

INFORMATION
BROCHURE

Private Domestic Staff (PDS)

Foreword: Welcome to Austria!

The Federal Ministry for Europe, Integration and Foreign Affairs (MFA) welcomes you in your capacity as (future) Private Domestic Staff of a diplomat, career consul, or employee of an international organisation living and working in Austria. What follows provides you - as well as your employer - with valuable information regarding your employment in Austria and explains in more detail what to expect when coming to Austria.

Individual rights and the rule of law are to be respected and everyone is to be treated in a fair manner. As a host country, Austria sees to it that the employment conditions of Private Domestic Staff in diplomatic households are in compliance with Austrian laws, including labour laws, and human rights standards.

Even though English is widely spoken and understood, the official language in Austria is German. We encourage you to learn German while in Austria which might also help you in getting a better understanding of the norms, values and customs of a country you call home for at least some time.

We hope that you find this brochure helpful and wish you a good stay in Austria.

Bettina Kirnbauer
(Chief of Protocol)

Applicable Law

When it comes to the employment of PDS by privileged individuals, Austrian social and labour laws are fully applicable. This is also true for legal disputes arising from respective labour contracts. The main legal acts regarding PDS, which can be consulted via www.ris.bka.gv.at, are the following:

- **Vienna Convention on Diplomatic Relations:** Wiener Übereinkommen über diplomatische Beziehungen, BGBl. Nr. 66/1966¹;
- **Act Governing Domestic Help and Domestic Employees:** Bundesgesetz vom 23. Juli 1962 über die Regelung des Dienstverhältnisses der Hausgehilfen und Hausangestellten (Hausgehilfen- und Hausangestellten-gesetz), BGBl. Nr. 235/1962 idgF²;
- **Regulation Governing Minimum Wages for Domestic Employees:** Verordnung des Bundeseinigungsamtes beim Bundesministerium für Arbeit, Soziales und Konsumentenschutz, mit der der Mindestlohn tarif für im Haushalt Beschäftigte für Österreich festgesetzt wird, BGBl. II Nr. 299/2014³.

1. Entry Procedure

Before a future PDS (=employee) is allowed to take up employment with a diplomat, career consul or official of an international organisation (=employer), the respective mission of the diplomat or career consul or the international organisation must send a note verbale along with the following documentation to the MFA:

1. copy of the employment contract ("*Dienstschein*") signed by both the employer and the future employee (see sub-section 5.);
2. copy of an insurance contract covering all health and accident risks as well as a copy of a travel insurance contract for the future PDS (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);
3. copy of the rental agreement and a plan of the employer's residence indicating the location of the future employee's room;
4. affidavit ("*Verpflichtungserklärung*") by the employer who, inter alia, promises to cover the costs of repatriation;
5. copy of the relevant passport pages of the future PDS.

Once these conditions are met and the whole paperwork has been diligently prepared, a future PDS (with the exception of citizens of EU states, EEA states, and Switzerland) is required to apply for a type **D visa** at the Austrian

¹ Available in English: http://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf.

² Available in English: http://www.sozialministerium.at/siteEN/_Labour/Labour_Law/Legislation/.

³ Available in German: <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20008991>.

mission in her/his country of residence (type D visas for Austria can be issued only by Austrian missions and not by those of other Schengen States) and will be interviewed by said mission. Persons who have entered Austria by other means (e.g. tourist visa), let alone illegally, cannot be granted an ID card and are therefore not accepted as PSD. Upon arrival in Austria, PSD have to register with their respective embassies or consulates as no ID cards will be issued without proof of registration.

2. Bank Account with an Austrian Bank

Once in Austria, the future PSD member has to **personally** open a bank account with an Austrian bank. Without exception, her/his monthly salary must be transferred to this account; the employer is not allowed to pay PSD in cash. Upon opening the account, the PSD will receive a bank/ATM card which can be used to withdraw money from her/his account either at the bank counter or at an ATM. The PSD must have the **exclusive right to withdraw money** from her/his account and has to remain in **sole possession of her/his bank/ATM card at all times**. The bank's customer representatives will provide the PSD with all further information regarding her/his account.

3. ID cards ("Legitimationskarten")

After her/his arrival in Austria, the PSD will be issued a **grey ID card** ("*graue Legitimationskarte*") by the MFA. The application for such an ID card must be filed with the MFA's Protocol Department as soon as possible after arrival. It needs to include: **1)** an official confirmation showing that the PSD has registered with the consular department of her/his embassy in Austria and **2)** proof that the PSD has opened a bank account (by showing the bank/ATM card).

PSD must **personally pick up the ID card** at the Protocol Department without being accompanied by anyone. The PSD must remain in **sole possession of her/his ID card as well as of her/his passport**; under no circumstances is s/he obliged to hand over these documents to her/his employer.

The ID card issued by the MFA is **valid for a period of up to one year** and, subsequently, **has to be renewed in due time** before it expires. It serves as a token of identity and allows the holder to freely enter, reside in and leave Austrian national territory. Holders of said ID cards are thus exempt from the requirement to hold any other Austrian residence permit. It also allows for visa-free travel within the Schengen area under the condition that the cardholder carries a valid passport when travelling abroad.

Furthermore, a PSD is exempt from the requirement to hold a separate work permit. The ID card issued by the MFA also serves a work permit but does not provide access to the Austrian labour market. PSD are assumed to work full-time and are not allowed to take up any employment in addition to their work as PSD.

Upon termination of employment, the ID card must be returned to the MFA's Protocol Department within no more than two weeks after the end of employment.

4. Employment contract ("*Dienstschein*") – Rights & Duties

The key rights and duties of the employment relationship are spelled out in the employment contract ("*Dienstschein*") - see enclosed sample. If the future PDS does not speak German or English, the *Dienstschein* must be translated by the employer **into a language the PDS does write and speak**. It needs then to be signed by both employer and employee, or, if the latter is a minor, by her/his legal representative (Please note that only individuals over **the age of 18 years** are allowed to work as PDS in Austria.) Most notably, the *Dienstschein* must state the amount of salary and bear reference to the minimum standards of the relevant Austrian labour laws.

PDS are obliged to fulfil their duties as set out in the employment contract and in accordance with Austrian social and labour law. The work entrusted to them is to be done with proper care and diligence as well as with loyalty towards the employer and her/his family.

- **Remuneration**

(please see Regulation Governing Minimum Wages for Domestic Employees)
As of 1 January 2015, an amount of EUR 1,162.00 per month paid fifteen times a year is considered the legal minimum wage for household, non-cooking service staff during their first five years of service if they live in the employer's household and have no prior professional training (should the PDS perform additional services such as childcare or cooking s/he is entitled to extra remuneration as laid down in the above-mentioned regulation). Monetary remuneration is to be paid monthly, on the last day of the calendar month at the latest, by transferring it to the employee's Austrian bank account. The bank statements should be kept by both employer and employee as proof of wage payment.

- **Lodging**

The room provided to the PDS must comply with health care, construction and fire regulations. It must be at the sole disposition of the PDS worker and has to be provided with heating, a closure mechanism which allows for locking the room from both inside and outside, and appropriate furnishings and fittings including specifically a lockable cupboard and a window. Employees whose remuneration includes board must be given healthy and sufficient food such as is served to other 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 rest period must be at least 10 hours and must include the hours between 9 pm and 6 am. The employee is furthermore entitled to breaks totalling at least three hours, whereby a straight 30 minute break to allow for eating the main meals of the day must be granted at least twice a day. The employer and employee must agree on a rota of daily working hours that ensures that the employee can observe the legally foreseen hours of rest and breaks.

- **Excess hours/Overtime**

The above-mentioned working hours may be exceeded in exceptional cases.

If such cases arise, the employee is entitled to **additional hours of rest to compensate for overtime**. If such additional rest cannot be granted within two weeks, extra remuneration as specified in the applicable **Regulation Governing Minimum Wages for Domestic Employees** must be paid.

Cutting short on breaks or interrupting the night's rest period is permissible only when the employee's services during such times are needed for urgent, non-deferrable or unavoidable reasons. In such an event, extra money as described above is always due, regardless of whether or not additional resting time is granted.

• **Leisure and remuneration for work on legal holidays**

Employees are entitled to:

- an afternoon off once a week. This leisure period must commence not later than 2pm and must extend until the start of the next working day;
- one Sunday off every other week. This leisure period commences on the end of the working day on Saturday and lasts until the start of work on Monday.

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

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

• **Vacation**

The employee is entitled to 35 paid calendar days of vacation during each year of service. The exact timing of the vacation is to be agreed upon by both sides, and the vacation period may be split subject to the employer's consent.

• **Illness / Work Accidents**

If the PDS is prevented from rendering her/his service due to an illness, s/he is entitled to receiving her/his salary for a period of six weeks. This entitlement period increases pro rata with the duration of employment. If the illness continues, the PDS is entitled to half the salary for another four weeks. If the PDS suffers from occupational disease or an accident at work, s/he is entitled to receiving her/his salary for up to eight weeks. **The employee must not be dismissed due to illness or an accident at work!**

Furthermore, the PDS continues to receive her/his salary when s/he is prevented from rendering work for a relatively short period of time for major personal reasons due to no fault of her/his own (e.g. death in the family).

• **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 not more than 40 hours per week;
- she must not work on Sundays and legal holidays or during night time.

An absolute ban on work is imposed for the period of at least 16 weeks, starting eight weeks prior to the expected delivery date and ending eight

weeks after giving birth. The employment relationship remains as it is, i.e. the contract must not be terminated due to the employee being pregnant.

- **Termination of employment**

See below.

The rights legally due to an employee can neither be waived nor limited by agreement! More information on working regulations, minimum standards and wages is available from the Chamber of Labour (Arbeiterkammer Wien, e-mail: akmailbox@akwien.at, Ph.: 01/501650, www.arbeiterkammer.at).

5. Social Insurance

While working in Austria, PDS must have a **valid health and accident insurance** covering illness and work-related accidents. This may be obtained by contracting with a private insurance company or by enrolment with the Austrian social security fund. In the latter case, PDS must (be) register(ed) with the competent social security fund (in Vienna: Wiener Gebietskrankenkasse, WGKK, www.wgkk.at) within seven days of taking up employment.

6. Proper Treatment

The employer must treat PDS properly and in compliance with Austrian law. **Under no circumstances is the employer allowed to physically or mentally abuse PDS**, regardless of what a PDS might have done.

If the employer does resort to physical or mental violence against the PDS (e.g. beating, sexual harassment, imprisonment, denial of proper food and medical treatment, invasion of privacy, extreme amount of working hours), the PDS should contact the following organisation and authorities immediately:

Austrian Police

In case of abuse, the PDS should make a criminal report against the employer and has the right to receive legal support by a lawyer.

Contact:

133 or 112 - Emergency line, 24 hours available

Victim support organization LEFÖ-IBF

This organization provides legal and social support in case of human rights violations against the PDS. LEFÖ-IBF provides anonymous and first language counselling and, in case of emergency, save accommodation in a shelter.

Contact:

LEFÖ-IBF

Lederergasse 35/12-13, A-1080 Vienna

Tel: +43 (0)1/ 7969298

Email: ibf@lefoe.at

The Federal Ministry for Europe, Integration and Foreign Affairs (MFA)

The Protocol Department will assist and mediate in cases of dispute arising from the employment relationship.

Contact:

See below.

7. Annual Interview

Additionally, in order to ensure a mutually beneficial employment relationship, the MFA invites PDS to an **interview at least once a year**, on the occasion of which PDS can report on their work environment in general as well as on potential problems. It is the employer's obligation to enable PDS to attend these interviews which are held at the MFA. As it might sometimes be difficult to find an interpreter (particularly if the language spoken by the PDS is not widely used), the PDS is strongly encouraged to attend language courses and to acquire as soon as possible at least a **minimum knowledge of German** once in Austria.

8. Termination of Employment

The employment relationship may be of **limited or unlimited duration**. Those of unlimited duration may be terminated at any time by giving proper notice. The period of notice is at least two weeks, ending on either the 15th or the last day of a given month. Depending on the employment contract or the work rendered, the period of notice might extend beyond the two weeks.

The employment relationship may be terminated in advance and with immediate effect only on very important grounds. Such grounds would be at hand if it is unreasonable to expect the employer to continue the employment (e.g. disloyalty, persistent neglect of duties, untrustworthiness, violence against the employer).

Upon termination of the employment relationship, the employer is obliged, at her/his cost, to provide the PDS with a written testimonial ("*Dienstzeugnis*") on the duration and type of service rendered. The testimonial must not include any other information.

Subsequently, the employer must ensure that the PDS gives back the ID card and returns to her/his home country or leaves the Schengen area, unless s/he is granted a residence permit for Austria or another Schengen State.

The Federal Ministry for Europe, Integration and Foreign Affairs wishes you a pleasant stay in Austria and all the best for your new occupation!



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