

## **Summary and recommendations from the expert report on counselling for migrant workers in Germany – an analysis of the demand for union-linked counselling structures (2016)**

**Author: Michaela Dälken** – in collaboration with Torsten Jäger und Bettina Wagner

### **Abstract**

**The purpose of this analysis is to assess the future demand for counselling and support for migrant workers (people who travel to Germany from abroad to work for short periods of time, but do not plan to reside permanently in Germany) in the individual German states and in Germany as a whole, and to offer recommendations for the future design of the counselling programme. To that end, statistical data on migrants have been analysed and incorporated into an expert report on the basis of a survey.**

The most important findings at a glance:

- International mobility of workers has increased and will continue to rise in future.
- Migrant workers are especially vulnerable to exploitation due to the brief length of their stays in Germany. They need competent outreach counselling in their native language in order to assert their rights.
- Currently existing counselling structures are inadequate in the face of current and anticipated future caseloads. Thus it will be necessary to expand these programmes.
- To achieve that objective, existing counselling structures should be maintained and enhanced wherever necessary. As a minimum target, at least one advisory centre staffed by at least two counsellors should be established in each German state. Multiple centres should be established in the larger states. It will also be necessary to set appropriate thematic priorities and language requirements.
- In order to provide support for local advisory centres on matters of content and to generate synergies within the network as a whole, all advisory centres should have access to higher-level structures capable of providing linguistic and substantive support in cases of need.
- Furthermore, a coordinating structure should be established for the purpose of developing a common profile for the advisory centres, ensuring the quality of counselling services, coordinating training and continuing education programmes for counsellors and preparing informative materials.

### **Recommendations**

Given the positive medium-term economic outlook for the Federal Republic of Germany, the number of migrant workers from Member States of the European Union entering Germany is likely to remain high in the coming years. As expected, a particularly large percentage of migrants from the EU area will come from Bulgaria and Romania (EU-2) as well as Croatia, nations for whose citizens restrictions on freedom of movement were lifted in January 2014 and July 2015, respectively. They have been contributing to the positive migration balance in the Federal Republic since 2014 and are likely to continue doing so in the near future. Migration from EU-2 countries will not only offset the apparent slight decline in the number of migrants from the Member States which joined the EU in 2004 (EU-8), but will most likely exceed that figure. Moreover, the stubbornly persistent economic and financial crisis in the southern and south-eastern Member States of the European Union will contribute to a further increase in the number of migrants from the so-called GIPS nations (Greece, Italy, Portugal and Spain). It is also reasonable to expect – even on the basis of a cautious assessment of available data – that the number of posted workers in Germany is much higher than has been assumed thus far and that their numbers have increased at a disproportionate rate in recent years and will continue to do so. The number of refugees entering Germany is also very high. Roughly 800,000 people are estimated to have entered the country in 2015 (as of September 2015), and the number is expected to remain high in 2016 as well. In addition, Albania, Kosovo and Montenegro are now classified as safe countries of origin pursuant to the law on the accelerated processing of petitions for asylum, which was adopted in short order and took effect on 24 October 2015. In addition, migrants from the western Balkan States (Bosnia-Herzegovina, Macedonia, Serbia, Kosovo, Albania and Montenegro), will also be granted easier access to the labour market under certain circumstances. Asylum-seekers and tolerated refugees are to be given quicker access to opportunities for temporary agency work – a type of employment which, as described above, exposes workers to an even greater risk of exploitation.

As a result of these developments, the number of migrant workers is expected to continue rising in the years to come and the demand for counselling and support structures for migrant workers will not simply remain stable, but will increase significantly as well. Since, as the analysis shows, existing structures are incapable of meeting demand even now, it is both reasonable and necessary to expand the scope of offerings in this area in order to lessen the negative impact of these developments on migrant workers. Furthermore, the expected further opening of the labour market for citizens of third countries, coupled with easier access to the labour market for refugees, will also lead to an additional rise in the demand for counselling in matters of relevance to labour law. If the advisory centres for migrant workers are expected to cover this additional demand as well, it would be necessary to determine whether the counselling profile could be modified in such a way as to allow for the processing of specific issues of concern to refugees from third countries. Another possible option to be considered in this context is that of establishing a supplementary system of advisory centres specialized in labour-law issues

of relevance to third-country refugees, which, in view of the overlapping concerns involved, would cooperate closely with the advisory centres for migrant workers. Even if, as in the present study, the anticipated rise in demand for counselling for third-country refugees in matters relating to labour law is not taken into account, the analysis of statistical data and the survey of individuals directly involved in the work of counselling migrant workers clearly indicates that the existing counselling system is in urgent need of expansion as a nationwide counselling programme.

The following sections contain recommendations regarding the form and scale of this proposed expansion.

#### 4.1 Nationwide counselling programme

Both the statistical analysis and the survey have shown that the demand for counselling and support for migrant workers in matters relating to labour law can no longer be met even today. Moreover, increasing intra-European mobility is expected to result in a rise in the number of migrant workers. In order to meet the existing and future demand for counselling services for migrant workers at least in part, we recommend not only maintaining the existing counselling and support programme, but expanding it to all German states and establishing at least one advisory centre staffed by at least two persons in each state. Consideration should also be given to the fact that the number of migrant workers is significantly higher in several larger states. We thus recommend establishing at least three advisory centres in each of the states of Bavaria, Lower Saxony, Baden-Württemberg and North Rhine-Westphalia. At least two advisory centres will be needed in Hessen and the largest new states of Thuringia, Saxony, Saxony-Anhalt and Mecklenburg-Western Pomerania. At least one advisory centre should be set up in all other German states (including the city-states). Outside of densely populated metropolitan areas, which ordinarily have good infrastructures, the mobility of advisory centres must be ensured, which means that, in addition to their own transportation infrastructures (cars), consideration must be given to providing sufficient personnel capacities to allow for travel to and from advisory centres for counselling purposes.

#### 4.2 Expansion of language competence

Due to their ordinarily brief periods of stay in Germany and the otherwise precarious circumstances under which they live, many migrant workers are not supported by networks and speak little or no German. Thus low-threshold access is an essential prerequisite for effective counselling services for migrant workers. Counselling in the native languages of individuals seeking advice has proven to be a most effective means of explaining the complex legal issues facing specific target groups and facilitating the process of building relationships of trust between advice-seekers and counsellors. We recommend maintaining and expanding competence in the languages spoken by migrant workers at advisory centres. This would be best achieved by hiring suitably qualified personnel. Because it is not possible to provide services in all languages at every centre, a structure should be created that would enable advisory centres to draw upon the ex-

isting capacities of other centres. In the process of expanding the network of advisory centres, decisions about where to establish capacities in which languages should be based on an analysis of the geographic distribution of the various migrant groups. Such an analysis would take into account, for example, the fact that migration from EU-8 countries tends to be concentrated in the ‘new’ German states and the northern region of the Federal Republic, whereas the city-states and the central and southern areas of the country attract the largest numbers of migrants from EU-2 countries. Migrants from GIPS countries tend to favour the city-states and the states of Hessen and Baden-Württemberg, while those from Croatia also lean towards Hessen, Baden-Württemberg and Bavaria. Thus competence in Croatian should be offered above all in southern Germany (especially in Baden-Württemberg, Hessen and Bavaria). Counselling in Hungarian should be made available on a broad scale in Baden-Württemberg, Bavaria and Hessen and established in Saxony or Thuringia as well. Access to Spanish-speaking counsellors would also be useful and important in the city-states. If consideration is given to further expansion of the responsibilities of advisory centres for migrant workers, it would be desirable to extend the range of languages offered to include English, French, Arabic and Farsi.

#### 4.3 Design of the counselling programme

The analysis showed that the current design of the counselling programme has proven effective. Thus we recommend retaining and strengthening the present counselling form, the focus on issues of relevance to labour and social-welfare law and the various approaches to networking:

##### **Counselling form**

Individual, low-access-threshold counselling should be offered. Counselling should be conducted on an outreach basis as a means of establishing contact with the individuals concerned within the context of their individual working and living environments. The existing programme of fixed counselling times, telephone counselling and e-mail counselling should be retained, however. Migrant workers concerned with peripheral issues should be referred to other ancillary advisory centres for counselling. In order to perform these core functions properly while tending at the same time to the necessary administrative and public relations activities and ensuring continued networking with other counselling structures at the state and national levels, we recommend staffing each advisory centre with two full-time employees.

##### **Primary counselling topics**

In terms of content, counselling should be focused on social-welfare and labour issues with the goal of supporting advice-seekers in the process of asserting their rights. In this way, counselling services for migrant workers fill a gap in existing counselling programmes, such as initial migrant counselling or counselling on cross-border employment. In addition to support in cases involving acute problems, counselling should also

serve the purposes of prevention. Such preventive formats are already in place at some advisory centres, but should be developed further, expanded and standardized.

### **Counselling quality assurance**

In order to ensure high-quality counselling, the existing counselling profiles of various agencies and institutions should be compared preparatory to developing a common profile based on shared quality standards in a process involving all sponsoring agencies and institutions. All counsellors should take part in a basic training course in labour and social-welfare law. Counsellors should also be permitted to pursue further training and take part in such training on a regular basis, and they should be given opportunities to discuss their experiences and counselling procedures with their colleagues. In support of that objective, individual counselling teams should be offered regular opportunities to participate in both individual and group supervision sessions. In order to ensure that these processes are effectively managed, an interregional coordination office should be established and entrusted with responsibility for compliance and the progressive development of standards, networking among advisory centres, and continuing education programmes for employees. The analysis also shows that it is impossible to ensure the requisite level of in-depth knowledge about business and industrial sectors and types of employment at all locations. Thus we recommend maintaining or establishing interregional structures – comparable to those already in place for the Fair Mobility project – in which know-how of relevance to specific topics is maintained and made available on demand to all advisory centres. Knowledge and experience in the following branches of industry would be especially relevant and useful: construction, meat processing, transportation and logistics, cleaning services, the hotel, pub and restaurant trade, industry-related services, agriculture and nursing care. Specific forms of employment also require special knowledge. These include worker posting/seconding, temporary agency work, and pseudo-self-employment.

### **Networks of existing counselling structures**

The results of the survey indicate that mediation between individuals seeking advice and employers as well as expert support from trade unions or attorneys is needed in order to enforce the rights of migrant workers. With respect to peripheral issues, referral counselling is offered wherever possible. However, this type of counselling can be effective only if organizations capable of responding to such enquiries exist and these organizations are linked to the advisory centres within a network. The practice of linking counselling services to existing (regional) structures has proven helpful, as the agencies and organizations in question are actively involved in a living network and are able to take advantage of synergy effects. Consideration must also be given to the fact that many individuals seeking advice work for companies or subcontractor chains which operate in different German states and assign their employees across state boundaries. Advisory centres which, due to administrative constraints, are permitted to work only in the states from whose budgets they are financed often find themselves unable to meet the needs of these individuals. We therefore recommend developing a higher-level



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structure – aside from the advisory centres based in the various German states – that would facilitate the processing of interstate cases and call attention to them. This high-level structure could provide support for the regional advisory centres in cases of need. We would also suggest assigning a portion of the aforementioned focal competencies to the interregional structures. International cooperation with relevant individuals and institutions in the countries of origin has proven helpful in efforts devoted to preventive action and the application of practical know-how from the countries of origin. Various projects developed primarily within the context of Fair Mobility are focused on the goal of informing people who want to work in Germany about their rights and options before they leave their home countries. These approaches should be developed and promoted in a coordinated manner within an overall network.

#### 4.4 Supporting informative materials and public relations activities

Supporting informative materials and targeted public relations activities have proven useful within the context of counselling. These materials must be continually updated and upgraded. We therefore recommend developing new materials, reviewing existing materials for the purpose of determining the need for updating and revising them as needed. This work should be accompanied by appropriate public relations activities.

#### **Flyers**

Flyers on specific topics should provide brief and succinct explanations of relevance to concrete issues encountered in the work of counsellors. We recommend involving counsellors in the process of drafting such flyers. The following topics identified in the survey may serve as point of orientation:

- Employment contracts
- Working hours (clocking, records, Sunday and holiday work, wage supplements such as overtime or holiday pay, scheduling)
- Protection against dismissal
- Wage rates and minimum wages
- Accident insurance
- Housing and rent
- Health insurance
- Unemployment benefits

Aside from topics of relevance to labour and social-welfare law, we recommend responding to the requirements posed by the German states, the various business and industrial sectors and specific types of employment. In order to achieve low-threshold contact with the target group, flyers should be printed in the most important native languages as well as German and possibly English. Flyers should also be printed in sufficient quantities so that they can be distributed directly. Online versions should also be made available. We recommend disseminating these materials locally, regionally and nationally in cooperation with other government and non-government agencies and organizations, advisory centres concerned with other legal aspects and trade unions.





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Materials may also be distributed in cooperation with government and non-government agencies and organizations in the countries of origin. These information leaflets should be made available to other advisory centres and government agencies in order to ensure the widest possible dissemination. Consideration should be given to the possibility of printing the contact data for each organization on the flyers.

### **Other supporting public relations activities**

We recommend developing a general concept for supporting public relations activities at a central office. This concept should take previous ideas regarding public dissemination as well as publication of the counselling and information programme into account. The use of a multilingual website of the kind presently used for the purpose of providing an overview of the existing counselling and information programme, processed cases, current developments and accompanying events is regarded as an effective public relations tool. Flyers for the various advisory centres, overview flyers, etc. will also be required. Information events for individuals seeking advice have also proven very helpful. We also suggest developing additional informative materials for dissemination, such as information films, explanatory films and posters. These materials should address specific target groups, offer general introductions to the topics in question for the general public and for use in educational work, but they should also be oriented towards the issues of concern to individuals seeking advice. All in all, we recommend that the development of informative materials and supporting public relations activities be coordinated by a central office.