

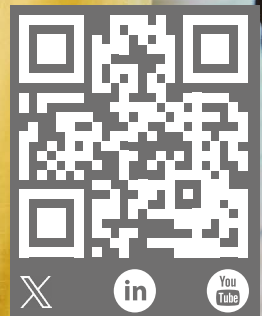
# DOING BUSINESS IN AUSTRIA



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# Doing Business in Austria

## A Guide to Practicing Trades for Businesses from EU/EEA States

This guide is aimed at businesses and self-employed from other EU Member States<sup>1</sup>, EEA signatory states<sup>2</sup> and Switzerland<sup>3</sup> wishing to do business in Austria. It consists of four parts. The first part involves temporary and occasional service provision; the second part is for those wishing to provide a service permanently due to an establishment; the third part relates to the posting of workers in the framework of the provision of services; and the final part entails information on the hiring of workers by a business with an establishment in Austria.

Businesses and citizens from EU member states or EEA signatory states enjoy extensive freedoms according to EU legislation. These can be summarized in:

- free provision of services
- freedom of establishment
- free movement of workers
- free movement of capital

Businesses and citizens from EU member states or EEA signatory states are generally permitted to register as well as practice trades in the same way as Austrians.

They can carry out a trade in Austria either:

- temporarily and occasionally as an service provision or
- due to a permanent establishment in Austria.

In other words, the person or business may freely exercise an activity in two ways: offer their services across the border in another state while remaining established in their country of origin (freedom to provide service) or set up in another state (freedom of establishment). For more on the difference between the two, see below.

Businesses are, in principle, also permitted to post workers to Austria in the framework of the provision of services or hire workers in Austria. There are, however, different requirements to comply with depending on where the business is based and/or the nationality of the worker.

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<sup>1</sup> Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden

<sup>2</sup> Norway, Iceland, Liechtenstein

<sup>3</sup> Switzerland will not be mentioned each time, since the same regulations as EU / EEA states generally apply. Exceptions will be mentioned explicitly.

# Difference between service provision and establishment

Because there are different requirements and procedures in Austria, it is necessary to clarify the difference between temporary and occasional provision of service on the one hand and a permanent establishment on the other hand. Simply put: a provision of service involves a service, which is temporarily provided in another state while in the case of a permanent establishment, the business itself becomes part of the 'foreign' economy. The latter usually involves a fixed infrastructure. This difference is not solely defined by time – a provision of service could last several years, for example in construction – and can therefore only be determined by looking at each specific case individually. The temporary character of a service is also evaluated considering its frequency, regularity and continuity.

## Provision of Services in Austria (temporary and occasional)

In accordance with EU legislature, Austria does not restrict the provision of services or enforce stricter rules against businesses from other EU Member States or EEA signatory states than against Austrian businesses (non-restriction & non-discrimination). Businesses who are legally established in another EU/EEA state are permitted to practice their trade temporarily or occasionally in Austria. For businesses from Switzerland, the provision of services may not last more than 90 days per calendar year.

However, under certain circumstances, there may be restrictions on service providers. These often relate to professional qualifications as permitted by [EU law \(Directive 2005/36/EC\)](#) on the recognition of professional qualifications). For example, for trades regulated in Austria, certain criteria must be fulfilled. If the trade is regulated in the home Member State, the provider of the service must possess the professional qualification legally required in its home state. If the trade is not regulated in its home state, proof of professional experience (1 year in last 10 years) is required. Proof of work experience can be shown in any form, i.e. pay slips must also be accepted. For businesses from Switzerland, a stricter evaluation of the proof of qualification will take place.

For trades regulated in Austria, the service provider has to submit an [online-notification to the Federal Ministry of Digital and Economic Affairs](#) (notification of services, "Dienstleistungsanzeige"). Provided the relevant criteria are met this declaration is solely declarative, i.e. failure to adhere results in a fine, but does not make the provision of service inadmissible.

On the basis of [Directive 2005/36/EC](#) on the recognition of professional qualifications, the Austrian authority requires the proof of:

- EU/EEA citizenship
- legal eligibility to provide services and establish in another EU/EEA state
- qualification for trades regulated in home Member State or of professional experience (1 years in last 10 years) for trades not regulated in home Member State
- Information of insurance or another form of individual or collective protection – where applicable
- For work in the security sector: proof that he/she is without a criminal record.



This notification should be renewed once a calendar year if the business intends to provide services in that year. The business does not have to obtain a permit/license in Austria. An examination of qualifications by local authorities is not permitted in principle.

However, for regulated professions which impact public health and safety<sup>4</sup>, stricter requirements apply. In these cases, qualifications can be examined. Beyond formal requirements, an aptitude test or further training may be demanded if there are significant differences between the previously acquired qualifications and the Austrian requirements.

Application/notification forms (in German only):

- [online Form "notification of cross-border services" - Grenzüberschreitende Dienstleistungen in Österreich - Anzeige über die Erbringung \(§ 373a Abs. 4 GewO 1994\)](#)

Please find further notification forms of importance in the bottom section of this website (see subsection "Weiterführende Informationen"):

- Form: "notification of cross-border services for a corporate entity" - Anzeige über die Erbringung grenzüberschreitender Dienstleistungen in Österreich (für juristische Personen)
- Form: "notification of cross-border services for a natural person" - Anzeige über die Erbringung grenzüberschreitender Dienstleistungen in Österreich (für physische Personen)
- Form: "yearly renewal of the notification of cross border services" - Jährliche Erneuerung der Anzeige über die Erbringung grenzüberschreitender Dienstleistungen

For trades not regulated in Austria, no notification of services is necessary. Adequate language skills are also necessary, but are not principally a precondition for the recognition of qualifications. German skills must be acquired, but a lack of proficiency is no reason to delay recognition. The necessary ability must be proportionate to the demands of the service provision. It should be noted that German is the official language in Austria. Consequently, administrative proceedings in Austria require the use of the German language. If, and for what trade, a business has acquired a valid notification of services can be seen free of charge in [the service provider register](#).



# Establishment in Austria (permanent)

For permanent business activity in the form of an establishment, there are stricter requirements compared to the temporary and occasional provision of services outlined above. A trade license must be obtained. In order to obtain a trade license, an application at the competent local authority (municipal magistrate or district authority) is necessary.

The following documentation will be required:

- proof of citizenship
- proof of legal capacity/majority
- proof of (lack of) criminal record
- proof of physical and mental health – if this is also required by Austrians
- proof of financial reliability and absence of bankruptcy
- proof of financial capability and proof of insurance against liability of financial risk – if this is also required by Austrians

For regulated trades in Austria, a proof of qualification is required as part of the trade license – this is possible through the recognition of qualifications scheme.

According to [Directive 2005/36/EC](#) on the recognition of professional qualifications, there are three different recognition regimes:

- Automatic recognition: training was harmonized for doctors, nurses, dentists, veterinarians, midwives, pharmacists and architects, thus allowing for automatic recognition of qualifications (Annex V).
- Recognition of professional experience: (Annex IV) as to which professions require proof of minimum training as proof of qualification. The necessary amount will differ according to profession and function, and can be up to eight years. Examples are: manufacture of textiles, manufacture of transport equipment, the chemical industry and construction.
- General provisions for recognition of professional qualifications: The general system applies to all other professions. Applications for recognition are examined individually based on the principle of mutual recognition: The competent authority compares acquired professional qualifications with Austria's requirements. If there are significant differences, fulfillment of additional requirements may be necessary for recognition.

Detailed information concerning the recognition of professional qualification is contained in the [European Commission's user's guide](#). Therefore, in order to obtain a trade license for regulated trades, the following additional documentation must be presented:

- proof of training OR proof of professional experience OR proof of professional qualifications
- relevant information about training to determine possible differences – if this is not possible, the authority should obtain this information directly from the relevant authority in the home Member State

The competent authority must acknowledge the receipt of the necessary documentation – or notify which documents are missing – within one month. The recognition procedure must be completed within three months (with the possibility of extension by one month), after which the process must either be approved or the business is to be notified as to which additional requirements (compensatory measures, see below) are necessary.

If the authority finds that the previously acquired qualification is insufficient, it can require certain compensatory measures, such as further training or an aptitude test. A successful completion of these measures will then result in approval of the trade license application.



# Starting a Business in Austria

Requirements for citizens from other EU/EEA states wishing to establish companies in Austria are, practically, the same as for Austrian citizens.

One can receive detailed information and tailor-made support concerning requirements, procedures, documentation & formalities and funding on the website of the [Start-up Service of the Austrian Economic Chamber](#). The Start-up Service also offers business registration as a 'one-stop process'. In many cases this process allows founders to register their businesses straight after the advisory stage, if they have all the necessary documentation. Registration with social security authorities for industry is carried out via the business authority. [A useful guide in English](#) is available for those wishing to establish in Austria.

## **Posting of workers<sup>5</sup> to Austria in the framework of the provision of services from businesses established in EU27 & EEA states<sup>6</sup>**

According to EU legislation and the Anti-Wage and Social Dumping Act (Lohn- und Sozialdumping-Bekämpfungsgesetz LSD-BG) businesses registered in these states can post workers to Austria. If the worker is from an EU27 & EEA state, prior to the start of work an [online posting report to the Central Coordination Office of the Ministry of Finance - ZKO](#) is required.

Austrian core labour standards, in particular concerning wages and working hours, must be observed and the posted worker needs to be covered by a social security system (details: posting of workers platform).

The following documents will be required:

- The notification documents (obligation to provide or make available in electronic form a copy of the posting notice);
- Social insurance document A 1 or E 101;
- Official work permit of the posted employees in the country where the employer is established, if such document is required;
- Foreign employers are under a duty to be able to present such wage/salary documents which are required for establishing the remuneration due to the employee under Austrian law, whereby these shall be in the German language and must be available during the entire period of posting to the place of work/deployment in Austria. (Requisite wage/salary documents shall be considered the following: in addition to the contract of employment or "notice of employment", wage slip, documentary evidence of wage/salary payment or bank transfer documents, wage/salary records, working time records and documents relating to wage category). The employment contract is also accepted in English.

Details: [www.bmf.gv.at/en/topics/combating-fraud/zko.html](http://www.bmf.gv.at/en/topics/combating-fraud/zko.html)

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<sup>5</sup> Posting refers to the deployment of workers across national borders

<sup>6</sup> Austria, Belgium, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Slovenia, Bulgaria, Rumania, Spain, Sweden, Norway, Iceland, Liechtenstein



## Hiring of workers in Austria

When businesses that either provide services or are established in Austria intend to hire workers, Austrian legislation distinguishes between workers from EU27 & EEA states and workers from third countries.

### Hiring workers from EU27 & EEA states

Due to EU legislations regarding the free movement of workers, workers with EU/EEA citizenship are subject to the same rules and regulations as Austrians. They do not require residency or work permits.

EU/EEA workers must apply for a registration certificate at the relevant local authorities within three months.

### Hiring workers from third countries

Workers without citizenship from an EU/EEA state, which are hired by a business from an EU/EEA state, are subject to [Austria's regulations for foreign workers](#), which are enforced by the [AMS](#). Therefore, proof that they are eligible to work in the EU/EEA by presenting a valid work permit is required. Other permits may be required depending on the nationality of the employees. Necessary documentation must be shown to the [Central Coordination Office of the Ministry of Finance - ZKO](#), after which the decision rests with the AMS.

There are, however, certain facilitations for professions such as scientists, journalists, diplomats and managers.

Within three working days of arriving in Austria (or when changing accommodation), all workers from third countries must apply for a registration certificate at the relevant local authorities.

## Further Resources

- [Enterprise Europe Network](#) – contact points
- [Austrian Federal Economic Chamber](#)
- [Contact point for information on recognition of professional qualifications](#)



# Appendix

The following professions are currently deemed to impact public health and safety:

- Augenoptiker (optician)
- Bandagisten (prosthetist & orthotist)
- Orthopädietechniker (orthopaedic technician)
- Niederwarenerzeuger (surgical truss maker)
- Baumeister (master builder)
- Brunnenmeister (well sinker)
- Bestattung (funeral undertaker)
- Chemische Laboratorien (chemical laboratory work)
- Drogist (chemist/druggist)
- Elektrotechnik (electrical engineering)
- Erzeugung von kosmetischen Artikeln (manufacture of cosmetic products)
- Pyrotechnikunternehmen (manufacture/trade in pyrotechnics)
- Fußpflege (chiropody)
- Gas- und Sanitärtechnik (gas network system engineer)
- Glaser (glazier), Glasbeleger und Flachglasschleifer (glass blowing and manufacture of glass apparatus)
- Hohlglasschleifer und Hohlglasveredler (hollow glass polisher and hollow glass refiner)
- Glasbläser und Glasinstrumentenerzeugung (glass blower and glass instrument production) Hafner (potter)
- Herstellung von Arzneimitteln und Giften und Großhandel mit Arzneimitteln und Giften (production and wholesale of pharmaceuticals and poisons)
- Herstellung und Aufbereitung sowie Vermietung von Medizinprodukten und Handel mit sowie die Vermietung von Medizinprodukten (production and preparation as well as renting and trading of medical products)
- Hörgeräteakustiker (hearing aid dispenser / audiometric technician)
- Kontaktlinsenoptiker (contact lens optician)
- Kosmetiker (Aesthetician)
- Kraftfahrzeugtechnik (repair of motor vehicles)
- Karosseriebauer einschließlich Karosseriespengler und Karosserielackierer (car body worker / panel beater / car painter)
- Lebens- und Sozialberater (social security and/or family counsellor)
- Masseur (masseur)
- Orthopädieschuhmacher (orthopedic shoemaker)
- Schädlingsbekämpfung (pest control)
- Sicherheitsgewerbe (security sector)
- Sprengungsunternehmen (mine blasting contractor)
- Steinmetzmeister einschließlich Kunststeinerzeugung und Terrazzomacher (stone maker / stone cutter)
- Ingenieurbüros (consulting engineers)
- Waffengewerbe einschließlich Waffenhandel (arms sectors, including trade with arms)
- Zahntechniker (dental technician)
- Zimmermeister (carpenter)



#### IMPRINT

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