application was denied, so they were sent back to a home that no longer exists. After the press conference, at a table in the back, Ulreich talks about what happened. His jaw is set and his soft tone is even quieter than it was in a meeting two weeks ago.

"I couldn't believe it. I never expected the police to come so close to the Viennese election," he says of the raid, which came less than a week before local elections. The party of the Interior Minister, which ordered the deportation, ended up losing seats to the far right wing FPÖ. Ulreich charges that the raid was a move by the more centrist ÖVP to defend itself against the smaller, more radical party. In hindsight, the action was ineffective.

"They could only divide this family if there was a serious danger to our country," Ulreich insists. "Are these eight-year-old kids a danger for our country? Nobody believes this." It is clear how shaken the developer is—a family under his protection has been ripped from their new home, one they had come to because he said they would be safe. "They gain nothing," he says when asked whose interests had been served by the deportation. "They lose people who pay taxes. They lose kids; we educate them and then we kick them out of the country. They're crazy, we have too few kids in this country, but we kick them out because the Interior Minster wants to improve her deportation quota. It's ridiculous."

The question hangs in the air like cigarette smoke in a Viennese cafe. "I'm not afraid of our politicians. I'm not afraid of our Rambo policemen, because I think what we do is right. We show the Austrian population what is going on in this country." ●