Abstract

As removals of non-citizens are in conflict with several human rights, monitoring and political control are of utmost importance in liberal democracies. This paper deals with parliamentary control performed by members of the Austrian Nationalrat (National Council). Based on a frequency analysis and a content analysis of 183 written interpellations in two legislative periods (2002-2006 and 2008-2013), the paper underlines the growing significance of the removal issue in the parliamentarian arena. However, the findings suggest that the control target non-enforcement by far outweighs control of enforcement as far as liberal and human rights are concerned. It is rather the deportation gap than the deportation turn which inspires control interest on the part of the political parties. Our analysis also shows that the interpellations closely reflect the (anti-)migration agenda of the inquiring parties which leads to a polarization between government and opposition as well as within the opposition. Prevailing control deficits when it comes to removal-specific issues beyond nation-state borders, the insufficient transparency within the policy area, “voluntary” returns and deportations of non-refugee target groups are partly due to these dynamics.
1. Introduction

Removals of non-citizens have been part of the standard migration policy in almost all the Western democracies since the 1990s. In migration research, this development of the border-control policy is called “deportation turn” (cf. Gibney 2008, p. 146; Paoletti 2010, p. 4). It is remarkable that the governments were able to take this coercive measure for a long time without it being discussed in public and without any political control. Removals have been and still are enforced under a veil of secrecy. Migrants are often collected by the police and put on a plane to fly them out of the country in the middle of the night so that neither politicians nor the media or neighbours are aware of this (Gunßer 2009, pp. 20-24). Only occasionally do the media and politicians take an interest in individual cases.

Quite in contrast to that disinterest, academic debate has produced revealing studies about removal policy and implementation in the Anglo-American area in particular (cf. Kanstroom 2000, 2007; Ellermann 2005, 2008, 2009; Gibney 2008; Gibney and Hansen 2003; Fekete 2003, 2005, 2011; Paoletti 2010; De Genova 2002, 2010; Bloch and Schuster 2005). The immanent violence used in connection with removals and the violation of human rights are often criticized. The sociologist Liza Schuster (2004) is of the opinion that it is impossible to enforce removals without violating human rights and therefore demands that they are stopped. On the other hand, researchers have pointed to the inefficiency of removal policy is. Taking different Western countries as an example, studies reveal a considerable discrepancy between the number of removable people and the number of people actually removed (cf. Paoletti 2010; Ellermann 2008; Welz 2014). This disparity, called “deportation gap” (Gibney 2008, p. 149), is caused by a number of factors and is an indicator for the failure of migration-control policies in these countries. (cf. Castles 2004).

Against the background of human-rights concerns and simultaneous inefficiencies of the measure taken, the question of political control of and accountability for the enforcement of removals is virulent. Yet, this question has hardly been dealt with by social scientists, with some exemptions. Thus, Virginie Guiraudon and Gallya Lahav have ascertained the increasing dilution of accountability by means of the dissemination of responsibilities “upward to intergovernmental fora (…), downward to local authorities (…), and outward to nonstate actors” (Guiraudon and Lahav 2000, p. 164). This results in administrative processes being hardly comprehensible and remaining uncontrolled. As an example of an upwardly outsourced responsibility, Johannes Pollak and Peter Slominski investigated the European border management agency Frontex, pointing at gross accountability defects due to a diffuse legal mandate and insufficient political and independent control mechanisms (Pollak and Slominski 2009, pp. 917–920). Studies on the outsourcing of tasks relating to removals to non-state
actors have arrived at similar conclusions regarding the diffuse distribution of tasks and accountabilities (Bacon 2005, pp. 21–24; Lahav 1998). Research on state monitoring systems, which are provided for in the EC Return Directive 2008/115/EC, differentiates between the local removal procedure carried out by the police and the post-deportation situation in the receiving country. Whilst the monitoring of removal procedures is institutionalized in many countries (cf. Allenberg and Kühlbeck 2011; Röthlisberger 2014), most EU member states have failed to install post-deportation monitoring systems. NGOs and international organizations can compensate for this deficiency only to a certain extent (cf. Podeszfa and Manicom 2012, pp. 10-11; Schuster and Majidi 2013, p. 222).

Only the political scientist Antje Ellermann (2009, pp. 89-91) has concerned herself explicitly with the parliamentary oversight of removals. However, her research does not further investigate control issues and the political rationales and standpoints behind them.

This article follows on from these studies and concerns itself with the political, more specifically, the parliamentary control of removals, carried out by members of the Austrian Nationalrat by means of written parliamentary questions. Written interpellations are a parliamentary instrument used by minorities as part of the competing dynamics between government and opposition. They make executive procedures the subject of discussion and politicize them, and by doing so may shape public perception, according to Patzelt (Patzelt 2013, p. 25). By a constant monitoring of the areas of ministerial responsibility parliamentarians have the power to not only exercise control ex-post, but also to influence future administrative actions (ex-ante control). From a political perspective they may be able to make procedures more transparent and to hold the competent members of the government responsible (Siefken 2010; Fallend 2000; Nödl 1995).

The objective of the research resulting in this contribution was to gain empirical knowledge on the extent and orientation of political control over the enforcement of deportations. The material researched comprises all relevant written interpellations from the Austrian parliament from two legislative periods (2002-2006 and 2008-2013) with different parties in government and opposition. Based on a total of 183 parliamentary interpellations, we will look at the following questions using frequency and content analyses: How have the inquiries changed in terms of quantity and contents? Which aspects of removals are controlled with regard to contents, organization and procedure? And finally, how can these empirical results be explained? In other words, which factors influence the intensity and orientation of the monitoring?

The results presented here show a marked increase in the frequency of inquiries over time and a striking shift in control interests. While in the early 2000s the phenomenon of the deportation turn inspired the interpellations, control concentrated much more on the deportation gap
in the last few years. The political orientations and positioning regarding migration of the inquiring parties are strongly expressed in the monitoring activities. The interpellations thus reflect the migration-policy polarization between the parties at the opposite ends of the political universe – the FPÖ, on the one hand, and the Greens on the other. We interpret the qualitative and quantitative developments as being the result of increasing attention but also polarization within and outside of the parliament.

2. Contextualization and definitions

The parliamentary interpellations analyzed by us were, on the one hand, submitted in a political climate dominated by critical or even hostile positions regarding migration. On the other hand, in a context of changing deportation figures with the number of the so called voluntary returns, in particular, increasing in the last few years. The following is a brief description of both contextual factors.

*Anti-migration mood*

Despite the large number of migrants compared to other European countries, the “official” Austria did not consider itself an immigration country for a long time. As a consequence of this denial, neither strong integration narratives were built up nor integration measures initiated, but instead regulations directed at migration control – among them deportation laws – tightened. This situation can be seen as the result of the populist right-wing Freedom Party’s (FPÖ) regular campaigning against migration since the 1990s. The FPÖ managed to employ the migration issue successfully in election campaigns, with the subsequent political debate and symbolic politics being dominated by anti-migration discourses and viewpoints. The long-standing government parties SPÖ (Social Democratic Party of Austria) and ÖVP (Austrian People’s Party) did not really map out their own course, but converged with the demands of the FPÖ again and again. Only the Greens were discussing migration and integration from the perspective of opportunities and human rights, however, with lessening intensity over time. Overall, migration control has been one of the issues which have been politicized most amongst the competing parties in Austria (Gruber et al. 2012; Gruber 2010; Meyer and Rosenberger, forthcoming). However, this does not apply to deportation policy and enforcement to the same extent. Political and public debate on those issues have only arisen over the last few years, initiated by media coverage on gross human rights violations on the one (Karner 2011, p. 155), and by civil society protests on the other (Rosenberger and Winkler 2014).
Deportation turn and deportation gap in Austria

Before we will explore changes in the number of removals over the past few years, we need to define the central terms. The instrument of deportation is divided into three categories: Removals, Dublin-transfers and “voluntary”\(^1\) returns. Removal means the coercive enforcement of a termination of stay, issued by authorities or a court. This might affect migrants who have lost their right of residence, but also asylum-seekers whose application was rejected. Dublin-transfers apply exclusively to asylum-seekers. The Dublin-II Directive 2003/343/EC provides that states can reject and transfer asylum-seekers who had already stayed in other Member States. “Voluntary” returns are documented departures from a state’s territory as the result of a termination of stay, often facilitated by the financial and organizational support from state-commissioned NGOs.

Whilst the number of removals in Austria averaged more than 10,000 per year in the second half of the 1990s, there has been a decline since the turn of the century (see table 1) due to the extension of the freedom of movement to several neighbouring countries as part of the most recent EU expansions, a stricter securitization of EU’s external borders as well as the growing importance of the two other categories of deportations (Slominski and Trauner, forthcoming). Dublin-transfers and “voluntary” returns have become increasingly relevant in Austria in the past few years with “voluntary” returns being the most frequently used category since 2008.

The figures in table 1 show that migrants are affected by removals much more frequently than rejected asylum-seekers. However, taking Dublin-transfers into account, there are almost as many asylum-seekers, who are forced to leave the country, as migrants. Statistics on “voluntary” returns do not differentiate between asylum-seekers and non-asylum seekers. However, according to a publication of the Ministry of the Interior, between 2005 and 2009 72 to 100 per cent of all returnees were subjected to the asylum law at least for a short while during their stay in Austria (MBI 2010, p. 43).

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\(^1\) As the people concerned can often only opt for a return as the only alternative to being deported or staying on illegally, we put the word voluntary in inverted commas.
Table 1: Removals, Dublin-transfers and “voluntary” returns in Austria between 2002 and 2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Total removals</th>
<th>Removals of rejected asylum seekers</th>
<th>Removals of non-asylum seekers</th>
<th>Dublin-transfers</th>
<th>“Voluntary” returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>6,842</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>878f</td>
</tr>
<tr>
<td>2003</td>
<td>4,041*</td>
<td>--</td>
<td>--</td>
<td>--</td>
<td>1,063f</td>
</tr>
<tr>
<td>2004</td>
<td>5,811*</td>
<td>--</td>
<td>--</td>
<td>408d</td>
<td>1,158d</td>
</tr>
<tr>
<td>2005</td>
<td>4,277</td>
<td>462b</td>
<td>3,851</td>
<td>627d</td>
<td>1,406*</td>
</tr>
<tr>
<td>2006</td>
<td>4,090</td>
<td>349b</td>
<td>3,741</td>
<td>109*</td>
<td>2,189*</td>
</tr>
<tr>
<td>2007</td>
<td>2,838</td>
<td>455b</td>
<td>2,383</td>
<td>894*</td>
<td>2,164*</td>
</tr>
<tr>
<td>2008</td>
<td>2,026</td>
<td>330b</td>
<td>1,696</td>
<td>1,345*</td>
<td>2,736*</td>
</tr>
<tr>
<td>2009</td>
<td>2,481</td>
<td>477b</td>
<td>2,004</td>
<td>1,583*</td>
<td>4,088*</td>
</tr>
<tr>
<td>2010</td>
<td>2,577</td>
<td>579b</td>
<td>1,998</td>
<td>1,460*</td>
<td>4,517*</td>
</tr>
<tr>
<td>2011</td>
<td>2,020*</td>
<td>445b</td>
<td>1,575</td>
<td>932*</td>
<td>3,400*</td>
</tr>
<tr>
<td>2012</td>
<td>1,853*</td>
<td>461b</td>
<td>1,392</td>
<td>984*</td>
<td>3,211*</td>
</tr>
<tr>
<td>2013</td>
<td>1,903</td>
<td>194b</td>
<td>1,789</td>
<td>1,059</td>
<td>3,512</td>
</tr>
</tbody>
</table>

Own calculation

-- No data available
Sources and remarks: All data without superscript letters are taken from BMI download area. a Nationalrat 2014. b BMI 2010. c Until 2003, Dublin-transfers were counted as removals. d BMI 2012. e 2000-2003: Data only include returnees who took part in IOM Vienna’s Assisted Voluntary Return Project. f EMN 2006.

The fact that a court or authorities-issued termination of stay does not necessarily end in a deportation, is expressed by the deportation gap. Deducting enforced removals as well as documented “voluntary” returns from the total of terminations, reveals that 51 to 77 per cent of the terminations have never been enforced.

Table 2: Deportation gap in Austria between 2002 and 2013

<table>
<thead>
<tr>
<th>Year</th>
<th>Expulsion orders</th>
<th>Removals and “voluntary” returns</th>
<th>Deportation gap</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>23,705</td>
<td>7,720</td>
<td>67%</td>
</tr>
<tr>
<td>2003</td>
<td>22,588</td>
<td>5,104</td>
<td>77%</td>
</tr>
<tr>
<td>2004</td>
<td>20,646</td>
<td>6,969</td>
<td>66%</td>
</tr>
<tr>
<td>2005</td>
<td>16,491</td>
<td>5,683</td>
<td>66%</td>
</tr>
<tr>
<td>2006</td>
<td>12,813</td>
<td>6,279</td>
<td>51%</td>
</tr>
<tr>
<td>2007</td>
<td>13,461</td>
<td>5,002</td>
<td>63%</td>
</tr>
<tr>
<td>2008</td>
<td>14,162</td>
<td>4,762</td>
<td>66%</td>
</tr>
<tr>
<td>2009</td>
<td>20,219</td>
<td>6,569</td>
<td>68%</td>
</tr>
<tr>
<td>2010</td>
<td>20,165</td>
<td>7,094</td>
<td>65%</td>
</tr>
<tr>
<td>2011</td>
<td>16,285</td>
<td>5,420</td>
<td>67%</td>
</tr>
<tr>
<td>2012</td>
<td>14,439</td>
<td>5,064</td>
<td>65%</td>
</tr>
<tr>
<td>2013</td>
<td>14,604</td>
<td>5,415</td>
<td>63%</td>
</tr>
</tbody>
</table>

Own calculation based on data from BMI download area, Nationalrat 2014, BMI 2012 and EMN 2006.
3. Material and method

Austrian MPs have three instruments available to control administrative activities relating to deportations: the right of inquiry, resolutions and interpellations (written, oral and urgent interpellations). Whilst the right of inquiry comprises the widest powers of control, it requires a parliamentary majority decision. Since the government can usually rely on the confidence of the majority of MPs in the Austrian parliamentary democracy, this instrument is hardly used (Fallend 2000, p. 179). In contrast, resolutions and parliamentary interpellations may be used by individual MPs.

A total of 15 resolutions, four urgent, three oral and 183 written interpellations regarding deportations were submitted in the research period (please see below for the chosen research period). So the written interpellation is the instrument most frequently used to control deportation procedures.

Our research period comprises the XXIInd and XXIVth legislative periods (LP), the first of which lasted from December 2002 to October 2006, the second from October 2008 to October 2013. We chose these periods in order to investigate different constellations of government and opposition (Sánchez de Dios and Wiberg 2011, pp. 357-358). From 2002 to 2005, a coalition government of the Austrian People’s Party (Österreichische Volkspartei, ÖVP) and the Freedom Party (Freiheitliche Partei Österreichs, FPÖ) was in power. Following intra-party conflicts, the Alliance for the Future of Austria (Bündnis Zukunft Österreichs, BZÖ) separated from the FPÖ and governed from April 2005 to the end of the legislative period. In the XXIVth LP, a coalition of the Social Democrats (Sozialdemokratische Partei Österreichs, SPÖ) and the People’s Party (ÖVP) was in power.

The material investigated includes all written parliamentary interpellations of the two legislative periods with regard to one of the three main deportation categories (removals, Dublin-transfers and “voluntary” returns). We accessed all potentially relevant interpellations elec-

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2 This shortcoming became obvious when all four applications to initiate an inquiry into the death of a deportee during a flight was rejected by the parliamentary majority in the XXIInd legislative period (217/GO, 219/GO, 232/GO, 303/GO).
tronically via the website of the parliament\(^3\) by using key terms\(^4\). A total of 183 written interpellations was found relevant to our research.\(^5\)

The material allows for a frequency analysis revealing the quantitative significance of the control instrument, and a content analysis identifying which aspects of the deportation procedure were controlled.

**Frequency analysis:** Table 3 summarizes the interpellation frequency per party in the two legislative periods. It shows the following developments: The number of interpellations increases considerably between the two LPs. The Greens, acting as an opposition party in both periods, triple the number of their interpellations; and so does the SPÖ, although it moved from opposition to government. The FPÖ shows the biggest increase, it evolves from the party with the fewest interpellations to the party with the most interpellations. As a result, the individual parties’ share in the number of interpellations regarding removals is reversed: While the Greens account for 50 per cent of all interpellations in the first period, but only 19 per cent in the second, the FPÖ increases their control activity from 18 per cent in the first period to 58 per cent in the second. In comparison, the SPÖ’s share decreases from 32 to 12 per cent and the BZÖ, which only became active in the second phase of the investigation, accounts for 11 per cent of the interpellations.\(^6\)

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\(^3\) Accessible at: http://www.parlament.gv.at/PAKT/JMAB/.

\(^4\) Key terms: Abschiebung (removal), Außerlandesbringung (deportation), Dublin, Aufenthaltsbeendigung (termination of stay), Ausweisung (expulsion), Aufenthaltsverbot (ban on stay), Rückkehrentscheidung (return decision), Einreiseverbot (ban on entry), Rückkehrverbot (ban on return), Rückführung (return), Rückübernahme (readmission), Ausreise (return), Heimreise (repatriation), Duldung (tolerance), Zurückschiebung (forcible return), Zurückweisung (rejection), illegal (illegal), Schuhhaft (detention pending deportation), Bleiberecht (right of abode), Frontex, Fremdenpolizei (aliens police), Asylgerichtshof (asylum court), Asylbehörde (asylum authority), Bundesasylamt (federal asylum office), Niederlassungsbehörde (settlement authority), Aufenthaltsbehörde (immigration office), NAG-Beirat (NAG advisory council), Verein Menschenrechte Österreich, Menschenrecht (human right), Menschenrechtsbeobachter (human rights monitor), Menschenrechtsbeirat (Human Rights Council), Volksanwaltschaft (national ombudsman), Menschenrechtskonvention (Human Rights Convention), Privat- und Familienleben (private and family life), Non-refoullement, EMRK (ECHR), EGMR (ECtHR), Charterabschiebung (chartered deportation), Sammelabschiebung (collective deportation), Familienabschiebung (family deportation), Problemasbiehung (problematic deportation), Rücktransport (return transport), Flugunternehmen (airline), Pilot (pilot), Amtsarzt (public health officer).

\(^5\) You will find the complete list at: http://inex.univie.ac.at/fileadmin/user_upload/ag_divpol/Liste-Schriftliche-Parlamentarische-Anfragen-XXII-und-XXIV-140514.pdf.

\(^6\) ÖVP and Team Stronach did not submit any interpellations to the government. Team Stronach acquired the club status in September 2012, one year before the XXIV legislative period ended. The ÖVP has been a governing party since 1987 and has been in charge of the Ministry of the Interior since March 2000.
### Table 3: Written parliamentary interpellations on removals, Dublin-transfers and "voluntary“ returns (per legislative period and party)

<table>
<thead>
<tr>
<th>Party</th>
<th>XXII\textsuperscript{nd} legislative period</th>
<th>XXIV\textsuperscript{th} legislative period</th>
<th>(\Sigma)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Interpellations</td>
<td>Interpellations</td>
<td>Interpellations</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-----------------</td>
<td>-----------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>Social Democrats (SPÖ)</td>
<td>By number 7</td>
<td>In % 32</td>
<td>By number 19</td>
</tr>
<tr>
<td>People's Party (ÖVP)</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Freedom Party (FPÖ)</td>
<td>By number 4</td>
<td>In % 18</td>
<td>By number 94</td>
</tr>
<tr>
<td>The Greens (Die Grünen)</td>
<td>By number 11</td>
<td>In % 50</td>
<td>By number 30</td>
</tr>
<tr>
<td>Alliance for the Future of Austria (BZÖ)</td>
<td>--</td>
<td>--</td>
<td>By number 18</td>
</tr>
<tr>
<td>Team Stronach</td>
<td>/</td>
<td>/</td>
<td>--</td>
</tr>
<tr>
<td>TOTAL</td>
<td>22</td>
<td>100</td>
<td>161</td>
</tr>
</tbody>
</table>

*Own calculation*

Our methodological approach to content analysis is based on Werner Früh (2004). In a first step we searched the material inductively for the issues under control. Based on this we developed a code book consisting of five main categories one of which was divided into eight sub-categories: *Failure of enforcement, enforcement (with the sub-categories of successful enforcement; criticized enforcement; authorities’ compliance with the law; good conduct of authorities; cost/efficiency; authorities’ compliance with human rights standards; suggesting enforcement; institutional competence), post-deportation situation, legislative amendments, and transparency.* These categories reflect the different steps in the implementation procedure as well as the components of ministerial responsibilities. The categories mentioned above were dealt with 291 times in the 183 written interpellations.\(^7\)

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\(^7\) The discrepancy in figures is owed to the fact that a single parliamentary interpellation often consists of several questions which may relate to different control issues.
Table 4: Categories of control (per legislative period and party)

<table>
<thead>
<tr>
<th>Categories of control</th>
<th>XXII\textsuperscript{nd} legislative period</th>
<th>XXIV\textsuperscript{th} legislative period</th>
<th>(\sum)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Failure of enforcement(^1)</td>
<td>FPÖ 3</td>
<td>GRÜ NE --</td>
<td>SPÖ 2</td>
</tr>
<tr>
<td>Enforcement</td>
<td></td>
<td></td>
<td>(\Sigma) 6</td>
</tr>
<tr>
<td>- Successful enforcements(^2)</td>
<td>FPÖ 3</td>
<td>GRÜ NE --</td>
<td>SPÖ 2</td>
</tr>
<tr>
<td>- Criticized enforcement in individual cases or concerning specific groups(^3)</td>
<td>--</td>
<td>6 4</td>
<td>10 16</td>
</tr>
<tr>
<td>- Authorities’ compliance with the law(^4)</td>
<td>--</td>
<td>4 3</td>
<td>7 7 1</td>
</tr>
<tr>
<td>- Good conduct of authorities(^5)</td>
<td>--</td>
<td>1 --</td>
<td>6 11 --</td>
</tr>
<tr>
<td>- Order/efficiency(^6)</td>
<td>--</td>
<td>1 1</td>
<td>12 3 5</td>
</tr>
<tr>
<td>- Authorities’ compliance with human rights standards(^7)</td>
<td>--</td>
<td>6 --</td>
<td>1 8 --</td>
</tr>
<tr>
<td>- Suggesting enforcement(^8)</td>
<td>--</td>
<td>-- --</td>
<td>3 -- 6</td>
</tr>
<tr>
<td>- Institutional competence(^9)</td>
<td>--</td>
<td>1 1</td>
<td>1 1</td>
</tr>
<tr>
<td>Post-deportation situation(^10)</td>
<td>--</td>
<td>5 2</td>
<td>7 -- 3</td>
</tr>
<tr>
<td>Legislative amendments(^11)</td>
<td>1 2 3</td>
<td>2 2</td>
<td>1 5</td>
</tr>
<tr>
<td>Transparency(^12)</td>
<td>1 1 1</td>
<td>3 1</td>
<td>6 5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>6 26 11</td>
<td>43 135</td>
<td>37 21</td>
</tr>
<tr>
<td>(\Sigma)</td>
<td></td>
<td></td>
<td>246 289</td>
</tr>
</tbody>
</table>

Own calculations

Description of categories: \(^1\) investigating the number of and reasons for failed removals and criticizing non-enforcement; \(^2\) examining the strict enforcement of removals; \(^3\) problematizing removals in specific cases or concerning specific target groups; \(^4\) examining whether removals were enforced in conformity with the law; \(^5\) investigating the behaviour of authorities during the enforcement procedure; \(^6\) obtaining information on costs and efficiency of removals; \(^7\) examining whether removals were enforced in conformity with human rights obligations and whether the dignity of the persons concerned was respected; \(^8\) suggesting the enforcement of removal orders in specific cases; \(^9\) finding out which authority is in charge of specific areas of responsibility; \(^10\) looking into the post-deportation situation; \(^11\) inquiring about the reasons for legislative amendments already implemented or planned ones; \(^12\) demanding more transparency on different aspects of the removal procedure.

4. Analysis of controlling parties and issues under control

The figures of table 4 show a significant increase in control activity between the two legislative periods. They also illustrate the change in controlling parties and thus a different orientation as regards content and political narratives.

4.1. From the Greens to the FPÖ or: From criticizing deportations to criticizing non-deportations

In the XXII\textsuperscript{nd} LP, the opposition parties Greens and SPÖ dominated the parliamentary arena with 86 per cent of all controlling activities. As regards content, the focus lies on the human-rights motivated criticism of removals, a review of whether laws and human rights are
complied with in the implementation stages, as well as the post-deportation situation. The discursive strategy employed is to place individual cases at the centre of the investigation and to reveal possible violations of rights by the authorities involved through meticulous reconstruction of the executive actions. This is often followed by a more general criticism of deportations of the group concerned (such as traumatized people, families, victims of trafficking in human beings) (cf. The Greens 4066/J; SPÖ 1490/J). For example, green MPs express their dissatisfaction about the deportation of a “relative of an Austrian citizen!” (4142/J), linking this to human-rights concerns whether people legally married to Austrians can be deported at all: “Why is someone forcefully removed from Austria who will soon after have to be allowed to re-enter and stay based on their fundamental rights?” (The Greens 4142/J). There is also a great control interest regarding the post-deportation situation in this LP, which – together with the category compliance with the law – is the second most frequently controlled target. Again, by referring to individual cases, it has been requested that Austrian authorities must ensure the protection of the (human) rights of removed persons in the receiving countries (cf. the Greens 2110/J; 5314/J; SPÖ 1334/J).

The governing FPÖ merely hints at their control interest in the categories failure of enforcement and successful enforcement, but is far from reaching the level of control activity by the Greens and Social Democrats. In terms of contents, the XXII\textsuperscript{nd} LP is therefore dominated by the agenda of the more left-wing opposition parties. However, this changes fundamentally in the XXIV\textsuperscript{th} LP.

In the XXIV\textsuperscript{th} LP, there is a shift of the controlling parties. From now on it is the populist right-wing parties FPÖ and BZÖ which account for 70 per cent of the controlling activities. This shift also entails a shift in control categories. The control is now geared less to human-rights concerns but rather to efficiency, i.e. the rigorous enforcement of deportation legislation. In contrast to the earlier period, the control issues failure of enforcement and successful enforcement are now being queried most often. The FPÖ is by far the most active party, followed by the BZÖ and the SPÖ, which has formed a coalition with the ÖVP in this LP, but does not head the Ministry of the Interior.

Control in the category failure of enforcement deals with a large range of processes which prevent or slow down removals and Dublin-transfers. They range from anti-deportation protests and resistance to being unfit for transportation or a lack of readmission agreements with the receiving countries (cf. FPÖ 5296/J; 178/J; 810/J; BZÖ 3901/J). All three parties show an interest in readmission agreements since – according to an MP of the SPÖ – they are key to migration control policy, because “all the tailor-made adaptations of the national immigration act are useless if one fails to deal with the possibility of returning immigrants to
their respective home countries by providing for existing bilateral or European agreements”.

(12927/J)

In the category successful enforcement, control concerns the number of deportations enforced successfully within a certain period (cf. FPÖ 11/J; 178/J; SPÖ 1554/J). Here, the MPs focus on certain groups among the deportable population. In this context, the BZÖ repeatedly ask: “How many asylum-seekers were reported because of how many crimes in the years 2007 and 2008? (...) How many of these asylum-seekers have been removed so far?

The Greens show more or less continuity as regards content in the XXIVth LP and are being supported by some MPs of the SPÖ as in the earlier LP. Criticism centres around deportations of vulnerable groups (cf. the Greens 4476/J; 2562/J; SPÖ 14605/J). However, the argument of successful integration has recently been introduced as a reason against enforcement (cf. the Greens 6978/J; 4186/J).

The description of control activities per political party underlines that the contents of written interpellations regarding removals, Dublin-transfers and “voluntary” returns have changed. Whilst the SPÖ and the Greens discussed deportations as a sensitive human-rights issue with harsh consequences for the persons concerned in the XXIInd LP, the narratives and positions of the two right-wing anti-migration parties dominate later on. Their main interest is the efficient implementation of the deportation laws. However, the MPs feel that this efficient implementation is not realized in view of the falling number of removals and the large deportation gap. The vigorous inquiring about the categories failure of enforcement and successful enforcement testifies to the concern that not enough deportations are enforced. The performance of the Ministry of the Interior is criticized as being inefficient in this respect. Hence, the parliamentary control is not driven by human-rights concerns any more, but the criticism of unenforced or failed removals.

In addition to this shift in issues, the dynamics of the partisan polarization show that the government and the opposition were polarizing in the XXIInd LP. The opposition parties – the Greens and the SPÖ – formed a kind of control alliance against the government based on human rights considerations. In the later LP, parliamentary control as such was polarizing. The opposition parties did not form an alliance against the government. To the contrary: the government was being criticized by the FPÖ and BZÖ for being too feeble, and by the Greens for being too strict. In other words, this polarization represents a case of “protection from foreigners” on the one hand, and “protection of foreigners” on the other. The SPÖ held an ambivalent position: whilst it was concerned with similar ideas as the Greens when it was part of the opposition, some years later – as a coalition party – it shared some of the control interests of the right-wing parties.
4.2. Few issues and special groups

Another look at table 4 confirms that parliamentary control is focussed on a limited number of issues in both legislative periods. In the XXII\textsuperscript{nd} LP, only three and in the XXIV\textsuperscript{th} LP only two categories of control (out of a total of 12) accounted for more than 50 per cent of the control activity. It can thus be followed, that the increase of interpellations between the two periods is not the result of a diversification of control interests, but rather of a concentration on a few categories at the expense of others. That is to say, whilst the FPÖ/BZÖ-dominated control targets failure of enforcement, successful enforcement and cost/efficiency became increasingly important, the control intensity in the other categories hardly changed. This also applies to the dominant issues of the XXII\textsuperscript{nd} LP: Control in the categories Authorities’ compliance with human rights standards and criticized removals has become much less salient.

The detailed analysis of the control issues reveals three shortcomings: The questions of the MPs mainly refer to the nation-state framework. They hardly attempt to make deportation issues more transparent and concentrate on certain groups among the deportable population while neglecting others.

The fact that control is limited to the nation-state framework manifests itself in the insufficient control of the post-deportation situation and the ignorance vis-à-vis European actors. The category post-deportation situation, which was the second most frequently controlled issue in the XXII\textsuperscript{nd} LP, is the only category in which activities are being reduced. Although contributions by journalists as well as academics have repeatedly pointed out shortcomings of the Austrian asylum system, some of which have had fatal consequences for the persons concerned (cf. Funk and Stern, p. 249; Neugschwendner et al. 2012, p. 16; Forum Asyl 2004; Brickner and Ruep 2013; Welz and Winkler 2014). The few control activities concern individual cases. The failure of the government to install a systematic post-deportation monitoring system is not subject to interpellations. As far as control of European institutions involved in deportations is concerned, the lack of interest in activities of the European border management agency Frontex is striking. This is particularly blatant because Austria is one of the most active nations in participating in and organizing of Frontex assisted joint return operations (Slominski and Trauner 2014). Our empirical results thus confirm findings which attest to the national parliaments a lack of control interest in European institutions (Pollak and Slominski 2009, pp. 917-918).

In Austria, there is only little official data on various aspects of removals available (Welz 2014, p. 3), which constitutes a democratic deficit since removals are a sensitive human-rights issue. Quite in contrast to our expectations, the instrument of parliamentary
interpellations was hardly used to demand greater transparency (for example in the form of greater and more differentiated statistics) from the ministry and thus make the executive processes more comprehensible for the public.

Parliamentary control with regard to removals is further tightened and polarized because the political parties focus more strongly on certain groups and neglect others. Thus, all parties focus on rejected asylum-seekers. Within this group, the populist right-wing parties concentrate on persons described as “deviant”; the Greens tend to concentrate on groups characterized by vulnerability or “deservingness” (Paoletti 2010, p. 19). This concentration reflects the migration-policy agenda and the control interests of the parties. FPÖ and BZÖ, for example, want to secure successful enforcements in particular when persons with a criminal record are involved or persons who are deemed “illegal”. The BZÖ refers to these groups in two thirds of, and the FPÖ in nearly half their interpellations (cf. BZÖ 420/J; FPÖ 890/J). The Greens, however, rate removals as problematic, above all, when families with children, people with health problems or persons who have managed to integrate into society are concerned. By focussing on these groups of people, FPÖ/BZÖ and the Greens pick up and reinforce existing discourses on “good” and “bad” migrants (cf. Kuisma 2013, pp. 100, 108-109; König 2013, pp. 205-210).

In contrast, migrants targeted for deportation are paid little attention although they are the group which is subjected to removals most frequently (see table 1). It is also worth noting that the control activities in the category failure of enforcement dominate in absolute terms, but vice versa the situation of those persons whose stay is terminated, but cannot be removed for various reasons, are mentioned in only two interpellations. This population, which is growing by several thousand people every year (Welz 2014, p. 14), is in a particularly precarious situation. Only tolerated, but without a formal right of residence, it is left in a legal grey area (Gibney 2008; Paoletti 2010). Their access to social benefits such as health care or education is not provided for by law, and often depends on the discretion of individuals or the services of non-governmental organizations. The parliamentary interpellations do not realize the existing need for control in this area at all.

5. Interpretation of the results: Parties and protests

What are the reasons for the increase in and the change of the control categories queried most often? They are due to the different constellation of government and opposition. Extra-parliamentary developments such as the changing number of removals, Dublin-transfers and
“voluntary” returns occasionally play a role, but how important they are always depends on the migration-policy agendas of the controlling parties. After all, societal developments which convey an increasing awareness of the deportation issue, are also reflected in the qualitative and quantitative changes in parliamentary inquiries.

5.1. Figures (do not) deliver explanations

The changing number of removals, Dublin-transfers and “voluntary” returns explain the increase in interpellations and the issues inquired only to a certain extent. The control activity in the earlier legislative period shows that high numbers of removals can go hand in hand with little parliamentary control: Between 2002 and 2006, when approx. 5,000 people were removed every year, only 22 interpellations relating to this issue were submitted. In addition, frequent references to Dublin-transfers suggest that the control was motivated by the newly adopted Dublin II Regulation: 45 per cent of all interpellations relate to Dublin-transfers which accounted for a much smaller proportion of deportations. The number of removals decreased up until the XXIVth LP and kept decreasing in that period. At the same time the number of parliamentary interpellations increased. This can neither be explained by a continued disproportionate interest in Dublin-transfers nor by a rising control interest in “voluntary” returns. Whilst the percentage of the latter increased from 20 to 51 per cent of all deportations between the two research periods, they are only mentioned in five per cent of the interpellations in each of the periods. The assumption of the government that “voluntary” returns make for fewer controversies because they reduce the financial and political costs (Kratzmann et al. 2010, pp. 35, 56), seems to be reflected in the political control activity.

If it is not true that more removals lead to more control, what is the reason for the growing control activity? A comparison of both periods shows a reverse development: It is the decreasing number of removals since 2004 which is dealt with and problematized in the most frequent interpellation category failure of enforcement. The written interpellation is thus used as a means to influence (Siefken 2010) a removal policy which is being perceived as failed at present.

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8 Figures relating to Dublin-transfers have only been available since 2004. They accounted for eight per cent of all deportations between 2004 and 2006.
5.2 From government to opposition: the FPÖ

Since the number of removals began to fall at the beginning of this century and the resulting deportation gap grew only slightly between the research periods, we had to search for other explanations. They are offered by the changed composition of the Nationalrat, to be more precise, by the fact that FPÖ and BZÖ, who had been part of the government, became opposition parties.

In the XXII\textsuperscript{nd} LP, the number of control activities is small, but dominated by the Greens and the Social Democrats. The governing parties, the FPÖ and later the BZÖ, do not show any interest in discussing the falling numbers of removals in public as they fear being criticized by their voters for an inefficient removal policy. But the opposition parties, too, find ignoring the deportation gap convenient because criticizing the conservative right-wing government for its harsh removal policy is more in line with their agenda.

The political situation changes in the XXIV\textsuperscript{th} LP: The populist right-wing parties became part of the opposition and were setting the agenda by submitting the largest number of interpellations. They are now accusing the government of being too lax when it comes to enforcing removals by politicizing the deportation gap in particular. The role the governing party SPÖ was playing is also interesting: On the one hand, it opposed the coalition partner ÖVP in some cases of hardship, on the other hand, it insisted on removing enforcement impediments together with the BZÖ and FPÖ.

It can therefore be concluded that it is the changing “politics of the ‘deportation gap’” (Gibney 2008, p. 154) which results in the qualitative and quantitative changes between the two periods. To be more precise, it was the migration-policy induced polarization between the opposition and the government as well as between right and left, which was reintroduced to parliament by the FPÖ as one of the opposition parties.

5.3. Response to a society which has become more sensitive

The increased control activity is also to be seen as a reaction to phenomena outside parliament - indeed, almost half the parliamentary interpellations relate directly to media reports or press releases - and coincides with an increased sensitivity among civil society. Before 2006, there was hardly any mention of removals in public in Austria. It was not until a young student from Kosovo, threatening to commit suicide if her family was removed, that the attention of the civil society and the media was caught. Since then, there has been a constant stream of
media reports – if controversial – not least due to growing resistance against individual removals in the population (Gruber et al 2012; Rosenberger and Winkler 2014).

Hence, the increase in parliamentary interpellations regarding removals has been embedded in a changing societal sensitivity. Some of the interpellations were closely related to civil society outcry. The individual cases and fates mentioned in the interpellations of the Greens often share the same profiles as those persons threatened by deportations who inspire most of the anti-deportation protests (e.g. families with children, persons with health problems etc.). This is not surprising as the political standpoints on migration issues and the people working for the Greens and those NGOs and religious groups, who take an active part in the protest movement, are often the same (cf. Gruber 2010, p. 79).

However, the protests also provoke a counter-discourse, which demands the unconditional enforcement of removals. If FPÖ and BZÖ demand the enforcement of removals, they sometimes refer to similar groups as the Greens. These interpellations do not only criticize the Ministry of the Interior, but indirectly also the political engagement of the Greens in anti-removal rhetoric and activities.

6. Conclusion

This paper has investigated the parliamentary control of removals, Dublin-transfers and “voluntary” returns in Austria, revealing a dynamic area of control which has changed significantly in terms of intensity and content over a period of eleven years. These changes may be explained by the different constellations of government and opposition. To a lesser extent they are due to developments outside parliament, in particular, falling numbers of removals and an increasingly public debate on the deportation issue. In addition, the comparative analysis of the control intensity and activity has led to the following empirical results and analytical findings:

The number of parliamentary interpellations regarding removals has increased between the XXII\textsuperscript{nd} and the XXIV\textsuperscript{th} LP – albeit from a very low level. With the change in government and the higher number of inquiries of the populist right-wing parties FPÖ and BZÖ, new issues have become part of the control agenda. The Greens give up their dominant position which can be understood as yet another proof for having lost their interest in competing with other parties over the migration issue.

Contrary to expectations based on the framing of deportations as a challenge for human rights, the growing control activity concerns criticism of non-enforcement rather than criticism of
enforcement. The greater number of parliamentary inquiries submitted by the FPÖ are due to falling numbers of removals and the deportation gap.

The paper also shows a polarization among the inquiring parties, a result of which is their concentration on few issues and certain groups among the population targeted for deportation. Topics, which are also in need of attention, are still not addressed, because the written interpellations end at the nation-state borders; they make no attempt to remove the lack of transparency and polarize between so called “good” and “bad” migrants and asylum-seekers. In terms of human rights and democracy, one may call this reduced control.

The answer to the research question whether the written parliamentary interpellation suffices as an instrument of control of removals is “No”. However, it is not so much the systemic weakness which limits parliamentary control and renders it inefficient, but rather the self-limitation of the inquiring MPs which do not make full use of the potential of the control instrument. After all, parliamentary interpellations are the only binding method by which they can obtain information from the executive. In addition, interpellations are so powerful because the government cannot anticipate the information requests and must expect to be accountable in all areas of responsibility. So it would be up to the MPs to produce an anticipatory effect by widening the control range.
REFERENCES


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MATERIAL

Written interpellations


Requests for the setting-up of a committee of inquiry