



Information on:
**Work and employment
for asylum seekers**

Preface



Work is a key: a key to finding a new home, a key to independence, and an opportunity to give something back. It is therefore important that asylum seekers are not forced to wait months or years for final notification of their asylum status before they are allowed to work. Access to the labour market requires that qualifications obtained in the country of origin are quickly recognised. Equally, conclusions need to be drawn from the Upper Austrian Qualification Check (Qualifizierungscheck) by launching a skills offensive which is geared to the needs of the employment market in Upper Austria. In regards to integration, it is also vital that asylum seekers make the most of their time before they are notified of their status regarding asylum. In many areas we have managed to initiate reforms which, I hope, the Federal Government will implement soon. The challenges may be great, but together we can overcome them.

A significant number of refugees are highly qualified and have valuable skills. We offer training and education opportunities for many others. A wide selection of projects, courses, training opportunities and consultation services are offered in Upper Austria for asylum seekers, foreign nationals with entitlement to asylum, and other migrants in this regard. At this point, I also refer the reader to the website www.wegweiser-integration-arbeit.at. It contains all kinds of useful information and details of contact points with regard to the issue of integration and work.

Rudi Anschober
Upper Austrian Minister for Integration




Employment is a central pillar of successful integration

The Public Employment Service (AMS) pursues the central goal of offering a bridge between people and employment opportunities. In this sense, the role of mediator must benefit both job seekers and companies looking for staff. As a result, the AMS plays a major role in ensuring social stability.

Under current legislation, asylum seekers are only allowed limited access to the labour market. Therefore, as Director of the Public Employment Service in Upper Austria (AMS OÖ), it is extremely important for me to provide comprehensive information to asylum seekers and support organisations, and to point out existing work and employment opportunities in the current labour market.

The social partners serving on the Executive Board of the Upper Austrian AMS also support the goal of enabling asylum seekers to gain early access to the labour market in the event that open vacancies cannot be filled with Austrian staff.

In addition to learning the German language, participation in the labour market is indisputably the most important aspect of integration into our society.

Gerhard Straßer
Director of the Public Employment Service
in Upper Austria (AMS OÖ)



1. Basic information in regard to employment and asylum seekers

In general

Under the provisions of the Act Governing the Employment of Foreign Nationals (**Ausländerbeschäftigungsgesetz**), asylum seekers are largely excluded from free access to the labour market. This also applies to marginal employment (**geringfügige Beschäftigung**).

Refugees have a choice of seven routes to employment under this basic principle:

1. Ancillary activities in asylum seeker accommodation
2. Seasonal employment
3. Self-employment
4. Community work
5. Apprenticeships for asylum seekers
6. Voluntary traineeships, summer traineeships and internships
7. Service Employment Cheque

Seasonal employment and jobs arising within the framework of **apprenticeships** require an employment permit (**Beschäftigungsbewilligung**) to be issued by the Public Employment Service (**AMS**).

Voluntary traineeships must be reported to the **AMS**. The **AMS** shall issue a confirmation of notification (**Anzeigenbestätigung**) providing that all requirements are met.

Asylum seekers may become self-employed (**selbstständig tätig**) providing that certain conditions are met.

Importantly, community work (**gemeinnützige Beschäftigung**) at **Federal, provincial and municipal level** shall only be deemed admissible providing that it is carried out free from commercial motivation and in avoidance of competition with commercial providers, or of workers customarily employed for such purposes.

Technical terms used in this brochure

AMS:

The Austrian Public Employment Service.

Asylwerbende

(“asylum seeker”):

Foreign nationals who have submitted an application for international protection and who await final, legally binding notification that their application has been approved, terminated or is devoid of purpose upon completion of the asylum verification process. Such foreign nationals have restricted access to authorised employment.

Asylberechtigte

(“persons with authorised asylum status”):

Foreign nationals who have completed the asylum procedure and have legally been recognised as refugees under the Geneva Convention. Consequently, they have right of residence in Austria. Such foreign nationals have unrestricted access to the Austrian labour market.

Subsidiär Schutzberechtigte

(“persons with subsidiary protection status”):

Although such persons have not been recognised as refugees under the Geneva Convention, they have a temporary residence permit which can be renewed. Such foreign nationals have unrestricted access to the Austrian labour market.

Beschäftigungsbewilligung

(“employment permit”):

This form of authorisation is issued under the Act Governing the Employment of Foreign Nationals (**Ausländerbeschäftigungsgesetz**). The company must submit the application for an employment permit on behalf of the asylum seeker to the **AMS**. The **AMS** shall refer to current legislation in order to assess whether all requirements have been met (such as the labour market review - **Arbeitsmarktprüfung**) and

communicate the decision to the employer the asylum seeker. Upon receipt of positive notification in regard to asylum status, an employment permit shall be issued to the company providing that the latter complies with current legal provisions in regard to wage and working conditions.

Grundversorgung

(“basic subsistence”)

Provisions for basic subsistence are intended to ensure temporary **subsistence for foreign citizens requiring aid and protection**. Basic subsistence includes housing in suitable accommodation, meals and health care. The primary target groups for basic subsistence are asylum seekers and persons with subsidiary protection status. Foreign nationals are deemed needy (**hilfsbedürftig**) if they do not generate income of their own or cannot cover their basic subsistence needs from their own resources.

The following should be noted if, as a result, foreign nationals generate income of any kind while receiving basic subsistence allowances (**Grundversorgungssleistungen**): Under sections 2-5 of the Upper Austrian Primary Care Act 2006 (§§ 2-5 Oö. **Grundversorgungsgesetz 2006**), those seeking and receiving assistance (**Hilfesuchende** and **Hilfeempfänger**) are required to assist in the determination of such need for assistance and to announce changes in this regard without delay. In the event that tax-deductible thresholds are exceeded (see the remarks concerning unskilled work in asylum seeker accommodation), a corresponding contribution / compensation must be paid to offset the costs incurred. Despite this requirement, foreign nationals who are not engaged in work shall explicitly not be financially disadvantaged against those pursuing a legally authorised form of employment.

2. Work and employment opportunities during the asylum procedure

1. Unskilled work in asylum-seeker accommodation

This refers to work carried out in organised accommodation in direct connection with the lodging. It includes payment of a contribution towards the work performed (**Anerkennungsbeitrag**).

5. Apprenticeships for asylum seekers up to the age of 25

Any form of employment requires an AMS employment permit to be issued for the duration of the apprenticeship.

2. Seasonal employment

This form of employment refers to:

- agriculture and forestry
- winter and summer tourism

An AMS employment permit (**Beschäftigungsbewilligung**) is required.

6. Voluntary traineeships, summer traineeships and internships

These require a confirmation of notification (**Anzeigebestätigung**) from the AMS.

3. Self-employment

Asylum seekers can become self-employed in certain fields of employment, starting from the fourth month after admission to the asylum procedure.

7. Service Employment Cheque

After three months following an application to the asylum procedure, asylum seekers are permitted to provide services in private households in keeping with the Service Employment Cheque Act (**Dienstleistungsscheckgesetz**).

4. Community work

Unskilled work for Federal, Provincial or municipal authorities including payment of a contribution towards the work performed (**Anerkennungsbeitrag**).

1. Unskilled work in asylum-seeker accommodation

Subject to their consent, asylum-seekers and foreign nationals housed in asylum-seeker accommodation are permitted to carry out unskilled work directly related to their accommodation (such as cleaning or maintenance). A recognition of the work performed (known as an **Anerkennungsbeitrag**) shall be paid, amounting to € 3 to € 5 per hour. This recognition of work performed is not considered taxable income and is therefore be exempt from the obligation to pay income tax. Performance of this activity shall not constitute an employment relationship (**Dienstverhältnis**). The remunerated activity shall not lead to any reduction in the basic subsistence allowance (**Grundversorgungsleistung**) in the event that it less than the current tax-deductible allowance of € 110 per month (+ € 80 for each additional family member). In the event that the limit of this tax-deductible allowance is exceeded, a calculation of the excess amount shall follow in addition to an assessment whether and to what extent a reduction of the basic subsistence allowance shall apply.

Important: anyone who does not work shall not be disadvantaged under this provision. In principle, work shall lead to an improvement of the asylum-seeker's financial situation. In addition, it is intended to support the goals of integration, to create a diversion from time spent waiting for other documents to be issued and to bolster self-satisfaction and self-confidence.

2. Seasonal employment

Starting from the third month of admission to the asylum procedure, asylum seekers require an employment permit from the **AMS** to carry out seasonal employment.

Employment (**Beschäftigung**) in this sense refers to the areas of agriculture and forestry, and of winter and summer tourism and is subject to a quota system. The quotas are issued by Federal Ministry of Labour, Social Affairs and Consumer Protection (**BMASK, Bundesministerium für Arbeit, Soziales und Konsumentenschutz**). In these areas of employment, asylum seekers may work up to up to a maximum of 6 months per quota, up to a maximum of 12 months within 14 months.

An **AMS** employment permit (**Beschäftigungsbewilligung**) is required for this activity. This means that the company submits the application on behalf of the asylum seeker. The **AMS** shall ascertain whether all legal requirements have been met and communicate its decision both to the employer and to the asylum seeker for his or her information.

After a favourable decision has been received from the **AMS**, the asylum seeker is permitted to start work at this company in accordance with statutory wage and working conditions. This employment relationship requires compulsory social insurance (**Sozialversicherung**). The employer must submit the appropriate application to the regional health insurance fund (**Gebietskrankenkasse**).

3. Self-employment

Asylum seekers are not allowed to become self-employed (**eine selbstständige Tätigkeit ausüben**) for the first three months after submission of their asylum application. The start and end of self-employment must be reported to the responsible authority. The responsible authority can be the trade authority (**Gewerbebehörde**), district commission (**Bezirkshauptmannschaft**) or the municipal authority (**Magistrat**). In addition, any instance of self-employment must be registered with the tax authority (**Finanzverwaltung**) and the social insurance fund for trade and industry (**Sozialversicherung der gewerblichen Wirtschaft**). Many kinds of self-employment also require a trade licence (**Gewerbeberechtigung**). In some areas of employment, proof of professional qualifications is required in order to carry out self-employed work.

For this reason, we highly recommend that asylum seekers seek clarification with the Chamber of Commerce (**Wirtschaftskammer**) responsible for the particular region. In addition, a detailed examination is required to establish whether the planned activity actually constitutes self-employment, since a subsequent conversion of self-employment status into genuine or free service contracts has far-reaching consequences for all the parties concerned.

4. Community service

Asylum seekers and foreign nationals who are housed in a care facility operated by federal or provincial authorities have the opportunity to carry out unskilled community service work (**eine gemeinnützige Tätigkeit**) on behalf of the federal, provincial and municipal authorities. Unskilled work is deemed community service if it for the benefit of the general public, as represented by the respective local authority (**Gebietskörperschaft**), and/or has a socially beneficial character, or is related to a specific event or project, and is not intended as permanent employment. Importantly, and at the same time, such activities must not replace or endanger existing work places or job opportunities. Please refer to the section “Unskilled work in asylum seeker accommodation” on page 6 for details of the recognition of work contribution (**Anerkennungsbeitrag**) and tax allowance (**Freibetrag**). A tax allowance of € 110 shall be used as a benchmark for the number of hours expended on the unskilled activity. Tax deductions exceeding this amount shall only be granted in exceptional cases and must be justified in accordance with the regulation governing short-term employment agreements.

Insurance: Asylum seekers with a basic subsistence (**Grundversorgung**) allowance are usually covered by the health insurance scheme (**Krankenversicherung**) provided by the local health insurance fund (**GKK, Gebietskrankenkasse**). We recommend that asylum seekers take out accident insurance (**Unfallversicherung**), and, if necessary, appropriate liability insurance (**Haftpflichtversicherung**) with the local and regional authorities (**Gebietskörperschaften**).

For a collection of examples of areas in which community service work can be performed, please refer to the following link:

www.bmi.gv.at/cms/bmi_asyl_betreuung/_news/bmi.aspx?id=4C62436A587450676C49513D & page = 0 & view = 1

Examples:

- Support before / during / after events organised by the local or regional authority (sports events, cultural events, various events in the field of integration, environmental protection projects, books flea markets organised by municipal libraries, etc.),
- Maintenance of public parks and public sports facilities, etc.,
- Winter services (clearing snow from public highways, pavements, footpaths and school playgrounds, etc.),
- Care and visiting services for senior citizens,
- The school traffic warden service (**Schülerlotsendienst**) – this service enables pupils to safely cross the road before and after school.

5. Apprenticeships for asylum seekers

Asylum seekers can complete an apprenticeship under certain conditions. This type of employment requires an employment permit to be issued by the **AMS**. The permit is issued for the entire duration of the apprenticeship and the **Behaltefrist** (retention period).

Conditions for issuing the apprenticeship employment permit:

- The asylum seeker must not be over the age of 24 at the time of submitting the application.
- For all fields of occupation in which a permit is to be granted, there must be a proven shortage of apprentices. The apprentice shortage must be established by a specific replacement worker procedure (**Ersatzkraftverfahren**) or an investigation of the labour market (**Arbeitsmarktprüfung**).
- The asylum procedure must not yet have resulted in a negative decision with legally binding force and without further avenue of appeal.
- The regional advisory council (**Regionalbeirat**) must unanimously agree to issue of the permit.

This employment relationship requires compulsory social insurance. The employer must submit the appropriate application to the regional health insurance fund (**Gebietskrankenkasse**).

In all cases, an **ArbeitgeberIn** (employer) must already have offered a specific apprenticeship place. Restricted **AMS** authorisation to seek work (**eine eingeschränkte Vormerkung zur Arbeitssuche**) is only possible only for occupational groups listed in the **AMS** apprentice shortage list (**Lehrstellenmangelliste des AMS**) as well as understaffed professions (**Mangelberufe**) requiring a completed apprenticeship which are listed in the context of the red-white-red card (**Rot-Weiß-Rot-Karte**) scheme for skilled workers in understaffed professions.

The apprentice shortage list is available at www.ams.at/service-arbeitsuchende/download-formulare (information for foreign citizens).

6. Voluntary traineeships, summer traineeships and internships

1. General conditions / legal basis (§ 3 Abs. 5 AuslBG – article 3, paragraph (5) of the Act Governing the Employment of Foreign Nationals):

Foreign nationals

- (a) who are employed for up to three months within a calendar year exclusively for the purpose of upgrading and applying knowledge to acquire skills for practice without the obligation without the obligation to work and without any entitlement to pay (voluntary trainees)
or
- (b) who are employed as summer trainees or interns

shall not require any employment permit. If foreign nationals do unskilled work, simple semi-skilled work or work on construction sites, they shall not be considered voluntary trainees within the meaning of this Federal Act. Summer traineeships or internships within the meaning of this Federal Act shall only mean jobs required of students attending some regular training or study course at an officially recognised domestic educational establishment. Employment of a foreign voluntary trainee or summer trainee or intern shall be notified by the owner of the company where the foreign national is supposed to work, not later than two weeks prior to job take-up, to the competent regional AMS office and the competent fiscal authority pursuant to the provisions of the Fiscal Administration Act (**AVOG, Abgabenverwaltungsorganisationsgesetz**), Federal Law Gazette no. 18/1975. The competent regional AMS office shall issue a confirmation of notification (**Anzeigebestätigung**) within two weeks. Upon expiry of this period, however, such a job may be taken up even if no such confirmation has been issued by then. If after expiry of this period the AMS refuses to issue a confirmation of notification, the job already taken up shall be discontinued without delay, however not later than one week after service of refusal. Confirmation of notification shall be issued only if the actual economic content of the intended job corresponds beyond doubt to that of a voluntary traineeship or summer traineeship or internship.

2. Summary:

The following summary includes the above mentioned legal basis (**rechtliche Grundlagen**) and the advanced interpretation of the voluntary traineeship for asylum seekers. The latter takes into account considerations in regard to social and integration policy, and is based on the decree of 25 January 2017, **BMASK-435.006/0012-VI/B/7/2016**. Both the legal basis and advanced interpretation should jointly be taken into consideration.

Summer traineeships and internships:

- compulsory work placements within the framework of school/university education;
- employer to submit application using the confirmation of notification;
- at least 2 weeks before the start of training;
- entitlement to fair remuneration;
- performance of summer traineeships and internships during or immediately after completion of the education / training course (even during the holidays).

Voluntary traineeships:

- unremunerated, voluntary and not bound by directives or instructions;
- also possible for asylum seekers undergoing work training and work trials at the start of unskilled or semi-skilled work, providing that such work training and work trials pursue the overall aim of training existing knowledge to acquire complementary skills for practice;
- maximum of 3 months per calendar year;
- employer to submit application by using confirmation of notification (**Anzeigebestätigung**);
- at least 2 weeks before the training;
- Please contact the Austrian Social Insurance for Occupational Risks agency (**AUVA**) for information about taking out accident insurance (**Unfallversicherung**).

Confirmations of notification (**Anzeigebestätigungen**) shall be approved or rejected by the Centre of Foreign Citizen Expertise (**AusländerInnenfachzentrum**) in accordance with these regulations.

Work trials without **AMS** confirmation of voluntary traineeship are deemed unauthorised employment under the **AuslBG** (Act Governing the Employment of Foreign Nationals).

7. Service Employment Cheque

The Service Employment Cheque Act (**Dienstleistungsscheckgesetz**) offers a means of payment and wage remuneration for people who provide simple, typical household services in private homes – on condition that the remuneration does not exceed the monthly low-income threshold in addition to annual leave payments (**Urlaubersatzleistung**) or share of the special payment (**Sonderzahlungsanteil**).

The Service Employment Cheque (**Dienstleistungsscheck**) is intended for short-term employment (no longer than one month) and can be issued again for the same person for the same duration of time.

The Service Employment Cheque Act legalises such household work. Foreign nationals and asylum seekers can purchase service vouchers online, pass them on to and redeem them with employers.

Note:

- The Service Employment Cheque scheme applies solely to persons entitled to take up work without issue of an employment permit;
and
- for asylum seekers who have been admitted for at least 3 months to the asylum procedure.

Under article 1, item 16 of the Directive on the Employment of Foreign Citizens (§ 1 Z 16 AuslBVO - **Ausländerbeschäftigungsverordnung**), foreign nationals who have been admitted to the asylum procedure for at least three months are exempted from the provisions of the Act Governing the Employment of Foreign Nationals (**AuslBG**) with regard to the provision of simple household typical services in private homes, in accordance with article 1, paragraph 1 of the Service Employment Cheque Act (§ 1 Abs. 1, **DLSG - Dienstleistungsscheckgesetz**), Federal Law Gazette, I no. 45/2005.

Upon request, a certificate can be issued for asylum seekers pursuant to section 3, article 8 of the Act Governing the Employment of Foreign Nationals (AuslBG).

Service Employment Cheque brochure (in German):

www.dienstleistungsscheck-online.at/dienstleistungsscheck-webapp/index.jsf

Please note: Any source of income must be reported to the Basic Subsistence Unit of the Government of Upper Austria (**Grundversorgungsstelle des Landes OÖ**). In the case of income exceeding € 110 per month (+ € 80 for each additional family member), such income shall be credited to the basic subsistence allowance (**Grundversorgung**).

3. Contact addresses

Amt der Oö. Landesregierung

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Further information can be found at:

www.ams.at/ooe/service-unternehmen/download-formulare

A multilingual brochure is available at:

www.zusammen-helfen.at/beschaeftigung

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