

Founding of a limited liability company (GmbH) and a flexible company (FlexKapG)

Here you will find all the steps required to set up a limited liability company (GmbH) or a flexible company (FlexKapG):

- ☐ Articles of association contractually agreed by shareholders as a notarial deed before an Austrian notary. It is permitted for shareholders to provide a signed and notarised power of attorney for this purpose.
- ☐ The requirement of a notarial deed does not apply to the simplified founding of a single-person limited company (Ein-Personen-GmbH; GmbH = Gesellschaft mit beschränkter Haftung) or a flexible company (Flexible Kapitalgesellschaft - FlexKapG) by a natural person who is simultaneously appointed to serve as the managing director, in electronic form with a secure proof of identity.
Minimum contents of the articles of association:
 - > Name and registered office of GmbH or FlexKapG
 - > Amount of the portion of share capital to be paid in by the shareholder
 - > Subject matter of the company
 - > Amount of share
 - > Reimbursement for costs of formation
- ☐ The minimum capital amounts to € 10,000. In principle, contributions in cash or in kind are permitted. Contributions in kind must be provided in full without delay. At least one quarter of the cash contributions must be paid in at the time of the company's formation, but in any case, a minimum amount of € 5,000.
- ☐ As a rule, if it is agreed upon that contributions in kind shall comprise more than half of the share capital, an audit of the company's formation by a court-appointed auditor is required.
- ☐ Bank confirmation or notarial confirmation on payment of minimum contributions to the share capital
- ☐ Resolution on appointing at least one managing director
- ☐ Specimen corporate signature of managing director (with notarial certification of the signature)
- ☐ If foreign companies are shareholders, evidence of their identity must be provided (e.g. by means of an extract from the foreign Commercial Register or confirmation by the foreign Commercial Register or Chamber of Commerce)
- ☐ Application for registration in the Commercial Register by all managing directors (with notarial certification of signatures)

Further notes:

- Under certain circumstances, there may be an obligation to appoint a supervisory board, particularly where, on an annual average, the GmbH or FlexKapG employs more than 300 staff members. In contrast to the GmbH, a medium-sized FlexKapG is already obliged to appoint a supervisory board.
- Audit of annual financial statements prescribed by law in the case of "mid-sized" and "large" GmbHs and FlexKapGs; a "small" GmbH or FlexKapG is also legally obliged to conduct an audit if there is a legal obligation to have a supervisory board.
- Annual financial statements of every GmbH and FlexKapG must be submitted to the Commercial Court each year.
- Exemption to payment of the registration fee for the Commercial Register is possible according to the Austrian New Companies Promotion Act (Neugründungsförderungsgesetz – NeuFöG).
- The minimum corporate income tax per year is € 500.

