

Austria

(Information provided by the Austrian delegation to the CCBE, January 2012.)

A. Contact Point

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B. General information

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| 1. | Legal basis | <ul style="list-style-type: none">• Law on Accreditation of Training and Professional Exams, ABAG (Part 1)• Austrian Lawyers Act, RAO (Section 2 Para 3, Section 3 Para 4, Section 5a and Section 30 Para 1a) |
| 2. | Overview of procedural steps | <p>Applications can be made to the relevant Accreditation of Training Commission or regional Bar.</p> <p>I. Applications to the Accreditation of Training Commission</p> <ol style="list-style-type: none">1. The Accreditation of Training Commission is situated at the seat of the Regional Appeal Court. The applicant has to send the application to the President of the relevant Regional Appeal Court, who is also the Chair of the Accreditation of Training Commission (the question as to which Regional Appeal Court is competent will depend on the country in which the applicant acquired his or her law degree).¹2. The Chair of the Accreditation of Training Commission will carry out an Equivalence Assessment comparing relevant foreign and national qualifications and professional experiences: he or she decides whether the applicant will need to sit an aptitude test. The aptitude test will be taken before a senate of the Accreditation of Training Commission.3. After successful completion of the assessment (and if necessary an aptitude test), the applicant is eligible to register as a trainee lawyer with the relevant regional Bar and to commence the 5-year traineeship.4. Upon successful completion of the traineeship/any relevant exams, the applicant is eligible to seek registration in the list of the regional bar where he or she wishes to be seated. <p>II. Applications to regional Bar</p> <ol style="list-style-type: none">1. The applicant has to send the application to the relevant regional bar, where he or she wants to seek registration as a trainee lawyer. <p>The Board of the Bar assesses the application within the framework of the RAO based on the applicant's documents and provided evidence. If it is doubted whether the applicant meets the standards for law studies cited in Section 3 RAO (study of Austrian law at an Austrian university for at least 4 years, 240 ECTS, knowledge of certain fields of law etc), it can seek an expert opinion from one or more academic members of the Accreditation of Training Commission via the Regional Appeal Court according to Section 3 Para 3 ABAG. The expert opinion can state if the equivalence is given or if there is a need for an aptitude test, if the equivalence is not (entirely) proven. At the same time it can state in which fields of knowledge the aptitude test has to be taken.</p> <ol style="list-style-type: none">2. After successful completion of the assessment (and if necessary an aptitude test which is carried out by a senate of the Accreditation of Training Commission, the applicant is eligible to register as a trainee lawyer with the relevant Bar and to commence the 5-year traineeship (possibility of reduction).3. Upon successful completion of the traineeship/any relevant exams, the trainee lawyer is eligible to seek registration in the list of the Bar where he or she wishes to be seated <p>The applicant has the choice to either apply for an equivalence examination directly from the Commission or seeks registration as a trainee lawyer in the relevant list of the competent Bar, which is also able to begin the assessment procedure.</p> |

C. Processing of application

¹ ABAG, Section 5 Para 4 number 4 lays down that 1. The Accreditation of Training Commission at the Regional Appeal Court of Graz is responsible for Greece, Italy, Malta, Portugal, Slovenia, Spain and Cyprus. 2. The Accreditation of Training Commission at the Regional Appeal Court of Innsbruck is responsible for Belgium, France, Luxemburg, the Netherlands, Lichtenstein and Switzerland. 3. The Accreditation of Training Commission at the Regional Appeal Court of Linz is responsible for Bulgaria, Estonia, Latvia, Lithuania, Romania, the Slovak Republic, and the Czech Republic. 4. The Accreditation of Training Commission at the Regional Appeal Court of Vienna is responsible for Denmark, Germany, Finland, Iceland, Norway, Poland, Sweden, Hungary, the UK and Northern Ireland and all other countries not coming under the remit of no: s 1-4.

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| 1. | Information and documents requested from the applicant | <p>The applicant has to provide evidence on:</p> <ol style="list-style-type: none"> 1. Law degree that was obtained in the EU, EEA or Switzerland 2. Any other appropriate certifications or other certificates of qualification 3. Any professional training evidence 4. Deposit receipt for the fees <p>If evidence does not exist in German, authenticated translations have to be attached.</p> |
| 2. | Submission of application | <p>There is no standard application form. The application should be submitted in German by post together with the requested documents to either the Chair of the relevant Accreditation of Training Commission (President of the Regional Appeal Court) or the Board of the competent Bar.</p> <ul style="list-style-type: none"> • Regional Appeal Courts (for contact details, click here). • Regional Bar (for contact details, click here) |
| 3. | Application fees | <p>€140</p> <p>Additional fees may be incurred (e.g. expert opinion = €120; aptitude test = €370; appeal = €300).</p> |
| 4. | Expected duration of the application processing | <p>No information since there are no experiences with the implementation of this procedure documented so far.</p> |

D. Initial assessment of application and possible outcomes

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| 1. | General requirements | <ol style="list-style-type: none"> 1. Be a citizen of the EU, EEA or Switzerland 2. Be a holder of a law degree that was obtained in the EU, EEA or Switzerland. |
| 2. | Equivalence of relevant knowledge and/or professional qualifications | <p>The competent authority will assess:</p> <ol style="list-style-type: none"> 1. Whether the knowledge and abilities of an applicant correspond to the knowledge and abilities certified after having completed a study of Austrian Law. 2. Whether any professional qualification and appropriate professional training of some kind has been completed; such training may also be accounted for practical training. |
| 3. | Outcome | <p>Depending on previous education and professional experience, the following outcomes are possible:</p> <ol style="list-style-type: none"> 1. Equivalent knowledge and training is confirmed: if the knowledge and abilities of the applicant correspond to the knowledge and abilities certified after having completed a study of Austrian law, the applicant can seek registration as a trainee lawyer. 2. Equivalent knowledge and training is not confirmed: the decision of the Chair of the Commission has to state which fields of knowledge have to be examined in front of a senate of the Accreditation of Training Commission (aptitude test). If the Chair considers necessary he or she will seek an expert opinion before his decision (Section 3 Para 3 ABAG). 3. Equivalent appropriate practical training is confirmed: The equivalence assessment is based on the certified qualifications of appropriate training obtained in EU, EEA or Switzerland: it must be taken into account according to Section 2 Para 3 RAO. According to this provision practical training (up to 15 months) can be passed at a notary's office, at a tax consultant or at a public authority or university if the practice is useful for the lawyers practice. Once confirmed, the practical training requirement under Section 1 Para 2 lit d RAO will be then (as a whole or partly) satisfied. Please note, however, that such practical time can be taken into account after successful completion of studies of law at the earliest and cannot be taken into account twice. 4. Equivalent appropriate practical training is not confirmed: the applicant will have to gather further appropriate practical training according to Section 2 Para 1 RAO: full time legal activity at court, with a public prosecutor, lawyer or an appropriate substitute (see above). |

E. Steps following initial assessment

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| 1. | Aptitude test | <p>The aptitude test takes place orally in front of a senate of the Accreditation of Training Commission. Written exams are only conducted if requested by the applicant.</p> <p>The amount of examinations will depend on previous education and professional experience and might cover the following subjects:</p> <ol style="list-style-type: none"> 1. Austrian civil law and Austrian civil procedural law 2. Austrian criminal law and criminal procedural law 3. Austrian constitutional law, including fundamental human rights and Austrian administrative law, including administrative procedural law 4. Austrian company law, Austrian labour and social legislation and Austrian tax law |
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| | | <p>5. European law, public international law</p> <p>6. Any other relevant research areas of knowledge</p> <p>7. General legal principles, knowledge in economy-related areas; knowledge of any other areas related to law.</p> <p>The members of the senate have to deliver their judgment in conclave. If the aptitude test is passed or not is decided upon by majority vote. If there is no majority, the Chair's vote prevails.</p> |
| | | <ul style="list-style-type: none"> • The exam can be taken twice within a period of 2 to 6 months. • €370 will be charged for the aptitude test. • The Accreditation of Training Commission generally is composed of the President of the Regional Appeal Court (Chair), the Vice-President of the Regional Appeal Court (Deputy) and a number of other members (Commissioners). The concrete number has to be determined by the Chair out of academics and members of the judiciary. The senate for an aptitude test consists of 4 members - 3 academics and 1 member of the judiciary – presided over by the Chair. • Appeals against the decision of the Chair must be made within 2 weeks to the Supreme Appellate and Disciplinary Commission. This body comprises of 3 members of the judiciary. |
| 2. | Next Steps | After having passed the aptitude test, the applicant if necessary will need to complete the required traineeship. |
| F. Normal route to qualify as a lawyer | | |
| 1. | Academic stage | Legal studies |
| 2. | Professional stage | <p>5 years, there of:</p> <ol style="list-style-type: none"> 1. 9 months (starting from 1/7/2011: reduced to 5 months) must be passed in court/prosecutors office (as a trainee); 2. At least 3 years must be passed working at an Austrian law office with a lawyer; 3. Up to 15 months can be passed at a notary's office, at a tax consultant's or at a public authority or University if the practice is useful for the practice as a lawyer. Doctoral and other postgraduate studies can also be taken into account up to 6 months within this maximum practice of 15 months if the studies have been finished with another law degree and they are useful for practice as a lawyer. 4. Comparable practice in Austria and abroad will be accepted. 5. Training courses amounting to 42 half days must be undertaken in the fields of law which are subjects of the Bar exam (see below). |
| 3. | Lawyers' exam | <p>After the traineeship at the Court, and at least 2 years traineeship with a lawyer and 24 half days of training courses, the trainee can take the Lawyer's exam.</p> <p>The Bar Exam in Austria consists of written exams (8 hours for each field) in:</p> <ul style="list-style-type: none"> - Civil law - Administrative law - Criminal law <p>The candidate has to prepare written pleadings on the basis of a court file or other written information. It is an open book exam.</p> <p>In addition there is a comprehensive oral exam which is regulated in Section 20 of the Law on the Bar Exam. This oral exam takes place no earlier than 2 weeks after the written exam and usually takes about 2 hours per candidate.</p> |
| 4. | Registration as a lawyer | Once completed, the trainee lawyer who meets all the legal requirements may seek registration in the list of the regional Bar where he or she wishes to be seated. |
| G. Statistics | | |
| 1. | Closed cases | None |
| 2. | Outstanding cases | None |