

# QUALITY STANDARD CRITERIA FOR THE CHARITABLE EMPLOYMENT (gemeinnützige Arbeit) OF ASYLUM SEEKERS

This document has been drawn up by Autarg 2 (a net-working of five EQUAL Development Partners in Austria)



This quality standards are supported by the organizations listed above

## Preamble

The Austrian labour market is with few exceptions (such as seasonal employment in the winter or summer, or seasonal harvest jobs) inaccessible to asylum seekers. This, in combination with asylum proceedings which can often last years, represents an enormous burden for individuals seeking asylum. Such problematic circumstances lead to an additional loss of existing

skills and aptitudes.

The “Grundversorgungsgesetz - Bund 2005 (GVG-B-2005)” (Basic Welfare Federal Support Act - 2005) allows for asylum seekers to engage in charitable, community-oriented activities for the federal government, state or community:

§ 7 (3) *Asylum seekers and other foreigners living in supervised housing (§ 1 Z 5) provided by the federal government or state can, according to § 2 Abs. 1, be placed in charitable, community-oriented activities for the federal government, state or community (for example, landscaping and gardening, superintending parks and sports facilities, or assisting in administrative duties) under the condition of their consent.*

(4) *Consenting asylum seekers whose proceedings are admitted according to § 28 AsylG 2005 can then be placed in positions, as articulated in Paragraph 3, when and if they are supervised by a third party.*

(5) *If services in such community-activities are rendered, then the asylum seeker is to be compensated. The aforesaid compensation is not deemed financial remuneration as defined in § 49 Abs. 1 und 2 des Bundesgesetzes vom 9. September 1955 über die Allgemeine Sozialversicherung (Federal Social Security Act of September 9th, 1955), BGBl. Nr. 189/1955, nor is this compensation subject to income tax.*

(6) *The execution of such activities as defined in Paragraph 3 and 4 does not constitute official employment status; it does not require a legal work permit for foreign nationals.*

This model of charitable, community-oriented employment was tested by Inpower Graz and Caritas Salzburg in trial projects. It demonstrated significant achievements in the improvement of:

- o the emotional and psychological wellbeing of asylum seekers,
- o levels of acceptance and tolerance in the local community,
- o the priming of individuals for their entrance into the labour market after the conclusion of asylum proceedings,
- o as well as in the prevention of conflicts.

Still, charitable, community-oriented services are not employment in the sense stipulated by the Grundversorgungsgesetz (Basic Welfare Federal Support Act). The rendering of such services does give one protection under Austrian laws such as the Act to Regulate the Employment of Foreigners (Ausländerbeschäftigungsgesetz), the Collective Labour Agreement (Kollektivvertrag), the Federal Labour Law (Arbeitsrecht), etc., as would be the case if one enjoyed legal employment status. Also, one has no right to measures put in place to help ensure the health and wellbeing of employees, as are lobbied for by AK and ÖGB. Employers could be enticed to retain the services of asylum seekers because they desire to cut regular personnel costs, or because they wish to cover the expenses through their (low tariff) labour. There is a danger that jobs normally requiring skilled workers will be performed by under-qualified individuals, or that highly-qualified labourers will not be adequately reimbursed.

Charitable, community-based employment is employment without any legal protection - the risk of asylum seekers being exploited is very high. Indeed, the undersigning NGOs (non-government organizations) are not entirely without reservations. Nonetheless, they still advocate charitable employment under the quality standard criteria presented here. This is because they believe charitable employment best counteracts the devastating effects of prolonged unemployment and inactivity.

However, charitable employment is still no substitute for a more global opening of the regular labour market to asylum seekers. Instead, it represents a temporary solution for individuals who are presently denied access to legal employment status. A combination of charitable employment, foreign language courses, and courses in continued education can and does safeguard individuals from being further bereaved of existing skills and aptitudes. This alliance also encourages tolerance and promotes the benevolent cohabitation of people of various nationalities. Finally, the development of the

following standard quality criteria was prompted by our reservations regarding the prospect of asylum seekers being exploited. In order to prevent this occurrence, it is of utmost importance that they are adhered to.

## Goals of Charitable, Community-Oriented Employment

### a) Advantages for Asylum Seekers:

- o Asylum seekers are gainfully employed and their days have a meaningful, constructive structure. This promotes their health and wellbeing.
- o Asylum seekers are perceived as human beings with skills and abilities who actively contribute to the community. This notably eases their social integration in the neighbourhoods and regions where they reside.
- o After acquiring refugee status, their integration into the labour market is facilitated through skills and qualifications obtained while working. In the instance that they must return to their home country, their vocational prospects are much more promising.
- o Charitable employment helps to combat the downgrading of skills and know-how already possessed by asylum seekers. It also further substantiates, reinforces and boosts existing capabilities and expertise.
- o Other measures accompanying the programme for charitable employment facilitate foreign language acquisition and assist both social and vocational integration.

### b) Advantages for Communities/Employers

- o Asylum seekers bring intrinsic knowledge and legitimate capabilities with them (for example, expertise in a foreign language, insights and understanding of other cultures, etc.)
- o The "observable and noticeable" labour completed by asylum seekers improves their standing in the community. They are more readily accepted and assimilated into local life.
- o The federal government, states and communities are able to provide many services in the interest of common welfare, which would have otherwise never come into question or else have been completely unaffordable.

### Necessary Prerequisites for Charitable Employment:

The creation of a clear, legal foundation for charitable employment is essential. This could be initiated through an augmentation of the GV-Gesetz Bund 2005 § 7 Abs. 3–6 (Basic Welfare Federal Support Act - 2005

§ 7 Paragraphs 3–6). Any amendments to the act should include the following principles:

- o The services performed in the framework of charitable employment must be voluntary.
- o The target group should also encompass those living in private domiciles, and not only those living in supervised housing, as is the present case in the stipulations of the current Basic Welfare Federal Support Act.
- o Charitable employment opportunities should not only be allowed in federal, state and municipal establishments. In order to assure an adequate amount of employment opportunities, community-based clubs and associations should also be authorized to retain the services of asylum seekers.
- o Charitable employment should only be brought into play during the duration of the asylum proceedings.
- o When and if the Act to Regulate the Employment of Foreigners were amended to legally allow for conventional, standard employment, then such employment opportunities should take precedence.

## The Vocational Spheres of Charitable, Community-based Employment

Classic undertakings in the field of charitable, community-based employment are the caretaking of public facilities, the assisting of social services within communities and the assisting of the municipal building yard and recycling facilities. Services which help individuals accumulate additional qualifications, such as aiding in the educational sector or maintenance areas, should be especially bolstered.

During the sourcing of charitable employment opportunities, careful consideration should be paid in assuring enough position are available for women.

Moreover, authorities responsible for placing asylum seekers in positions of charitable employment should take prior vocational experiences and schooling into account.

## Associated Measures

- o In order to realize the goals set by charitable employment enterprises, there are a number of associated measures which are absolutely necessary. These primarily include the implementation of language acquisition courses, so that participants possess the necessary command of the German language. Beyond this, we advocate the following:
  - o Measures encouraging long-term, professio

- nal growth and bolstering additional expertise - such as job coaching, educational counselling, and continued training
- o The acquisition of further qualifications - such as a driver's license, a license to operate a forklift, or continuative language courses
- o Only competent, trained personnel from the region should be responsible for hand-picking positions for charitable employment, and for training and guiding asylum seekers in these arrangements.

## General Conditions for Charitable, Community-based Employment

The moneys paid under the conditions of charitable employment are to be seen as donations for services rendered, and not as a regular salary. These positions are not gauged as standard legal employment.

- o The minimum donation amount for services rendered is € 5 an hour.
- o The performance of charitable employment must not lead to a curtailing of benefits guaranteed by the Basic Welfare Federal Support Act.
- o Laws for employee protection (for example, laws regarding job safety or working hours and child welfare laws) pertaining to any other normal position of employment are to be upheld. They apply just as is the case for any other post.
- o If the asylum seeker requires a preparation period for certain professional types of work (for instance, as a lecturer in a course), then he or she must be financially compensated for this labour.
- o In accordance with the legal conditions of industrial safety, both accident insurance and liability insurance must be provided for asylum seekers just as in any other position of regular employment.
- o Asylum seekers are to receive a written confirmation (similar to a letter of recommendation) for their work. This should include information about the services they performed. After being granted refugee status, such a written confirmation improves their chances for regular, gainful employment in the labour market.