

## No pay? – Take action now!

Bienvenue

Willkommen

أهلاً وسهلاً

Welcome

خوش آمدید

You have fled your home country and are now working in Germany.

We – colleagues from the trade unions organized within the Deutscher Gewerkschaftsbund (German Federation of Trade Unions, DGB) – wish to welcome you. In this flyer we want to inform you about your rights in the German labour market. It explains what you can do if your employer fails to pay your wages.

### What can you do if your employer doesn't pay you?

There are steps you can take if your employer fails to pay you or doesn't pay you in full. If you go about it the right way, you have a good chance of getting your money.

### What you need to know

- ➔ You always have the right to receive your pay – even if you have been given notice or don't have a written employment contract<sup>1</sup>.
- ➔ In Germany, it is your responsibility to file your claim for unpaid wages with a court (ideally with the help of a lawyer or a trade union). Neither the police nor other government agencies have the authority to do that for you.
- ➔ Start by submitting a written claim for your unpaid wages to your employer. That may help avoid a lawsuit.

<sup>1</sup> German law recognizes an employment relationship, including all corresponding rights and obligations, even if no written employment contract exists.

### How can you protect yourself?

Before you start working, make sure the wage to which you agree is correct. Is there a minimum wage in your sector that is higher than the mandatory minimum wage (currently Euro 8.50 per hour gross)? Ask about this at a trade union office or Advisory Centre. Always keep a record of your work. Write down the exact hours you work, your break times, the place where you work and the tasks you perform in a notebook every day. And note the name and address of your employer, the company or contractor to which you were assigned and the names of witnesses who can testify to the work you have done.

### How do I calculate the amount I should claim?

It is important that you claim the right amount. Your claim must always be based on the gross hourly wage or gross monthly salary for which you agreed to work. Take the following steps:

1. Add up your gross pay for the period for which you have not been paid. Multiply the total number of hours you worked by the hourly wage. Don't forget to add extra pay for night shifts and/or holidays, for example.
2. Then list all other overdue amounts, such as unjustified wage deductions or payments for unused vacation days.
3. List the net amounts you have received (down payments).
4. State the total gross amount and write down the net amounts you have already received.

Calculate the total amount and do not subtract the net pay you have received. Instead, write the following sentence in an extra line: "Remaining amount due according to employee's calculation".

#### Example

Total amount of claim (gross pay):

Hours worked: 160 hrs. x Euro 8.50 gross = Euro 1,360 gross

+ night shift pay: 32 hrs. x [Euro 8.50 x 0.25 (25% night shift bonus)] = Euro 68 gross

+ payment for 2 unused vacation days: 16 hrs. x Euro 8.50 = Euro 136 gross

= Euro 1,564 gross

Advance payments: Euro 500 net

Remaining amount due according to employee's calculation: Euro 1,564 gross

### How much time do I have to file my claim for overdue pay?

Normally you and your employer agree on a date by which he must pay the wages he owes you (often the 15th of the following month). If you have not received the wages due to you by that date, you should write to your employer requesting payment of the full amount.

**Please note:** Regardless of the terms of your employment contract, claims are subject to certain limitation periods (deadlines) which specify how much time you have to file claims for overdue pay with your employer. These periods normally range from two to three months. Check with a trade union office or Advisory Centre for clarification. Seek legal advice if you have failed to meet this deadline. You may still be able to file suit in court.

### How do I file a legally valid wage claim?

Write a letter to your employer. The letter must contain the following information:

1. A list showing how many hours you have worked for the employer and indicating when, where and in what capacity you worked.
2. The exact amount of wages you employer owes you.
3. Set a deadline of two weeks for payment.
4. Include your bank account information so that your employer can transfer the overdue amount to your account.

Request a sample letter from an Advisory Centre or ask for help writing the letter.

**Please note:** You must sign the letter and send it to your employer by mail (it is best to send it as a registered letter or "Einschreiben"). You may also have it delivered to your employer by a person you trust. Demands for payment made by telephone, e-mail, SMS or verbally will not be recognized by a labour court. Keep a copy of the letter and the postal receipt as proof.

Once your employer has received the letter, he has two weeks to pay your overdue wages. If he fails to meet this deadline, you should file suit against him with a German labour court.

### How can trade unions help?

Trade unions are committed to defending the rights of working people. They fight for fair pay, better working conditions, fair working hours and social justice. They can organize strikes and negotiate collective bargaining agreements with employers. Without the efforts of unions, the minimum wage of Euro 8.50 per hours introduced in 2015 would not exist. Unions are not connected with a political party or the government. They are independent, but not apolitical. They get involved in politics. More than six million people are members of a union in Germany. Different unions serve the needs of different occupational groups. Most of these unions are organized within the Deutscher Gewerkschaftsbund (DGB).

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**We recommend** that you become a union member on your first day of employment in Germany. Union members receive legal advice and assistance in cases involving labour disputes or other occupational issues.

The information provided in this flyer was compiled with great care and attention. No claim of completeness is made, however. Specific provisions may change over the course of time.

Date of issue: December 2015.