

## GUIDE ON PROTOCOL AND DIPLOMATIC PRIVILEGES AND IMMUNITIES

Vienna, 2012

Responsible for the content: Wolfgang Spadinger, Head of Unit I.1b (Privileges and Immunities)

## Index

INTRODUCTION	4
GLOSSARY	5
1. THE PROTOCOL DEPARTMENT	6
2. MEMBERS OF MISSIONS AND THEIR ARRIVAL	8
2.1. AGRÉMENT	8
2.2. ARRIVAL OF HEADS OF DIPLOMATIC MISSIONS AND PRESENTATION OF CREDENTIALS	_
2.3. EXEQUATUR PROCEDURE FOR CONSULS AND RELATED QUESTIONS	
2.3.1. Exequatur	9
2.3.2. Honorary Consuls	
2.4. MILITARY ATTACHÉS	
2.5. ARRIVAL OF OTHER STAFF AND FAMILY MEMBERS	
2.5.1. Notification	
2.5.2. Family Members	
2.5.3. Locally Employed Staff	
2.5.4. Private Domestic Stail (PDS)	
2.7. IDENTITY CARDS	
2.8. APPOINTMENT OF A CHARGÉ D'AFFAIRES AD INTERIM	
2.9. DEPARTURE OF HEAD OF MISSIONS AND OTHER STAFF MEMBERS	
3. DIPLOMATIC PRIVILEGES	
3.1. RELIEF FROM VALUE ADDED TAX (VAT) AND CUSTOMS DUTY	
3.1.1. Purchase of Goods and Services in Austria	
3.1.2. Purchase of Goods and Services in Other EU Member States	
3.1.3. Imports of Goods and Services from Non-EU Member States	
3.1.4. Import of personal effects and household goods	
3.2.1. Purchase of Motor Vehicles in Austria	
3.2.2. Purchase of Motor Vehicles in EU Member States Other than Austria	
3.2.3. Imports of Motor Vehicles from Non-EU Member States	
3.2.4. Waiting Period and repayment of VAT, standard consumption levy and cu	
duties	
3.3. OTHER TAXES AND FEES.	
3.3.1. Mineral Oil Tax	
3.3.2. Hunting and Fisheries Fee	
3.3.3. Insurance Tax and Engine-related Insurance Tax	
3.3.4. TV and Radio Fee	
3.3.6. Tax on Domestic Pets	
3.4. Purchase of Real Estate	
3.4.1. Authorisation Procedure	
3.4.2. Land Transfer Tax	
3.4.3. Registration Fee for the Land Register	
3.4.4. Real Estate Tax	34
3.4.5. Contractual Fee	34
4. VIENNA AIRPORT FACILITIES	36
4.1. AIRPORT VIP FACILITIES	36
4.2. ACCESS TO THE AIRPORT	
4.3. PARKING AT THE AIRPORT	37
5. TRAFFIC-RELATED QUESTIONS	20
5.1. REGISTRATION OF VEHICLES AND NUMBER PLATES	39

5.2. DRIVING LICENCES	
5.3. CD Parking Zones	
5.4. RESTRICTED RESIDENTIAL PARKING ZONES IN VIENNA	43
5.5. VIOLATIONS OF TRAFFIC REGULATIONS	
5.6. ANNUAL VEHICLE INSPECTION	
5.7. TOLL FOR THE USE OF MOTORWAYS	45
6. SECURITY, TELECOMMUNICATIONS AND ELECTORAL PROCEEDINGS	46
6.1. PROTECTION OF PREMISES AND PERSONS	46
6.2. ASSEMBLIES AND DEMONSTRATIONS	48
6.3. OFFICIAL FUNCTIONS HOSTED BY DIPLOMATIC MISSIONS AND CAREER CONSULATES	49
6.4. FIREARMS	49
6.4.1. High-ranking Visits	
6.4.2. Firearm Licences for Staff of Diplomatic missions and Career Consulates	
6.5. TELECOMMUNICATIONS	
6.6. ELECTORAL PROCEEDINGS	51
A N N E X I	52
CATEGORIES OF ID CARDS	52
A N N E X II	54
EMPLOYMENT OF PRIVATE DOMESTIC STAFF (PDS)	54
A N N E X III	63
Public Holidays in Austria	63

Introduction

The Protocol Department of the Federal Ministry for European and International Affairs

of the Republic of Austria (MFA - web) welcomes the Diplomatic Community in Austria

and has the pleasure to present an updated version of the handbook on Protocol

Matters and Diplomatic Privileges and Immunities.

This handbook intends to provide information on the arrival and residence in Austria of

the members of diplomatic and consular Missions and of the staff members of

Missions in Austria. It contains guidance on the application of diplomatic privileges and

immunities and deals with various issues concerning the members of the diplomatic

community in Austria. The privileges and immunities of foreign diplomatic and

consular missions and of their staff and family members are set out by the Vienna

Convention on Diplomatic Relations (VCDR, 1961) and by the Vienna Convention on

Consular Relations (VCCR 1963). In some areas of taxation privileges are granted to

the diplomatic community by Austrian legislation on a unilateral basis on the condition

of reciprocity.

The information contained in this handbook is non-binding guidance and subject to

change without notice. Updated versions will be published online on a regular basis.

Therefore, please consult the MFA website for the current version.

We hope that this information may contribute to a good and successful stay in Austria

The Chief of Protocol

June 2012

4

## **Glossary**

ARBÖ An Austrian automobile association

ASFINAG Austrian Motorway Maintanence Company

AuslBG Foreign Worker's Act

BVT Federal Agency for State Protection and Counterterrorism

DSG Data protection Act (Datenschutzgesetz)

EEA European Economic Area (EU+EFTA)

EEC European Economic Community

EC European Community

EU European Union

GIS TV fee collection agency (Gebühren Info Service)

HoM Head of Mission

LVT Provincial Agency for State Protection and Counterterrorism

MA Magistratsabteilung, department of the administration of the City (=Province) of

Vienna

MFA the "Foreign Ministry", the official name in Austria is "Federal Ministry for

European and International Affairs"

NoVA Standard consumption levy (Normverbrauchsabgabe), a tax to be paid on the

first registration of a car in Austria, depending on current value and exhaust

level

ÖAMTC biggest automobile association in Austria

U41 Tax exemption form

U43 Tax exemption form VAT

U45 Tax exemption form NoVA+VAT (motor vehicles)

U46 Tax exemption form rent

U100 Tax exemption form import from other EU country

VAT Value Added Tax (Mehrwertsteuer, Umsatzsteuer)

VCDR Vienna Convention on Diplomatic Relations

VCCR Vienna Convention on Consular Relations

WGKK Vienna Provincial Health Insurance Fund (Wiener Gebietskrankenkasse)

ZBefr1 Customs duty exemption form privileged persons

ZBefr2 Customs duty exemption form general import

## 1. The Protocol Department

The Protocol Department of the MFA is divided into one general division and three subdivisions.

The general division of the Protocol Department (division I.1) deals with:

- Organisation of state, official or working visits to Austria by foreign heads of state and ministers for foreign affairs. (Official Visits of Prime Ministers are organised by the Protocol Department of the Federal Chancery; Organisation and co-ordination of official functions hosted by the Federal President and the Minister for European and International Affairs.
- All other questions regarding State Ceremonial and Protocol including the granting of the agrément to foreign ambassadors and the presentation of their credentials.

Subdivision I.1a deals with decorations and event logistics.

Subdivision I.1b deals with legal questions, in particular privileges and immunities. This includes:

- Matters concerning foreign diplomatic missions, consular posts and International Organisations in Austria, including accreditation and registration of members of foreign diplomatic missions and career consulates, staff of International Organisations as well as their family and household members.
- Monitoring the application of the Vienna Conventions on diplomatic and consular relations and of headquarters agreements with International Organisations relating to privileges and immunities and of the relevant Austrian legislation and administrative procedures in this field.
  - Subdivision I.1b also deals with tax and customs procedures, visa applications by the diplomatic community and International Organizations and questions related to immunity from civil, administrative and criminal jurisdiction or prosecution.
- Co-ordination of security arrangements for foreign diplomatic missions and career consulates as well as International Organizations.

Subdivision I.1c is in charge of the technical preparations for official functions and ceremonies.

For contact details please refer to the Ministry's website.

## 2. Members of Missions and their arrival

## 2.1. Agrément

In accordance with art. 4 of the VCDR the sending State must request that the agrément of the receiving State for the person it proposes to appoint as head of the diplomatic Mission to that State. Therefore the designate Head of Mission enters the receiving State after having been granted the agrément.

In the event that the head of the diplomatic mission is to be accredited to more than one State and is to reside outside Austria, it is customary to apply for the agrément of Austria only after the agrément of the country in which he/she will reside has been given. As soon as Austria has granted the agrément, the diplomatic mission may communicate to the Foreign Ministry by way of note verbale the date of arrival of the designated Head of Mission in Austria. The Protocol Department will then take the necessary steps for the arrival and the presentation of his/her credentials to the Austrian Head of State.

#### 2.2. Arrival of Heads of Diplomatic Missions and presentation of credentials

Upon his/her arrival at the airport, the incoming Head of Mission is welcomed by a high-ranking Protocol Officer during working hours. The Protocol Department will arrange a VIP lounge at the airport (without catering) upon receipt of prior notice of his/her arrival.

The day following the arrival, the Protocol Department arranges the incoming Head of Mission's visit to the Secretary General for Foreign Affairs for the presentation of the copy of the credentials ("copie d'usage") and a copy of the letters of recall of his/her predecessor. The Head of Mission will also meet the Chief of Protocol who will brief him/her in detail on the ceremonial aspects of the presentation of his/her credentials. A date for the presentation of the credentials to the Federal President of the Republic of Austria will be arranged. This date, which is determined by the time and date of arrival in the receiving State – also determines the order of the precedence among heads of diplomatic missions. It is customary, that about six Ambassadors present their credentials on the same day.

At the ceremony for presentation of credentials, the Ambassador and the accompanying members of his mission wear dark suits (preferably black), uniform or national costume. Female Ambassadors or diplomats wear dark day dress or national costume.

#### 2.3. Exequatur procedure for Consuls and related questions

## 2.3.1. Exequatur

In accordance with art. 4 of the VCCR, "the receiving State's consent is required for the establishment of a consular post and the district for which it will be responsible". For both career and honorary consuls, the exequatur should be requested by the diplomatic mission of the sending State by means of a note verbale specifying the name and curriculum vitae of the future consul. Subject to a positive response by the Protocol Department of the MFA, the commission letter (the formal appointment) has to be submitted. The commission letter will then be returned with the exequatur attached to it. Heads of consular sections of embassies who at the same time are members of the diplomatic staff of the embassy (i.e. professional Consuls or Consuls General in Vienna) do not require the exequatur.

#### 2.3.2. Honorary Consuls

For the establishment of honorary consulates in Austria, the level of existing or expected political, economic, social or cultural relations will be taken into account. If the honorary consulate is the only representation of that State, it can only be established in Vienna. If the sending State already has a diplomatic mission or career consulate in Vienna, honorary consulates may be established in any Austrian provincial capital.

The title of Honorary Consul General can only be considered if a honorary consul has already worked as for a number of years and if his consular district covers at least five provinces. In specific cases a honorary vice consul may be appointed.

Candidates for the position of a honorary consul must have a clean criminal record, agree to a security check and provide his/her private address as well as the address where he/she plans to establish the office of the consulate.

In order to avoid conflicts of interest, active employees of the Austrian public administration or persons who hold a political office in the Austrian public are not eligible as honorary consul. Equally, multiple honorary consular representations are not accepted. Honorary consuls should hold either Austrian nationality or the nationality of the State they represent. Honorary Consuls who do not have Austrian nationality, must hold a long-term residence permit in Austria and must have resided in Austria for more than two years.

Honorary Consuls must have their residence and the focus of their professional activities in the province in which the honorary consulate is to be established. He/she must be in a position to arrange for an appropriate office in the capital of the province and maintain regular office hours to take care of requests from citizens of the country he/she represents as well as to communicate with Austrian local and provincial authorities.

## List of Consulates in Austria

## 2.4. Military Attachés

In accordance with art. 7 VCDR, Austria requires the names and the curricula vitae of all military attachés to be submitted for approval. It is assumed that the designate military attaché enters the receiving State only after having been given the approval.

## 2.5. Arrival of Other Staff and Family Members

#### 2.5.1. Notification

In accordance with art. 10 VCDR and art. 24 VCCR, diplomatic missions and career consulates have to notify the Foreign Ministry by note verbale of the beginning and end of the tour of duty of all members of the mission enjoying privileges and immunities.

The note verbale shall contain:

- the staff member's name
- his/her function and diplomatic rank

- the date of appointment or arrival
- if applicable, the name of the person who is being replaced
- if applicable, the names of family members

The names of Heads of Mission, members of the diplomatic staff and career consuls (as well as honorary consuls) are included in the diplomatic and consular list of the Foreign Ministry. Usually, the <u>application</u> for the respective ID cards is attached to the notification.

## 2.5.2. Family Members

The arrival and departure of family members of members of a diplomatic mission or career consulate must also be notified to the Foreign Ministry. Spouses and children of members of diplomatic missions or career consulates forming part of the respective household are considered family members; the same applies to same-sex domestic partners. All children under the age of 18 are accepted as family members. Children under the age of 26 are considered family members only, if they

- live in the same household,
- do not work,
- are financially dependent on the member of the diplomatic mission or career consulate and
- are not married.

Students at a recognised establishment in Austria are requested to produce confirmation of university attendance. Those studying at an institution outside of Austria are not recognised as household members. Parents and parents-in-law may also be accepted as forming part of the household, provided that they do not engage in gainful employment.

Access to the labour market is regulated by the general provisions Aliens' Employment Act (<u>Ausländerbeschäftigungsgesetz – AuslBG</u>). No preferential access to labour market applies to family members of foreign Mission staff.

Family members who themselves are citizens of the European Union (except Romania and Bulgaria) or the EEA are exempted from the application of the AuslBG

and are thus allowed to take up employment in Austria without a work permit. This also applies to family members of EU-citizens.

Family members who are Romanian or Bulgarian citizens will gain unlimited access to the Austrian labour market by the end of 2013. Family members of citizens of all other states also have to undergo the normal admission procedure with the labour market service, unless bilateral agreements set out different specifications.

More information on labour market access and the labour market service at <a href="https://www.ams.at/help.gv.at-Working">www.ams.at/help.gv.at-Working</a>

wien.at - Living & Working

Missions have to notify to the MFA all cases of family members of their staff taking up employment. Working family members do not enjoy any privileges and immunities regarding all aspects of such employment. The restricted extent of the privileges and immunities will be stated on the back of their ID card.

Missions are obliged to notify to the MFA any circumstance which affects the status of their staff members and their dependents such as marriage, birth of children, or separation and divorce.

## 2.5.3. Locally Employed Staff

Locally employed staff are Austrian citizens or permanent residents employed by a foreign diplomatic mission or career consulate or by a staff member. The employment of these persons must be based on an employment contract that has to comply with the minimum standards of Austrian labour and social laws (art. 33 and 37 in conjunction with art. 38 and 41 VCDR and art. 48 in conjunction with art. 71 VCCR).

Locally employed staff members who are EU citizens do not require any work or residence permit in order to take up employment at a diplomatic mission or career consulate in Austria, but they employment has to be notified to the MFA. Locally employed staff members from non-EU Member States will upon application receive a residence permit ("Vom Ausländerbeschäftigungsgesetz ausgenommener unselbständiger Erwerb"). Registration and residence permits are issued by the

competent provincial authorities, in Vienna: City Hall, department 35 (Magistrat Wien MA 35)

More information on residence permits <u>help.gv.at - Aufenthalt und Visum</u> or <u>help.gv.at - Residence</u> wien.at - Residence

All locally employed staff are personally responsible for the correct declaration of their income to the Austrian tax authorities and social security funds and have to pay income tax and social security contributions accordingly. Salaries must therefore include all appropriate portions (i.e. the employer's and employee's portions) for the contributions to the Austrian social security and pension fund. Employees have to register with the competent social insurance fund (in Vienna: Wiener Gebietskrankenkasse, WGKK) within seven days after taking up employment.

More information on tax procedures, working regulations, minimum standards and wages is available at:

Federal Ministry of Finance

Austrian Social Security

Federal Ministry of Labour, Social Affairs and Consumer Protection

The Chamber of Labour Vienna (Arbeiterkammer Wien)

Whether or not the locally employed person is subject to the Austrian social security system (compulsory coverage) depends on his/her nationality:

- Austrian citizens and Nationals of an EU/EEA Member State other than the sending State: subject to the Austrian social security system
- Nationals of an EU/EEA Member State being the sending State: subject to Austrian social security system with the possibility to opt for the social security system of the sending State: subject to Austrian social security system
- Nationals of a non EU/EEA Member State with which a bilateral social security treaty exists: subject to Austrian social security system (with or without the possibility to opt for the social security system of the sending State according to the bilateral social security agreement)

Within the EU/EEA, EC Regulation 1408/71 is applicable.

More information on questions of social insurance regulations is available at the Vienna Provincial Social Insurance Fund (<u>Wiener Gebietskrankenkasse</u>, department "Selbstversicherung") or at the <u>Federal Ministry of Labour, Social Affairs and Consumer Protection</u> (department for questions of international social security); the Ministry's website also offers more information on <u>bilateral social security</u> agreements

## 2.5.4. Private Domestic Staff (PDS)

If the demand for domestic staff cannot be satisfied on the Austrian labour market foreign private domestic staff can be brought into Austria under the following conditions:

- the employer is a diplomats or career consul
- only one person per household will be accepted except for heads of diplomatic missions or career consulates
- Austrian social and labour laws are strictly applicable to the employment and in any legal disputes arising from labour contracts with private domestic staff

Prior to their entry into Austria, a note verbal for the intended employment of PDS is required together with the following documentation:

- 1. A copy of the contract of employment (Dienstschein) signed by both the employer and the future employee and certified by the diplomatic mission or career consulate; the contract must state the amount of salary and must bear reference to the minimum standards of the relevant Austrian labour laws (a sample contract is available from the Foreign Ministry). The minimum salary for domestic staff is renegotiated periodically for each Austrian province. In Vienna as of January 2011 a sum of 1,040 Euro paid 15 times a year for a full time employment is considered the legal minimum.
- 2. A copy of an insurance contract covering all health and accident risks (this insurance must be valid in Austria and all Schengen countries for the duration of the visa, and provide coverage of at least 30,000 Euro). A copy of a travel insurance contract for the future private domestic staff member
- 3. A copy of the rental agreement and a plan of the employer's residence. The plan should indicate where the future employee's room is located. This room

needs to be at the sole disposition of the private domestic worker and needs to have a window. To ensure the workers privacy the room needs to have a lock and also to feature a lockable cabinet or cupboard.

- 4. An affidavit (Verpflichtungserklärung) from the employer who, inter alia, has to guarantee coverage of the cost of a possible repatriation (a sample affidavit is available from the Foreign Ministry).
- 5. A copy of the relevant passport pages of the future private domestic staff member.

If all conditions are met, future private domestic staff members (with the exception of EU citizens) may apply for a Schengen type D visa at the Austrian Mission in his/her country of residence. (Type D visas for Austria can only be issued by Austrian missions and not by those of other Schengen States representing Austria in visa matters). Persons who have entered Austria on the basis of other means (e.g. a tourist visa) or have entered illegally cannot be granted an ID card issued by the Foreign Ministry as PDS and are therefore not accepted.

Upon his/her arrival in Austria, the PDS will then be issued an ID card by the Foreign Ministry upon application. After presenting a confirmation of the registration at the consular department of his/her embassy, and proof of having opened a bank account (by presenting a bank/ATM card). The salary has to be paid into this account. Nobody else than the employee must be authorised to withdraw money from this account. The bank statements should be kept as proof of salary payment. The PDS member must personally pick up the ID card at the Protocol Department. The private domestic staff is supposed to pick up the ID alone, without being accompanied by anybody. Within the limits of the employment contract, the private domestic staff member is exempt from any other work or residence permit requirements.

According to art. 33 VCDR, private domestic staff can also be exempt from the social security provisions of the receiving State only if he/she is subject to the social security provisions of the sending State or a third State. In all other cases private domestic staff are subject to the Austrian social security provisions. In this case, private

domestic staff members are responsible for paying social security contributions to the social security fund. Salaries must therefore include all appropriate portions (i.e. the employer's and employee's portions) for the contributions to the Austrian social security and pension funds. Employees have to register with the competent insurance fund (in Vienna: Wiener Gebietskrankenkasse, WGKK) within seven days after taking up employment.

Upon termination of the contract the employer has to ensure that the private domestic staff member gives back the ID card and returns to his/her home country or leaves the Schengen area, unless he/she is granted a residence permit for Austria or another Schengen State. A replacement will only be permitted if this obligation has been met.

More information on working regulations, minimum standards and wages is available from the Chamber of Labour Vienna (<u>Arbeiterkammer Wien</u>). Information on minimum wages is available from the <u>Federal Ministry of Labour, Social Affairs and Consumer Protection</u>.

#### 2.6. Visas

Prospective Mission staff and their family members, who are nationals of countries with a visa obligation for Austria are requested to file an application for a Schengen type D visa with the Austrian Embassy or Consulate competent in their country of residence at least two weeks before the intended date of travel to Austria. Missions of other Schengen countries cannot issue type D visas for Austria.

## 2.7. Identity Cards

Upon their arrival, Mission staff and their family members must be formally notified to the MFA by means of a note verbale. Then they apply to the Protocol Department for the issuance of ID cards, (Legitimationskarten). On their request, prospective heads of foreign diplomatic missions (and family members) receive a provisional ID card immediately after the presentation of the copie d'usage. Formal registration with the Foreign Ministry and issuance of definitive ID cards take place after the Head of the diplomatic mission has presented his/her credentials to the Federal President.

Application forms for ID cards:

<u>Legitimationskartenantragsformular Hauptberechtigte</u> (for members of diplomatic missions and consular posts and domestic staff members) and <u>Legitimationskartenantragsformular Nebenberechtigte</u> (for family members).

The application forms must be completed and certified by the Mission. Photographs have to fulfil EU passport picture standards.

ID cards contain information on the holder's identity, citizenship and function as well as on the validity of the card. ID cards are issued for a minimum of three months and a maximum of two years; they may be renewed. To this end, a new application is necessary. It is recommended to apply timely in order to avoid gaps between ID card validities. As an exception, ID cards for private domestic staff have to be renewed annually.

ID cards are issued in the following categories (see also specimen in Annex I)

Red	Persons entitled to diplomatic privileges and immunities in Austria
Orange	Career consuls
Yellow	Honorary consular officers
Green	Officials of International Organisations
Blue	Administrative and technical staff (ATS) of bilateral diplomatic missions
	and career consulates
Brown	Service staff employed by a diplomatic mission or career consulate
Grey	Private domestic staff employed by a diplomat or career consul

The MFA accepts any changes in status only in exceptional cases and if specific explanation is provided.

Only for the above-mentioned categories of ID cards are issued. As a general rule, family members of cardholders of all categories but grey receive cards in the same category as the staff member.

Locally employed staff, family members who are Austrian nationals or permanent residents as well as family members of private domestic staff do not enjoy privileges and immunities and thus are not entitled to hold ID cards. The term locally employed staff comprises all persons who are not dispatched staff members, including persons who have already lived in Austria before taking up employment or who are employed

by the mission but do not belong to the administration of the sending State. Personnel enjoying privileges and immunities can only be those who are members of the administration of the sending State. Typically, they hold the nationality of the sending State, have been sent to Austria by the sending State for a limited time period (rotation scheme) and normally hold a diplomatic or service passport.

Teachers or employees of foreign or international schools are not eligible to receive ID cards.

The ID cards issued by the Foreign Ministry serve as a personal identification document and allow the holder to freely enter, stay in and leave Austrian territory. Holders of ID cards are thus exempt from the requirement to apply for any other kind of residence permit or registration in Austria. For international travel it is necessary to carry the passport together with the ID card.

In case of doubt concerning the validity and the degree of immunity which is applicable, the MFA can be reached at 0501150-3462 or 4418 (outside office hours: 0501150-4411).

At the end of the tour of duty all ID cards have to be returned to the MFA.

## 2.8. Appointment of a Chargé d'Affaires ad interim

If the head of the diplomatic mission departs from Austria or is temporarily unable to exercise his/her function, a Chargé d'Affaires ad interim shall be appointed and the Foreign Ministry accordingly notified. In accordance with art. 19 VCDR, this appointment shall be done either by the Head of Mission or, in the event that he/she is unable to do so, by the Ministry for Foreign Affairs of the sending state by note verbale. It should be noted that a Chargé d'Affaires ad interim may not designate another Chargé d'Affaires ad interim.

If no member of the diplomatic staff is present in Austria, a member of the administrative and technical staff may be designated by the head of the diplomatic Mission or the Foreign Ministry of the sending State as being responsible for the

current administrative affairs of the diplomatic mission, but only in exceptional cases and with the consent of the Protocol Department of the MFA.

#### 2.9. Departure of Head of Missions and other staff members

At the end of the tour of duty, the Protocol Department should be informed as early as possible of the departure of the Head of Mission in order to organise the farewell procedures. If the Head of Mission departs by air, the Protocol Department will arrange a VIP lounge (without catering). Within working hours a high-ranking Protocol officer will see off the departing Head of Mission at the airport.

Heads of mission will be formally bed farewell by the Secretary General of the MFA. If the Head of Mission was on duty for more than two years, a farewell reception is hosted by the Secretary General at the MFA. The Protocol department does, however, not arrange any other farewell visits of the departing Head of Mission.

Departures of staff members have to be notified to the MFA. Immediately after the departure of the respective staff, Missions have to return the IDs (including those to family members). Equally, diplomatic license plates have to be returned.

## 3. Diplomatic Privileges

## 3.1. Relief from Value Added Tax (VAT) and Customs Duty

#### 3.1.1. Purchase of Goods and Services in Austria

The current exemption and refund of VAT on goods and services purchased in Austria is based on courtesy only, since the VCDR does not foresee exemption from indirect taxes (art. 34 a VCDR). The conditions and procedures for VAT refund or exemption are determined in the VAT Act (Umsatzsteuergesetz) and the International Tax Refund Act (Internationales Steuervergütungsgesetz). According to this law, foreign diplomatic missions, career consulates (not honorary consulates) and their members of diplomatic or career consular rank, but not their family members are exempt from VAT or entitled to VAT refund.

VAT refund or exemption is always subject to reciprocity. The MFA determines whether such reciprocity exists. A reciprocal partial VAT relief for individual categories of goods or services is not possible.

All claim forms for VAT refund or exemption are available on the website of the Federal Ministry of Finance.

In detail, the following conditions and procedures apply:

#### **VAT Refund:**

The refund period is the calendar quarter (January to March, April to June, July to September, and October to December) and a separate claim is required for every refund period. Claims can be filed at the earliest on the day following the end of the respective calendar quarter. All application forms for VAT refund have to be certified by the diplomatic mission or career consulate. Claims have to be filed in a single original directly with the Ministry of Finance (BMF, Steuer und Zollkoordination, Fachbereich "Internationales Steuerrecht", Vordere Zollamtsstrasse 7, 1030 Wien). The MFA does provide general information and may mediate in cases of disagreement between a person entitled to refund and the tax authorities.

Invoices are not attached to the refund claim but must be retained by the applicant. Applicants have to make sure that invoices are issued correctly at the time of purchase and fulfil the following requirements:

- The invoice has to be issued by an Austrian enterprise within the respective calendar quarter.
- The name of the beneficiary (not a family member or the like) must appear on the invoice as the purchaser.
- The date displayed on the invoice must be within the requested calendar quarter.
- The amount of each single invoice (including VAT) has to be at least 73
   Euro.
- The amount of VAT must be indicated separately (in numbers) on the invoice.
- The tax has to borne by the beneficiary and not by a third party (e.g. insurance payments increase of damage).
- After the purchase, the invoice must be kept together with the record of payment. The beneficiary must be able to submit the original invoice to the Austrian authorities upon request. If the sending State requests the submission of invoices (e.g. for purchases by a Mission), copies must be made and kept. If the claimant cannot meet a request to submit invoices, no refund will be made.

The following annual ceilings apply to the refund of VAT, electricity tax and natural gas tax to diplomats or career consuls:

VAT	2,900 Euro		
Electricity	180		
tax	Euro	Or <b>360 Euro</b> (if the claim refers only to one tax e.g. because the	
Natural	180	dwelling is supplied with just one source of energy).	
gas tax	Euro		

There are no ceilings to the annual amount of VAT, electricity tax and natural gas tax refundable for official use of diplomatic missions or career consulates. Only the size of

the diplomatic Missions or Career Consulates may be taken into account in determining whether a particular purchase is reasonable.

Within two years from the date of purchase (or longer depending on reciprocity), any transfer of goods bought tax-free (exemption or refund) triggers an obligation to repay the respective VAT to the Federal Ministry of Finance.

## **VAT Lump Sum Refund:**

Instead of applying for a VAT refund based on distinct invoices, diplomats and career consuls (but not the Missions themselves) may, as an alternative, apply for a lump-sum refund for VAT, electricity tax and natural gas tax.

Each year, the beneficiary must decide whether he/she wishes to opt for a lump-sum refund or an invoice-based refund. He/she must indicate this decision on the claim form when making the first claim in the respective calendar year.

This decision is binding for the entire calendar year and cannot be reversed.

All the same, lump-sum refund claims must be filed for each calendar quarter:

A lump-sum refund can only be claimed jointly for VAT, electricity tax and natural gas tax.

The following lump-sum amounts are refunded:

	For every full or commenced month of entitlement:	For the calendar quarter:	For the calendar year:
(VAT plus electricity tax plus natural gas tax) <b>Total</b> :	110 Euro	330 Euro	1,320 Euro

Access to a lump-sum refund does not affect the privilege of tax-exempt purchase of a motor vehicle and tax-exempt rent.

#### **VAT Exemptions:**

VAT payment exemption applies namely to rents and motor vehicles. In these cases such VAT does not appear on the invoice and is not paid. In all cases of VAT exemption a subsequent VAT refund is not possible.

#### Rent:

Diplomatic missions and career consulates are exempt from VAT on the rent of premises which serve official purposes. Each diplomat and career consul is exempt from VAT on the rent for his/her home (principle residence). If the diplomatic mission or career consulate rents a home for its members, the name of the tenant has to be indicated.

When applying for exemption, the tenant has to complete <u>claim form U46</u>. The completed form has to be certified by the diplomatic mission or career consulate and filed with the MFA which issues a confirmation certificate. Once in possession of the original certificate, landlords may subsequently invoice rent payments without VAT.

Real Estate Broker's fees can also be tax exempt in the same way: when completing the claim form U46, the applicant has to click on the button "Ausfertigung für Vermittler (Makler)". The name and company data of the real estate broker can now be indicated in the respective field.

Certificates for the official premises of the diplomatic mission or career consulate (chancery and residence of the Head of mission) are issued for a maximum period of five years. Certificates for the residence of diplomats or career consuls are issued for the period of validity of their ID cards. After expiration and in the event of change of residence, the beneficiary has to apply for a new certificate. The old certificate remains with the landlord.

The above mentioned VAT exemption applies also to other services included in the lease contract with and paid directly to the landlord (e.g. a garage rent or heating supplied by the lessor). If the contracting party for this service is a third party who is paid directly, no exemption applies: VAT is then refunded by way of the refund

procedure (within the framework of the maximum refundable amount) on the basis of the invoices.

#### Motor vehicles:

For tax exemption on the purchase of motor vehicles, see 3.2.1 Purchase of Motor Vehicles in Austria.

#### Health care services:

The services of public hospitals, physicians, certain therapists, dentists, dental technicians and patient transport are generally tax exempt. Hospitalisations in private hospitals, however, are not VAT exempt. VAT is then refunded by way of the refund procedure (within the framework of the maximum refundable amount) on the basis of the invoices.

Please note in this context that the employer of a domestic staff member has to sign an affidavit to cover the costs of medical care which might arise to the Republic of Austria. (see Annex)

#### 3.1.2. Purchase of Goods and Services in Other EU Member States

VAT exemption for goods and services in other EU Member States can be claimed under the same conditions as under the Austrian refund procedure (see 3.1.1). As far as foreign VAT is concerned, in this case the MFA certifies that the Austrian VAT refund requirements are fulfilled.

Applicants can claim an annual maximum VAT exemption of 2,900 Euro for goods and services acquired for personal use in other EU Member States. This does not affect the possibility of claiming refund of the same amount of Austrian VAT. For goods and services that are destined for the official use of diplomatic missions or career consulates no limits apply.

Applications are submitted to the MFA by using the <u>claim form U100</u> ("Nachweis der Befreiung von der Umsatzsteuer und den Verbrauchssteuern", Article 15 No. 10 of

directive 77/388/EEC"). The invoice or a written order for the goods or services have to be attached. If the conditions are met, the MFA will issue a certificate.

Together with this certificate, the invoices and the completed form U100 have to be sent to the authorities of the EU Member State where the good or the service was purchased. The modalities of the foreign VAT refund are determined by the law of the respective EU Member State.

## 3.1.3. Imports of Goods and Services from Non-EU Member States

Applicants are requested to use the import privilege declaration form <u>ZBefr 1</u> or <u>ZBefr1-E in English</u>. The import privilege declaration form has to be signed by the applicant and certified by the diplomatic mission or career consulate. It is necessary to describe the goods in detail. The complete customs declaration form has to be presented to the MFA for certification.

For customs clearance, the authenticated customs declaration form has to be presented to the customs office (by the applicant, the forwarding agent etc.) together with an invoice, order form or alike. The customs declaration form can be submitted before consignment or even before purchase of the goods.

There may be additional specific restrictions on the import of meat and milk products brought into the EU from third countries. It is recommended to check <u>current</u> <u>restrictions</u> that apply.

For the transfer of duty-free imports the same restrictions as for VAT-free purchases apply.

Claim forms for the import of goods and services from non-EU Member States are available from the <u>Ministry of Finance's Forms Database</u> (search word "ZBefr"), choose "ZBefr 1-E" and "ZBefr 1-eE" for declaration and explanations in English, or "ZBefr 2" for the general customs exemption (in German).

More information is available from the Customs Central Information Office (9500 Villach, Ackerweg 19, Tel. 01 51433 564053, e-mail zollinfo@bmf.gv.at).

## 3.1.4. Import of personal effects and household goods

Diplomats and career consuls as well as members of the technical-administrative staff of the mission (the latter within six months after taking up assignment) are entitled to the duty free import of personal effects and household goods and up to two motor vehicles as diplomatic and consular goods. In this case, the application procedure set out in 3.1.3, has to be followed.

As an alternative, holders of privileges and immunities, as well as non privileged persons coming from a third country may benefit from a general customs exemption for their personal effects and household goods and up to two motor vehicles if they:

- can prove to have been living abroad for a minimum of 12 months
- possess the goods in question for at least 6 months

Applicants have to use the customs declaration <u>claim form ZBefr 2</u>, claims have to be filed with the customs office.

#### 3.2. Motor Vehicles

Diplomatic missions and career consulates (but not honorary consulates) as well as diplomats and career consuls are entitled to tax or duty free acquisition of motor vehicles. There are no limits for diplomatic missions and career consulates, but the number of tax-free motor vehicles should be reasonable in view of the size of the Diplomatic Mission or Consulate.

Diplomats and career consuls, but not their family members are, on the basis of reciprocity, entitled to privileges on a total of three motor vehicles:

- by import of motor vehicles as part of the personal effects and household goods
- by tax-free purchase of one motor vehicle in Austria every two years
- by import of two tax-exempt motor vehicles to Austria; these might be purchases in an EU Member State (VAT exempt) or imports from a non-EU Member State (duty-free) every two years

Members of the technical and administrative staff of diplomatic missions and career consulates enjoy exemption from VAT and standard consumption levy/NoVA on

vehicles purchased abroad and claimed within a period of six months from their arrival.

All privileges mentioned and the maximum number of cars that may be acquired tax exempt or duty free are subject to reciprocity. If in doubt, please check with the MFA on specific reciprocities.

The term "motor vehicle" means cars, caravans and motorcycles. Trailers, airplanes and boats are not considered motor vehicles. For a full definition of the term "motor vehicle" please see <u>KFG 1967</u>.

#### 3.2.1. Purchase of Motor Vehicles in Austria

Diplomats and career consuls are entitled to purchase one motor vehicle tax exempt in Austria every two years, which means the seller does invoice neither VAT nor the standard consumption levy/NoVA (Normverbrauchsabgabe - a tax on the first registration of a vehicle in Austria). The following procedure applies:

- For the tax-exempt purchase of a motor vehicle, the buyer has to fill in the <u>claim</u> form U 45 (two pages in the print version). The completed forms have to be certified by the diplomatic mission or career consulate and then filed with the MFA together with a purchase contract or binding offer. The MFA certifies the U 45 forms, which are then presented to the car dealer and the registration authority.
- The certificate for the enterprise is handed over to the Austrian car dealer. On the basis of this certificate, the sale is exempt from VAT and the NoVA.
- The certificate for the registration authority is handed over to the registration authority, which enters a blocking note for the waiting period in the registration certificate.

Upon purchase of a used vehicle no VAT is levied if the vehicle is older than six months or driven more than six thousand kilometres and no NoVA is levied, if the vehicle has been registered in Austria before by a non-privileged holder.

If a motor vehicle is not bought but leased the tax exemption applies only to the NoVA. VAT is imposed on the respective lease payments and then refunded by way of the regular VAT refund procedure (see 3.1.1) on the basis of the invoices. This also applies to rental cars.

#### 3.2.2. Purchase of Motor Vehicles in EU Member States Other than Austria

Diplomats and career consuls are entitled to purchase two motor vehicles tax exempt in another EU Member State (or import them tax- and duty-free from a non-EU Member State), every two years. Members of the technical administrative staff are entitled to purchase two motor vehicles tax exempt in another EU Member State (or import them tax- and duty-free from a non-EU Member State, within a period of six months from their arrival.

With regard to VAT and NoVA on motor vehicles purchased in EU Member States other than Austria, including used vehicles, the exemption for diplomats and career consuls is processed in using the <u>claim form U 100</u> together with an invoice or purchase contract (see 3.1.2). The claim form U 100 certified by the MFA has to be presented to the registration authority, which enters a blocking note for the waiting period into the motor vehicles' data base (see 3.2.4. Restitution of VAT and Waiting Period).

#### 3.2.3. Imports of Motor Vehicles from Non-EU Member States

Diplomats and career consuls are entitled to import two cars tax- and duty-free from a non EU Member State (or purchase them tax exempt in another EU Member State) every two years, subject to reciprocity.

Applicants are requested to use the import privilege declaration form <u>ZBefr 1</u> or <u>ZBefr1-E in English</u>. The import privilege declaration form has to be signed by the applicant and certified by the diplomatic mission or career consulate.

The completed customs declaration form has to be presented first to the MFA for certification, and then to the customs office (by the applicant, the forwarding agent etc.) together with an invoice, order form or alike. The customs office then issues a

waiver (Grundlagenbescheid) which is either handed over to the applicant or directly to the moving company.

The waiver has also to be presented to the tax office, which enters a blocking note into the motor vehicles' data base (see 3.2.4. Restitution of VAT and Waiting Period).

Applicants making use of the alternative set out in 3.1.4. have to use the customs declaration claim form ZBefr 2 available on the website of the Ministry of Finance. Claims have to be filed with the customs office. NoVA has to be paid, based on the actual (residual) value of the vehicle.

Claim forms for the import of goods and services from non-EU Member States are available from the <u>Ministry of Finance's Forms Database</u> (search word "ZBefr"), choose "ZBefr 1" and "ZBefr 1e" for declaration and explanations in German, or "ZBefr 1-E" for declaration and explanations in English, or "ZBefr 2" for (non-privileged) declaration (in German).

More information is available from the Central Information Office (9500 Villach, Ackerweg 19, Tel.04242-33233) e-mail zollinfo@bmf.gv.at.

## 3.2.4. Waiting Period and repayment of VAT, standard consumption levy and customs duties

Whenever a vehicle is purchased or imported tax exempt, duty free or with relief from standard consumption levy (NoVA), the tax office will enter a blocking note into the motor vehicles' data base. Basically, a waiting period has to be observed which may be decisive whether or not a replacement vehicle may be acquired and/or taxes or customs duties need to be repaid. The length of the waiting period is subject to reciprocity, with a minimum of two years.

Please find the following list of transactions/incidents which might occur during the waiting period and their respective tax-related consequences.

#### Reassignment:

- o Definition: Privileged holder is posted elsewhere
- VAT: No VAT becomes due.
- NoVA:
  - Provided the vehicle is exported from the Austrian tax territory: no NoVA due.
  - In case the vehicle is transferred to a non-privileged person and registered in Austria, NoVA becomes due, based on the actual (residual) value of the car.

 Customs duties: No customs duties, provided a period of six months has expired.

#### The vehicle has been seriously damaged:

- Definition of seriously damaged: An authorized mechanic needs to confirm that the vehicle cannot be repaired to a roadworthy condition or that the cost of such repair would amount to more than 100% of the nominal current value of the car.
- VAT: No VAT becomes due.
- NoVA: In case the vehicle has been repaired and is transferred to a nonprivileged person and registered in Austria, NoVA becomes due, based on the actual (residual) value of the car.
- Customs duties: No customs duties.
- Replacement vehicle: yes (see 3.2.1. 3.2.3.)

## The vehicle is re-exported to a non-EU Member State

- VAT: no VAT
- NoVA: no NoVA due
- Customs duties: No customs duties.
- o Replacement vehicle: yes (see 3.2.1. 3.2.3.)

## • <u>The vehicle is transferred to an EU Member State (the diplomat remains the owner/user)</u>

- VAT: No VAT becomes due.
- NoVA: no NoVA due
- Customs duties: No customs duties.
- Replacement vehicle: No

# • <u>The vehicle is transferred to an EU Member State (the vehicle is owned/used</u> by another person):

- VAT: Repayment of full amount of VAT by the diplomat.
- NoVA: no NoVA due
- Customs duties: Repayment of customs duties based on the actual (residual) value of the car by the diplomat.
- Replacement vehicle: No

## • The vehicle is sold to an Austrian car-dealer or to a private person in Austria:

- VAT: Repayment of full amount of VAT by the diplomat.
- NoVA: NoVA becomes due, based on the actual (residual) value of the car.
- Customs duties: Repayment of customs duties based on the actual (residual) value of the car by the diplomat.
- Replacement vehicle: No

## The vehicle is sold to another privileged person in Austria:

- VAT: Repayment of full amount of VAT by the diplomat.
- NoVA: NoVA will not become chargeable.
- Customs duties: Repayment of customs duties based on the actual (residual) value of the car by the diplomat.
- o Replacement vehicle: No

In all cases of transfer of a motor vehicle which has been acquired with relief from NoVA (during or after the waiting period), to a non-privileged purchaser, NoVA will be levied. Its amount, however, will be based on the actual (residual) value of the vehicle. If it is permitted to acquire a tax- and duty free replacement vehicle, the procedure set out in chapters 3.2.1. to 3.2.3. has to be followed.

#### 3.3. Other Taxes and Fees

#### 3.3.1. Mineral Oil Tax

According to the Mineral Oil Tax Act (Mineralölsteuergesetz 1995), mineral oil tax on diesel and petrol can be refunded for official motor vehicles of diplomatic missions or career consulates as well as for private motor vehicles of diplomats and career consuls, provided reciprocity is granted. If in doubt, please check with the MFA on specific reciprocities.

For the refund, the diplomatic mission or career consulate has to submit a note verbale to the MFA at the beginning of the year, presenting a list of all cars owned by the Mission or its diplomatic staff members, stating each vehicle 's registration number, type of engine (diesel or petrol), owner's name and type of vehicle (official or private). The Protocol Department will then issue a confirmation stating the refundable amount of diesel or petrol. This confirmation together with the original invoices for the diesel or petrol purchased has to be presented to the *Customs Office (Zollamt Wien, Brehmstraße 14, 1100 Wien )*, which will refund the Mineral Oil Tax to the diplomatic mission or career consulate.

If the diplomatic mission's or career consulate's vehicle fleet changes during the year, the application has to be repeated.

Refund is limited to a maximum of 450 litres per month for the vehicle of the Head of Mission and 300 litres per month for the vehicles of the diplomatic mission or career consulate and its members. The refund claim has to be submitted at the latest until the end of the year following the year of purchase of diesel or petrol.

#### 3.3.2. Hunting and Fisheries Fee

Hunting and fishing permits are within the competence of the Provinces. Diplomats, members of the administrative and technical staff and career consuls are generally exempt from issuance fees. Exemption from fees does not include the annual membership contribution to the provincial hunting association, which includes compulsory insurance for hunting accidents.

More information on hunting permits is available on the website of the <u>Provincial Hunting Associations</u> or at <u>wien.at</u>. Information on fishing in Vienna is available from the <u>Viennese Fisheries Association</u>, Am Modenapark 1-2, 1030 Vienna, Tel.: 4000-96839, e-mail <u>office@wiener-fischereiausschuss.at</u>, office hours Monday to Friday 8-12:00 a.m.

#### 3.3.3. Insurance Tax and Engine-related Insurance Tax

Diplomatic missions, career consulates, diplomats, career consuls and members of the administrative and technical staff are exempt from tax levied on insurance contracts (e.g. on household or fire insurance contracts) as well as from the annual tax on registered motor vehicles levied via the so-called vehicle insurance premium (motorbezogene Versicherungssteuer).

#### 3.3.4. TV and Radio Fee

Owners of TV sets and radios in Austria are required to register these and to pay an annual contribution. Upon request, diplomatic missions and career consulates and their members are exempt from this contribution. The exemption is a courtesy by the Austrian National Broadcasting Company. The application forms certified by the diplomatic mission or career consulate are to be sent to the Austrian broadcasting company (GIS, Postfach 1000, 1051 Vienna) together with a copy of the ID card issued by the MFA.

#### 3.3.5. Surveillance Fee

Diplomatic missions and career consulates are exempt from all surveillance fee (Sicherheitsabgabe/Überwachungsgebühr) normally charged for police services on the occasion of public events, provided such events have official character.

#### 3.3.6. Tax on Domestic Pets

As of 1st January 2010 dogs older than three months must have a microchip and be registered in the federal database. An annual fee (called the "dog tax") is levied as well. Diplomats, career consuls and members of the administrative and technical staff are exempted from the dog tax by the City of Vienna and most other cities, but not from the obligation to register their dogs. Dogs must also have an insurance coverage of a minimum of 725,000 Euro.

More information on the registration of dogs in Vienna is available at wien.at.

#### 3.4. Purchase of Real Estate

#### 3.4.1. Authorisation Procedure

Any prospective foreign buyers of real estate in Austria are required to obtain the consent of the provincial land commissions (in Vienna, City Hall, MA 35) for the acquisition of real estate. However, this requirement can be waived if the buyer is a foreign State, if the real estate is purchased for official purposes and if reciprocity exists, which means, if Austria is allowed to buy land in the sending State.

EU Citizens are exempt from the authorisation requirement, although in some provinces – among them Vienna – they have to present a specific waiver form (Negativbestätigung).

#### 3.4.2. Land Transfer Tax

With the acquisition of real estate, the land transfer tax (Grunderwerbsteuer, 3.5% of the purchase price) is levied. If the buyer is a foreign State, the real estate is purchased for official purposes of the mission and reciprocity exists, i.e. if Austria could acquire real estate tax-free in the sending State, the tax will be waived.

If a Diplomat or Career Consul purchases real estate, he/she is granted a personal exemption from the land transfer tax. Since seller and buyer have a common tax

liability, the Austrian fiscal authorities require the seller, if he/she enjoys no privileges, to pay the entire fee.

## 3.4.3. Registration Fee for the Land Register

Upon registering the ownership of the purchased real estate with the land register a registration fee is levied. An exemption applies for foreign States, if the real estate is purchased for official purposes of the mission and if reciprocity exists.

The amount of the registration fee is calculated from the value of real estate (a basis of 40 Euro and 1.1% of the purchase price). The fee has to be paid to the land register located at the competent district court.

#### 3.4.4. Real Estate Tax

In Austria there is an annual tax on real estate ownership. An exemption applies for foreign States, if the real estate is owned for official purposes of the mission and if reciprocity is given. Information on real estate tax is available with the municipal administration of the community in which the property is located.

#### 3.4.5. Contractual Fee

On rental and purchase contracts a fee is levied. (Vertragsgebühr) A personal exemption applies if the owner, buyer or tenant is a foreign State and if the real estate is owned, purchased or rented for premises of the mission or the residence, but again there is collective liability of buyer and seller as set out in 3.4.2.

The following table repeats the various exemptions with respect to real estate:

	Diplomatic Mission or Career Consulate (purchase for official purposes)	Diplomats and Career Consuls
Authorisation procedure	Exempted (reciprocity)	No exemption (except EU citizens)
Registration fee for the Land Register	Exemption (reciprocity)	No exemption

Land transfer tax	Exemption (reciprocity)	Personal exemption
Real Estate Tax	Exemption (reciprocity)	No exemption
Contractual fee	Personal exemption for HoM for office and residence	No exemption

To obtain the above-mentioned exemptions, the Protocol Department should be informed via Note Verbale well in advance of any planned purchase by a Foreign Country (represented by a Mission) and the exact address of the real estate as well as its purpose. The MFA will then initiate procedures for verifying reciprocity in the sending State, and, once reciprocity is confirmed, will issue the necessary certificate for the respective authorities.

More information on real estate purchase in Vienna is available at <u>wien.at</u> or on real estate purchase in Austria at <u>help.gv.at</u>.

## 4. Vienna Airport Facilities

## 4.1. Airport VIP Facilities

Vienna Airport at Schwechat is run by the airport management company (Flughafenbetriebsgesellschaft AG), a private business. This company offers a comprehensive service including VIP lounges, special attendance, parking and catering as well as the opportunity to receive and welcome passengers at the gate or in exceptional cases on the tarmac. The company generally charges for the service.

The MFA will assume charges for the use of airport VIP facilities on the occasion of arrivals of newly appointed ambassadors to Austria and their final departure (not including costs for catering) and of visits of foreign ministers or high-ranking personalities, provided that they are officially invited by the Federal Minister for European and International Affairs.

The costs of VIP facilities in connection with official visits to other Austrian ministries, authorities or institutions may in certain instances be borne by those institutions.

More information on the VIP facilities is available at the <u>Vienna Airport website</u>.

State Visit arrivals and departures are operated via the <u>General Aviation Center</u> (GAC) at Objekt 140, Steinriegelweg, A-1300 Wien-Flughafen.

#### 4.2. Access to the Airport

Generally, the airport management company is responsible for the implementation of regulations concerning security and safety at the airport.

Access to restricted airside area (those areas open only to holders of valid air tickets) may be granted to holders of red or orange ID cards issued by the Foreign Ministry, subject to revocation by the security authorities at the airport. For security reasons, holders of other ID cards cannot be granted access without a valid air ticket.

Access to the transit area (flights to and from Non-Schengen-Territory States) can

only be granted to holders of a red or orange ID card also carrying a valid passport as

a border control checkpoint has to be passed.

Access to the security restricted areas (behind screening posts at gates in areas A

and C, and behind the collective screening post at the entrance to all B gateways) is

prohibited to all persons but passengers and airport personnel. No access to non-

travelling holders of ID cards is granted.

Employees of diplomatic missions and career consulates handling diplomatic pouches

are eligible to obtain access passes (Flughafenzutrittsberechtigungen) for access to

the airport's diplomatic pouch handling area. The Vienna Airport ID office

(Ausweisstelle) of the airport management company will issue a maximum of three

passes per diplomatic mission or consulate for a duration of up to two years. The

application forms are available at the airport. The completed forms are to be filed with

the Foreign Ministry.

Applicants for such cards will be required to participate in a short introductory

presentation. The person in charge at the airport is Mr. Harald Temper, Tel. 7007-

22242 and E-Mail: <a href="mailto:h.temper@viennaairport.com">h.temper@viennaairport.com</a>.

4.3. Parking at the Airport

Parking at the arrival and departure zones of the airport is restricted to a short stop

(max. 10 minutes) to enter or leave the vehicle. There are limited specific parking

facilities reserved in both areas for holders of diplomatic number plates. The parking

duration within the CD parking facility at the arrival and departure zones are limited:

Arrival:

30 minutes

Departure:

60 minutes

For security reasons and in order to ensure the best use of the CD parking facility,

parking rules at the airport are strictly enforced. All vehicles parked in violation of the

parking regulations will be towed away at the car holder's expense (see 5.5.

37

*Traffic Infractions*). For long-term parking, a number of multi-story facilities are available at a convenient distance from the arrival and departure zones. The use of VIP lounge facilities includes free parking.

# 5. Traffic-Related Questions

In general, the high standard of the network of motorways, highways and secondary roads enables the diplomatic community to drive safe and with ease throughout Austria. However not all drivers may be used to narrow and winding mountain roads or winter conditions requiring more defensive driving, the mounting of winter tyres and carrying snow chains.

Therefore the MFA recommends membership in one of Austria's automobile associations <u>ÖAMTC</u> or <u>ARBÖ</u>. These associations do not only provide ample information on road and seasonal condition but also offer services such as emergency road assistance to their members.

# 5.1. Registration of Vehicles and Number Plates

Upon taking up residence in Austria, new members of foreign diplomatic Missions or Career Consulates have to register their motor vehicles in order to obtain a registration card (Zulassungsschein) and the diplomatic or consular number plates.

Motor vehicles belonging to Diplomatic Missions, Career Consulates, Diplomats or Career Consuls or their family members (whenever diplomatic or consular licence plates are requested) have to be registered with the Austrian traffic authorities.

The competent authority in Vienna for obtaining diplomatic or consular licence plates is: <u>Verkehrsamt der Bundespolizeidirektion Wien</u>, Josef Holaubek Platz 1, 1090 Vienna

All other staff members may register their cars with the registration offices of all insurance companies offering motor vehicle insurance. For their vehicles they will receive ordinary licence plates issued by the province of their residence in Austria. The issuance of ordinary plates for Diplomats and Career Consuls for security reasons is also possible.

Registration fees for motor vehicles of diplomats or career consuls or foreign diplomatic Missions or Career consulates are 18 Euro for the number plate (for cars)

and a small fee for the technical examination certificate (a sticker to be attached to the windshield).

Administrative and technical staff and members of the service staff have to pay an additional registration fee of currently 41.70 Euro to the insurance company. For all other car registrations - this fee is 119.80 Euro. It may take up to a week to receive the licence plates.

Before registering a privately imported vehicle (including vehicles as part of the personal effects) with the traffic authorities, it is recommended to check on possible country specific restrictions with the MFA.

Upon registration of the vehicle with the traffic authorities, the following documents have to be presented:

- The applicant's ID card issued by the MFA
- Proof of insurance coverage
- Foreign car documents and license plates
- Car type certificate (Typenschein) or approval certificate (Einzelgenehmigung; states that the vehicle conforms to the technical standards applied in Austria; available from City Hall, MA 46, subject to a fee)
- <u>U 100</u> (also called "Article 15 declaration"; for cars brought to Austria from an EU Member State other than Austria; see 3.2.2.) or customs declaration form <u>ZBefr 1</u> (for cars imported from non-EU Member States, see 3.2.3. The U 100 or ZBefr1 has to be certified by the MFA. The traffic authorities will then enter a blocking note for the waiting period into the registration certificate (see 3.2.4. Restitution of VAT and Waiting Period).

Any change of address of the vehicle's owner has to be notified to the traffic authorities within one week.

In the event of sale or exportation of the vehicle abroad, the owner of the vehicle is obliged to deregister with the insurance company or the traffic authority (for diplomats) and return the number plates at their earliest convenience. The yellow registration card (Zulassungsschein) will be returned to the holder with the deregistration noted in the document. The MFA has to be notified of the vehicle transferral via note verbale.

More information on vehicle registration is available at help.gv.at.

# 5.2. Driving Licences

The Driving Licences Act stipulates that Diplomats, Career Consuls and members of the administrative-technical staff who hold a valid ID card issued by the Foreign Ministry are entitled to drive motor vehicles on the basis of their foreign driving licences during their stay in Austria. No formal act of recognition or transcription of the foreign driving licence is required. Foreign driving licences issued outside the European Economic Area (or not corresponding to Annex 9 of the UN Geneva Convention on Road Traffic or Annex 6 of the Vienna Convention on Road Traffic or Annex 1 or 1a of the regulation 91/439/EEC), need to be accompanied by a certified translation or an international driving licence.

More information on driving licences, especially on international driving licences is available at <a href="help.gv.at">help.gv.at</a> or <a href="help.gv.at">www.oeamtc.at</a> or <a href="help.gv.at">help.gv.at</a> or <a href="help.gv.at">www.oeamtc.at</a> or <a href="help.gv.at">help.gv.at</a> or <a href="help.gv.at">www.oeamtc.at</a> or <a href="help.gv.at</a> or <a href="help.gv.at</a> or <a href="help.gv.at">www.oeamtc.at</a> or <a href="hel

If members of diplomatic Missions or Career Consulates would like to obtain an Austrian driving licence, applications can be made under the following conditions:

- The applicant had been living in the issuing State for more than six months.
- The applicant now has his/her residence in Austria. Less than 24 months have passed since taking up residence in Austria.
- There are no personal road safety or health risks with the applicant.

The applicant then either has to demonstrate his/her competence to drive in a practical driving test or hold a driving licence of a country which applies the same standards for issuing driving licences as Austria (see help.gv.at for a <u>list of these countries</u>).

More information is available at the website of the <u>Federal Ministry for Transport</u>, <u>Innovation and Technology</u>. An electronic version of the application form can be downloaded at <u>help.gv.at</u>

# 5.3. CD Parking Zones

Upon request, Diplomatic Missions and – subject to local authorities' decisions – Career Consulates in the provincial capitals (not Honorary Consulates) are granted diplomatic or consular parking zones in front of the chancery and the residence of the head of the mission. It should be noted that CD parking zones are granted to facilitate the work and functioning of the Mission. Their objective is not to secure free parking for members of the Mission.

Due to the increasingly difficult traffic situation in Vienna, diplomatic missions are asked for their understanding that the possibilities for the granting of CD parking zones in Vienna are limited. New CD parking zones are granted within strict limits and only after a formal decision by the provincial authorities of Vienna involving a thorough assessment of the local conditions. The size of the CD parking zone is restricted to one or two parking spaces (depending on the district) in front of the chancery and one parking space in front of the residence of the Head of Mission.

Requests for the installation or relocation of such zones have to be addressed to the Protocol Department of the MFA, which will take the necessary steps with Vienna authorities. As the procedural requirements include hearings with local police and local political bodies, the establishment of a CD parking zone may take several weeks. Upon written request, marking of CD parking zones onto the street pavement is possible, but costs have to be borne by the diplomatic Mission or Career Consulate.

Only cars with a diplomatic license plate are permitted to park in CD parking zones. Other vehicles of the Embassy or its employees are requested to feature a car pass (format A 5, reading "Wagenkarte", indicating the license plate number and featuring the stamp of the Mission) behind the windscreen, in order to identify the car as a vehicle of the Mission. Additionally, the MFA recommends notifying the local police station.

# 5.4. Restricted Residential Parking Zones in Vienna

In order to facilitate local parking for residents, public parking in several Viennese districts (1 to 9, 20 and partially 15) is restricted to short-term parking only. Short-term prepaid parking vouchers (between 1/2 to 2 hours) can be bought at Viennese tobacco stores and gas stations. Payment can also be made via mobile phones.

While residents of the above-mentioned districts are eligible to exemption stickers for their vehicle subject to a fee, all other persons or institutions are required to find arrangements for permanent or long-term parking with local car parks.

Diplomats and Career Consuls are entitled to reduced-rate exemption stickers only in their district of residence. Diplomatic Missions and Career Consulates are not entitled to exemption stickers for their vehicles.

For private parking, all car holders are advised to purchase and display vouchers.

More information on restricted parking zones in Vienna is available at <u>wien.at</u> or <u>www.parkeninwien.at</u>.

# 5.5. Violations of traffic regulations

In accordance with art. 41 VCDR, it is the duty of all persons entitled to privileges and immunities to respect the laws of the receiving State. This includes laws and regulations governing road traffic.

When controlled by the police, all persons with diplomatic privileges and immunities should immediately inform the controlling officers on their status, preferably by showing their ID card issued by the MFA. In addition, the driving licence and other vehicle documents have to be shown if so requested by the police. If the driver holds a foreign driving licence, it is necessary to carry the certified translation of the driving licence (see 5.2.).

The police may verify that the ID card is valid. In case of doubt concerning the level of immunity which is applicable, the MFA is contacted. Upon request, the controlling police officers have to hand out their service number, but they do not have to give their names.

The police and Parking enforcement run a policy of restraint with regard to towing of vehicles with diplomatic or consular number plates. Cars are only towed when a vehicle is parked in such a way that it constitutes a danger to other persons or vehicles or seriously hinders traffic. Only at the airport all cars parked wrongly will be towed away (see 4.4). Costs for towing are considered charges for specific services rendered in accordance with art. 34 a VCDR. No privileges or immunities therefore apply in these cases.

Driving under the influence of alcohol, is regarded as a very serious traffic offence and is sanctioned with particularly high fines and, in the event of recurrence, the suspension of the driving licence for a minimum duration of one month. Vehicles must not be operated if the blood alcohol level of the driver is above 0.5 g/l (that is, if the breath alcohol level of the breathalyser test is above 0.25 mg/l). If these limits are exceeded, the vehicle will be immobilised (for example by attaching wheel clamps) and the driver requested to take an alternative means of transport.

Refusing to take the breathalyser test is a very serious offence and equated with a blood alcohol level of 1.6 g/l, which in turn is sanctioned with a fine of up to 5,900 Euro and suspension of the driving licence for at least four months. Holders of privileges and immunities may refuse to be breath analysed. If they do refuse, and the police, on the basis of other symptoms, nevertheless come to the conclusion that the alcohol tolerance limit has been surpassed, the same measures as mentioned above will be applied.

Speeding is also considered a major offence, as it is responsible for a high number of road traffic accidents. Therefore it is - in serious cases - sanctioned with high fines and the suspension of the driving licence for several weeks to months.

In this respect the immunities of the VCDR apply. However, in cases of serious accidents, driving under the influence of alcohol or recurrence of dangerous behaviour in road traffic, the sending State will be asked to waive the immunity of the person concerned. A growing number of sending states have adopted policies making their diplomats to pay their fines for the violation of traffic regulations. The MFA cooperates with the Missions of these countries to facilitate such payments with a view to reduce risks on the roads.

In this context it has to be noted that administrative prosecution can only be discontinued once the respective driver has been identified by name and the level of immunity determined in each case. Diplomatic Missions and career consulates are therefore asked to convey the required information to the MFA and, in cases of functional immunity, provide the pertinent travel details.

More information on traffic infractions is available on the <u>ÖAMTC website</u>.

# 5.6. Annual Vehicle Inspection

According to Austrian law, all motor vehicles have to pass an annual technical inspection by a certified mechanic at a car repair shop or one of the automobile associations. There is no exemption for cars with diplomatic license plates. The respective next inspection date is noted on a sticker (§ 57 Plakette) on the windshield. If the inspection is more than four months overdue, the police are instructed to remove the number plates, if these vehicles are parked on public property. Vehicles are then forbidden to circulate for road security reasons.

More information on the annual technical inspection is available at wien.at.

# 5.7. Toll for the Use of Motorways

Motor vehicles using Austrian motorways (Autobahnen and Schnellstraßen) require a valid toll sticker ("*Vignette*") or *GO-BOX* (for trucks or busses). These stickers can be obtained at petrol stations or tobacco stores. As this toll is a charge levied for the specific service of the provision and maintenance of Austrian motorways, according to art. 34 e VCDR, no exemptions for holders of diplomatic privileges and immunities are granted.

More information on the toll sticker is available at ASFINAG or www.vignette.at .

# 6. Security, Telecommunications and Electoral Proceedings

#### 6.1. Protection of Premises and Persons

The Federal Ministry of the Interior takes appropriate measures to protect the premises and staff of all Missions against intrusion or damage and prevent them from any disturbance of the peace or impairment of dignity. This requires that all pertinent information – addresses of offices and residences, names and co-ordinates of security liaison officers, information about threats, events, etc. – be communicated in due time to the MFA and, in urgent cases, also directly to the competent Police Directorate or the Ministry of the Interior. It is further advisable to establish and maintain contact with the local police station.

In case of real or perceived threats, information should be as quick, concrete and detailed as possible. Emergency telephone numbers that can be contacted at all times are the following:

- Police 133
- Fire brigade 122
- Ambulance 144

For general issues of security the Federal Agency for State Protection and Counterterrorism (BVT) should be contacted. (Tel. 01/53126-4301).

In all other cases concerning security issues, the security authorities of the respective province, where\_officers are on duty around the clock, should be contacted. Numbers are as follows:

Responsibility	Mission Security		Other police business (investigating thefts, burglaries etc.)	
Province Capital	Office for Constitutional Protection and Anti- Terrorism Measures (Landesamt für Verfassungsschutz und Terrorismusbekämpfung LVT)	Tel.No. LVT	Police Directorates (Landespolizei- kommando - LPK)	Tel.No. LPK
Vienna	LVT Vienna 01/31310 ext. 78900			
Eisenstadt	LVT Burgenland	02682/606 ext 6500	Police Directorate	059 133 ext. 10
Klagenfurt	LVT Carinthia	0463/5333 ext. 6010	Police Directorate	059 133 ext. 20
St. Pölten	LVT and Police Department	02742/207 ext. 6500	Police Directorate	059 133 ext. 30
Linz	LVT Upper Austria	0732/7803 ext. 2033	Police Directorate	059 133 ext. 40
Salzburg	LVT Salzburg	0662/6383 ext. 6666	Police Directorate	059 133 ext. 50
Graz	LVT Styria	0316/888-0	Police Directorate	059 133 ext. 60
Innsbruck	LVT Tyrol	0512/5900 ext. 6500	Police Directorate	059 133 ext. 70
Bregenz	LVT Vorarlberg	05574/4950 ext. 6666	Police Directorate	059 133 ext. 80

All damage resulting from attacks on premises or burglary should be reported as soon as possible.

Diplomatic missions and Career Consulates should nevertheless take all measures necessary to protect their premises in accordance with the latest security standards. Diplomatic missions are allowed to install a surveillance camera system without an obligation to registration, provided that certain restrictions of the Austrian data protection laws (§ 17 Abs. 2 Z 6 DSG) are observed (e.g. the recorded material must be destroyed after 72 hours; the camera system must not record public spaces, etc.).

The police has established a service centre to advise on protective measures. *This* service concerning criminal prevention is available on the <u>website of the Ministry of the Interior</u>; Tel. Nr. 059 133 or at the "Kriminalpolizeiliches Beratungszentrum Wien" Tel. Nr. 0800-216346 (Monday – Friday 9am – 4 pm).

#### 6.2. Assemblies and Demonstrations

In Austria, the freedom of assembly and the right to hold demonstrations are constitutionally guaranteed rights. The limits within which the competent authorities may restrict them are specified by law. At the constitutional level, the freedom of assembly is laid down in art. 12 of the Civil Rights Act (Staatsgrundgesetz 1867) as well as in art. 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (which has constitutional rank in Austria and is directly applicable).

Pursuant to art. 11 para 2 of this Convention, authorities are entitled to restrict the exercise of these rights under certain conditions. Such restrictions can be applied if they are prescribed by law and are deemed necessary in a democratic society in the interest of national security or public safety, for the prevention of disorder and crime, for the protection of health or morals or for the protection of the rights and freedoms of other persons. In each case, the authority will have to balance the interest of the individual enjoying the right versus the public interest, taking into account the proportionality of the restrictions envisaged.

According to § 6 of the Assembly Act (Versammlungsgesetz, BGBI. 98/1953 as amended) authorities have to prohibit assemblies whose purposes contradict criminal law or endanger public safety or public order. As a consequence, assemblies and demonstrations in the vicinity of foreign Missions will be risk analysed. Unless they contradict the above-mentioned laws or infringe on the Mission in the sense of art. 22 VCDR, they will be permitted, but closely monitored by Austrian police forces.

# 6.3. Official Functions Hosted by Diplomatic Missions and Career Consulates

If a diplomatic mission or career consulate is planning a major official function, special police measures for traffic regulation and protection may be requested. These requests should be submitted to the MFA at least one week ahead of the planned function and must indicate place, date and time, expected duration and number of guests.

#### 6.4. Firearms

# 6.4.1. High-ranking Visits

In the case of visits by heads of state, members of government or comparable personalities of EU Member States as well as staff assigned for their personal protection, no special permit is required for the import, possession and carrying firearms for the performance of their functions. Notification of the MFA and the Ministry of the Interior/BVT is however necessary.

On the occasion of high-ranking visits from non-EU-Member States including security carrying firearms, the competent Austrian embassy will issue on request certifications which entitle security guards to enter Austria with a firearm and to carry it. Only in exceptional cases can these certifications be issued at the border crossing point, airport or from the regional police authority.

Early notification of the Foreign Ministry is important to issue the certificates in time. Foreign security personnel do not enjoy any official powers during their stay in Austria and may use of the firearms only in self-defence.

# 6.4.2. Firearm Licences for Staff of Diplomatic missions and Career Consulates

The administration office of the Federal Police Directorate Vienna (Administrationsbüro der Bundespolizeidirektion Wien) issues firearms possession cards (Waffenbesitzkarten) and firearms passes (Waffenpässe) to holders of ID cards issued by the Foreign Ministry.

It is recommended to contact the administration office of the Federal Police Directorate Vienna in order to clarify the administrative requirements in each individual case (import, possession and carrying of firearms).

More information on firearms is available at <a href="https://new.numer.com/help.gv.at">help.gv.at</a> under <a href="https://www.numer.com/waffenbesitzkarte">Waffenbesitzkarte</a> and <a href="https://waffenbesitzkarte">Waffenbesitzkarte</a> and <a href="https://waffenbesitzkarte">https://waffenbesitzkarte</a> and <a href="https://waffenbesitzkarte">Waffenbesitzkarte</a> and <a hr

E-mail: bpd-w-administrationsbuero @polizei.gv.at

#### 6.5. Telecommunications

Diplomatic missions and career consulates may install and use a wireless transmitter (diplomatic satellite communications or broadcasting or special reception facilities) only with the consent of the receiving State.

On the condition of reciprocity Austria allows the use and installation of such appliances. Diplomatic missions and career consulates intending to install a wireless communications facility must formally communicate to the MFA the following technical data:

#### Satellite installation:

- location
- transmission frequency range
- receiving frequency range
- orbital position of satellite
- antenna width
- maximum transmission power

# Broadcasting installation:

- location
- transmission power
- frequencies
- call sign
- receiving station

# - bandwidth/broadcasting mode

A confirmation that the use of the broadcasting station is in compliance with the international telecommunications treaty including the regulation on radio communications of 12.11.1965 in the respective valid version has to be issued.

Further, the Mission needs to confirm reciprocity concerning the use and installation of such appliances by Austrian Missions in the sending State and to declare responsibility of the sending State vis-à-vis the ITU for the operation of the mission's/consulate's broadcasting station

Upon the acknowledgement of receipt of the above mentioned notification by the MFA, the broadcasting station may enter into operation.

# 6.6. Electoral Proceedings

Whenever it is intended to use a diplomatic Mission or consular post as a polling station for elections, the following requirements should be observed:

- Consent can only be granted if reciprocity exists,
- The MFA should be advised at the earliest convenience of the date and venue of electoral proceedings in Austria.
- Austria will consent to the assistance of Austrian institutions (such as public notaries) in the electoral proceedings to the extent that is accorded to Austrian missions in the sending State.

On explicit request by note verbale, the Austrian authorities will take special precautionary measures such as enhanced police protection.

### ANNEXI

# **Categories of ID cards**

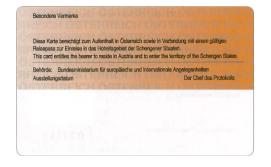
# ID card § 2 Abs 1 Z 1 in Red - Diplomats





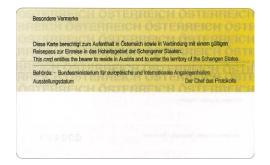
# ID card § 2 Abs 1 Z 2 in Orange Career Consuls





# ID card § 2 Abs 1 Z 3 in Yellow Honorary Consuls





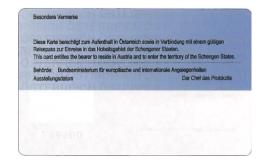
# ID card § 2 Abs 1 Z 4 in Green Officials of International Organisations





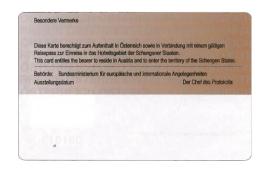
# ID card § 2 Abs 1 Z 5 in Blue Administrative and Technical Personnel





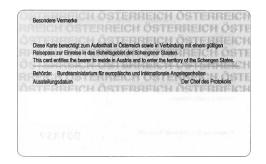
# ID card § 2 Abs 1 Z 6 in Brown Official Service Personnel





# ID card § 2 Abs 1 Z 7 in Grey Private Domestic Staff





#### ANNEXII

# **Employment of Private Domestic Staff (PDS)**

# 1. Working conditions and remuneration:

# **Employment contract**

Upon the start of the employment, rights and duties need to be specified in a service agreement (Dienstschein) as shown in the enclosed specimen. This agreement needs to be signed by the employer and employee. Only adults (persons over the age of 19) are permitted to work as PDS in Austria.

#### Remuneration

The remuneration depends on the minimum wage rate applicable in the Austrian province of the employers residence. Monetary remuneration shall be paid monthly, on the last day of the calendar month at the latest. As of 1st January 2011 the minimum salary for domestic staff in Vienna is 1,040 Euro paid for full-time employment (238 hours per month) paid 15 times a year is considered the legal minimum. This applies for live-in, non-cooking service staff from the first to fifth year of professional experience with no professional training.

More information on tax procedures, working regulations, minimum standards and wages is available at:

Federal Ministry of Finance

Austrian Social Security

Federal Ministry of Labour, Social Affairs and Consumer Protection

The Chamber of Labour Vienna (Arbeiterkammer Wien)

#### **Banking account**

The private domestic member must be holder of a banking account of an Austrian bank. In order to protect both the employee and the employer, the remuneration has to be paid into the account. Cash payment is not accepted The bank statements and proofs of remuneration transfer should be kept for a minimum of 3 years in order to prove the salary payment to the PDS and the MFA may ask for them.

#### Lodging

The room for the exclusive and private use of the PDS must comply with the health care and construction regulations, and feature appropriate furnishings and fittings, including specifically a lockable cupboard. They must be given healthy and sufficient food such as is served to the employers family members.

# Working hours, hours of rest, breaks

Working hours, including standby duty, must not exceed 110 hours within a period of two calendar weeks. The daily hours of rest must be at least 10 hours, a period which includes the time between 9 pm and 6 am. The employee is entitled to breaks totalling

at least three hours, where a straight 30 minutes to eat the main meals of the day must be granted at least twice a day.

#### **Excess hours**

The above working hours may be exceeded only in exceptional cases. In such a case, the employee is entitled to additional hours of rest in compensation within the next two calendar weeks or to a surcharge to the remuneration the amount of which is to be as specified in the applicable minimum wage rates.

Cutting short any breaks or an interruption of the night's rest is permitted only when the employee's services during such times are necessary for urgent, non-deferrable or unavoidable reasons. In such an event, a surcharge is due, regardless of whether or not additional time is granted in compensation for cutting short breaks or interrupting the night's rest. The amount of such surcharges is also specified in the applicable minimum wage rates.

# Leisure and remuneration for work on holidays

Employees are entitled to:

- a leisure period beginning not later than 2 pm on one working day of each week to be agreed, which period extends until the start of work on the next day;
- one work-free Sunday every second week. This leisure period commences upon the end of the working hours on Saturday and must extend until the start of work on Monday.

On working Sundays and on legal holidays, the working period must not exceed six hours. For work on legal holidays, a separate holiday remuneration is due in addition and equal to the remuneration for the work rendered.

The following days are legal holidays (see Annex III for details)

1 January (New Year's Day), 6 January (Epiphany), Easter Monday, 1 May (State Holiday), Ascension Day, Whit Monday, Corpus Christi, 15 August (Assumption Day), 26 October (National Holiday), 1 November (All Saints' Day), 8 December (Immaculate Conception), 25 December (Christmas Day), 26 December (St. Stephen's Day).

In addition, the employee must be granted the time required to meet his/her religious duties. Such time is agreed between the employer and employee.

#### Protection of pregnant employees

The following restrictions apply to pregnant employees:

- she must not carry out any heavy work, including, without limitations, lifting and stretching;
- she may be employed for not more than 9 hours per day and 40 hours per week:
- she must not work on Sundays and holidays or during the night.

An absolute ban on work is imposed for the period starting eight weeks prior to the expected delivery date and ending eight weeks after giving birth. The employment relationship remains intact for such period but no remuneration is due; the employee receives money from the social insurance fund.

### **Holidays**

The employee is entitled to a basically uninterrupted holiday period of 35 calendar days in each year. The exact timing of the holiday is to be agreed, and the holiday period may be split subject to the employer's consent. The full amount of remuneration is due for the holiday period.

#### Prevention of service

If the PDS is prevented from working due to an illness, s/he is entitled to the remuneration for a period of six weeks. This entitlement period increases with the duration of employment. If the illness continues, the employee is entitled to half the remuneration for another four weeks. If the employee suffers an accident at work or from an occupational disease, s/he is entitled to continued remuneration for up to eight weeks. The employment relationship must not be terminated with immediate effect due to illness or an accident at work. In the case of termination of employment, the employee is entitled to the remuneration for the abovementioned periods, even if the employment relationship is terminated yet.

Furthermore, the employee continues to be entitled to the remuneration when s/he is prevented from working for a relatively short period for major personal reasons due to no fault of his/her own (e.g. death of a close family member).

#### **Termination of employment**

The employment contract may be of limited or unlimited duration. Those of unlimited duration may be terminated at any time by giving notice. The period of notice is two weeks. In some cases, the period of notice is six weeks, ending on the 15th or last day of a given month.

If a trial period is agreed, the employment relationship can be terminated by either party at any time effective immediately. A trial period may not extend for longer than one week. The employment relationship may be terminated with immediate effect only on very important grounds. Such grounds include disloyalty, persistent neglect of the employee's duties, untrustworthiness, of violence against the employer.

#### References

Upon termination of the employment relationship, the employer is obliged, at his/her cost, to give the employee a written reference ("Dienstzeugnis") on the duration and type of service rendered.

# **Mandatory requirements**

The rights due to the employee cannot be waived or limited by agreement.

#### **Fine**

Non-compliance with the above-mentioned mandatory regulations may be fined by the district administrative authority up to 290 Euro.

# 2. Visa and Residence in Austria

If all conditions are met, the future private staff member has to apply for a visa.

It should be noted that the visa will only be issued once the employer has taken up residence in Austria and has been duly accredited and that proof of sufficient dwelling space for the future PDS has to be furnished upon the visa application (exception: newly accredited ambassadors).

The future private staff member will be given a Schengen type D visa at the Austrian mission accredited to his/her country of residence. (Type D visas for Austria can *only* be issued by Austrian missions and *not* by those of other Schengen states representing Austria in visa matters.)

Upon his/her arrival in Austria, the private domestic staff member will then be furnished with an ID card by the Foreign Ministry. After presenting a confirmation of the registration at the consular department of their embassy, the PDS member must personally pick up the ID card at the Protocol Department (Monday–Friday 10.00 am–12.00 a.m.) and should not be accompanied. This ID card serves as a proof of identity and allows the holder to freely enter, reside in and leave Austrian national territory. Holders of ID cards issued by the Foreign Ministry are thus exempt from the requirement to hold any other Austrian residence title. They can in principle travel without a visa within the Schengen area; however, the cardholder must also carry his/her passport when travelling abroad.

The Foreign Ministry would like to remind that the locking up of passports and ID cards of the private domestic staff member by the employer is not permitted.

Until termination of the contract, the private domestic staff member is exempted from the requirement of any other work or residence permit.

Upon termination of the contract, the employer has to ensure that the private domestic staff member returns to his/her home country or leaves the Schengen area, unless s/he is granted a residence permit for Austria or another Schengen state.

For all questions relating to insurance and social security, see 2.5.3. Locally Employed Staff.

# DIENSTSCHEIN Privates Hauspersonal SERVICE AGREEMENT for private household help

Name und Anschrift des Dienstge (name and adress of employer):	
2. Name und Anschrift des Dienstne (name and adress of employee):	
3. Geburtsdatum des Dienstnehmer (birth date of employer):	
4. Beginn bzw. (bei befristete Diens auf bestimmte Zeit auch Beendigun (begin and termination of contract c	g) des Dienstverhältnisses of employment):
5. Dauer der vereinbarten Kündigun (duration of period of notice):	
6. Dauer der Probezeit (höchstens e (duration of probationary period- at	•
7. Arbeitsort (place of work):	
8. Verwendung im Haushalt (description of employment):	
O Hausgehilfe/in ohne Kochen (domestic help without cooking)	O Krankenbetreuerin (nursing)
O Hausgehilfe/in mit Kochen (domestic help with cooking)	O Diplom Krankenbetreuer/in (professional nurse)
O Köchin/Koch (cook)	O Kindergärtnerin mit Befähigungsnachweis (nursery school teacher)
O Kinderbetreuerin (nanny, childen's nurse)	O Erzieher/in mit Befähigungsnachweis (professional childen's nurse)
O Säuglingspflegerin (infant nanny)	O Hausprofessionist/in (housekeeper)

(infant nurse) 9. Art der Sonderleistungen, wie z.B. Krankenbetreung, Kinderbetreuung, Pflege des Fahrzeugs, Gartenarbeit, Wartung von Haustieren, etc. (special tasks of employment, e.g. taking care of sick persons, children, vehicles, gardening, domestic pets, etc.): ..... 10. Vereinbarter (monatlicher oder wöchentlicher) Geldbezug (agreed monthly or weekly payment): ..... 11. Vergütung für Sonderleistungen (payment for special tasks): ..... 12. Dienstnehmeranteil der Sozialversicherung wird vom Arbeitgeber getragen (employee's share of social insurance contribution is borne by the employer): O Ja (Yes) O Nein (No) 13. Vereinbarte Sachleistung, Frühstück, Gabelfrühstück, Mittagessen, Jause, Nachtmahl (breakfast, fork lunch, lunch, snack, dinner): ..... 14. Höhe der Abgeltung sofern Sachleistungen nicht gewährt werden (payment in case no retribution in kind is granted): 15. Wird ein Wohnraum zur Verfügung gestellt (provision of accomodation by the employer): O Ja (Yes) O Nein (No) 16. Ausmaß des jährlichen Erholungsurlaubes (duration of annual holiday): ..... 17. Arbeitszeit: an Wochentagen von / bis (work hours on week days): from.....to.....to..... Arbeitszeit: an Sonntagen und kirchlichen Feiertagen von / bis (work hours on sundays and holidays): from.....to.....to..... 18. Möglichkeit zum Besuch des Gottesdienstes an Sonntagen und kirchlichen Feiertagen (possibility of participation in religious services): from.....to.....to.....

19. Ein freier Wochennachmittag ab 14 h wird vereinbart für: (one afternoon off during the working week is agreed upon):

O Diplom-Säuglingspflegerin

# Monday, Tuesday, Wednesday, Thursday, Friday, Saturday

20. Abweichende Vereinbarungen der Arbeitszeit, der Freizeit, der Ruhezeit und der Ruhepausen in den Fällen des § 5 Absatz 7 Hausgehilfengesetz (deviating working time, time off, or breaks as to § 5 para 7 Hausgehilfengesetz):						
21. Geltender Mindestlohntarif (current minimum wage):						
Unterschrift des Dienstgebers (employer's signature):	Unterschrift des Dienstnehmers (employee's signature):					
Ort und (date and						

# **VERPFLICHTUNGSERKLÄRUNG**

lch							(Na	me), ge	boren		
am		,	tätig a	ıls			(Fu	ınktion)			
an/bei					_, woh	nhaft ir	າ				
verpflichte	mich,	für	den	Unterhalt,	die	Unte	rkunft,	sowie	das	Ent	gelt
von					(١	Name	des/c	ler Ha	usang	estellt	ten)
aufzukommensein wird. Gemeinden Zusammenh Gründen üh allfälliger fr Aufwendung Zahlungsau	Ich ver , und a nang mit per den remdenp gen für	oflicht andere der E Zeitra olizeil med ng bei	e miden öffe Einreis aum dicher dizinisa i sons	ch weiters, entlichen F se, dem Auf der Anstellu Maßnahme che Betreu tiger gerich	der Rechts Tentha Jung hi Jen, Ko Jung tlicher	Repub trägern It, - au inausge osten entstel	lik Öst alle ch wer eht- ur von F nen, b	erreich, Kosten, In diesel Id der A Türsorgel Innen Inung zu	den die d r aus s Ausreis leistung 14 Ta bezah	Lände liesen sonstig se so gen gen agen	ern, gen owie und ab (Bei
Antragstelle einer gerich	tlichen o	der no	otariel	len Beglaub	igung	.)				J	
Die Bestim 235/1962 id	•		00/20	J	zur Ke	enntnis	genom	imen.		BGBI	-Nr.
Ort			Datu			ntersch					_

# AFFIDAVIT

l,		(name),	born
on	,		
employed	as	(function)	at
	,	living in	,
declare that I will	be responsible for all	l living expenses, dwelling space and	the salary
of		(name of private household	help) who
will be employed b	oy me as a private ho	ousehold help in my household. I also	undertake
to bear all costs of	of assistance and me	edical care which might arise to the	Republic of
Austria, the Länd	er, the Communities	and all other public entities due to	my private
household help's	entry to Austria, his/	her sojourn - even if the latter for	any reason
exceeds the origi	nally applied period	- and his/her departure, as well a	as possible
measures to be t	aken by the alien po	olice. The said costs will be covered	d within 14
days after demar	nd of payment, alte	rnatively payment may be enforced	by court.
(Applications mad	le by persons who a	re not in diplomatic rank have to be	certified by
court or a notary p	public.)		
I have taken note	e of the regulations of	on the employment status of domes	itic staff as
defined in Federal	Law Gazettes BGBI	No. 235/1962 and BGBI I No. 100/20	)02.
	on		
Venue	on Date	Signature	

# ANNEXIII

# **Public Holidays in Austria**

1. January, New Year's Day	1. Jänner (Neujahr)
6. January, Epiphany	6. Jänner (Heilige Drei Könige)
Easter Monday	Ostermontag
1. May, State Holiday	1. Mai (Staatsfeiertag)
Ascension Day	Christi Himmelfahrt
Whit Monday	Pfingstmontag
Corpus Christi	Fronleichnam
15. August, Assumption Day	15. August (Mariä Himmelfahrt)
26. October National Day	26. Oktober (Nationalfeiertag)
1. November, All Saint's Day	1. November (Allerheiligen)
8. Immaculate Conception	8. Dezember (Mariä Empfängnis)
25. December Christmas Day	25. Dezember (Christtag)
26. December St. Stephen's Day	26. Dezember (Stefanitag)

# Additionally:

For members of the Evangelical Church and HB, the Old Catholic Church and the Methodist Church the Good Friday is holiday as well. The Denomination Church AB celebrates the "Reformation Day" on October 31<sup>st</sup>.

# Celebration of patron saints of the lands:

Burgenland: 11 November (St Martin), Carinthia: 19 March (St Joseph), Lower Austria: 15 November (St. Leopold), Upper Austria: 4 Mai (St. Florian), Salzburg: 24 September (St. Rupert), Styria: 19 March (St Joseph), Tirol: 19 March (St Joseph),

Tirol: 23 April (St George)

Vorarlberg: 19 March (St Joseph), Vienna: 15 November (St. Leopold);

More information on holidays is available at:

Federal Ministry of Finance

Wikipedia

derkalender.at