



Legal Forms of Business in Austria

An Overview

Legal Forms of Business in Austria

	Limited liability company (<i>Gesellschaft mit beschränkter Haftung – GmbH</i>)	Public limited company (<i>Aktiengesellschaft – AG</i>)
1. Capital	Minimum capital of € 10,000, of which € 5,000 must be paid up.	Minimum capital of € 70,000, of which € 35,000 must be paid up.
2. Founders	1 person is sufficient. - Natural or legal person	1 person is sufficient. - Natural or legal person
3. Liability of shareholders	The liability of shareholders is limited to their capital contribution.	The liability of shareholders is limited to their capital contribution.
4. Timetable	The time involved in establishing a GmbH is 2-4 weeks.	The time involved in establishing an AG is 2-4 weeks.
5. Costs	- Company startup costs of € 3,000 - € 5,000 (legal and notary fees; notary fees for starting a business may be lower in the future as the legally stipulated rate is based on the share capital.) - Costs depend on whether documents must be bilingual (e.g., German/English)	Company startup costs of € 4,000 - € 6,000 (legal and notary fees)
6. Advantages	- Limited liability of shareholders - Shareholders have the right to issue instructions to the managing director.	none
7. Disadvantages	- Minimum capital of € 10,000 - Notarial deed required for founding the company and transferring shares in the GmbH - The exception to the mandatory notarial deed: only when a single natural person sets up a GmbH and is simultaneously the managing director. In this case a GmbH can be set up without a notary (usually with the bank).	- Minimum capital of € 70,000 - Supervisory board is necessary - Mandatory audit - Independent management board
8. Taxes	Profits on a company level: 23% corporate income tax Distribution of profits to shareholders: - General 27.5% capital gains tax for natural persons and 23% for legal persons 0% for the EU mother company 0% in the case of double taxation conventions	same as for the GmbH
9. Trade law*	- Entitlement to carry out a trade once the trade licence is entered into the Commercial Register - Appointing a managing director under trade law is absolutely necessary. Any natural person can be appointed. In the case of regulated trades, the managing director under trade law must show proof of the required qualifications.	same as for the GmbH

* As a rule, a trade licence is required to carry out a trade in Austria. A commercial activity is pursued when it takes place independently, regularly and with the objective of generating a profit. The prerequisites for registering a business differ depending on the type of trade.

(i) Unregulated (free) trades = may be carried out if the general requirements for business registration are met, the trade can be registered and carried out without the need for evidence of professional competence.

(ii) Regulated trades = evidence of professional competence is required i.e., a certificate affirming the commercial and legal know-how, skills and experience of the businessperson. Carrying out a regulated trade is first permissible when the notice of assessment issued by the trade authority legally takes effect.

	Flexible company (Flexible Kapitalgesellschaft – FlexCo)	General partnership (Offene Gesellschaft – OG)
1. Capital	same as for the GmbH	- No legally prescribed minimum capital - In practice, the shareholders nonetheless agree upon an initial capital for the start-up of the company.
2. Founders	same as for the GmbH	- At least 2 persons - Natural or legal persons
3. Liability of shareholders	same as for the GmbH	Full, unlimited liability of the shareholders (with their personal assets)
4. Timetable	same as for the GmbH	The time involved in establishing a general partnership is 1-2 weeks.
5. Costs	same as for the GmbH	Company startup costs of € 1,000 - € 2,000 (legal fees, no notary fees)
6. Advantages	- Simplified issuing of company value shares, which are particularly suited to enable employee participation in the company's success. - Written form suffices in acquiring and transferring company value shares.	- No legally prescribed minimum capital - No formal obligations - The memorandum of association is not made public.
7. Disadvantages	- Mandatory supervisory board even for medium-sized flexible companies - Otherwise, the same as for the GmbH	Unlimited liability of all shareholders
8. Taxes	same as for the GmbH	Profits on a company level: - The general partnership is not taxed. Instead, profits are directly allocated to the shareholders. - Taxation of shareholders based on an income tax of up to 55% (for natural persons) and 23% corporate income tax (for legal persons). Withdrawal of profits by shareholders: - No additional taxes - Profits are fully taxed on a company level the year they are generated.
9. Trade law*	same as for the GmbH	- Entitlement to carry out a trade once the trade licence is entered into the Commercial Register. - Appointing a managing director under trade law is absolutely necessary. Any natural person can be appointed. In the case of regulated trades, only a personally liable shareholder showing evidence of the required qualifications can be appointed.

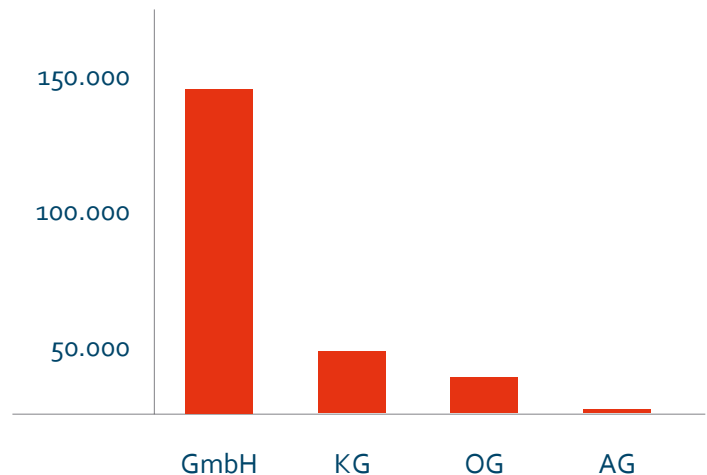
* *As a rule, a trade licence is required to carry out a trade in Austria. A commercial activity is pursued when it takes place independently, regularly and with the objective of generating a profit. The prerequisites for registering a business differ depending on the type of trade.

(i) Unregulated (free) trades = may be carried out if the general requirements for business registration are met, the trade can be registered and carried out without the need for evidence of professional competence

(ii) Regulated trades = evidence of professional competence is required i.e., a certificate affirming the commercial and legal know-how, skills and experience of the businessperson. Carrying out a regulated trade is first permissible when the notice of assessment issued by the trade authority legally takes effect.

	Limited partnership (<i>Kommanditgesellschaft – KG</i>)
1. Capital	- No legally prescribed minimum capital - In practice, the shareholders nonetheless agree upon an initial capital for the start-up of the company.
2. Founders	- At least 2 persons - Natural or legal persons
3. Liability of shareholders	- General partners: unlimited liability - Limited partners: limited liability based on the liability deposit
4. Timetable	The time involved in establishing a KG is 1-2 weeks.
5. Costs	Company startup costs of € 1,000 - € 2,000 (legal fees, no notary fees)
6. Advantages	- No legally prescribed minimum capital - No formal obligations - The memorandum of association is not made public. - Limited liability for limited partners
7. Disadvantages	Unlimited liability for general partners
8. Taxes	same as for the OG
9. Trade law*	same as for the OG

- The GmbH is the most popular legal form to establish companies in Austria due to the limited liability of shareholders.
- The AG is the least frequently used legal form in Austria due to the related costs.
This legal form is mandatory in some cases e.g., for publicly listed companies, banks and insurance companies.
- With respect to the partnerships OG and KG, the latter is the most common legal form because liability is limited, at least when it comes to the limited partners.



* As a rule, a trade licence is required to carry out a trade in Austria. A commercial activity is pursued when it takes place independently, regularly and with the objective of generating a profit. The prerequisites for registering a business differ depending on the type of trade.

(i) Unregulated (free) trades = may be carried out if the general requirements for business registration are met, the trade can be registered and carried out without the need for evidence of professional competence

(ii) Regulated trades = evidence of professional competence is required i.e., a certificate affirming the commercial and legal know-how, skills and experience of the businessperson. Carrying out a regulated trade is first permissible when the notice of assessment issued by the trade authority legally takes effect.



Austrian Business Agency
Opernring 3
A-1010 Vienna, Austria
Tel: +43 (0)1 588 58-0
Email: office@aba.gv.at
www.aba.gv.at



CMS Reich-Rohrwig Hainz Rechtsanwälte GmbH
Gauermannngasse 2
A-1010 Vienna, Austria
Tel: +43 (0)1 40443-0
Email: vienna@cms-rrh.com
www.cms.law

Arno Zimmermann, Partner
Email: arno.zimmermann@cms-rrh.com

Media owner:
Austrian Business Agency
Österreichische Industriensiedlungs- und
WirtschaftswerbungsgmbH
Opernring 3,
A-1010 Vienna, Austria

Responsible for content:
CMS Reich-Rohrwig Hainz Rechtsanwälte GmbH
Gauermannngasse 2
A-1010 Vienna, Austria

Printing: Riedeldruck
Bockfließersstraße 60-62
A-2214 Auersthal, Austria

December 2023

In the interest of improved readability, no distinction has been made between male, female and diverse (m/f/d). All personal designations apply equally to all genders.