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## **DOING BUSINESS IN AUSTRIA**

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

# Doing Business in Austria

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

### Introduction

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.

### General Information

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 are generally permitted to register as well as practice trades in the same way as Austrians. Businesses from EU member states or EEA signatory states 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, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom

<sup>2</sup> EU27 + Norway, Iceland, Liechtenstein

<sup>3</sup> Switzerland will not be mentioned each time, since the same regulations as 'old' EU / EWR 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. 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.

### 1) 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). Therefore, businesses, who are legally established and can legally carry out their trade in another EU/EEA state, and who would be subject to Austrian trade law, 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 (2 years 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 commencement of the service must be announced in form of a written declaration to the [Austrian Ministry of Economy, Family and Youth](#) (notification of services, see links below). 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 (2 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.

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.

## Documents / Forms

[Notification of Services form for legal persons](#)

[Notification of Service form for individuals](#)

[Notification of Service form for legal persons - renewal](#)

[Notification of Service form for individuals - renewal](#)

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](#).

## 2) 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 required by Austrians

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<sup>4</sup> For a full list of professions currently deemed to impact public health and safety in Austria, see Appendix.

- proof of financial reliability and absence of bankruptcy
- proof of financial capability and proof of insurance against liability of financial risk
  - if this is 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 harmonised for doctors, nurses, dentists, veterinarians, midwives, pharmacists and architects, thus allowing for automatic recognition of qualifications. See: [Annex V](#)
- **recognition of professional experience:** See [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 also 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 persons 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, [funding](#), as well as [practical tips](#) 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.

### 3) Posting of workers to Austria in the framework of the provision of services

When businesses based in EU/EEA states post workers<sup>5</sup> to Austria in the framework of the provision of services, there are differences in the Austrian legislature based on the state where the business is registered. It is necessary to distinguish between those registered in 'old' EU & EEA states<sup>6</sup> (and Cyprus and Malta) and those registered in 'new' member states<sup>7</sup>. A transitional arrangement is in place limiting the freedom of workers and the freedom of service provision of 'new' member states (except Cyprus and Malta). These will expire on May 1, 2011 for Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia and on January 1, 2014 for Bulgaria and Romania. After that, the same regulations as for 'old' member states will apply.

#### Posting of workers from businesses established in 'old' EU & EEA states (and Cyprus and Malta)

According to EU legislation, businesses registered in these states can post workers to Austria. If the worker is from an 'old' EU & EEA state, only a deployment declaration is required. This is submitted to the [Central Coordination Office of the Ministry of Finance - ZKO](#) and must be completed a minimum of one week before the service provision begins. 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. In short notice cases, the declaration must be made before work begins, at the latest.

If the posted worker is a citizen of a new member state or a third country, a deployment confirmation is necessary. In order to receive this, which is issued by the [Public Employment Service Austria - AMS](#), it must not only be documented that core labour standards and social security regulations are adhered to; in addition, the posted workers must be lawfully and habitually employed by the company posting them to Austria. The necessary forms can ordinarily be acquired by the employer in their 'home' state.

#### Posting of workers from businesses established in 'new' EU member states (except Cyprus and Malta)

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

<sup>6</sup> Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom

<sup>7</sup> Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia

For businesses registered in these states wishing to post workers to Austria, regulations and procedures differ depending on the economic sector of the service provided. Restricted sectors of the economy are: gardening services (NACE-Code 01.41), work with natural stones (NACE-Code 26.7), production of steel and light metal constructions (NACE-Code 28.11), construction and sub-construction work (all building work relating to the construction, repair, upkeep, alteration or demolition of buildings, in particular NACE-Code 45.1 - 4), security work (NACE-Code 74.60), cleaning work (NACE-Code 74.70), home nursing (NACE-Code 85.14) and social work (NACE-Code 85.32).

In these sectors, except for the construction and sub-construction sectors, a deployment permit is required. However, if the project lasts longer than six months and the engagement of the employee lasts longer than four months, an Austrian work permit is necessary. In the construction and sub-construction sector, work permits are always necessary.

The deployment permit must be acquired by the Austrian contracting party. This is obtained at the [regional office of the Public Employment Service - AMS](#) using [this form](#). Proof of the duration of the service provision; confirmation of the contractual relationship between employer and employee, the employee's national security registration, and remuneration paid for the duration of the service provision; proof of relevant qualifications, training and professional experience of employees are required. Deployment and work permits are only issued if the posting is not deemed to have detrimental effects on the Austrian labour market.

If workers are posted to Austria in sectors of the economy that are not restricted (i.e. sectors in which EU regulations do not allow restrictions to the freedom of provision of services), a deployment confirmation is required.

In order to receive a deployment confirmation, it is necessary to report the commencement of employment to the [ZKO](#) a minimum of one week before the service provision commences. Also, it must be documented that the worker is legally employed according to the regulations of the home state; the wage and core work conditions for a comparable activity in Austria are adhered to; and that the worker is covered by social security. The necessary forms can normally be acquired by the employer in their 'home' state. The deployment confirmation is issued by the [AMS](#).

#### **4) 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 'old' EU & EEA states, 'new' EU member states and third countries. A transitional arrangement is in place limiting the freedom of workers and the freedom of service provision of 'new' member states (except Cyprus and Malta). These will expire in on May 1, 2011 for Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia and on January 1, 2014 for Romania and Bulgaria, after which the same regulations as for 'old' member states will apply.

##### **Hiring workers from 'old' EU & EEA states (and Cyprus and Malta)**

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. For exceptions due to transitional arrangements, see below.

EU/EEA workers must apply for a [registration certificate](#) at the relevant local authorities within three months.

### **Hiring workers from ‘new’ EU member states (except Cyprus and Malta)**

[Transitional Arrangements](#) limit the access to the labour market by workers from member states that joined the EU in 2004 and 2007 (except Cyprus and Malta). The ‘2+3+2 Model’ regulates the seven year transitional period for workers from new member states, which Austria has made use of. Therefore, restrictions will remain in place until 1 May 2011 for workers from Poland, Hungary, Czech Republic, Slovakia, Slovenia, Lithuania, Latvia and Estonia, and until 1 January 2014 for Bulgarian and Romanian workers. ‘New’ EU citizens do not, however, require visas or residency permits.

Subject to [Austria’s regulations for foreign workers](#) and bilateral arrangements, those entering the Austrian labour market from 1 May 2004 (or 1 January 2007), or those previously employed but not permitted to work for twelve months continuously, require a work permit, which can be acquired at the [Public Employment Service Austria - AMS](#). There are special facilitations, such as for highly qualified skilled labour in [67 professions](#). 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 in Austria](#)
- [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)
- Miederwarenerzeuger (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 (chiroprody)
- 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)
- Orthopädienschuhmacher (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)

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