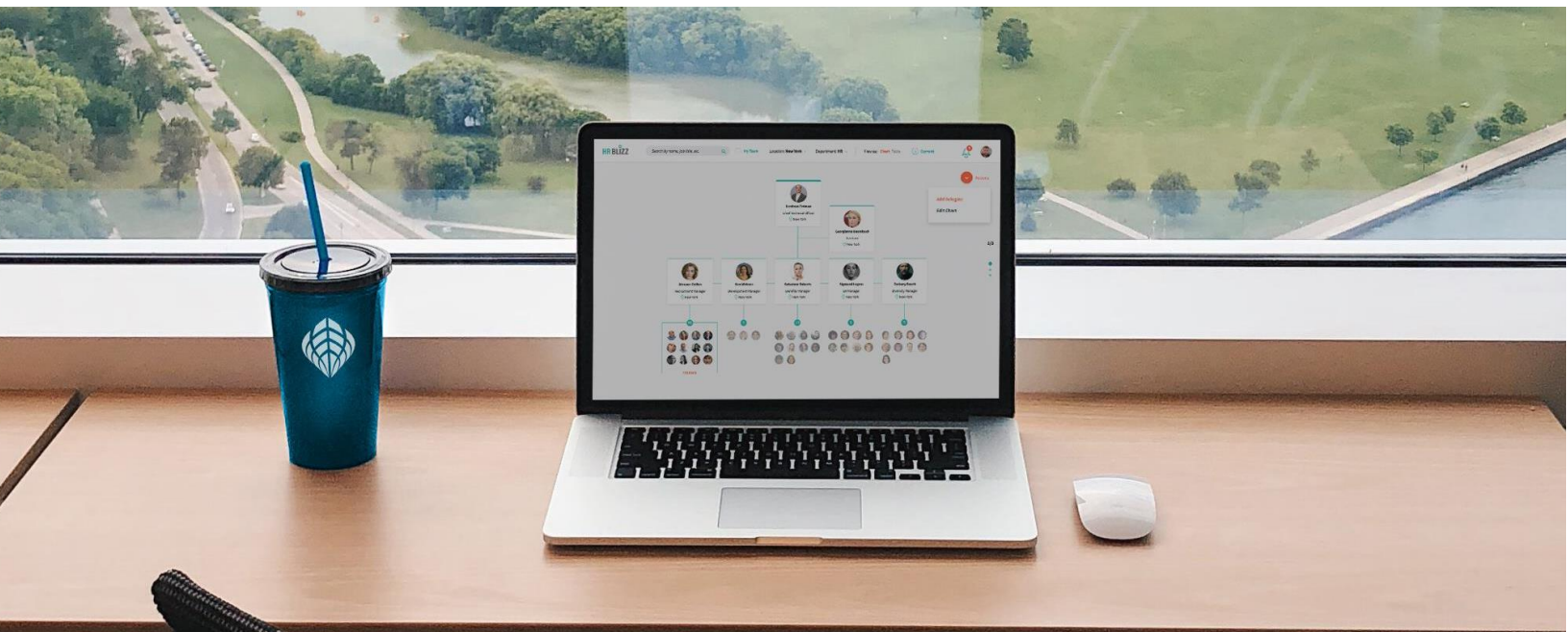




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Payroll & Tax Highlights

2021 Global Payroll Country Guide for Austria



AUSTRIA



24 January 2021



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Austria – the economic growth expected to return by 2021.

After several years of robust progression, the Austrian economic growth decelerated to 1.6% in 2019 (IMF estimates), against 2.4% in 2018. A modest development of main export markets and the uncertainties due to global trade conflicts and the Brexit process slow down the economic dynamic. Overall, the Austrian economy is deemed one of the most stable in Europe. The country relies on a very strong network of export-focused SMEs, excellent academic standards and significant spending for research and development. Public and private consumption are likely to buttress the domestic economy with households benefiting from a tight labor market and higher wages. According to the updated IMF forecasts from 14th April 2020, due to the outbreak of the COVID-19,

GDP growth is expected to fall to -7% in 2020 and pick up to 4.5% in 2021, subject to the post-pandemic global economic recovery. The state eased its support to the banking sector in 2019 as consumption and credit demand are increasing. The National Bank of Austria expected public deficit to reach 0.0% in 2019 thanks to the economic recovery in the Euro zone and the strengthening of trade relations with eastern European countries, but the fiscal reform adopted in 2016 and reducing taxation on income has slightly slowed the pace of public deficit reduction, which amounted to 0.4% of GDP in 2019 (IMF). Recording an average inflation rate of 1.8% since the introduction of the euro, Austria has successfully maintained price stability in line with Euro system's definition

(1.5% in 2019). Although, inflation rate should decrease to 0.4% in 2020 (due to COVID-19) and increase again to pre-pandemic levels of 1.7% in 2021, according to the latest World Economic Outlook of the IMF (April 2020). Austria has implemented policies for innovation and business diversification in green and digital economy. Austria's place inside the European Union is a complex one. The country is one of the 10 member states that contribute more to the EU budget than they receive (0.85% of GDP versus 0.51%, European Commission data).

Austria has a low percentage of unemployment compared to other countries in the eurozone and the EU.

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Doing Business in Austria

Basic Facts

Official State Name	Austria
Population	8.8 million
Capital	Vienna
Major Languages	German
Currency	Euro
Main Industries	Food, Mechanical & Steel, Chemical & Automotive, Electrics & Electronics, Wood, Pulp & Paper
GDP Growth	1.9% (2019)
Internet Domain	.at
International Dialing Code	+43
Dates & Numbers	Dates are usually written in the dd/mm/yyyy format.



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Commercial Register (Firmenbuch)

All legal entities in Austria are required to be registered in the Austrian commercial register. The commercial register is a central, public online register of those sole proprietors who are recorded there as well as corporations (GmbH, AG), partnerships (OG, KG), and associations which are located in Austria. Moreover, branch offices of foreign entities are required to register in the commercial register. The electronic version of the commercial register exists since 1991 and is publicly accessible. An excerpt from the commercial register (Firmenbuchauszug) can be obtained from a court, a notary public, a lawyer, or by other registered users such as us. Information given on an electronic excerpt from the commercial register is absolutely identical to the print-out ones and contains valid and current information. On the excerpt from the commercial register the following information is provided:

- Commercial register number
- Name of the company
- Legal form
- Registered office address
- Branch offices
- Date of signing the articles of association (and dates of later amendments)
- Names and dates of birth of the managing directors and other authorized officers, partners or shareholders
- Nominal capital
- Mergers, splitting
- Bankruptcy
- Liquidation

It is advisable for a due diligent businessman to check the commercial register to scrutinize the business partner in order to avoid an unauthorized person signing documents or agreements.

Furthermore, one should consider that in case of failure to register, if mandatory, one can be forced to do so. In addition to that, one should take into account possible fines of up to EUR 3,600.00 which may be increased by another EUR 3,600.00 if not paid two months from imposition. Moreover, penalties may also be imposed if financial reports are not filed with the commercial register within nine months from the balance sheet date.

Types of Business Entities (Legal Forms)

A company comes into existence upon registration in the commercial register. There are several types of business entities that might be formed in Austria. According to Austrian Law the following legal forms may be used:

- Private Limited Company (Gesellschaft mit beschränkter Haftung - GmbH)
- Public Limited Company (Aktiengesellschaft - AG)



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- Open Partnership (offene Gesellschaft - OG)
- Limited Partnership (Kommanditgesellschaft - KG)
- Cooperative (Genossenschaft)
- Civil Law Association (Gesellschaft bürgerlichen Rechts - GesBR)
- Sole Proprietorship (Einzelunternehmen)
- Association (Verein)
- Silent Partnership (stille Gesellschaft)
- European Company (Societas Europaea - SE)
- Private Trust (Privatstiftung)

The Company with Limited Liability (GmbH) is the most popular legal entrepreneurial form after the sole proprietorship in Austria. Therefore, it is suitable especially for associations of partners who work together and yet wish to reduce the capital investment risks due to the limited liability it offers to its owners and will therefore be described in greater detail below. The other legal forms of business entities will briefly be explained subsequently.

Private Limited Company (GmbH)

A private limited company is a legal entity, which means that it has a legal existence separate from that of its individual members. As such, it is the owner of all business assets and liable for all its debts and obligations. As its partners are not personally liable for its debts, it is the prevalent legal form for Austrian subsidiaries of foreign parent companies. In practice, however, banks often require shareholders of a limited liability company to personally accept guarantees in order to be granted a loan.

After formation, a private limited company comes into legal existence upon being entered into the commercial register. The application for the registration must be signed by all shareholders. The formation requires only one founding partner. The founding act and the articles of association must be witnessed and attested by a notary public. The law defines the minimum content of the articles of association; however, a wide range of additional clauses in the articles may be stipulated.

In case a limited liability company wishes to run a trade business, it must have a trade license which has to be issued in its name. Since the company does not have any legal status until it has been entered into the commercial register, the application for a trade license may only be filed with the trade authority after the firm is registered so that an excerpt of commercial register can be submitted along with the application.

The minimum share capital (Stammkapital) of a limited liability company amounts to EUR 35,000.00; at least half of it i.e. EUR 17,500.00 must be paid in cash. Exceptions are made for contributions in kind (Sacheinlagen) and continuation of a business. Every individual shareholder must invest a minimum initial capital contribution of at least EUR 70.00.



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The following minimum costs are approximately incurred when establishing and running a limited-liability company:

Formation costs:

- Stamp Duty, Publication Costs, Articles of Association EUR 600.00
- Tax on capital formation 1% (Capital Transfer Tax)
- Minimum contribution in cash EUR 17,500.00
- Notary public and legal advice (in varying amount)

Minimum annual operation costs:

- Minimum Corporate Income Tax EUR 1,750.00 (carry-forward in case of losses)
- Costs for compilation and filing of financial statements

The share capital is the sum of contributions (Einlagen) of the single shareholders. The share of a shareholder is determined by the amount of the initial contribution (Stammeinlage). While every shareholder can only hold one share, shares can have different par values.

As abovementioned, a company with limited liability is a legal entity, however, it is not authorized to act legally on its own. For this reason, it is publicly represented by one or more managing directors (Geschäftsführer) who run the day-to-day business and are appointed by the shareholders' assembly.

In addition to that, the shareholders' assembly is responsible, amongst others, for the approval of financial statements, profit distribution, appointment of the supervisory board (Aufsichtsrat), appointment of the statutory auditor, if necessary, (considering the supervisory board's advice), and changes to the articles of association. Moreover, the shareholders' assembly is authorized to issue instructions to the managing directors. Its resolutions usually require a simple majority of the shareholders present to pass unless the articles of association or the law stipulate otherwise.

Generally, a company with limited liability is not required to have a supervisory board. However, it is entitled to establish a supervisory board, should it decide so. Under certain circumstances a supervisory board must be set up. For instance, if the number of the company's employees exceeds 300. Should a supervisory board exist, one third of its members should be formed by members of the work council (Betriebsrat).

Additionally, companies with limited liability sometimes set up an advisory board (Beirat) which advises the managing directors.

According to commercial and tax codes, an Austrian company with limited liability is obligated to maintain accounts.



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Companies with limited liability are required to disclose their annual financial statements. They are obligated to electronically file them with the commercial register within nine months after the end of the financial year. The amount of information subject to disclosure depends on the size of the company. Small and medium-sized companies are entitled to avail themselves of simplifications such as abridging of the annual accounts by combining items into one. This requirement provides stakeholders with more transparent information on the respective company along with confidence about the future.

In terms of social insurance, a simple shareholder of a company with a limited liability in Austria is not obligated to compulsory social insurance. If, however, a shareholder is the managing director at the same time, he must be socially insured.

Public Limited Company (AG)

The public limited company (AG) is one of the two main forms of corporations in Austria alongside the private limited company (GmbH) and is therefore a legal entity. Its most specific feature is the easiness to transfer shares which gives this type of business organizations the possibility to raise funds on capital markets.

A public liability company comes into legal existence upon being entered into the commercial register. Its articles of association have to be established in the form of a notarial deed. Since 2004 a public limited company is permitted to be formed by only one founding partner. In such a case the name and the date of birth of the sole founder must be entered into the commercial register. This also applies if all the existing shares are purchased by one person. If there are two or more founding partners, they do not have to be listed by name in the commercial register.

Like in the private limited company, the shareholders are not personally liable for the debts of the company. The corporate liability of a public limited company is limited to its share capital. The minimum share capital (Grundkapital) of a public limited company amounts to EUR 70,000.00 whereof at least 25% must be paid in prior to the registration in the commercial register. The share capital is split into shares of which there are two types: par-value shares (Nennbetragsaktien) and shares without a par value (Stückaktien). Par-value shares must have a par value of at least EUR 1.00 or a multiple of it. The percentage of the share capital is assigned according to the proportion of the par value to the share capital. Each share without a par value represents the same percentage of the share capital. The share in the company depends on the number of the shares issued.

Unlike a private limited company, a public limited company in Austria is obligated to appoint a supervisory board which is independent of the board of directors. It has a two-tiered board system where control and management are strictly separated from each other. The board is split up into the board of directors composed of one or more members (Vorstand) and the supervisory board (Aufsichtsrat). However, supervisory board's consent is required referring



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certain issues. Representation, management, supervision, and day-to-day control over the company are vested in its board of directors which is elected by the supervisory board and may be appointed for a maximum period of five years. The supervisory board in turn is elected by the shareholders at the shareholders' meeting which must be held annually within eight months after the end of each reporting period. As opposed to a private limited company, the board of directors in a public limited company is not bound by instructions neither to the supervisory board nor to the shareholders' assembly. Furthermore, its task is to prepare the financial statements and it may call the shareholders' assembly. Once the financial statements are prepared, they must be audited and approved by the supervisory board and then presented to the shareholders' assembly. The shareholders' assembly resolves amongst others upon capital changes, changes of corporate form, and liquidation of the company. In addition to that, it gives formal approval of the actions of both boards, decides on the appointment of auditors and the distribution of dividends. Certain quintessential decisions require a qualified majority of 75%. Moreover, a notary public has to certify all the decisions made by the shareholders' assembly.

The law draws a distinction between two different types of public limited companies: the listed and the unlisted ones. In Austria only approximately 10% of public limited companies are listed.

Open Partnership (OG)

An open partnership is an association of two or more individuals or corporations whose activity can either be entrepreneurial or non-entrepreneurial, including independent professions as well as agricultural and silvicultural businesses.

An open partnership is formed by means of formless or even oral articles of association between the partners. Notaries public need not be involved. However, it must be entered into the commercial register. All partners are fully liable for corporate debts and therefore their personal assets are at risk. The open partnership is represented by its partners.

Double entry accounting and preparation of financial statements according to the Austrian Commercial code are mandatory for an open partnership if its revenue exceeds the amount of EUR 700,000.00 in two subsequent years or if it is higher than EUR 1,000,000.00 in a single year

Furthermore, if a company desires to run a trading business it must apply for a trading license in the company's name. Additionally, a managing director must be appointed for this purpose.

Limited Partnership (KG)

A limited partnership in Austria is an association of two or more individuals with any permitted purpose including independent professions and agricultural and silvicultural businesses. Articles of association do not require any legal form and do not have to be in writing although it



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is strongly advisable. Notaries public or attorneys need not be involved either. A limited partnership comes into legal existence upon being entered into the commercial register.

It must consist at least of one general partner (Komplementär) who is unrestrictedly liable and one limited partner (Kommanditist) whose liability is limited. A general partner is directly, personally, and unrestrictedly liable towards creditors, whereas the liability of a limited partner is restricted to the sum entered as a liability deposit (Haftungseinlage) in the company register. According to law, each general partner has the right to manage and represent the company

Double entry accounting is mandatory as of attaining annual revenues of EUR 700,000.00

Moreover, if a company desires to run a trading business it must apply for a trading license in the company's name. In order to obtain such authorization a person responsible for the trade license must be appointed.

Finally, it is possible to found a limited partnership where the general partner is a limited liability company (GmbH & Co KG). This is frequently done for tax reasons and management purposes.

Sole Proprietorship (Einzelunternehmen)

Sole proprietorship is on hand if a business is operated by an individual person. A sole proprietor is unrestrictedly liable for the business's debts i.e. all his personal assets are at risk. It commences upon registering the trade and/or receiving authorization, if necessary. It must be entered into the commercial register once it has reached the level of accountability which generally lies at EUR 700,000.00 in revenues. As long as this threshold is not reached, the registration is voluntary without accounting obligation.

Furthermore, it is required by law for a sole proprietorship to have a trading license if trade is practiced. The sole proprietor must meet certain requirements in order to obtain one. In case these requirements are not met, a responsible person has to be appointed who must be employed by the company.

Civil Law Association (GesbR)

A Civil Law Association consists of two or more united individuals or companies with a purpose of joint benefit. As opposed to other partnerships and corporations, it is not a legal person and its members are subject to joint and unrestricted liability for its debts.

Articles of association do not require any legal form; however, it is advisable to set up a written contract. As a Civil Law Association is not permitted to be the bearer of a trading license, every single partner must obtain the required licenses.



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Due to that fact that the united individuals or corporations in a Civil Law Association are not permitted to appear under a common name it neither may be entered into the commercial register nor into the land register. Moreover, it cannot take legal action or be sued.

Once the revenue level reaches the threshold of EUR 700,000.00 in two subsequent years it must be entered into the commercial register as an open or limited partnership with accounting obligation in the second following year. If sales exceed the amount of EUR 1,000,000.00 in a single year, the above obligation arises in the following year.

Once the revenue level reaches the threshold of EUR 700,000.00 in two subsequent years it must be entered into the commercial register as an open or limited partnership with accounting obligation in the second following year. If sales exceed the amount of EUR 1,000,000.00 in a single year, the above obligation arises in the following year.

Cooperative (Genossenschaft)

A cooperative is a legal entity with a special purpose. The number of its members is not limited. The aim of a cooperative is to promote its members' acquisitions or business activities. Liability depends on the form of the cooperative along with its articles of association. It has no preassigned capital and is governed by the Cooperative Societies Act (Genossenschaftsgesetz).

Association (Verein)

An association is a legal entity which is used as a vehicle for running a non-profit organization. This legal form is not appropriate for operating a business as it has to pursue the realization of an ideal.

Silent Partnership (stille Gesellschaft)

In a silent partnership a silent partner provides an existing business with capital. It is not a legal entity and the management and representation of a silent partnership are handled by the owner only. The silent partner is not liable for company's debts. However, he has a stake in the profits and losses of the business. It can be agreed that the latter are excluded, and he only participates in the company's profits.

European Company (SE)

Since 2004 the European Company Statute permits businesses active in several EC member states to establish a public limited company called Societas Europaea (Latin for European company) and to operate in the European Union under uniform principles. It is a legal entity whose capital is split into shares. The required minimum capital amounts to EUR 120,000.00. There is a choice between the one-tier and the two-tier management systems. Its registered



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office must be located in one of the EU members states and it must be entered into the commercial register.

There are four ways of forming an SE, namely:

- (1) by merger of national companies from different member states
- (2) by creation of a joint venture between companies in different member states
- (3) by creation of a SE subsidiary of a national company, or
- (4) by conversion of a national company into an SE.

Private Trust (Privatstiftung)

The private trust in Austria is a legal entity. In contrast to others, its structure is characterized by having no proprietor or shareholders as it belongs to itself. It can be established by legal persons or individuals and comes into existence upon being registered into the commercial register.

The purpose of a private trust is laid down by the founder in the declaration of establishment and must not be illegal or unethical. The minimum capital requirement amounts to EUR 70,000.00.

This investment form is especially attractive due to certain favorable taxation as well as stable asset protection provided by it. For further information please see the chapter "Private Trusts and Holding Companies".



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Accounting and Reporting

Accounting Law Requirements to Issue Financial Statements

Austrian accounting principles are set up by law which was aligned with the Fourth and Seventh EU Directives by the Accounting Act (Rechnungslegungsgesetz) 1990. They are based on the Accounting and Reporting Act as well as on the Generally Accepted Accounting principles which in turn are amended by several statutory provisions, court judgements, interpretations and recommendations by the Chamber of Public Accountants (Kammer der Wirtschaftstreuhänder).

All entities registered at the commercial register, such as companies with limited liability (GmbHs and AGs) and open and limited partnerships (OGs and KGs) are subject to the Accounting Act. Furthermore, Austrian law requires financial statements in Austria to be prepared according to the Austrian Generally Accepted Accounting Principles (Austrian GAAP). Some industries are regulated by special laws such as the banking and insurance sector as well as investment funds.

Financial Reporting

Financial statements must be prepared annually. The financial year may not exceed twelve months and the majority of Austrian companies operate on a calendar year. Financial statements (Jahresabschluss) must be provided within nine months after the end of the respective financial year at the latest and must provide a “true and fair” view of a company’s net assets, financial position and results of operations. The financial statements must be in German and comprise a balance sheet and an income statement quoted in Euro. Books and records must be kept for a period of at least seven years.

Corporations must prepare their financial statements within five months after the end of the previous financial year and additionally include notes, a management report and where necessary also a corporate governance report which have to be presented to the board of directors. The financial statements, the management and the corporate governance reports must be signed by all legal representatives. Additionally, the approval of the shareholders’ assembly (GmbH) or that of the supervisory board (AG) is required.

The Austrian GAAP put special emphasis on creditor protection requiring a prudent valuation of assets and liabilities. It is indispensable to take into account all foreseeable risks and imminent losses at the balance sheet date while profits may only be accounted for upon realisation. Further, essential valuation conventions are for instance the retention of valuation methods of the preceding years, the going concern principle, the separate valuation of assets and liabilities, the prudence principle (as described above), the principle of accrual-based accounting i.e. expenses and income of the financial year are taken into account upon their realisation –



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regardless of their date of payment or collection and the historic accounting principle. Furthermore, each entity is required to set out the value of its inventories which is usually determined on the basis of physical inventory stocktaking as at the balance sheet date.

Banking and Financial System

The Austrian banking system is highly developed with a network of worldwide correspondent relationships. Large Austrian banks, such as the UniCredit Bank Austria AG, Raiffeisen and Erste Bank, operate offices and branches in major financial centres, as well as subsidiaries and joint venture co-operations in Eastern Europe. Austrian banks offer all banking and financial services.

Austria has a well-organised banking system which plays a major role in financing investments by providing businesses with loans, though the rather small capital market cannot facilitate all financing needs. There is only one stock exchange, the Wiener Börse, where stocks, options, futures, securities and foreign currencies are traded.

In general, Austria has a very favourable investment climate, attracting a substantial number of eurozone and overseas investors. A policy with very few restrictions on foreign investment, coupled with EU membership, has contributed to increased foreign investments in Austria, with investors enjoying all the benefits of the European Single Market.

Banks are generally from Monday, Tuesday, Wednesday and Friday from 8.00am – 12.30pm. and 1.30 pm to 3.00pm on Thursday 8.00am to 12.30pm and 1.30pm to 5.30pm. Banks are closed on Saturday and Sunday.



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Working Week

In Austria, standard maximum working time is limited to 10 hours per day and 50 hours per week (Arbeitszeitgesetz, AZG §9 (1)). Moreover, a 48-hour per week average needs to be maintained over a 17-week reference period. However, collective agreements can extend the reference period up to 26, and in special cases up to 52 weeks. Derogations from the statutory standard working time are only allowed within certain limits clearly set out by the AZG and need to be settled in collective or works agreements. However, there are some cases where an extension of the standard working time (8h/day; 40h/week) is possible without further agreements by social partners (see list of regulating instruments from the Austrian Labour Inspectorate):

1. If the standard working time is distributed differently during the week to gain more free time (for instance before the weekend) the daily working time can be extended up to 9 hours.
2. Working hours for sales personnel can be extended to 44 hours within a period of four weeks as long as on average 40 hours per week and 9 hours per day are not exceeded.
3. In flexi-time arrangements a maximum of 10 hours per day are allowed.
4. To gain more free time before public holidays working time can be dispensed over a period of 13 weeks to a maximum of 10 hours per day.

Collective agreements can generally allow fluctuating standard working times (AZG § 4(6)). The underpinning idea is that companies should have more flexibility to deal with fluctuations in production. Collective agreements define the overall framework and leeway for so-called 'band with models' (*Bandbreitenmodelle*). At company level a work agreement is required to establish this flexi-time model, which allows companies to extend working time in times of high work demand and reduce it at other times, as long as on average standard working time is maintained over the reference period (maximum is set to one year). However, standard maximum working time is limited to 10 hours per day and 48 hours per week (the extension of up to 50 hours per week is only permissible for a reference period of 8 weeks) (AZG § 4(6)). Moreover, additional conditions as set out in the collective or work agreements must be met (for example, notification of changes within a certain period of time and rules on how time credits are to be deducted).



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The working hour's related regulations have been summarized below:

Area	Regular Employee	Shift Employee	Female Employee
Workdays (1)	Monday – Friday (Saturday & Sunday is the official weekend days).		Workdays (1)
Weekly Regular Working Hours (1)	Daily Criterion – 8 hours/day	Weekly Regular Working Hours (1)	Daily Criterion – 8 hours/day
Breaks	Min 60 minutes every 5 hours (not part of the working hours i.e. unpaid – employee may not be required to stay at their workplace) (4)	Min 60 minutes every 5 hours (not part of the working hours i.e. unpaid – employee may not be required to stay at their workplace) (4)	90 minutes for nursing mothers (paid break)
Max Stay at the Workplace	10 hours per day	10 hours per day	
Total Maximum Working Hours (Regular + Overtime)	10 hours per day	Total Maximum Working Hours (Regular + Overtime)	10 hours per day
Public Holidays (13)	1 day – National Holiday	Public Holidays (13)	1 day – Christmas



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Tax & Social Security

Taxes are regarded as the main source of general revenue from which most government expenditure is financed. The Austrian tax system is based on two pillars. The first one is the taxation of profits of corporations and income of individuals which is referred to as direct taxation. The second pillar is made up of general transaction taxes, the most relevant in Austria being the value added tax (VAT, Umsatzsteuer USt) which is regarded as indirect because the taxpayer and the tax debtor are not identical.

Corporate Income Tax CIT (Körperschaftsteuer)

The Corporate Income Tax (CIT) is a tax on earnings of corporations which is personal and direct. The main taxable corporations in Austria are in particular Private Limited Companies (GmbHs) and Public Limited Companies (AGs) as well as e.g. private trusts, cooperatives and incorporated associations, whereas special tax regimes and rules fractionally apply for the latter three. Furthermore, branches and permanent establishments of foreign corporations are liable to corporate income tax as well.

A corporation is subject to CIT on its worldwide income in Austria if it is resident in Austria i.e. its official place of business or its official place of management is located in Austria. In case a corporation neither has its place of business nor the place of effective management inland, it is not subject to unlimited tax liability in Austria. However, it might be subject to limited tax liability i.e. specific parts of its income are taxable in Austria.

The taxable income of corporations is taxed at a flat rate of 25% regardless of profits being distributed or retained. Once profits are distributed, they are taxed at the rate of 25% (withholding tax). Thus, if the profits of a corporation are fully distributed, the tax burden amounts to 43.75% ($25\% + 75\% \times 25\% = 43.75\%$). The tax on the distribution of profits is deducted by the company (\diamond withholding tax). However, a minimum income tax rate of 5% per annum of the minimum amount of the share capital, which is EUR 1,750.00 for the private limited companies and EUR 3,500.00 for public limited companies, is charged quarterly (EUR 437.50 and EUR 875.00 respectively). Furthermore, for the first four quarters of a company's existence the minimum corporate income tax is reduced to EUR 273.00 per quarter for both types of companies. In succession, the minimum corporate income taxes are credited to the future corporate income tax once the respective company starts being profitable (again).

Taxable Income

Corporate income tax is generally imposed on the income earned by the corporation during its financial year. "Income" is defined as net income (= the companies' profit), after deductible business expenses, tax allowances and tax losses brought forward and consists of business and trading income, capital gains and certain passive income. Moreover, there are certain



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exemptions for dividend income and capital gains deriving from foreign subsidiaries (see below).

Residents/Non-residents

The taxable income of residents is subject to unlimited liability and generally comprises the worldwide income equaling the sum of all profits and gains. Nonresidents, i.e. those having neither their place of business nor their place of effective management in Austria, might be subject to limited tax liability on certain sources of income in Austria. Austrian branches of foreign corporations are taxed similarly to Austrian subsidiaries at a rate of 25% corporate income tax.

Deductible/Non-deductible Expenses

Deductible business expenses are broadly defined as expenditure arising from business operations as well as expenses incurred in acquiring, securing or maintaining taxable income, including for example cost of materials, employees' remunerations, directors' fees, interest, royalties, service and management fees according to the arm's length principle, research and development as well as other costs of administration.

Nondeductible expenses are for instance dividend distributions to shareholders, hidden profit distributions, 50 % of entertainment and representation expenses as well as 50% of expenses paid to the supervisory board, certain donations, gifts and contributions to political parties.

Reserves/Provisions

Reserves and provisions are allowed to be set aside for future expenses and liabilities and impending losses provided for at the balance sheet date. Only 80% of the fair value of the sundry provisions namely provisions for liabilities and impending losses with a residual term of more than twelve months from the balance sheet date are deductible for tax purposes. Exceptions to this rule relate to provisions for personnel benefits like severance payments, pensions, vacations and anniversary awards. Lump-sum accruals and accruals for repairs and maintenance are not deductible for tax purposes.

Set-off of Losses

Losses can be carried forward indefinitely. They can be credited against a maximum of 75% of the annual taxable income in later periods which implies that a minimum of 25% of the annual taxable income remains subject to CIT. Unused tax losses are carried forward.

Furthermore, it is not possible to carry-back losses in Austria.



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Withholding tax

Under Austrian domestic law, there is generally a 25% WHT for corporations and 27.5% WHT for other recipients on dividends (profit distributions) paid to a foreign parent company. The WHT has to be deducted and forwarded by the Austrian subsidiary to the tax office.

Rates

Type of Payment	Residents		Non-Residents	
	Company	Individual	Company	Individual
Dividends	0%/25%	27.5%	0%/27.5%	27.5%
Interest	0%/25%	27.5%	0%/27.5%	27.5%
Royalties	0%	0%	20%	20%
Fees for Technical Service	0%	0%	20%	20%

Dividends – Dividends paid to another Austrian company are exempt if the recipient company holds at least 10% of the shares in the distributing company. Otherwise, the rate is 25%. A 27.5% rate applies to dividends paid to a resident individual.

Dividends paid to a nonresident company are subject to a 27.5% withholding tax, unless the rate is reduced under a domestic provision or a tax treaty, or the individuals are exempt under the EU parent subsidiary directive. A refund of the withholding tax is possible for EU/European Economic Area parent companies if the withholding tax cannot be credited in their residence state under a tax treaty. A 27.5% rate applies to dividends paid to a nonresident individual, unless the rate is reduced under a tax treaty.

Interest – Interest paid to a resident company is subject to a 25% withholding tax. If the company confirms in writing to the interest paying institution that the interest income is taxed at 25% as part of its business income, no taxes generally are withheld. A 27.5% rate applies to interest paid to a resident individual.

No withholding tax is levied on loan interest paid to a nonresident company. Payments made to a nonresident silent partner in an Austrian company are subject to 27.5% withholding tax (25% if the silent partner is a corporation), unless the rate is reduced, or the payments are exempt under a tax treaty or the EU interest and royalties directive. A 27.5% rate applies to interest paid to a nonresident individual, unless the rate is reduced under a tax treaty.



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Royalties – No withholding tax is levied on royalties paid to a resident. Royalties paid to a nonresident are subject to a 20% withholding tax, but the rate may be reduced, or the payments may be exempt under a tax treaty or the EU interest and royalties directive.

Fees for technical services – No withholding tax is levied on fees for technical services paid to a resident. Fees for technical services paid to a nonresident are subject to a 20% withholding tax, unless the rate is reduced, or the payments are exempt under a tax treaty.

Personal Income Tax (Einkommensteuer)

Individuals are subject to personal income tax in Austria. As the name suggests it is personal and as in this case the taxpayer and the tax debtor are identical it is referred to as direct taxation.

The Austrian tax law distinguishes between unlimited and limited tax liability. Those individuals whose place of residence or place of abode is in Austria are subject to unlimited tax liability with their world income. Those to whom this does not apply are subject to limited tax liability which means that only the income earned inland is taxed in Austria. Unlimited tax liability commences with birth or with the establishment of a residence or a place of abode within the country and ends with death or with abandonment of a residence or a place of abode within the country. Persons who reside in more than one country or reside in one country and possess a place of abode in another are subject to unlimited tax liability in each of these countries. This would result in double taxation which is commonly prevented by double taxation treaties.

The amount of taxable income is calculated by adding up all categories of income and subtracting special and extraordinary expenses. The personal income tax is due to be paid quarterly in advance. Self-employed people have to estimate their assessment base for the initial year. In case it turns out to be lower it is possible to request for reduction of advance payments at the tax office by September 30 of the respective year. As these payments are based on estimates, actual tax declarations must be filed with the revenue office by April 30 of the year following the current fiscal year. In case tax declarations are filed electronically the above deadline is extended to June 30 and might be extended even further if the respective taxpayer is represented by a tax counsellor.

If the advance payments turn out to be too high, the balance is credited to the account of the taxpayer whereas in the event of too low advance payments the difference must be settled. Additionally, interests on tax underpayments (Anspruchszinsen) are charged by the tax authorities in case the amount due is not paid by September 30.



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Personal Income Tax Rates for the year 2020 are shown in the below table:

Income (EUR)	Tax %
1-11,000	0
11,001 – 18,000	25
18,001 – 31,000	35
31,001 – 60,000	42
60,001 – 90,000	48
90,001 – 100,000	50
Over 100,001	55

Social Security

In Austria social security is mandatory. It mainly covers health, accident, pension and unemployment insurance. Sole proprietors, shareholders in an open partnership (OG), partners in a limited partnership (KG), managing shareholders in a GmbH and other (self) employed persons and their dependents are subject to social insurance contributions according to the General Social Insurance Act (ASVG).

Health insurance includes benefits such as medical aid, dental treatment, hospital treatment, medications, and cures. The accident insurance protects against accidents at the workplace, vocational deceases along with their consequences, and an accident pension in the event of invalidity of 20% or more. The main benefits of the pension insurance are old-age pensions for men from 65 years of age and women from 60 years of age. These require, however, a minimum of 15 years of contributions. The unemployment insurance secures the unemployment benefits, the long-term care insurances, etc.

New employees must be reported to the social insurance commission as of the day they start work. This can be done in two ways: either firstly by a short notification prior to the start of work and then submitting the data still missing to the competent social insurance carrier within one week of the start of work or simply by submitting all the necessary information electronically

Consequently, every employee receives an e-card which states the social security number and the date of birth of the respective person and contains information on his/ her insurance status.

Basically, expatriates are subject to mandatory social security as well. Hence, Austria has concluded several social security treaties with other countries in order to give expatriates the possibility to remain under their countries' scheme for an agreed time frame.



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Monthly rates of compulsory (pre-tax) social security contributions are shown below for pensions, sickness, unemployment, accident insurance, and certain minor contributions:

Social Security Categories	Employer (%)	Employee (%)	Total (%)
Sickness	3.78	3.87	7.65
Unemployment	3.00	3.00	6.00
Pension	12.55	10.25	22.80
Accident	1.20	0.00	1.20
Miscellaneous	0.70	1.00	1.70
Total	21.23	18.12	39.35



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Payroll

In Austria salaries are regularly paid monthly, however, depending on the agreement between the employee and employer can differ. Additionally, payday is agreed upon internally. There are mandatory 13th and 14th salaries that are paid out in June and December respectively.

There are no national minimum wage or wage growth requirements (unless hiring apprentices) in Austria. Instead, wages are determined by collective bargaining, and are based on the position and the experience the applicant has.

Ultimately, employers must follow the collective bargaining laws that were decided upon between the economic chambers and the unions at the time employee contracts are drawn up.

Sample Payslip



PAYSLIP - AUSTRIA

Employer XXXXX		Net Pay:	
Employer address XXXXX		EUR 7,965.00	
Country Austria			
Pay Period May 2020			

Employee name XXXXX	Email XXXXX
Employee ID XXXXX	Hire date XXXXX
Employee Position XXXXX	Payment Method Bank

Summary			
Pay currency	Entitlements	Deductions	Net pay
EUR	18,886.67	8,701.67	7,965.00

Details		
Entitlements	Amount	Currency
82100 - Basic Salary	18,886.67	EUR

Deductions	Amount	Currency
21900 - Social Insurance Employee	3,020.00	EUR
21922 - Income Tax	5,681.67	EUR

Banking details					
Bank name	SWIFT	Beneficiary name	Acc. number	Account currency	Type
XXXXX	XXXXX	John Doe	XXXXX	EUR	Primary

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Employment Law

In Austria various regulations exist that govern all aspects of labour and employment law such as the white-collar workers Act (Angestelltengesetz), the working hours act (Arbeitszeitgesetz), the Act on paid vacation (Urlaubsgesetz), etc. Apart from these regulations, employment contracts are additionally governed by collective agreements (Kollektivverträge) which are concluded between trade unions and associations of employers on industry level and regulate issues such as remuneration and working conditions. An employee does not have to be a member of a trade union to come under a collective agreement.

As in other jurisdictions the Austrian law distinguishes between blue- and white-collar workers. Employees are obligated to belong to their chamber of employees (as a representation set by law) which provides them with free legal advice. Furthermore, labour issues claims and disputes between employee and employer are handled by special courts.

A works council (Betriebsrat) can be set up in companies where five or more employees are regularly employed and representing the employees' interests. Furthermore, it has significant statutory powers and has certain rights such as supervision, intervention, consultation, etc. The works council must be timely informed of reorganizations which have negative consequences for the employees. Moreover, it has the right to negotiate with the employer, to monitor compliance with the employment protection act, to obtain information, etc.

Employment Contract

An employment contract does not require any legal form and thus does not necessarily have to be in writing. An employment contract is characterized by personal dependency i.e. the employer has the decisional power, the employee is economically dependent, has a continuous obligation to work for a certain time and usually uses the employer's equipment. There are various forms of employment contracts. They may be for temporary, fixed or unspecified term of duration. Moreover, a distinction is drawn between lifetime and permanent employment and employment under a trainee or apprenticeship relationship.

If the employment contract is not made in written form, the employee must receive a written statement (Dienstzettel) which sets out the major rights and obligations. Such a written statement must include information such as name and address of the employer, name and address of the employee, date of commencement of the employment relationship, in case of a fixed term contract: the expected termination date, employment termination notice period and date of termination, normal place of work, any sub-categories in a general system, intended assignment, basic salary or wages along with any additional remuneration e.g. bonuses and date payable, annual leave entitlement (holiday), contractual daily and weekly working hours, indication of the applicable collective agreement or work agreement.



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Temporary workers

Temporary workers are entitled to the same rights and benefits as permanent employees, unless different treatment can be objectively justified according to section 2b of the Austrian Act amending the Labour Contract Law (*Arbeitsvertragsrecht-Anpassungsgesetz (AVRAG)*).

There is no limit on the duration of a fixed term contract or a time limit after which the employee is deemed to be a permanent employee. Only in cases of concluding several temporary contracts (*Kettenarbeitsverträge (see Question 2)*) without justification on the grounds of economical or social reasons is a temporary contract classified as an open-ended employment contract.

It is easier to terminate an open-ended employment contract because temporary contracts can only be terminated before the agreed term for cause, or by agreement between the parties. Consequences can arise if mandatory labour law rules are neglected due to the misqualification.

Agency workers

If the collective agreement of the company for which the agency worker provides his/her services has better rules governing wages than the collective agreement under which the agency worker would normally fall, then the provisions of the collective agreement of the company would apply to the agency worker. Concerning working time and leave entitlement, the binding rules of the company for which agency workers provide their services apply. Therefore, the provisions of both collective agreements and company agreements apply to agency workers.

Agency workers and part-time workers can be employed and paid by another company and not the company for which they are providing services. In this case, the agency/part-time worker is entitled to appropriate payment, which must be determined in view of the company (and its employees) for which they are providing services (section 10, Temporary Work Act (*Arbeitskräfteüberlassungsgesetz*)). Therefore, the wages of the agency worker/part-time worker is compared with the wages of employees of the company the agency worker/part-time worker provides his/her services for, set by respective collective bargaining agreements, collective agreements or individual employment contracts. The comparison helps to determine whether the payment of the agency worker/part-time worker is appropriate or not.



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Part-time workers

Part-time workers are entitled to the same rights and benefits as permanent employees, unless different treatment can be objectively justified.

Agency workers and part-time workers can be employed and paid by another company and not the company for which they are providing services.

Leaves

The statutory leaves for Austria have been summarized in the below table:

Leave Type	Eligibility	Compensation	Leave Duration
Annual Leave	<ul style="list-style-type: none"> After the completion of 6 months Employer approval required – 30 days advance notice You can carry-forward up to 25 days/year. Carry-forward leaves must be used within 2 years following the year in which it was originally granted. 	Paid	Year 1-25 – 25 days Year 26+ - 30 days
Sick Leave	<ul style="list-style-type: none"> Doctor's notice 	Paid/Partially paid/Unpaid	First 12 weeks – fully paid Following next 4 weeks – 50% paid
Bereavement Leave	<ul style="list-style-type: none"> Death of direct family member 	Paid	4 weeks
Marriage Leave	<ul style="list-style-type: none"> Marriage 	Paid	3 days
Childbirth Leave for Male Employees	<ul style="list-style-type: none"> Birth of a child 	Paid	1 month
Education Leave	<ul style="list-style-type: none"> In separate periods spread over up to 4 years 	Unpaid	Minimum 2 Months & Maximum 12 Months. If it is taken in parts each part has to last for 2 months



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Leave Type	Eligibility	Compensation	Leave Duration
Maternity Leave	<ul style="list-style-type: none">• Completion of the probation period	paid	Before Delivery - 8 weeks After Delivery - 8 weeks
Unpaid Leave	<ul style="list-style-type: none">• Employer prior approval	Unpaid	Max durations is defined by the employer.



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Termination of Employment

Employment contracts may be terminated by mutual agreement, termination with notice at the initiative of the employee/employer, resignation of the employee for serious reasons without notice, by dismissal without notice, on request during a probation time, and on the expiry of a fixed-term contract. While a dismissal with immediate effect by the employer and a resignation without notice by the employee must be for cause, an ordinary termination does not require any reason. However, the employer must comply with cancellation periods (Kündigungsfristen) and dates of notice (Kündigungstermine) stipulated by law, collective agreements, or the individual employment contract. Furthermore, prior notification of the work council (in case a work council exists) is mandatory

Notice periods

The notice period that the employer must give to employees depends on the employee's length of service:

- Less than or equal to two years' service requires six weeks' notice.
- More than two years' service requires two months' notice.
- More than five years' service requires three months' notice.
- More than 15 years' service requires four months' notice.
- More than 25 years' service requires five months' notice.

All employees must give at least one month's notice, regardless of their length of service. The notice period can be increased up to six months subject to contractual agreement.

Workers and their employers must give 14 days' notice (section 77, Industrial Code 1859 (Gewerbeordnung 1859) (GewO 1859)).

Severance payments

Employees who entered into a new employment relationship as of 1 January 2003 are entitled to a severance payment. This payment depends on the termination of the employment relationship. Employers must pay contributions to a severance payment fund for these employees at a rate of 1.53% of their gross monthly salary.

Employees are entitled to a severance payment, unless the employment relationship is terminated by dismissal of the employee, lawful redundancy or unlawful withdrawal of the employee or less than three years have passed since the first payment into the fund.



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Immigration

Migration to Austria

Migration to Austria is very complex and it is recommended that specific advice be sought prior to making business plans that involve the transfer of principals or employees to Austria.

Permanent Residence

EU/EEA citizens making use of their right to free movement and their family members have to register their permanent residence with the authorities within three months if they intend to reside in Austria for more than three months.

EU/EEA citizens may permanently settle in Austria if they are employed or self-employed in Austria or attend an Austrian school or recognised education facility and/or earn a secure living and if they and their family members have sufficient health insurance coverage.

Austrian Labour Law – Framework:

The primary objective of Labour law is to offset the social imbalance between employees and employers. Austrian Employment Legislation has traditionally drawn a distinction between waged (“Arbeiter” or blue-collar-worker) and salaried (“Angestellte” or white-collar-worker) employees, which has consequences for e.g. the applicable social insurance system or membership of trade unions. Austrian Labour Law can be divided into the following areas: the Employment contract law or employment relationship law (individual labour law) contains legal provisions stipulating the individual legal relationship between employee and employer. The Labour relations law (collective labour law) provides for industry-wide standards and is negotiated between trade unions and representatives of the employers in an industry. In larger entities company agreements provide for specific rules in regard to the legal employment environment.

Temporary Residence

EU/EEA citizens do not require any special permit to enter and reside in Austria for up to three months.

In the case of a non-EU-citizenship, temporary residence may be granted to the following persons:

- Rotational worker (necessary document issued by AMS (Austrian job center): confirmation of guaranteed work or employment permit as rotational worker)



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- Persons dispatched by an enterprise (necessary document issued by AMS: confirmation of guaranteed work or employment permit as rotational worker; employment for more than 6 months)
- Self-employed persons (if foreigner is contractually committed to one particular activity and if such commitment will last for more than 6 months; AMS might be dealing with such)
- Artists: self-employed or employed; activity is predominantly determined by artistic activities and self-maintenance is covered by such; liability declaration not accepted; in case of employment one of the following documents issued by AMS (Austrian Labour Market Service) is necessary: confirmation of guaranteed work or employment permit as artist
- Special cases of employment activity (if activity is exempted by the law on employment of foreigners: proof of circumstances for exemption necessary) researchers (against presentation of an admission agreement issued by a certified research institution)

Visitors

Nationals of EEA member states and Switzerland do not require a visa or similar entry permission. Visitors to Austria from other countries usually require a visa and may stay for up to 3 months. For nationals of some countries no visa is required.

Work Permits

The employment of a non-EEA national requires a work permit to be obtained prior to the start of employment. A certificate of exemption can be issued to employees who have, as a general rule, spent at least five of the last eight years in employment in Austria or to employees who have been married to an Austrian citizen for the last five years and have their residence in Austria. Since January 1, 2003 it is possible to obtain an exemption for highly qualified workers if there is a shortage of such personnel in Austria.

A residence permit may also be required. A residence certificate, which is a residence permit of unlimited duration, entitles the holder to work in Austria without a work permit.

For nationals of EEA member states and Switzerland, the rules of free movement of workers apply substantially in the same way as for nationals of EU member states. No work permit is required.

The law differs between brief visits (eg. visiting purposes, or for short-term work) and longer (eg. for longer work) stays in Austria.



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Visa - for short stay

For the short stay in Austria you usually need a visa (eg. for holidays or visiting relatives). Citizens of some countries may take up to three months in Austria without a visa.

Note: In principle, the visa does not include a work permit. Only with a D + C visa one may go to work in Austria. The D+C visa is called the residence and travel visa. It is intended for a short work period (for example, work as a temporary professional worker, "seasonal") and can be issued for up to 6 months.

Residence permit

For a stay in Austria of more than six months a residence permit (permanent residence permit, residence permit or a so-called "permit family members") is required. Residence permit can only be granted for a specific purpose given. Under certain conditions an amendment of purpose is accepted.

For nationals of EEA member states and Switzerland, the rules of free movement of workers apply substantially in the same way as for nationals of EU member states. No work permit is required. They only need to obtain a registration certificate within three months upon entry, which will be issued by the authority if they provide proof that their living costs are covered and they have health insurance. Citizens from new EU member states have to observe special restrictions on access to the Austrian labour market.

Conditions for a residence permit

The application for the initial permit must be filed personally before entering at the Austrian Embassy abroad. For citizens of a country whose nationals do not require a visa to enter Austria the application can be filed during their legal residence in Austria.

A residence permit may be issued only if sufficient means are available. This is the case if the funds reach at least the same height as the so-called "Ausgleichszulagenrichtsatz".

The health insurance must cover "all risks". The choice of health insurance is up to the applicant. Moreover, the applicant has to provide evidence that they are entitled to an adequate accommodation. In practice, a tenant or sub-lease contract serves as proof. If the planned stay in Austria exceeds one year applicants need to undertake a language course.



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