

Posting of Foreign Workers to Austria

The posting of foreign workers to Austria from an EU Member State has to be notified to the Central Coordination Office (ZKO) of the Federal Ministry for Finance (Application Forms in German and in English available, www.bmf.gv.at).

„EU-Entsendebestätigung“

The law distinguishes between the posting of workers from an EU Member State and those from third countries. In the first case an „EU-Entsendebestätigung“ (a confirmation of the posting) is necessary if the posted worker is a third-country national or a Croatian citizen.

The notification by the posting company to the ZKO is addressed to the responsible office of the AMS where it is verified together with the documents listed in the application form. The purpose of the verification is to comply with Austria's work and wage conditions as well as the orderly employment of the worker in the country from which he is posted (Schedule A1 necessary).

If the prerequisites are met the AMS issues an „EU-Entsendebestätigung“. If they are not met or otherwise incomplete and the application is declined, the applicant has two weeks in which to lodge an appeal.

„EU-Entsendebewilligung“

For the posting of workers in the following job sectors an „EU-Entsendebestätigung“ is not sufficient if the work is carried out by Croatian companies:

- Horticultural services
- Stonemasonry
- Production of structural steelwork and light metal Protective services
- Cleaning of buildings, inventory, and means of transportation
- Home nursing care
- Other social services

In these cases an „Entsendebewilligung“ (Posting Permit) is necessary for short-term employment while a full work permit („Beschäftigungsbewilligung“) is necessary if the posted worker is to be employed in Austria for more than four months. Moreover, a work permit is essential for posted workers to be employed within the construction or ancillary construction trades.

For the posting of workers by a company from outside the European Union the Austrian employer must apply for an „Entsendebewilligung“ (Posting Permit). This is only issued if the employment in Austria does not exceed six months altogether while the individual worker may not be employed longer than four months. Separate application forms may be found under „Download und Formulare“.

In all postings the so-called „Destination Principle“ applies. This means that posted workers are entitled to be remunerated in accordance with Austria's national or collectively agreed wages during the time of their employment in Austria if these wages are more favourable for him or her. The Austrian employer is legally responsible for paying the difference between the foreign and the Austrian wage.

Please note that Austrian law distinguishes between „posting of a worker“ and „employee leasing“! The leasing of workers always requires a permit for Croatian or third-country nationals. This also applies to leasing by companies that are seated in an EU Member State.

Fees

The application fee is € 14,30 plus € 3,90 per enclosure. The charge for issuing an „EU-Entsendebestätigung“ or an „Entsendebewilligung“ is € 6,50.