



AUSTRIAN CONSTRUCTION COMPLIANCE HANDBOOK

DATA CENTRE CONSTRUCTION HANDBOOK

FOR FOREIGN CONTRACTORS AND SUBCONTRACTORS

Prepared by

PALMER SHORE

CONTENTS

1. Introduction
2. Legal Framework Governing Construction Work in Austria
3. Determining the Nature of Work
4. Contractor Types
5. Company Registration Requirements
6. Posted Worker Compliance
7. Construction Collective Agreements (CLA)
8. Worker Classification
9. Minimum Wage Compliance
10. Working Time Regulations
11. Overtime Rules
12. Weekend Work
13. Time Recording Requirements
14. Construction Holiday Fund (BUAK)
15. BUAK Cost Impact
16. Permanent Establishment Risk
17. Construction Withholding Tax
18. Employee Taxation – 183 Day Rule
19. Economic Employer Risk
20. Right to Work Checks
21. Worker Qualifications
22. Criminal Record Checks
23. Inspection Documentation
24. Subcontractor Liability
25. Compliance Documentation Checklist
26. Site Compliance Requirements
27. Compliance Risk Areas
28. Recommended Compliance Framework
29. Contractor Responsibilities
30. Conclusion

Palmer Shore Ltd
C/O Gallagher Keane
30 Fitzwilliam Street Upper
Dublin 2
D02 X205

Company Number: 773879

INTERNATIONAL TAX, WORKFORCE MOBILITY AND COMPLIANCE STRATEGY IN THE DATACENTRE CONSTRUCTION SECTOR

D A T A C E N T R E C O N S T R U C T I O N H A N D B O O K



1. INTRODUCTION

Construction projects in Austria operate within one of the strictest labour compliance frameworks in Europe.

Authorities regularly inspect construction sites to ensure compliance with:

- labour law
- minimum wage regulations
- working time laws
- social security
- posted worker regulations
- tax law
- construction collective agreements

Failure to comply can result in:

- significant financial penalties
- site access bans
- contractor liability claims
- project shutdowns



Major technology companies such as Google and Microsoft enforce strict contractor compliance frameworks to ensure full regulatory compliance across the project supply chain. This handbook provides guidance for foreign contractors and subcontractors working on construction projects in Austria.

2. LEGAL FRAMEWORK GOVERNING CONSTRUCTION WORK IN AUSTRIA

The following legislation applies to construction projects:

Austrian Labour Law

Key legislation includes:

- Austrian Labour Constitution Act
- Working Time Act
- Wage and Social Dumping Prevention Act

These laws regulate:

- working hours
- minimum wage
- worker protection
- employment conditions.

Posted Worker Regulations

EU Posted Worker rules apply when employees are temporarily sent to work in Austria.

Employers must ensure workers receive:

- Austrian minimum wage
- local working conditions
- applicable collective agreement protections.

Austrian Tax Law

Foreign companies working in Austria may trigger:

- corporate tax obligations
- payroll tax obligations
- withholding tax obligations depending on the structure of the project.

3.DETERMINING THE NATURE OF WORK

Before mobilising to Austria contractors must determine:

Is the work construction activity?

Construction activities include:

- roofing
- cladding
- electrical installation
- mechanical installation
- scaffolding
- civil works
- structural installation.

Construction activities trigger:

- construction labour agreements
- BUAK obligations
- stricter labour inspections.

Regulated vs Non-Regulated Work

Certain trades require licensing.

Examples include:

- roofing
- electrical work
- heating installation
- scaffolding

Foreign contractors may need to submit a

Dienstleistungsanzeige (cross-border service notification) before starting work.

4.CONTRACTOR TYPES

Contractors working in Austria typically fall into three categories.

Austrian Companies

Companies registered in Austria and operating locally.

EU/EEA Contractors

Companies temporarily providing services across borders.

Third-Country Contractors

Companies established outside the EU.

Each category has different compliance requirements.

5.COMPANY REGISTRATION REQUIREMENTS

Foreign contractors may need to complete the following registrations.

Trade Notification

Where activities are regulated trades.

Austrian Tax Registration

Required if:

- permanent establishment exists
- employees taxed locally
- VAT registration required.

Social Security Registration

Required if workers are subject to Austrian social security.

6.POSTED WORKER COMPLIANCE

Before employees travel to Austria employers must complete:

A1 Certificates

Confirming the worker remains in the home country social security system.



Without A1 certificates workers may become liable for Austrian social security.

ZKO Notification

Employers must submit a ZKO notification before work begins.

The notification includes:

- employer details
- worker details
- location of work
- project duration.

Failure to submit ZKO notifications can result in substantial fines.

7. CONSTRUCTION COLLECTIVE AGREEMENTS (CLA)

All construction workers must be paid according to the applicable Collective Labour Agreement (Kollektivvertrag).

Examples include:

- **Bauarbeiter-Kollektivvertrag**
General construction workers.
- **Dachdecker-Kollektivvertrag**
Roofing workers.
- **Elektroinstallation CLA**
Electrical installation workers.

Correct classification determines:

- minimum wage
- overtime rates
- allowances
- holiday entitlements.

8. WORKER CLASSIFICATION

Workers must be classified according to their:

- trade
- skill level
- experience
- responsibility level.



Misclassification is one of the most common compliance failures on construction sites.

Authorities will compare:

- worker role
vs
pay level.

9. MINIMUM WAGE COMPLIANCE

Employers must ensure workers receive at least the minimum wage specified in the relevant CLA.

Authorities will review:

- wage levels
- worker classification
- allowances
- overtime payments.

Failure to pay the correct wage is considered **wage dumping**, which carries significant penalties.

10. WORKING TIME REGULATIONS

Construction working hours are strictly regulated.

Typical construction CLA rules include:

- **Standard working week**
39 hours.
- **Maximum working hours**
Daily maximum - 12 hours
Weekly maximum - 60 hours
Average weekly working hours - 48 hours.

11. OVERTIME RULES

Overtime must comply with CLA provisions.

Overtime may require:

- overtime premiums
- approval by employer
- limits on total hours worked.

Authorities will compare:

- time sheets
vs
payroll records.

12. WEEKEND WORK

Weekend work is restricted in Austria.

Saturday work is permitted under construction agreements.

Sunday work may require:

- special authorisation
- CLA provisions
- additional pay premiums.

13. TIME RECORDING REQUIREMENTS

Employers must maintain accurate working time records.

These must include:

- start time
- finish time
- breaks
- overtime hours.

Records must be available during inspections.

14. CONSTRUCTION HOLIDAY FUND (BUAK)

BUAK is the Austrian **Construction Workers' Holiday and Severance Fund**.

It applies to most construction activities including:

- roofing
- cladding
- electrical installation
- structural construction.

Employers must:

- register workers
- submit monthly reports
- pay holiday contributions.

15. BUAK COST IMPACT

BUAK contributions significantly increase labour costs.

Typical impact:

20–25% additional labour cost.

Companies must plan for:

- additional payroll expenses
- cash flow impacts.

16. PERMANENT ESTABLISHMENT RISK

Foreign companies may create a **Permanent Establishment (PE)** in Austria if:

- project duration exceeds certain thresholds
- a fixed site is maintained
- employees operate continuously in Austria.

A PE creates:

- Austrian corporate tax obligations
- accounting requirements
- tax filing obligations.

17. CONSTRUCTION WITHHOLDING TAX

Austria may impose withholding tax on construction services.

Where applicable:

contractors may need to withhold tax payments to subcontractors.

Tax exemptions may apply depending on registration status.

18. EMPLOYEE TAXATION – 183 DAY RULE

Employees may remain taxed in their home country if:

- they spend less than 183 days in Austria
- employer has no PE
- salary not borne by Austrian entity.



However, construction projects often trigger economic employer rules.

19. ECONOMIC EMPLOYER RISK

Even if workers are employed abroad, Austria may treat the project entity as the economic employer where:

- the Austrian contractor directs the work
- workers integrate into the Austrian business
- costs are borne locally.

This may trigger:

- Austrian payroll tax
- employee tax registration.

20. RIGHT TO WORK CHECKS

Employers must verify workers have the legal right to work in Austria.

Required documents include:

- EU passport
- residence permit
- work permit (for third-country nationals).

21. WORKER QUALIFICATIONS

Certain construction roles require certification.

Examples include:

- crane operators
- scaffolders
- electrical engineers.

Proof of qualifications must be available during inspections.

22. CRIMINAL RECORD CHECKS

Many hyperscaler projects require background checks for security purposes.

These may be required for:

- site access
- data centre security zones.

23. INSPECTION DOCUMENTATION

During inspections, the following documents must be available:

- A1 certificates
- ZKO confirmation
- employment contracts
- payroll records
- time records
- wage payments
- worker classifications
- qualification records.

24. SUBCONTRACTOR LIABILITY

Main contractors may become liable if subcontractors fail to comply with labour regulations.

This may include:

- unpaid wages
- social security contributions
- BUAK obligations.

25. COMPLIANCE DOCUMENTATION CHECKLIST

Before workers mobilise contractors should ensure all documentation is available including:

This may include:

Company documents

- company registration extract
- trade registration
- liability insurance
- company registration number.

Employee documents

- passport
- employment contract
- A1 certificate
- ZKO notification#
- Qualifications
- payroll documentation.

26. SITE COMPLIANCE REQUIREMENTS

Contractors must ensure:

- documentation available onsite
- workers properly classified
- wages comply with CLA
- working hours recorded.

27. COMPLIANCE RISK AREAS

The most common issues identified during inspections include:

- incorrect worker classification
- underpayment of wages
- missing A1 certificates
- failure to register with BUAK
- incorrect working hours.

28. RECOMMENDED COMPLIANCE FRAMEWORK

Palmer Shore recommends implementing a four-layer compliance framework.

Layer 1 - Site Entry Compliance

Documentation required for site access.

Layer 2 - Labour Compliance

CLA, wages, working hours.

Layer 3 - Tax Compliance

PE analysis, withholding tax, employee taxation.

Layer 4 - Contractor Oversight

Subcontractor compliance monitoring.

29. CONTRACTOR RESPONSIBILITIES

Contractors should ensure subcontractors:

- understand Austrian labour rules
- provide required documentation
- comply with wage requirements.

30. CONCLUSION

Austria maintains strict enforcement of labour and tax compliance in the construction sector. Foreign contractors must ensure they fully understand and comply with:

- posted worker rules
- collective agreements
- working time laws
- tax obligations
- social security regulations.

Failure to do so can lead to severe financial and operational consequences.

NOTES

