

## Determining Turkish migration to Austria | The role of migration policy | ILKER ATAÇ\*

### Abstract

Migration from Turkey to Austria started as labour migration and has diversified over time. National and transnational factors have shaped migration policy and the migration process over the last fifty years. In different phases, the government has used a mix of instruments to control migration flows. In this paper I analyse the role of those factors which worked against restrictive tendencies on the national level and discuss the relevance of transnational factors such as the Association Agreement with Turkey and European Union directives, migrant networks and dynamics in the emigrant state in explaining migration outcomes.

**Keywords:** Migration policy; Austria; Turkish migration; EU; post-national rights.

### Introduction

Migration from Turkey to Austria started as “guestworker” labor migration in the 1960s. The workers were supposed to circulate according to a rotation principle, stay only temporarily, and work under limited economic and social rights. Soon, however, there were signs of permanent migration from Turkey to Austria, leading to a mixed form of temporary and permanent migration in which the differences between labour and family migration began to blur. How can we explain Turkish migration to Austria and its shifting dynamics from a historical perspective?

Turkish migration to Austria offers an interesting case for a discussion of migration policy outcomes, since Austria has been a good example of a country with restrictive policies in European comparison. In the Migrant Integration Policy Index (MIPEX), which measures the relative openness of European countries to migrants, Austria, second-last only to highly restrictive Denmark, scores a very low 41 points for its family reunion policies, compared to the EU15 average of 61. In general in the MIPEX index, Austria yields a low score, which makes the country an extreme case for analysis. Besides, while

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migration from Turkey today is regulated under the general policies regarding third-country nationals (TCNs), Turkish citizens get preferential treatment as a result of the Association Agreement with the EU, although Austria was slow in adapting to the EU requirements.

Government policies, the shift from the social partnership to the interior minister, and the changing constellations of interest groups and political parties have all been discussed as the main factors which play a major role in determining migration policy in Austria (Kraler, 2010). However, migration policies were continuously challenged by the interventions of the Austrian Constitutional Court, the European Court of Human Rights and the European Court of Justice (Bauböck and Perchinig, 2006). Besides, factors at the meso level – such as family and community networks – and issues connected to economic and political developments in Turkey shaped migration policy outcomes. In this paper, I examine the interaction of these factors in shaping Turkish migration to Austria. After discussing in more detail the various factors that have been identified as influencing migration processes in previous studies, I focus on the factors which cannot be explained on the national level and discuss the relevance of the transnational factors, migrant networks and dynamics in the emigrant state for explaining the migration outcomes. My aim is to examine the interaction of these factors in shaping Turkish migration to Austria and in limiting the effect of government policies.

### **Theoretical considerations**

Migration policy determines which groups are allowed to enter a country legally, and under which conditions. Norms, criteria and regulations differ according to the distinction between labour migration, family-related migration and asylum. The literature on migration policy offers different models which seek to explain the gap between policy aims and the resulting migration patterns. One significant question which arises is whether the government has the ability and the will to control migration. Although the official rhetoric stresses the desire to manage flows, experience shows that this aim is difficult to reach (Castles, 2004: 207). Castles cites the German guestworker policy as an example of a migration policy which failed to achieve its declared objective. Although the German government, like Austria, stopped its labour recruitment after the oil crisis in 1973, migrants had started to settle permanently. Against this background, Castles suggests analysing the migratory process as a long-term social process with its own inherent dynamics.

The determinants of immigration policy are complex. They lie at the intersection of domestic interest groups, domestic political institutions, international agreements and international institutions (Cornelius and Rosenblum, 2005: 100). As far as labour migration is concerned, most nation-states are able to determine the conditions under which migrants enter the country. To do so, they create various categories of individuals who are granted different

rights. Lydia Morris (2002) focuses on how states construct forms of civic stratification in which specific migrant categories have different rights of entry and residence, and different access to rights. From this perspective, access to rights works as a form of governance.

Historically, there were forms of external exclusion preventing immigrants of some ethnic and national origins from entering certain countries. However, international law prohibits a rejection that is selective on ethnic or racial grounds; the non-discrimination norm regulates the legal transition from entry to residence to citizenship (Joppke, 2005: 49). One way of restricting immigration is to reduce the numbers through the establishment of quotas or the introduction of pre-entry language requirements. Many European countries link the granting of residence security or citizenship for TCNs to income or integration requirements (Guild *et al.*, 2009). Such requirements have indirectly impacted on immigration, since naturalized persons have more rights regarding family unification than TCNs.

Government decisions on migration policies are constrained by international human rights (Hollifield, 1992; Sassen, 1996). Governments have been limited in managing migration through human and constitutional rights. The literature on “post-national” rights discusses the formation of migrants’ rights derived from transnational rights located outside the nation-state (Soysal, 1994). From a European perspective there are two sources for the expansion of rights beyond national states. First, international conventions that secure the rights of aliens – in the fields of social or family-related human rights, the European Convention on Human Rights played an important role. Second, the European Union (EU) has established mechanisms and supranational policies in the field of immigration policy-making. In gaining these rights, migrant organizations, lawyers and migrant advocacy organizations play an important role.

There are also barriers to migration policies, which arise from the social dynamics of migratory processes. Chain migration in particular has been discussed as a form of migration in which the first migrants are followed by others from the same family or community (Wilpert, 1992). Research focuses on the role of migrant networks in easing the move to a new country in order to find a job and accommodation (Pries, 1996). Other factors which explain the migration process concern the political and economic dynamics in the emigrant states – such as economic crisis or political disorder – which play a decisive role in the decisions by individuals to leave their home country (Akgündüz, 2008; Sirkeci, 2011).

Since Austria is discussed in the literature as an example of a country with restrictive policies and high migration flows in European comparison, migration from Turkey to Austria offers an interesting case for an elaboration of the role of transnational rights, migrant networks and dynamics in emigrant states. My aim is to examine the interaction of these factors in shaping Turk-

ish migration to Austria and in limiting the effect of government policies. To do so I divide the analysis into three parts. In each phase, I identify and characterize the migration policy approach dominating the period and analyse the factors shaping the migration process and thus limiting the effect of the governmental policy. I also consider what makes Turkish migration specific in terms of its regulation. In addition to using previous studies in the field of migration policy in Austria, I carried out interviews with long-standing counsellors at the Centre for Migrants in Vienna and Linz in order to assess the effects of these migration policies.

### **A labour-demand-based approach and the role of networks: 1962–1990**

In the face of the labour emigration of the 1950s and 1960s, labour shortages became a major issue in Austria as in several other Western European countries. In 1961, the social partners agreed on an employment strategy for foreign workers. An agreement was signed between Austria and Turkey in 1964 and later with Yugoslavia in 1966 (Mayer, 2009a: 132). Preliminary recruitment in Turkey had already taken place in 1961, three years prior to the signing of the agreement, but this early recruitment phase was ineffective (Kraler and Sohler, 2005; Parnreiter, 1994).<sup>1</sup>

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Although the recruitment office was in charge in Istanbul and Ankara from 1962 onwards, migrant workers arrived in Austria mostly through their own networks. In 1967, only one in eight labour migrants was recruited through official channels (Parnreiter, 1994). Numerous migrants entered the country as tourists. Once they had found a job, a work permit was issued which was discussed in the literature as “tourist employment” (Davy and Gächter, 1993). An autonomous system of migration soon emerged in which markets and migrant networks became decisive regarding the mobility of immigrants and in which government regulation regarding settlement was rather limited. This framework, which is based on the dynamics of labour demand in the labour market with an ex-post legalization, remained in place until the changes of the early 1990s. The already existing migration networks and quasi open borders supported this kind of labour migration. In the 1980s, networks – which functioned on a reciprocal and financial basis – facilitated the search for jobs and the organization of papers for people who had entered the country on tourist visas.<sup>2</sup>

<sup>1</sup> Labor migration from Turkey was low in comparison to migration from Yugoslavia in the 1960s. Only in the first years of the 1970s did the number of the Turkish immigrants increase. From the Turkish workers’ perspective, Germany and France were more attractive, since wages were higher and networks facilitating chain migration had already been established there.

<sup>2</sup> Interview with Veli Çaycı, *Beratungszentrum für Migranten und Migrantinnen* (Counseling Center for Migrants, Vienna), 10 January 2014.

Until the end of the 1980s, immigrant workers had limited rights, notably with regard to the free choice of an employer and the security of residence. Residence was only granted on the basis of a work permit, which left migrants in a precarious residential situation. If migrant workers lost their means to support themselves, they became “irregular” and were expected to return to their country of origin. Deportations were common until the end of the 1980s.<sup>3</sup> It was at the discretionary power of the alien police to make decisions on a case-by-case basis without court hearings.<sup>4</sup>

Limited economic rights led to a dramatic reduction in the numbers of immigrant workers in times of economic crisis. In the wake of the “oil crisis” in 1973, the number of immigrants working in Austria between 1974 and 1976 showed a net decline of about 55,000 (Bauböck, 1996: 14). The numbers again decreased between 1982 and 1984 by 33,000. This substantial reduction in the employment of immigrant workers was due to the legal obligation to lay off foreign workers before any Austrian citizen; this worked via the non-renewal of the work permit (Biffl, 2010). The decline of migrant employment after 1975 was mainly at the expense of immigrants from Yugoslavia. Their proportion of the total migration flow declined between 1974 and 1987 from 76.2 to 56%, while the share of Turkish immigrants rose from 13.5 to 22.2% (Parnreiter, 1994).<sup>5</sup>

In response to the global oil crisis and recession, the Employment of Foreign Workers Act (*Ausländerbeschäftigungsgesetz*) was passed in 1975, strengthening the influence of social partners on the regulation of labour migration (Gächter, 2000). The new law maintained the guestworker regime, based on a rotation principle with limited rights, in spite of the clear signs of permanent immigration to Austria that showed that this political approach had failed (Bauböck, 1996). However, this did not mean an end to “tourist employment”. In 1978, nearly 38,000 workers were sent to Austria from Turkey. In 1980–1981 around 30,000 first-time employment permits were issued by the Austrian authorities (Gächter and Recherchegruppe, 2004: 38). In times of increasing labour demand, migrant workers from Turkey and Yugoslavia could enter Austria on a basic tourist visa until the end of the 1980s.<sup>6</sup>

<sup>3</sup> The impetus for a reform of the security of residence came from the judiciary in 1987. The Constitutional Court removed two paragraphs of the Aliens’ Police Act of 1954 with the argument that the ban on residence was at odds with Article 8 of the European Convention on Human Rights concerning protection for private and family life (Bauböck and Perching, 2006).

<sup>4</sup> Interview with Norbert Bichl, *Beratungszentrum für Migranten und Migrantinnen* (Counseling Center for Migrants, Vienna), 26 February 2014.

<sup>5</sup> The reason for this was geographical distance in comparison to Yugoslavia, which restricted the mobility of immigrants from Turkey, and thus their capacity to return in bad times. Besides, the crisis of 1974 barely affected Turkey. In subsequent years, societal and political conflicts increased in Turkish society.

<sup>6</sup> Although Turkish citizens could enter Austria visa-free, they had to prove they had independent financial means or show an invitation letter on the border – although, even with these documents, they sometimes still had difficulties entering the country (see Note 11). The selection

Originally designed as a temporary, rotating migration, the system developed into a form of permanent migration (Kraler, 2011). As in other European countries, measures designed to reduce the number of foreign employees led to settlement and increased family reunification (Castles, 2004). The motivation for women to immigrate to Austria was, on the one hand, to contribute to family cohesion in economic and emotional terms. On the other hand, it was a result of the change in the dynamics of the labour market that led to a higher demand for female migrant labour in the 1970s (Parnreiter, 1994).

With the end of economic expansion in 1992, the labour-demand-based migration system came to an end. The most important regulation for the end of labour migration from Turkey was the introduction of visa requirements for Turkish citizens in 1990.<sup>7</sup> Furthermore, the issuance of employment permits was now governed by a strict hierarchy limiting the labour migration of third-country nationals (Mayer, 2009b).

### **The restrictive approach in the context of legal improvements: the 1990s**

The period between 1989 and 1993 is seen as a “major watershed” in the literature (Kraler, 2011: 30). Economic growth in Austria led to a massive rise in the numbers of immigrants.<sup>8</sup> In the second phase, which lasted until the beginning of the 2000s, there were radical changes in migration policy, which was now no longer labour-demand based. On the one hand, the government introduced restrictive regulations; on the other, an expansion of rights for TCNs came about, partly as a result of government efforts to normalize migration and partly based on the transnationalisation of rights. In this phase, legal regulation gained significance, and family migration became the norm. The flows of Turkish migrants stabilized.

In the early 1990s, migration in Austria increasingly became the subject of political and public discussion. In 1988, the government introduced a quota for the employment of foreigners, stipulating that the total number of employed and unemployed foreigners should not exceed a certain percentage of the Austrian employment capacity. This rate was reduced from 10% in 1990 to 8% in 1994. The first law to govern long-term residence, implemented in 1992, introduced a clear distinction between visas for tourists and visas for those aiming to immigrate. In addition to that for the employment of foreigners, a second quota was introduced for the residence of TCNs (Mayer, 2009b:

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criteria for Turkish citizens seem to have been arbitrary at the time, but a border policy was already in place.

<sup>7</sup> Interview with Norbert Bichl, *Beratungszentrum für Migranten und Migrantinnen* (Counseling Center for Migrants, Vienna), 26 February 2014.

<sup>8</sup> The employment of foreigners increased by 80.3% between 1987 and 1991 (Parnreiter, 1994: 166). Nearly two-thirds of the labour migrants recruited between 1988 and 1993 came from traditional immigrant countries such as Yugoslavia and Turkey (Parnreiter, 1994: 170).

52). The double quota and permit system in Austria meant the end of immigration control through the labour market and effectuated direct immigration control by establishing the maximum number of residence permits to be issued (Perchinig, 2009).<sup>9</sup>

The 1992 Residence Act affected settled migrants and their family members. Third-country nationals had to apply to renew their papers four weeks before the expiry of their permit. This had the effect of making migrants from Turkey and Yugoslavia miss the deadline and obliging them to make a new application from abroad under new restrictive conditions.<sup>10</sup> As a consequence, they lost their economic and settlement rights. Moreover, the Austria-born children of TCNs were included in the maximum number of permits, with the effect that new-born babies found themselves in an “irregular position”, and received deportation orders due to their irregular stay (Perchinig, 2009).

Although, in the 1990s, the right to family reunion was established, the quota served as a restriction and caused long delays in its implementation. For example, in 1995, the number of applications for family reunion on the waiting list – 10,300 persons – was the same as the quota foreseen for the whole year 1996 (Kraler, 2010: 76). Until 2005, the limited quota produced a massive backlog of cases.<sup>11</sup> In the case of Turkish citizens, the average duration of separation between spouses increased from about two years in 1983 to three and a half by 2000 (Kraler, 2010: 76).<sup>12</sup> Apart from this quota, the restrictive handling of housing and income requirements made family reunion even more difficult.<sup>13</sup> What is more, in 1997 the right to family reunion was limited to the nuclear family, which further restricted family-related migration.

In practice, discriminatory measures regarding family reunion were in use. In order to handle the quota slots, the government prioritized applicants who were “the most likely to integrate immediately” or where family reunion was deemed particularly urgent (Kraler, 2010). This led to discriminatory practices directed particularly at Turkish family members. In several cases known as the “*Kopftuchbescheide*” (the veil decisions), immigrant authorities in Vienna rejected the applications of Turkish women between 1996 and 1998 (Gächter and Recherchegruppe, 2004: 42).

<sup>9</sup> The quota functioned also as a barrier to labour-market access for TCNs residing in Austria, particularly for women who wanted to resume work following maternity leave (Perchinig, 2009).

<sup>10</sup> Interview with Norbert Bichl, *Beratungszentrum für Migranten und Migrantinnen* (Counseling Center for Migrants, Vienna), 26 February 2014.

<sup>11</sup> Interview with Veli Çaycı, *Beratungszentrum für Migranten und Migrantinnen* (Counseling Center for Migrants, Vienna), 10 January 2014.

<sup>12</sup> In case of immigrants from Yugoslavia, the average duration of separation was significantly lower due to the high number of post-1991 immigrant war refugees (Kraler, 2010: 76).

<sup>13</sup> Interview with Mümtaz Karakurt, *migrare – Zentrum für MigrantInnen OÖ*, (Counseling Center for Migrants, Linz), 13 January 2014.

Although these restrictions had an effect in the form of the prolongation of the period of separation for family members, in the medium term the number of resident family members increased rather than shrank. One reason for this was that most of the migration took place outside the quota limits – mainly due to the fact that the family members of Austrian citizens were not included. Starting from the mid-1990s, Turkish citizens increasingly obtained Austrian citizenship. While, on average, 398 Turkish citizens naturalized annually between 1982 and 1989, this number rose by a factor of 10 to 4,279 between 1990 and 1999, and to 10,953 between 2000 and 2005 (Statistics Austria).

Through the Association Agreement of Turkey with the EU, Austrian EU membership in 1995 brought some advantages for Turkish workers with residency permits – it increased their freedom of movement in the workplace and gave them a high degree of socio-legal equality with EU citizens. Besides, Turkish trade unionist and immigrant advisory centres were strongly involved in advocacy and in struggles for the social rights of TCNs. Voting rights in the works councils and in the influential Chamber of Labour (*Arbeiterkammer*) were introduced in 2006 for all TCNs only after the European Court of Justice decided that Austria had failed to fulfil its obligations under the Association Agreement between the European Economic Community and Turkey. Behind this decision, there were campaigns in Vorarlberg, Linz and Vienna, actively arranged by Turkish and other migrant organizations in cooperation with the trade unions. Another right which was won through juridical struggle was migrants' eligibility for emergency support (*Notstandhilfe*). When a Turkish citizen who had been denied emergency support brought his case to trial, it resulted in an amendment of the law after the European Court of Human Rights (ECtHR) ruled in favour of the applicant (*Gaygusuz v. Austria*) in 1997. The government amended the Unemployment Insurance Act, providing equal access to emergency assistance and removing the requirement of Austrian nationality as a prerequisite, which undermined the primacy of Austrian citizens in social policy (Cholewinski, 2004).

Between 1996 and 2001, the number of Turkish citizens stabilized and the inflow decreased compared to pre-1990 levels due to the end of the guest-worker regime. During this period, an average 6,700 migrants came from Turkey, which is equal to 10.4% of all foreigners entering Austria. Due to increasing family reunification a gender balance was established for the first time in the period after 1996. Apart from the role of family-based migration, push factors such as the political situation in Turkey also played a role in determining migration dynamics from Turkey. The number of asylum-seekers from Turkey increased from 592 in 2000 to 1,876 in 2001 and 3,561 in 2002, mostly as a result of Kurdish immigration to Austria (Statistics Austria). This is one example of how political dynamics in the emigrant states might influence people's decision to migrate.



### **The expansion of rights and further restrictions: the 2000s**

The inflow of TCNs in the course of the 1990s and 2000s in Austria was predominantly made up of family reunion with naturalized Austrians (Biffl, 2011). Family reunions with spouses made up almost 28% of all immigrant reasons for entering Austria between 2004 and 2008. The share of family-related Turkish migrants is the highest among all migrant groups: in this period almost three-quarters of the Turkish immigrants had immigrated either as a child for the purpose of family reunion or to marry in Austria (Kraler, 2011). Particularly important for the expansion of the rights of Turkish citizens living in Austria was the EU directive on long-term residents, which granted increased security of residence to TCNs with permanent status. They were entitled to the same treatment as Austrian nationals in terms of access to the labour market, education, social and tax benefits, and to goods and services including housing (Ataç, 2014). Moreover, a long-term residence permit was linked to labour-market access. Although the direct form of labour migration has stopped, family-related migration has led to a new form of labour migration from Turkey.

Parallel to the improvement of rights, restrictions regarding family-related migration took place which also affected Turkish immigrants. The law reform of 2011 brought in two restrictions. The first regulation concerned those migrants admitted for permanent stay who, according to the new regulation and as part of integration requirements, had to achieve A2-level German-language competence within two years of arrival. In this category, highly skilled labour migrants and their family members were exempted (Böcker and Strik, 2011). So, in this case, the integration requirements focus on family members. The introduction of pre-entry language requirements in 2011 was a further instrument which specifically targeted family members (Kraler, 2011). Regarding the new immigration rules, the then Interior Minister argued in a radio interview that “[W]e don’t need an unqualified illiterate from a mountain village”. The references to mountain villages and illiterates were explicit arguments for a migration policy which intended to restrict Turkish immigration and reflected a perception of family-related migration as problematic and as causing an inflow of overwhelmingly low-skilled workers (Kraler, 2011).

While the directive on long-term residents gave TCNs increased security of residence and full access to social rights, the introduction of formal demands and requirements under the integration agreement led to insecurity in migrants’ residence status. Since 2005, the income requirements for TCNs have almost doubled. Experts stress that the income requirements are a greater obstacle to the granting of secure residence than the integration requirements – high income requirements also play an important role in the acquisition of citizenship. Stern points out that a full-time worker who earns the minimum wage according to the collective agreement in 2009 will not earn enough to fulfil the latest income requirement (Stern, 2012). Turkish immi-

grants with below-average earnings are particularly affected by such restrictions.

However, a judgement in 2011 of the European Court of Justice in the case of *Dereci*, a Turkish citizen who entered Austria irregularly and married an Austrian citizen, challenged Austria's restrictive migration policies for Turkish citizens. With reference to the "standstill clause" in the Association Agreement with Turkey, the restrictive changes in the Aliens law were no longer applicable to Turkish citizens after Austria's EU accession in 1995. As a consequence, regulations such as pre-entry language requirements or integration agreements that also affect family-related migration were not mandatory for Turkish citizens.

Another essential reform with effects on migrants living in Austria has been the change in citizenship law. When the right-wing populist Freedom Party of Austria (FPÖ) and later Alliance for the Future of Austria (BZÖ) was in government, it started to problematize the high levels of family reunion of Turkish and Ex-Yugoslavian migrants after naturalization, and restricted access to citizenship (Perchinig, 2009). Subsequently the naturalization rates have declined dramatically – even above average rates for Turkish citizens. While, on average, 10,953 Turkish citizens naturalized annually between 2000 and 2005, this number fell to 1,344 between 2007 and 2013. In the period from 2006 to 2012 we see an increase in the number of the residence permits issued, from nearly 95,000 to approximately 106,000 (Statistics Austria).

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## Conclusions

As Castles suggests, migration should be analysed as a long-term social process with its own inherent dynamics (Castles, 2004: 207). Migration from Turkey to Austria started as labour migration and diversified over the course of time. With the end of the labour-demand-based policies in the 1990s, Turkish migration mainly took the form of family reunions. In the Austrian case, we can see the interactions of different factors shaping migration policy and the migration process. In this paper I have focused on the role of the factors which worked against restrictive tendencies on the national level, opened new channels and led to the expansion of rights for Turkish citizens residing in Austria.

Until the end of the 1980s, labour migration was based on the dynamics of labour demand with an ex-post legalisation. Limited economic and social rights increased the scope of government intervention. They led, for example, to a dramatic decrease in immigrant workers in times of economic recession. At the same time, immigrant networks and market dynamics were decisive in shaping the migratory process in the context of migrants' limited rights.

Starting in the 1990s, the focus of Austrian migration policy shifted with the termination of the system of "tourist employment" from labour market to

border management. The changeover from the guestworker model to the new immigration model offered settlement rights and permanent residence to migrants. In the 1990s, the right to family reunion was established step by step. At the same time, the government took different measures such as quotas, income requirements, pre-entry requirements and direct discriminatory measures in order to restrict family-related migration, all of which affected Turkish family members. Against these dynamics, Turkish citizens increasingly obtained Austrian citizenship, which helped them to jump the restrictions regarding family-related migration and getting social and political rights. Since citizenship is a national prerogative which, unlike social rights and security of residence, is not governed by international convention and EU law, the government changed its citizenship law in 2005, which led to an enormous decrease in the numbers of Turkish citizens naturalizing annually.

Other important factors in Austria which were effective in the expansion of rights and the correction of the government's restrictive tendencies were the Austrian Higher Courts, transnational human rights and European Union directives. Here, the rights for third-country nationals and, in particular for Turkish citizens, have been expanded through the Association Agreement with Turkey. Moreover the activities of Turkish migrants and lawyers campaigning to obtain social and political rights were decisive in two important cases against Austria's restrictive migration policy instruments. Last but not least, in the case of migration from Turkey, political and economic dynamics in Turkey, such as the military takeover in 1980 or the Kurdish conflict, led to refugee movements to Austria.

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