



**COUNTRY  
COMPARATIVE  
GUIDES 2023**

# **The Legal 500 Country Comparative Guides**

## **Austria CORPORATE IMMIGRATION**

### **Contributor**

Oberhammer Rechtsanwälte GmbH



### **Ewald Oberhammer**

Partner | [e.oberhammer@oberhammer.co.at](mailto:e.oberhammer@oberhammer.co.at)

### **Silvia Siebenstich**

Attorney at Law | [s.siebenstich@oberhammer.co.at](mailto:s.siebenstich@oberhammer.co.at)

This country-specific Q&A provides an overview of corporate immigration laws and regulations applicable in Austria.

For a full list of jurisdictional Q&As visit [legal500.com/guides](https://legal500.com/guides)

# AUSTRIA

## CORPORATE IMMIGRATION



### 1. What are the relevant government entities relating to immigration in your jurisdiction?

Immigration (labour) law in general is administered by municipal authorities, the Austrian consular missions as well as the Labour Market Authority. Further, a special authority exists in the form of the Financial Police, responsible for controlling the compliance of foreigners working in Austria. The Federal Agency for Immigration and Asylum is responsible for asylum matters and return decisions. The Anti-Fraud-Office controls the prevention of salary and social dumping.

### 2. What are the options available for sponsor-based employment in your jurisdiction and timelines involved in securing a work permit?

Generally, sponsor-based employment in Austria is possible regarding local hire employment (in form of a Red-White-Red Card or a Blue Card EU) or in form of temporary secondments to Austria (in combination with a work or secondment permit or an Intra Company Transfer - ICT).

#### 1. The following applies to local hire employment:

The **Red-White-Red Card** is a combined work and residence permit issued for an initial period of 24 months. The permit is issued based on a point-based system and applies to the following four categories of workers:

- exceptionally highly qualified workers;
- skilled workers in shortage occupations;
- key employees;
- graduates of universities and colleges of higher education in Austria

To qualify for the Red-White-Red Card credit points must be reached, assessing the following criteria: qualification, work experience, age and

German/English/French/Spanish/Serbian/Bosnian/Croatian language skills. All applicants must meet the minimum salary stipulated by the applicable collective bargaining agreement. Furthermore, key employees must meet a minimum monthly gross salary amounting to EUR 2,925 (figure valid for the year 2023 and to be increased as of January 2024). This card related salary requirement is updated on an annual basis and is to be paid in 14 monthly payments a year.

University graduates must not meet a card specific minimum monthly gross salary; it is sufficient if university graduates meet the threshold imposed by the applicable collective bargaining agreement.

The Red-White-Red Card is usually obtained in approx. 8-12 weeks as of filing the application.

The **Blue Card EU** is a combined work and residence permit issued for an initial period of up to 24 months. A Blue Card EU can be issued if the applicant has obtained a three-year university degree and meets the minimum monthly gross salary requirement amounting to EUR 3,257 paid out in 14 monthly salary payments per year. This card related salary requirement is updated on an annual basis and is to be paid in 14 monthly payments a year. Since late 2022, the Blue Card EU can also be obtained by skilled workers in the field of information and communications technology, provided that the candidates instead of an academic degree can prove at least three years of professional experience comparable to the level of a university degree, if such experience was acquired during the seven years preceding the filing of the application.

The Blue Card EU is usually obtained in approx. 8-12 weeks as of filing the application. Quicker processing times apply if the applicant is already holding a Blue Card EU issued by Austria or another member state of the EU.

#### 2. The following applies to temporary secondments to Austria:

A short-term Secondment Permit can be obtained by

third-country nationals employed with an entity in a third country who need to be seconded to an Austrian entity in order to fulfill a contractual obligation for a period of up to 4 months (regarding projects in Austria lasting no longer than 6 months).

A short-term secondment permit must be combined with a visa C for working purposes (for assignments up to 90 days) or a visa D for working purposes (for assignments between 90 days and 4 months); this applies to visa-free nationals as well. While in Austria the third-country national needs to receive a salary in line with the applicable local collective bargaining agreement. The application is sponsored by the Austrian host company.

A short-term Secondment Permit is issued by the Labour Market Authority within 2-3 weeks as of filing.

Third country nationals employed with an entity in a third country who need to be seconded to an Austrian entity in order to fulfill a contractual obligation for a period of more than 4 months a Work Permit can be obtained. The work permit can be issued for a period of up to 12 months. Furthermore, as of 1st October 2022 it will be possible to obtain a **Work Permit** for up to 6 months for intra-company transferred employees hired in a third-country, who shall work on a project for the Austrian entity of the same group of companies as his/her home employer.

A work permit must be combined with a visa C or D for working purposes; this applies to visa-free nationals as well. While in Austria the third-country national needs to receive a salary in line with the applicable local collective bargaining agreement. The application is sponsored by the Austrian host company.

The work permit can only be issued in a two-phased procedure; first an application for a Guarantee Certificate is filed with the Labour Market Authority, which is issued within 2-3 weeks; then the visa can be applied for and once the visa is issued the final work permit application is issued by the Labour Market Authority within another 1-2 weeks as of filing.

In case of stays for more than 6 months, instead of the visa, a **Residence Permit for Assignees** needs to be applied for either directly in Austria at the immigration authority (possible only for visa-free nationals) or at the Austrian Consular Post in the assignee's home country. This residence permit is usually obtained in approx. 8-10 weeks as of filing the application.

The **EU Intra-Company Transferee (ICT) Permit** is a combined work and residence permit available for third country managers, specialists or trainees employed in a third country and seconded to an Austrian company part

of the same group of companies. The permit can be granted for up to three years for managers and specialists, or up to one year for trainees.

Two different ICT Permits are available:

The **"ICT Permit"** is a combined residence and work permit usually issued within 8 weeks as of filing. The applicants must have been employed with a third-country employer for at least six months (trainees) or nine months (managers and specialists) and must generally apply while living and being employed in a third country. Once the permit is issued the ICT candidate is permitted to work for the Austrian entity or clients of the Austrian entity.

The **"Mobile ICT Permit"** is a combined residence and work permit for managers, specialists or trainees already holding an ICT permit issued by another EU Member State who shall be assigned to an Austrian entity for more than 90 days, provided the ICT Permit issued in the first EU Member State is valid throughout the entire assignment duration. The applicant is permitted to start work in Austria 20 days after the submission of the application, even if the permit has not been issued yet and can work for the Austrian entity or clients of the Austrian entity.

EU ICT Permit holders from another EU country can work in Austria at an Austrian corporate group entity for less than 90 days in a 180-day time frame (**short-term ICT mobility**), provided a posted worker notification (ZKO declaration) has been completed and provided the ICT Permit issued in the first EU Member State is valid throughout the entire assignment duration.

### 3. What are the primary options available for unsponsored work and investment in your jurisdiction?

#### Red-White-Red Card as self-employed persons or Start-Up Founders

Investors can apply for a Red-White-Red Card as self-employed persons or Start-Up Founders.

The investor category is designed for high-net-worth individuals intending to make a substantial financial investment (approx. EUR 100,000 or EUR 30,000 in case of start-ups) in Austria or a valuable contribution to the Austrian economy.

#### "Privatier" Residence permit (settlement permit except gainful employment)

Furthermore a "Privatier" residence permit is available.

This residence permit entitles the holder to settle in Austria without access to the job market. This permit is granted on an annual quota basis, quota places are assigned on a first come first served basis starting at the beginning of the year.

The applicant must prove housing and a valid health insurance in Austria (covering all risks) as well as financial independence; the monthly reference rates to be fulfilled for the year 2023 are EUR 2,220.52 for singles, EUR 3,503.12 for couples and additional EUR 346.62 for each child (figure valid for the year 2023 and to be increased as of January 2024). The applicable amount needs to remain for free use, after deducting all the regular monthly costs, such as rent, utility costs, debts, etc.

#### Citizenship by extraordinary economic achievements

Individuals undertaking a notable investment may also receive Austrian citizenship (through a discretionary citizenship programme). This route is entirely dependent on the discretion of the Council of Ministers and is evaluated and only granted after a deep analysis of the effected – not only the planned – investments.

#### **4. What are the requirements for becoming a sponsor of employment-based migrants and what are the role and reporting duties of sponsors?**

The sponsor must be a registered, active and operating company. There is no formal procedure to become a sponsor, but the sponsor needs to sign specific documents throughout the application process. The sponsor cannot be insolvent and should not have received any penalties due to illegal employment.

After the employee has picked up the residence permit, the sponsor is required to submit proof to the immigration authorities, that the applicable salary and the social security contributions are paid. The sponsor is required to notify the authorities on the start and end date of the employment (within three days) and in case the nature of the job changes substantially no longer fulfilling the requirements for the employment.

#### **5. Are applications filed electronically, or paper base? Is a physical visa/work permit document issued or is an electronic approval issued?**

Applications for ICT and local hire residence permits are filed on paper base. A physical permit is issued in form of

a credit-card style permit.

Work and short-term secondment permits must either be filed on paper base or through an online system (in case the sponsor has created a registration to do so). The Work and short-term secondment permit is issued physically on paper base.

#### **6. Is an in-person attendance/interview required as part of the visa/work permit application process? Is an individual required to enrol their biometrics (digital photo, fingerprint scan) as part of the visa/work permit process?**

For all residence permits, combined residence and work permits (e.g. Red-White-Red Cards) or a visa at least one in-person attendance is required; it is necessary to enrol the biometric data (i.e. fingerprints). Generally, these permits are collected personally. Work permits are issued without an in-person attendance and are sent to the sponsoring Austrian entity via regular mail.

#### **7. What persons qualify as dependants? Can dependants work based on their dependant visa status? Are there any restrictions?**

The following dependants of holders of ICT permits, Red-White-Red-Cards or the Blue Card EU as well as dependants of Austrian citizens who have not made use of their EU freedom of movement rights, are eligible for a dependent permit:

- Legal, opposite- or same-sex spouse over the age of 21
- Registered opposite- or same-sex partner over the age of 21
- Children under 18, including adopted children (full legal adoption) and step-children (under full custody of the principal applicant, spouse or partner, or with consent from the non-traveling parent)
- The following dependants (who are EU/EEA/Swiss nationals) of EU/EEA/Swiss nationals/Austrian nationals who made use of their EU freedom of movement rights are eligible for a dependent permit:
  - Legal, opposite- or same-sex spouse
  - Registered opposite- or same-sex partner
  - Children up to 21 years
  - Children over 21 who continue to be financially dependent, for instance, due to a disability or full-time studies

- De facto partner, in a stable and long relationship with the principal
- Relatives of the principal or his/her spouse or registered partner in the direct ascending line, provided that they are actually supported by them;
- Other family members if they are financially dependent on the principal applicant, or have lived in one household with the principal in the home country, or where serious health grounds strictly require the personal care of the principal

The following dependants (who are third-country nationals) of EU/EEA/Swiss nationals/Austrian nationals who made use of their EU freedom of movement rights are eligible for a dependent permit:

- Legal, opposite- or same-sex spouse
- Registered opposite- or same-sex partner
- Children up to 21 years
- Children over 21 who continue to be financially dependent, for instance, due to a disability or full-time studies
- Relatives of the principal or his/her spouse or registered partner in the direct ascending line, provided that they are actually supported by them;

Dependents of Red-White-Red Cards or EU Blue Card holders can receive the Red-White-Red Card plus, which grants full access to the Austrian labour market. Some dependants must proof German language skills (on an A1 level) upon application.

Dependants of ICT permit holders can receive a residence permit "Familiengemeinschaft" ("family reunion"), which allows the holder to carry out self-employed work; employed work is possible if they receive a binding job offer. No language skills are required for this permit.

Third country national dependants of Austrian nationals receive the residence permit "Familienangehöriger" ("family dependent"); those dependants are granted unlimited access to the job market. The permit is issued for the duration of one year. They must proof German language skills (on an A1 level) upon application.

Third country national dependants of EU/EEA/swiss nationals/Austrian who made use of their freedom of movement rights receive the residence permit "Aufenthaltskarte"; those dependants are granted unlimited access to the job market. This permit is issued for five years (or a shorter period, if the stay in Austria is planned for a shorter period). German skills are not necessary.

## 8. What is the general time frame and processes for obtaining permanent residence and citizenship for sponsored and unsponsored business-related immigration?

Third-country nationals are eligible for permanent residence in Austria after five years of continuous and lawful residence under an EU Blue Card, Red-White-Red Card or other permanent settlement permit; temporary residences based on an ICT permit or a permit as a seconded employee do only count half towards the five-year threshold. Generally, only the absence of up to six consecutive or 10 cumulative months is allowed. Furthermore, the applicant needs to have German language skills at level B1 and advanced knowledge of the fundamental values of legal and social system in Austria, sufficient financial funds, a valid health insurance (covering all risks), entitlement to an accommodation and must be no threat to law and order.

The permanent residence status entitles to unlimited settlement with unrestricted access to the labour market.

To qualify for Austrian Citizenship a continuous and lawful residence in Austria for ten years (general rule) is necessary. Furthermore, applicants need to have German language skills (level B1), shall not have received a residence ban or be subject to a procedure to terminate the residence in Austria, cannot be subject to an expulsion from Austria, a threat to law and order, frequent and serious administrative offences, a violation of Austrian interests. Applicants need to prove sufficient financial funds and pass a citizenship exam. Lastly, all applicants need to renounce their previous citizenship, as Austria does only allow dual citizenship in limited circumstances.

Under certain circumstances Austrian Citizenship can also be granted after six years of continuous and lawful residence in Austria (e.g. to persons with German language skills on level B2, EU/EWR citizens, persons married to Austrian citizens since 5 years, persons born in Austria, persons who are well integrated in Austria through personal engagement serving the general welfare, such as 3 years of voluntary/honorary commitment in a non-profit organisation or 3 years of exercising an occupation in the educational/social/health sector).

Persons who have achieved extraordinary achievements for the Republic of Austria can be granted citizenship without a residence in Austria and can also keep previous citizenships.

## 9. What productive type activities can a business visitor undertake and for how long?

Note that the definition of business visit is interpreted very strictly in Austria. Any form of productive work is excluded, so there are no productive type activities a business visitor can undertake.

Business visitors can carry out only a few activities, such as business meetings, visits to trade fairs and conferences, for a very limited duration of typically 3-4 business days. Other activities or business meetings exceeding the time frame require a work permit and visa for working purposes (this includes visa-free third country nationals). For employees posted by an employer based in the UK, Canada and Japan, the duration for work permit exempted stays may be longer if the scope of the trip covers one of the following tasks: meetings with business partners, research activities of scientific and statistical researchers, certain training seminars on local techniques and work practices, sales representatives taking orders, negotiating sales or concluding sales agreements, buyers purchasing goods or services, management and supervisory personnel engaging in commercial transactions and certain tour and travel agents, tour guides and tour operators and. Such exemptions need to be assessed on a case by case basis.

## 10. Can remote work be carried out from your country?

There is no specific permit available for remote workers. Work permits generally allow to work at a specific business entity. The employee will not be permitted to work at another business premise not mentioned in the work permit application; it is however not mandatory to be present at this business entity all the time. If remote work is carried out from within Austria, the employee always needs to obtain an appropriate work permit and working visa for a posted worker (or combined work and residence permit), even though when working from home instead of the business entity.

Generally, remote work for Austrian employers is subject to the Austrian regulations on Home-Office work, which came into force in April 2021. The terms of regular home office shall be evidenced in a written contract.

## 11. Are there any productive work / revenue generating activities that can be carried out as a visitor and without the

## need for a work permit? If so, what activities and for how long?

The following two scenarios must be distinguished:

### (i) Exemptions from Posted Worker Notifications regarding employees assigned to Austria from EU/EEA/Switzerland

Exemptions from filing a Posted Worker Notification regarding employees assigned to Austria for the following short-term activities from EU/EEA/Switzerland:

- Business meetings without the provision of further services;
- Participation in seminars and lectures without rendering further services;
- participation in trade fairs and trade fair-like events or the attendance at and participation in congresses and conferences;
- participation in and handling of cultural events from the fields of music, dance, theatre or cabaret and comparable fields, which take place within the framework of a tour;
- Participation in and handling of international competitive events (international championships);

Furthermore, particular temporary intra-group postings are exempted from filing a Posted Worker Notification, if these activities do not last longer than two months in a calendar year:

- research and development, holding of training course, planning of project work or
- exchanging experience, providing operational advice, controlling or working in the area of Group departments responsible for several countries with a central controlling and planning function, or
- delivery, commissioning (and related training), maintenance, service work and repair of machinery, equipment, and IT systems

The following activities do not require the filing a Posted Worker Notification:

- training visits, if the training is to the mere benefit of the employer entity the trainee works for in the home country and no further work is carried out in Austria
- for activities as mobile worker in the transport sector on transit
- if the employees' monthly gross salary is above EUR 7,020

- secondments or assignments within the framework of exchange, training or research programs or as a seconded or assigned lecturer at universities
- Delivery of goods by posted employees of the seller or lessor, as well as the collection of goods by posted employees of the buyer or lessee;
- Activities that are essential for the commissioning and use of delivered goods and are carried out by posted employees of the seller or lessor with a small expenditure of time.

#### (ii) Exemptions for postings from a third country

The following activities do not require a work permit, if carried out no longer than max. of 4 days, provided national employees cannot carry out these activities:

- Business meetings
- Participation in trade fairs and congresses and the-like events

Please note that a few further exemptions may apply for employees of an employer based in the UK, Canada or Japan.

### **12. Is there a remote work or nomad visa category in your jurisdiction? If not, how likely is it that this will be implemented in future?**

There are currently no special permits for digital nomads or for remote work in Austria. Any employment carried out in Austria is generally subject to a work permit and working visa as a posted worker.

Anyone with an intention to reside in Austria for more than six months or with the intention to carry out employment in Austria needs a residence permit.

There are currently no plans for legislation that would provide for such a remote work or a nomad visa category.

### **13. How easy is it to switch visa categories/jobs/employer from within country? And/or if made redundant, can the individual regularise their stay in another capacity and what is the timeframe allowable?**

The primary purpose of any residence permit must not

be jeopardized: i.e. a holder of a Red-White-Red Card key employment should only be used in a key position. If the purpose of residence is to be changed during the stay in Austria, the authority in Austria must be informed immediately and the applicant needs to switch to another appropriate residence permit. A change of purpose is only possible if the third-country national fulfils the requirements for the new residence title. It can take up to several months for the authorities to process the application, during this time, the applicant can continue the stay and work under the conditions of this permit.

A switch of employers is always possible with a permit allowing free access to the labour market.

The Red-White-Red Card and the Blue Card EU only allow work to be carried out for the sponsoring Austrian entity. If the employer shall be switched the permit needs to be approved by the authority regarding the new employer. Only after holding these permits for two years a switch to a Red-White-Red Plus Permit is possible, which allows free access to the Austrian labour market.

Blue Card EU holders can immediately switch employer once the application for the new sponsor based Blue Card EU has been filed, provided that the candidate was already working under a previous Blue Card EU issued by Austria for at least 12 months.

### **14. What common issues or concerns may arise for employers under business immigration in your jurisdiction?**

The allowable activities and duration of stay for business visitors are limited. Work visas and work permits are usually required even for short visits.

Most permit types are subject to labour market testing.

Authorities conduct a salary and social security compliance check after one month of work for both locally hired staff and intracompany transfers.

Specific rules apply for personnel leasing situations and the Austrian definition of personnel leasing is wider than in other jurisdictions, making it necessary to review "assignment" situations very carefully.

Posted Worker Notification obligations for intra-EU assignments are rigid.

Host companies must keep detailed personnel files for both EU/EEA/Swiss nationals and non-EU/EEA/Swiss nationals, including clear information on wage and social security payments, the working time and how the

minimum salary was calculated. Compliance is routinely checked through strict worksite inspections by the financial police.

German language skills (level A1) may be required for third country dependents who wish to join their family members in Austria. A lot of permits require further German language skills (level A2) upon renewal.

### **15. Is there a fast track process / certification that business can obtain to expedite visa / permit processing?**

There are no expedited processing services available in Austria.

### **16. What are the recent trends, both political and social (including COVID-19 pandemic), that have impacted your jurisdiction with regard to immigration policy and law? How will this shape the immigration landscape moving forward?**

In October 2022 rules for Red-White-Red Card applicants were modified and less requirements are now to be met in order to qualify for the permit. The government is especially trying to relax the rules for employees in shortage occupations due to the necessity on the Austrian job market.

### **17. How is the COVID-19 pandemic shaping the immigration landscape in your jurisdiction?**

All COVID related measures have been removed in mid 2023.

### **18. Are there any anticipated changes in the immigration laws of your jurisdiction?**

The reform of the Wage and Social Dumping Act has brought several changes, the most relevant of which was the amendment to the term "posting" under the Posted Worker rules and an expansion of control options of the Financial police. Above all, the legislation is a reaction to violations of EU law in regarding the cases Maksimovic et al., C-64/18 and Cepelnik, C-33/17, which is why a new sanction regime came into force for the failure to submit a Posted Worker notification, underemployment or the failure to comply with record-keeping obligation regarding intra-European assignments: minimum penalties were abolished, maximum penalties were

introduced for all administrative offences and a cumulation of sanctions for infringements regarding several employees is no longer possible.

The relaxation of Red-White-Red Card rules in October 2022 has brought substantial changes especially to the point-based system. Furthermore, it allows for frequent seasonal workers to apply for a Red-White-Red Card. Also a new work permit category for so called project related specialists has been introduced in October 2023; this permit covers the engagement of specialists for up to 6 months.

### **19. How do you see technology developing and evolving to support immigration process in the future?**

Technology is already evolving and supporting immigration processes when it comes to record keeping obligations. In light of numerous regulations – initiated either on a national or on a European scale – technology will become ever more important to support compliance obligations, in order to meet mandatory record keeping rules.

Furthermore, in the future it is very likely that technology will support basic case assessments when it comes to requirements to be met in order to obtain e.g. a visa or a work permit.

### **20. What are the Right to Work requirements in your jurisdiction?**

Work authorization is required for all activities carried out by third country national which go beyond the allowed scope or duration of a business visit. The most common types of work authorization used by employers in Austria are: the Short-Term Work Permit or Secondment Permit, the Blue Card EU, the Red-White-Red Card or the EU ICT Permit.

Passport holders of the 27 EU member states as well from Iceland, Liechtenstein, Norway and Switzerland and their third country national dependents are exempt from work authorization requirements.

Third country nationals are exempt from work authorization requirements in Austria if they hold a valid work/residence permit in another EU member state, the EEA or Switzerland, provided that they meet the requirements for cross-border services or if they hold an ICT Permit from another EU member state, entering Austria for a maximum of 90 days for work at a local corporate group entity; specific posted worker notifications as well as labour market declarations are to

be issued.

Third country nationals working in certain specific occupations are exempt from work authorization requirements, such as diplomatic staff, international journalists or clerical staff and others. A residence permit will generally nevertheless be necessary.

## **21. What are the types of civil and criminal penalties employers may face for non-compliance with immigration rules i.e. employing an individual who does not have the Right to Work?**

Employers found to be noncompliant are subject to high administrative fines. Sanctions for employers include but are not limited to a fine starting with EUR 1,000 up to EUR 10,000 per employee for working without work permission. Higher fines often apply if more than three employees are involved and for repeat offences. If a company allegedly is in breach for more than one infringement of the relevant legislation in the 12 months beforehand, the labour market authority may reject further applications for work permits. Certain violations will be registered in a central register and may lead to the prohibition from employing new third-country nationals for a certain period. In case of severe and repeated violations the authorities can also revoke the trade licence or prohibit business activities in Austria for a certain period of time.

Criminal penalties for employers apply in case of illegal employment of third-country nationals without a right of stay and if employed under particularly exploitative working conditions, if the employer knows, that he/she is a victim of human trafficking, if the employer uses work or services provided under duress, if it concerns many third-country nationals illegally employed for longer than one month. In these cases, a prison sentence of up to six months is possible. Stricter prison sentences may apply regarding cases of harsh exploitation of third-country nationals with the intention of obtaining continuous income.

Third-country nationals themselves, who are working without a work permit are not facing any penalty. However, they commit an administrative offense and can face moderate fines and/or deportation with a re-entry ban, if they are staying in Austria unlawfully (i.e. without the correct visa for working purposes or without any right of stay) or if they are not immediately complying with their obligation to leave Austrian territory after a return decision has been issued against them.

## **22. Are there any quota and / or labour market testing requirements in your jurisdiction and if so, what do they involve?**

Labour market testing is applicable to most work authorization categories. Upon filing the application, the Labour Market Authority checks availability of local candidates with similar qualifications as the third-country national. If qualified local candidates are available, they need to be invited by the sponsoring company to apply for the position. The sponsoring company must justify the rejection of local candidates before the work permit application can be processed further. Exemptions from the labour market test applies regarding specific permits.

## **23. Are there quota requirements, restrictions or a cap on the numbers of foreign nationals hired per company in your jurisdiction?**

Austria does not impose quotas that restrict how many third-country national workers an employer may hire. Quotas are set on a national level for specific work and/or residence permits (e.g. for seasonal workers or certain residence permit types such as the "Privatier" permit). The main work authorization types including the EU Blue Card, the Red-White-Red Card and the ICT Permit are not subject to a quota. Quotas may, however, be introduced by the Minister of Labour and Social Affairs in case of ICT permit, if necessary.

## **24. Are there any exit procedures in your jurisdiction, if an individual is departing permanently?**

When a third-country national's assignment or employment ends, the employer and the third-country national are subject to immigration requirements related to the end of the assignment / employment.

The foreign national must comply with the following procedures when departing the country:

- De-register with the town hall, between three days before and three days after departure,
- Cancellation of EU Residence Declaration (for EU/EEA/Swiss nationals) with immigration authority
- Return the residence permit (for third country nationals) to the local Austrian Embassy, once the third country national is back in the home country

Employers must comply with the following requirements following the third-country national's departure:

- Cancellation of the work permit within three days of the employment end date with the local labour market authority.
- Cancellation of the Austrian social security with the Austrian social and health insurance authority (if applicable),
- Cancellation of the posted worker notification (ZKO declaration) for posted workers from EU/EEA/Switzerland.

## **25. Are there any requirements for medical certificates or vaccinations for your jurisdiction?**

In the past, nationals of certain specific countries needed to submit health certificates to receive an Austrian Visa or a residence permit and regional administrative authorities have the right to conduct tuberculosis tests for nationals of certain countries.

## **26. Are there any language requirements for your jurisdiction?**

For a lot of residence permits third country nationals (as of age of the age of 14) have to provide an A1-level German language certificate from a certified language institute upon their first application. This applies e.g. for the applications residence permits for family dependents of Red-White-Red Card holders or family dependents of Austrian citizens. It does not apply to Red-White-Red Card holders or Blue Card EU holders.

Within two years of the initial issuance of most residence permits, a third country national has to accomplish the Austrian Integration exam including an A2-level German language test. If the applicant has a high-school certificate that corresponds to the Austrian university entrance qualification, the requirement to comply with the Austrian Integration exam can be waived.

In case of an intended application for a permanent residence title "Daueraufenthalt EU" after five years of legal uninterrupted residence in Austria, the applicant needs to accomplish the Austrian Integration exam including a B1-level German language test.

## **27. What are the government costs associated with a typical employment based visa?**

The governmental fees for the application of a Red-

White-Red Card or a Blue Card EU amount to approximately EUR 200 (for children under 6 years old: EUR 170). This includes the application costs of EUR 160 (for children EUR 145) and additionally the government stamp fees for the verification of foreign personal documents as well as taking fingerprints.

For the application of the Visa D for entering Austria (if applicable) the governmental fees amount to EUR 150 (for children between the age of 6 and 12: EUR 75) plus any additional service costs from VFS Global or the Embassy.

In case of filing an extension application, the costs are slightly reduced (between 160 and 180 EUR).

## **28. Is a local contract of employment required in order to obtain a work based visa or work permit? Are there salary or other thresholds to be met?**

Local contracts are necessary in order to obtain combined residence-work permits (i.e. Red-White Red Card, Blue Card EU), which are based on a local hire employment. Other combined residence-work permits, such as the ICT permit, are not based on a local hire employment and therefore do not require a local contract. Neither do short-term Secondment or Work Permits require a local contract, as these can be issued with regard to temporary secondments to Austria.

Generally, all foreigners working in Austria need to receive a salary in line with the applicable local collective bargaining agreement or a higher salary in line with the salary requirements for the specific residence permit.

## **29. What are the maximum periods of stay for individuals on an employment based visa / work permit?**

The total length of stay under the combined residence-work permits for local employment (i.e. Red-White Red Card, Blue Card EU) is 24 months. Afterwards the candidate can switch to a Red-White-Red Card Plus permit, allowing free access to the labour market; with this permit the holder may also be self-employed in Austria.

The total length of stay under the ICT Permit is three years for managers and specialists, or one year for trainees. The permit is only issued for 12 months but can be renewed until the maximum limit. After a total duration of stay in the EU of three years (or one year for

trainees), a four-month cooling off period outside the EU is required.

Temporary secondments based on a work permit and a visa for working purposes can last up to six months. If the temporary secondment lasts longer than 6 months a residence permit must be applied for.

### 30. Does your jurisdiction allow dual nationality?

No, dual nationality is only allowed in very rare circumstances, such as if the national is acquired by *ius sanguinis* or if the Austrian nationality was conferred to the individual due to extra-ordinary achievements in the interest of the Republic of Austria. Generally, in case of the conferral of Austrian citizenship, the previous citizenship must be renounced.

### 31. What are the most positive aspects of your immigration system compared to the

#### rest of the world?

The most relevant residence permits allowing for employed work are combined work and residence permits, which can be applied for in a one-stop-shop approach. Furthermore, the application can be filed through the employer. Dependents of such employees automatically receive a permit with free access to the labour market.

There is a residence permit for “privatiers” enabling the residence in Austria for financially independent persons, who wish to settle in Austria.

The Red-White-Red Card for skilled workers in shortage occupations enables employers to recruit employees from third countries for occupations, in which there are no local candidates available, which reduces the need to carry out labour market testing. The list of shortage occupations is published on a yearly basis and considers regional differences within Austria in the shortage of skilled labour.

## Contributors

**Ewald Oberhammer**  
Partner

[e.oberhammer@oberhammer.co.at](mailto:e.oberhammer@oberhammer.co.at)



**Silvia Siebenstich**  
Attorney at Law

[s.siebenstich@oberhammer.co.at](mailto:s.siebenstich@oberhammer.co.at)

