



# LITERATURE REVIEW: GERMANY

THROUGH CARE  
WORKING IN PARTNERSHIP



**WIAD**

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## 1.0 Drug use

### 1.1 Trends and statistics

The data outlined below is mainly drawn from the REITOX National Report to the EMCDDA of 2008. This mainly refers to the last *Drug Affinity Study*<sup>1</sup> (DAS 2004) as well as the last Epidemiological Survey on Addiction<sup>2</sup> (ESA 2006).

Approximately 12,396,000 (23,7%) of 18-59 year old Germans have taken illicit drugs at some point in their lives (ESA 2006). The lifetime prevalence of 12-17 years old is markedly lower (16%) (DAS 2004).

Table 1 shows the lifetime prevalence of illicit drug consumption amongst 12-17 year olds (DAS 2004; BZgA 2007) and 18-59 year olds (ESA 2006). Cannabis has the highest lifetime prevalence. Almost a quarter of 18 to 59 year olds and 9% of 12-17 year old Germans have taken cannabis at some point in their lives. The consumption of other drugs is markedly lower: only 5.8% of 18-59 year olds have had contact with illicit drugs other than cannabis.

**Table 1:** Lifetime prevalence for illicit drugs

<b>Survey</b>		<b>DAS %</b>		<b>ESA%</b>	
<b>Age group</b>		<b>12-17 years</b>		<b>18-59 years</b>	
<b>Substance</b>	<b>Year</b>	<b>2004</b>		<b>2006</b>	
Cannabis		9.0		23.0	
Ecstasy		1.0		2.0	
Volatile substances		0.9		-	
Mushrooms		0.8		2.4	
Amphetamines		0.7		2.5	
Cocaine		< 0.5		2.5	
LSD		< 0.5		1.7	
Heroin		-		0.4	
Crack		-		0.3	
<i>Drugs other than cannabis</i>		--		5.8	

(Source: BZgA 2004; Kraus et al. 2007)

The 12-month prevalence of illicit drugs consumption is a more precise indicator of the scale of active drug use. Results from the ESA 2006 show that amongst 18 to 59 year olds, cannabis is the most widely used illicit drug (4.7%) followed by cocaine (0.6%), amphetamines (0.5%), ecstasy and "mushrooms" (each 0.4%). Males show markedly higher 12-month prevalence for all drugs than females. Cannabis consumption amongst males is more than twice that of females (6.4% compared with 2.9%), the use of cocaine is three times higher (0.9%) for males than amongst females (0.3%) and amphetamine use by males is four times higher (0.8% in comparison to 0.2%) (see Table 2).

<sup>1</sup> Since 1973, the Drug Affinity Study (Drogenaffinitätsstudie) has been carried out every 3 to 4 years by the Federal Centre for Health Education (BZgA). It investigates in the form of telephone interviews drug consumption, its motives and situational conditions among 12 to 25 year old teenagers and adolescents.

<sup>2</sup> The Epidemiological Survey on Addiction (epidemiologischer Suchtsurvey), a nationwide paper-based study on psychotropic substances, is conducted since 1980 every 3 to 4 years. It is funded by the Federal Ministry of Health and Social Affairs and since 1990 is conducted by the IFT (Institute for Therapeutic Research). The survey includes a representative sample of 18 to 59 year old residents that are asked about their use of psychotropic substances.

**Table 2:** 12-month prevalence of the consumption of illicit drugs in the 18-64 age group (ESA 2006)

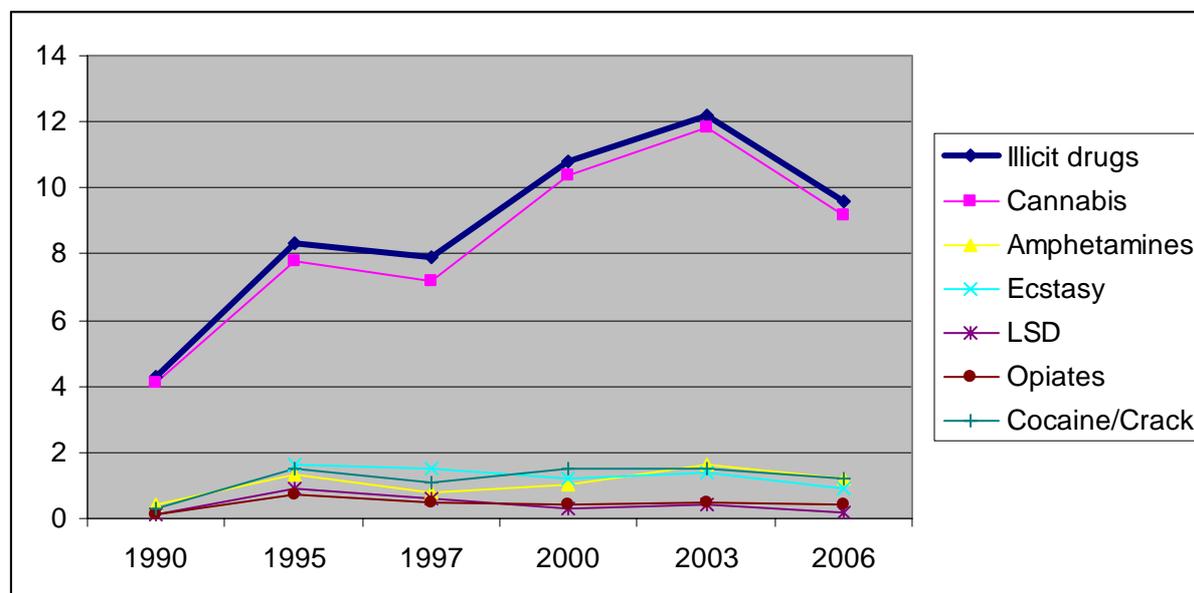
ESA 2006 18-64 years old		Gender	
Substance	Total	Male	Female
Cannabis	4,7	6,4	2,9
Amphetamines	0,5	0,8	0,2
Cocaine	0,6	0,9	0,3
Ecstasy	0,4	0,8	0,1
Mushrooms	0,4	0,6	0,2
Heroin	0,1	0,1	0,1
Crack	0,1	0,1	0,0
LSD	0,1	0,2	0,0

(Source: EMCDDA 2007)

Figures for the use of methamphetamines are not available in existing studies. However it is unlikely that consumption is particularly high. In federal states such as Bavaria and Saxony, methamphetamines were seized by the police. These may well have been imported across the Czech border (EMCDDA 2007).

Illicit drug use is most common amongst people aged up to 40. The development of the 12-month prevalence of illicit drug use from 1980 until 2006 in the age group of the 18-39 year olds is strongly dependent on the development of the use of cannabis (see Figure 1). From 1990 until 2003 there was a consistent rise in the use of cannabis from 4.3% to 12.2%, followed by a decline in 2006 (9.6%). The other drugs show only minor fluctuations.

**Figure 1:** Trends of 12-month-prevalence of the consumption of illicit drugs for the age-group 18-39



(Adapted from: Kraus et al. 2007)

## **1.2 Drug use amongst specific groups**

### **1.2.1 Drug use among the youth population**

There have been various studies of drug use amongst children and adolescents in Germany. In 2003 and 2007, Germany participated in the *European School Survey Project on Alcohol and other Drugs* (ESPAD) by the Pompidou Group at the Council of Europe, a survey among pupils in grade 9 and 10 (included Länder in 2007 were Bavaria, Berlin, Brandenburg, Hesse, Mecklenburg-Western Pomerania, Saarland and Thuringia).

Another recent study is the *Health Interview and Examination Survey for Children and Adolescents* (KiGGS) which explores the health of children and adolescents aged 0 to 17 in the period 2003-2006. Within this study of over 17,600 young people, there is valuable data on substance misuse amongst 11 to 17 year olds.

In addition a wide range of studies have been carried out at local level in the different Federal States (Länder). For example, the survey "Hamburger Schulbus" is a study of the lifestyles and attitudes of 14 to 18 year olds and covers issues such as the consumption of drugs, family and school circumstances, satisfaction with life, stress and the assessment of psychotropic substances.

The lifetime prevalence of drug use for young people aged between 12 and 17 (DAS 2004) has already been outlined in 1.1. A more recent study on substance use amongst young people aged between 12 and 19 was carried out by the BZgA in 2007. This survey found that there was a significant decline in cannabis consumption in this age group between 2004 and 2007. Whereas in 2004 (DAS), 22% of 14 to 17 year olds had reported having taken cannabis at some point in their lives, in 2007, this had fallen to 13% (BZgA 2007). The same applies to the 12-month prevalence for cannabis use: In 2004, 14% of the survey participants indicated that they had taken cannabis in the previous 12 months in 2007, this had fallen to 8% (DAS 2004; BZgA 2007; EMCDDA 2008).

The KiGGS study indicates that over a 12 month period, 9.2% of 11 to 17 year olds have used cannabis. In contrast, other substances are used much less widely. One striking finding is that, except for alcohol and cannabis, more girls than boys had used illicit drugs over the previous 12 months. Notably, 0.6% of 14-17 year old girls had used ecstasy in the previous year whereas 0.5% of boys of the same age had done so; 0.8% of girls had used amphetamines whereas 0.6% boys have done so. Five times more girls in this age group abuse pharmaceuticals than boys; solvents are used by 1.6% of girls and 1% of boys (EMCDDA 2007).

### **1.2.2 Drug use among migrants**

Substance misuse is the third most frequent psychological disorder among migrants. This is a particular issue amongst adolescents from the ethnic German community that has left Russia since the early 1990s. Indeed, EMCDDA argues that this group constitutes a group at risk and shows relatively high rates of substance abuse and deviance. EMCDDA also reports that members of this group who are opioid dependent rarely undergo continuing substitution treatment. This low rate of opioid dependents in treatment may be explained by language barriers, the fear of consequences for their right of residence and cultural differences relating, for example, to the concept of addiction (EMCDDA 2008).

However, the link between drug use and adolescence in ethnic minority communities is not clearly established. For example, a major study carried out in southern Germany, which surveyed 5,832 pupils aged 14 to 15 explored the drug use of pupils from ethnic minority backgrounds (in this case, German, Turkish, Russian and "Other"). The study found that there are only slight correlations between ethnic background and drug consumption amongst adolescents. A smaller proportion of Turkish pupils consume drugs than those from other ethnic backgrounds (Haffner et al. 2006; see Table 4).

**Table 4:** Drug consumption and migration background

<b>Drug use</b>	<b>German</b> (n=4.536)	<b>Turkish</b> (n=410)	<b>Russian</b> (n=268)	<b>Others</b> (n=550)
Never	87.5%	92.4%	88.4%	83.6%
Occasionally	9.2%	5.4%	8.6%	11.3%
Weekly	3.3%	2.2%	3.0%	5.1%
<i>Total</i>	100.0%	100.0%	100.0%	100.0%

(Source: Haffner et al. 2006)

### 1.3 Problem drug use

The exact number of problematic drug users in Germany is difficult to estimate. The number of heroin users ranges between 82,000 and 162,000 (0.15% to 0.29% of the population) according to estimates from treatment admissions, police contacts and drug-related deaths. If problematic cocaine and amphetamine users are included, the estimated number ranges from 169,000 to 201,000 (0.31% to 0.36% of the population).

The number of cannabis users is much higher. A survey of 14 to 18 year olds in Hamburg found that 4% of those surveyed had consumed cannabis at least 25 times in their life and at least once in the previous week, both in their school or alone at home. This marks a decline from previous years. For example, in 2005, 5,1% and in 2004 5,3% of the surveyed adolescents were considered to be risky cannabis consumers. Twice as many boys are engaged in risky cannabis use as girls (see EMCDDA 2008).

## 2.0 Prison system

### 2.1 Organisation of the prison system

The penal system in Germany has been regulated since 1977 by the Penal Law (Strafvollzugsgesetz, StVollzG) which is a part of the Public Law. Until 2006, penal legislation was subject to the Federal Ministry of Justice (Art. 74 GG (Federal Constitution)). As a result of Germany having a federal structure and of the principle of subsidiarity, each Federal State or "Land", has authority over its own prisons (§ 139 StVollzG). Although there had been standard regulations covering all Länder, these have been relaxed over recent years in order to recognise different regional realities. This shift is still in process.

The Penal Law of 1977 stipulates that, where possible, prisoners convicted of minor offences should be separated from those who have been convicted of major offences. There also should be separate units for first time and multiple offenders, adults and juveniles, sentenced prisoners and prisoners on remand as well as for men and women (§ 141 StVollzG). For prisoners that have been convicted of sexual crimes and/ or severe other violence-related crimes, there are special social-therapeutic institutions.

## 2.2 Prison statistics

Currently, there are 194 prisons in Germany with a possible capacity of 79,713 prisoners. There are 18 open and 176 closed penal institutions and the majority of the prison population (approximately 87%) is in closed prisons. The number of prisoners appears to have declined noticeably over the last five years. In 2005, the prisoner population was 78,644; in 2006, it was 76,629; in 2007, it was 72,656 and in late November 2008, it had further declined to 72,259 (Statistisches Bundesamt 2009a). In late November 2008, 5.3% of the prison population were female prisoners. 11,577 of the prisoners were on remand, 52,333 were sentenced adults, 6,062 juveniles, 461 people in preventive detention and 1,826 were sentenced in other forms of imprisonment. Around 22% of the prison population are of foreign nationality<sup>3</sup>. There are no statistics about the nationality of foreign nationals in German prisons.

There is a lack of research and reliable data on mental health issues amongst prisoners. The German Association for Psychiatry, Psycho-Therapy and Neurology (Deutsche Gesellschaft für Psychiatrie, Psychotherapie und Nervenheilkunde) conducted a study in the Brackwede I prison in Bielefeld. Around 140 participants were included in the study of which 88% were reported to have one or several mental illnesses (von Schönfeld et al. 2006).

## 2.3 Problem drug users in prison

Michels, Stöver and Gerlach (2007) found that in Germany, approximately 50% of all prisoners have used illicit drugs at some point in prison. 25% of all prisoners are considered to be problem drug users whereas it is estimated that 50% of the latter continue injecting drugs while in prison.

A study carried out in 2007 by WIAD and the Robert-Koch Institut reports that 38% of prisoners have taken heroin at some point in their lives. Of these, 58% had used heroin both in and out of prison, 36% only out of prison and 6% only whilst in prison. 31% of prisoners reported having ever injected drugs. The study sampled approximately 1,500 prisoners in six prisons in Germany<sup>4</sup>.

In North Rhine-Westphalia (NRW), the most populated of all German Länder, the head of the Association of German Prison Staff estimates that more than 60% of the 18,000 prisoners in NRW prisons consume illicit drugs. Around 100 people work in drug counselling services in prisons throughout NRW and around half a million Euros are yearly invested in external drug counselling. In reality, this is not sufficient to deal with the high proportion of drug dependent prisoners and there lacks professional counselling for drug dependent inmates. Many of the drug counsellors are overburdened and have to deal with high numbers of clients. In NRW, there exist 30 units in prison foreseen for preparing around 600 drug dependent prisoners for drug treatment.

The Christian Democrats in NRW recently decided to implement more severe punishments for drug trafficking in prison. These included penalties of up to 15 years in prison. In addition, in four NRW prisons, narcotics detection dogs are going to be used.

## 2.4 Infectious diseases in prison

The Robert-Koch-Institut (2009a) in Germany estimates that 63,500 people are currently infected with HIV (0.07% of the population). The proportion of HIV-positive men infected

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<sup>3</sup> This number refers to sentenced prisoners and prisoners in preventive detention, 31.03.2008 (Statistisches Bundesamt 2009b)

<sup>4</sup> Preliminary results of the study 'Infektionserkrankungen unter Gefangenen – Kenntnisse Einstellungen und Risikoverhalten' conducted by WIAD and RKI (final report in print)

through injecting drug use (referred to the newly diagnosed HIV cases between January 2006 and December 2008) in the general population is around 8%. In 2008, 22% of the newly diagnosed HIV cases of persons of Eastern European origin were attributable to intravenous drug use.

In Germany, it is estimated that 0,4% of the population is infected with Hepatitis C. Intravenous drug users are at the highest risk of contracting HCV: 36% of all newly identified Hepatitis C cases were directly related to intravenous drug use. Among 20 to 29 year old men, the proportion may be as high as 72% (Robert-Koch-Institut 2009b).

According to the study by WIAD and the Robert-Koch-Institut, in German prisons, the seroprevalence of anti-HCV markers with 20.6% exceeds the prevalence in the general population by factor 50. The seroprevalence of anti-HIV markers with 0.7% exceeds the prevalence in the general population by factor 10. Amongst prisoners who have injected drugs at some point in their lives, the seroprevalence regarding anti-HCV markers accounts for 57.6% and for anti-HIV markers for 1.3%. 69% of the HIV positive prisoners and 83% of the HCV positive prisoners report having injected drugs at some point in their lives.<sup>5</sup>

## 2.5 Alternatives to prison for problem drug users

If a crime was committed as a direct result of the offender's drug dependence, different legal regulation can apply. According to Article 35 of the German Narcotics Act (BtmG), under certain circumstances a sentence can be commuted to drug therapy ("Therapy instead of Penalty"). A therapy according to Article 35 BtmG can be applied for all kinds of drug dependence. Offenders who either fail to begin therapy or withdraw from it (voluntarily or involuntarily) are required to return to prison.

The concept of "Therapy instead of Penalty" is difficult to operationalise. Article 35 (BtmG) applies only to drug dependence and no similar concept is foreseen for alcohol dependence. In recent years, the length of therapy has been gradually reduced and outpatient treatment has also been allowed.<sup>6</sup> To complicate matters, it takes an unreasonably long time for prisoners to receive treatment. In some prisons in Germany, there are special drug-free units that are designed to enable prisoners to gain quicker access to treatment, according to the provisions of Article 35. However, even this provision is flawed: experience indicates that only if prisoners in these units are able to remain drug-free are they allowed to receive treatment. Severely dependent prisoners who need medical and/or other assistance are excluded. Furthermore, prisoners sometimes remain in a drug-free unit for up to a year before they gain access to treatment.

According to Article 37 (BtMG), prosecution services can refrain from action if an offense has been committed as a direct result of drug dependence and if the offender is already in drug treatment with a view to social rehabilitation, Article 37 applies only if the length of the sentence is expected to be less than two years.

Article 31 (BtMG) also allows prosecution services to refrain from action even if a small amount of drugs for personal use is found on the offender. This article recently has been tightened. The German Länder lowered the threshold for personal use for marijuana from ten to six grams, the threshold for the personal use for "hard" drugs like heroin, cocaine and amphetamines that was at 0.5 grams does not exist anymore and regarding this type of drugs, the application of Article 31 only exists in exceptional cases. Furthermore, any possession of drugs in juveniles from then on has resulted in sanctions as regular drug

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<sup>5</sup> Preliminary results of the study 'Infektionserkrankungen unter Gefangenen – Kenntnisse Einstellungen und Risikoverhalten' conducted by WIAD and RKI (final report in print)

<sup>6</sup> Results from interviews with experts during the field study of the project "Training Criminal Justice Professionals in Harm Reduction Training" (TCJP), funded by the European Commission - DG SANCO (no. 2007 318)

screening, participation in drug treatment seminars or community work (communication of the Minister of Justice of North-Rhine-Westphalia, 30 July 2007).<sup>7</sup>

### 3.0 Throughcare services

In Germany, there is only little literature available on the through- and aftercare of prisoners and almost none relating to the throughcare of drug dependent prisoners. Available literature mainly concentrates on services for sexual offenders and on examples of good practice in throughcare provision. In Germany, the transition from prison to the community arouses public interest mainly because of high relapse rates of around 50% (adults) and 70% (juvenile) (Tein 2008).

### 3.1 Legislation on throughcare

In 1977, the Federal Constitutional Court (BVerfG) defined the main aim of imprisonment as the “reintegration of the offender into the society”. Similarly, the Penal Law of 1977 (StVollzG Article 2) defines the aim of imprisonment as the “rehabilitation of the detainee”. Article 3 of the Penal Law stipulates that imprisonment shall aim at preparing offenders for return to life in the community.

German legislation stipulates different measures and preconditions for the release of prisoners and the time after detention:

The Penal Law stipulates that the individual correctional schemes must contain information on the preparations necessary for release (Article 7, para 2 (8) StVollzG). Article 15, paragraphs 1 and 2, stipulate that conditions of imprisonment must be eased before release and that detainees may be sent to open prisons if this is useful. Operationalising this article is often difficult. The number of day paroles has often been restricted after prisoners on parole committed further offenses, arousing much media attention. In Article 74, the Penal Law further stipulates that the detainee must receive personal, financial and social assistance. The detainee must receive explicit assistance in finding a job, housing and personal assistance in the time after release. In reality, prisons often lack the resources to fulfil these responsibilities and that there is a gap in the assistance that can be given to prisoners on release. In addition, Article 154, paragraph 2, of the Penal Law regulates the cooperation of the penal institution with the probation service, job centres, social aid, and other persons and organisations that enhance the reintegration of the detainee into society.

In the course of the reform of the Juvenile Penal Law, the Federal Constitutional Court explicitly addressed the responsibilities of the state for the rehabilitation of ex-offenders, *inter alia* an adequate assistance for the time after release and cooperation regarding throughcare and aftercare (BVerfG, decision of 31.8.2006, Rn. 61).

The German Penal Law stipulates that each juvenile prisoner on probation must be allocated to a probation officer. Adult prisoners on probation are only allocated to a probation officer if this is considered to be necessary by the court. Prisoners, either juvenile or adult, who have served their full sentence, do not receive assistance from governmental probation services.

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<sup>7</sup> Press release of the Ministry of Justice of North-Rhine-Westphalia, 30.07.2007  
<http://www.nrw.de/presse/kampf-gegen-illegale-drogen-verschaerft-3288/>

### 3.2 Different bodies regulating social reintegration

In Germany, the social reintegration of prisoners is regulated through different bodies. Unfortunately, a lack of inter-agency cooperation is partly responsible for the gaps in assistance on release.

The *Criminal Court* assesses the penalty but the *penal institution* is responsible for prisoners until their release. The “*Strafvollstreckungskammer*”, a special regulatory body situated at the District Courts that is responsible for the execution of a sentence, is also responsible for a possible early release, and the *probation service* is responsible for the time after release (Feest 2008).

Despite the above-mentioned legal regulations, there is almost no consistent assistance for offenders when they are released from prison. There are any reasons for this. In addition to the failure of inter-agency cooperation, it is often difficult to plan for an assisted release because the release date is often flexible. The decision by the “*Strafvollstreckungskammer*” is often made with very short notice and the probation service receives this decision often within a few weeks. Furthermore, many prisoners are incarcerated at a long distance from their place of residence and local probation services often are not flexible enough to contact the prisoner on time.

The labour market reform further complicates the reintegration of ex-offenders into apprenticeship and work in the community. Since the reform in 2005, job centres have been unable to implement reintegration measures into the labour market during the time of detention.

### 3.3 Existing throughcare provision

Information is available on a limited number of through- and aftercare services provided in Germany. The following example is from Bremen where there is a so-called “pool of preparation before release” (EVB pool)<sup>8</sup>.

The EVB is a collaborative partnership of the Bremen prison, representatives of local authorities, NGOs (Hoppenbank, Verein Bremische Straffälligenbetreuung; both NGOs work with ex-prisoners) and the drug aid (comeback GmbH). Within the EVB pool, further partnership agreements exist with the probation service and a socio-psychiatric treatment centre in Bremen.

As part of partnership agreement, all relevant information and data on each prisoner is forwarded to the EVB six months before release in order to assess what assistance is required. Assistance through the EVB is provided as regards social problems, mental and physical problems, social reintegration and reintegration into the labour market. This includes assistance for drug dependent prisoners to find adequate counselling and treatment and also assistance regarding requests for “Therapy instead of Penalty”.

Staff of the EVB work as case managers and are in close contact with the prison and services responsible for the period after release. The specific objective of the EVB pool is to assist offenders during the months before release, on the day of release and during the time in the community after release. In order to ensure that this assistance is continuous, the coordinators of the EBV transferred their office into the Bremen prison in order to be better informed and more involved in the process.

In 2007, the EVB pool worked with 287 clients. 72 of them were assessed as not needing any special assistance. Through the EVB 92 clients were connected to drug aid/ drug

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<sup>8</sup> For more information compare to the website of the Bremen prison: [www.jva.bremen.de](http://www.jva.bremen.de)

dependence facilities and psychotherapeutic institutions and 298 contacts were made to other providers of services in 2007.

Furthermore, situated in the open, accessible part of the Bremen prison the so-called "Centre of Competence" was established. The Centre of Competence is responsible for prisoners as well as ex-prisoners and combines training and job-generating measures, debt counselling, drug counselling and further services.

Part of the role of the Centre of Competence is to support offenders in finding employment and assist in integrating them into the labour market. The EVB works in close cooperation with the Centre of Competence in developing offenders' work-readiness and assists in finding adequate employment for them in the period following release. The EVP also contacts peer group mediators that assist the ex-prisoners after release and helps them apply for potential work. However, assistance continues after offenders have successfully found employment. During the sentence, the job assistance creates a profile for each offender that takes account of qualifications and possible employment, as well as checking necessary documents (such as application files).

A few projects exist in other regions of Germany that are similar to the EVB. In Baden-Württemberg, for example, the NGO "Projekt Chance" (project chance) accompanies young prisoners before, during and after release. Each juvenile detainee is accompanied by either full time employed staff or volunteers of the project who establish contacts to relevant service providers<sup>9</sup>.

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<sup>9</sup> For more information compare to the project website: [www.projekt-chance.de](http://www.projekt-chance.de)

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