



Comparison of legal forms (1/7)

| | Corporation (Austrian “GmbH”) | Association (Austrian “Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
|----------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| General | Corporate body with legal personality whose shareholders make a capital contribution to the company and whose shareholders are not liable for company liabilities | An association is a voluntary, long-term association of at least two persons organized based on statutes for the pursuit of a specific, common, idealistic purpose Economic association; Idealistic association | Legal instrument for cross-border cooperation in the European Union. Its activities shall be related to the economic activities of its members and must not be more than <u>ancillary</u> to those activities. | Association of local authorities from several EU Member States with legal personality. The EGTC is intended to manage EU regional development programs, facilitate and promote territorial cooperation to strengthen economic and social cohesion, and can also be used for other cross-border projects. |
| Legal basis | Limited Liability Company Act (“GmbHG”) | Association Law (“VerG”) | Council Regulation No 2137/85 of 25 July 1985 on the EEIG Austrian EEIG Implementation Act Additionally, the provisions applicable for a partnership (“OG”) shall apply in a subsidiary manner | Regulation No 1082/2006 of 5 July 2006 on a European grouping of territorial cooperation Regulation No 1302/2013 of 17 December 2013 Lower Austria EGTC Act The EGTC's registered office plays an essential role in the question of the applicable law |
| Entrepreneurial status under commercial law | Entrepreneur by virtue of legal form | No | Entrepreneur by virtue of legal form | Cooperation with its own legal personality (based on EU law) |

Comparison of legal forms (2/7)

| | Corporation (Austrian “GmbH”) | Association (Austrian “Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
|----------------------------------|-----------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Establishment | <p>Conclusion of the articles of association</p> <p>Registration with the Austrian Company's Register</p> | <p>Conclusion of statutes</p> <p>Notification of the establishment at the association authority</p> <p>Registration with the register of associations</p> | <p>Conclusion of a foundation agreement</p> <p>Registration with the Austrian Company's Register</p> | <p>Conclusion of a convention and of statutes</p> <p>Each potential member obtains an approval of the member state where it is located</p> <p>Publication of a notice in the Official Journal of the European Union</p> <p>Approval by the Austrian state government</p> <p>Registration by the state government</p> |
| Name | <p>personal firm, special firm and fantasy name plus the addition "GmbH"</p> | <p>Subject names, fantasy names or personal names</p> | <p>The company name must be based on the object of the association or contain the names of all members or at least one of them plus the addition “EEIG”</p> | <p>No special requirements</p> <p>In case of a limitation of the liability of the members the name has to include “with limited liability”</p> |
| Shareholders/ Members | <p>Individuals and legal entities</p> | <p>Individuals and legal entities</p> | <p>At least 2 members</p> | <p>Member states, regional authorities (e.g. federal states), local authorities (e.g. municipalities), certain bodies governed by public law</p> |

Comparison of legal forms (3/7)

| | Corporation (Austrian “GmbH”) | Association (Austrian “Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
|-------------------------|-----------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Purpose | Any legally permissible purpose, also idealistic purposes | Determined common ideal purpose (statutes) Economic association | Purpose of the grouping shall be to facilitate or develop the economic activities of its members and to improve or increase the results of those activities. Its purpose is not to make profits for itself. | The activity of an EGTC is limited to facilitating and promoting territorial cooperation to strengthen economic and social cohesion. Profit or revenue generation is not prohibited Sovereign powers cannot be transferred to an EGTC |
| Share capital | Generally minimum capital of EUR 35,000 | No minimum capital required | No minimum capital required | No minimum capital required |
| Executive bodies | Managing Director Shareholders' meeting Possibly supervisory board Possibly advisory board | General meeting Management body Auditors Optional: Supervisory Board | General meeting (all members) Managing director (third party directorship possible) | Assembly (representatives of all members) Director (who represents the EGTC and acts on its behalf) |

Comparison of legal forms (4/7)

| | Corporation (“GmbH”) | Association (“Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
|-------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Liability for debt of organisation | <p>Liability of the GmbH with corporate assets</p> <p>Liability of shareholders limited to capital contribution, no personal liability of the shareholders</p> | <p>Association is liable for liabilities with its own assets</p> <p>Association officials are generally unlimited liable to the association in the event of violation of legal or statutory obligations in violation of the diligence of a prudent and conscientious organ manager.</p> <p>If the association official works free of charge, official is only liable in the event of intent or gross negligence (unless otherwise agreed or stipulated in the statutes).</p> <p>Members of the association are generally not liable.</p> | <p>Members have unlimited and joint liability with their private assets</p> <p>But: no primary liability of the members (only in the course of the settlement)</p> <p>Liability of a retired member for liabilities due before five years after retirement.</p> | <p>An EGTC is liable for its debts (whatever their nature).</p> <p>An EGTC is liable for the acts of its organs as regards third parties, even where such acts do not fall within the tasks of the EGTC.</p> <p>Members may be held liable (to the extent that the assets of an EGTC are insufficient to meet its liability), unless the liability of a Member is not excluded or limited under the national law to which that Member is subject.</p> <p>If the liability of a member is limited, the other members may also limit their liability in the statutes.</p> |

Comparison of legal forms (5/7)

| | Corporation (“GmbH”) | Association (“Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
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| VAT (VAT applicable in case of entrepreneur for VAT purposes) | <p><i>Entrepreneurs for VAT purposes:</i></p> <p>An entrepreneur for VAT purposes is someone who carries out a sustainable activity to generate income, even if there is no intention to make a profit.</p> <p>If the corporation supplies goods and services against payment (regardless of whether the services are provided to third parties or to members) it will be qualified as entrepreneur.</p> <p>The general regulations on VAT apply.</p> <p>For non-profit organizations or organizations with charitable and church purposes the reduced VAT rate (10%) is applicable (to be reviewed in detail).</p> | <p><i>Non-entrepreneurial area</i> (not subject to VAT):</p> <p>Fulfilment of their statutory joint tasks (association sector) without providing individual services to members or third parties</p> <p><i>Entrepreneurial area</i> (subject to VAT):</p> <p>All activities carried out on a sustained basis within the framework of an exchange of services (services against payment to its members or to third parties)</p> <p><i>Non-profit association:</i></p> <p>Activities which are carried out within the framework of indispensable or dispensable auxiliary operations are not subject to VAT due to the lack of the intention to make a profit (tax hobby).</p> | <p><i>Entrepreneurs for VAT purposes:</i></p> <p>According to the member states of the EU, the EEIG shall be subject to the VAT system if the EEIG supplies goods and services against payment (regardless of whether the services are provided to third parties or to members).</p> <p>The general regulations on VAT apply.</p> <p>Tax benefits for non-profit organizations or organizations with charitable and church purposes are not applicable for EEIG (since it is qualified as partnership).</p> | <p><i>Entrepreneurs for VAT purposes:</i></p> <p>An entrepreneur for VAT purposes is someone who carries out a sustainable activity to generate income, even if there is no intention to make a profit.</p> <p>If the EGTC supplies goods and services against payment (regardless of whether the services are provided to third parties or to members) it will be qualified as entrepreneur.</p> <p>The general regulations on VAT apply.</p> <p>For non-profit organizations or organizations with charitable and church purposes the reduced VAT rate (10%) is applicable (to be reviewed in detail).</p> |

Comparison of legal forms (6/7)

| | Corporation (“GmbH”) | Association (“Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
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| Input VAT deduction | <p>Deduction of input tax in the course of entrepreneurial activity.</p> <p>The general regulations on VAT apply.</p> <p>In case also transactions are carried out which lead to an exclusion of input VAT deduction, the input VAT must be divided into a deductible and a non-deductible part (to be reviewed in detail)</p> | <p>Input VAT in connection with the non-entrepreneurial sector as well as with tax-exempt transactions cannot be claimed.</p> <p>Where input VAT amounts cannot be clearly allocated, they are allocated in proportion to the taxable turnover in relation to the association's other income.</p> | <p>Deduction of input tax in the course of entrepreneurial activity.</p> <p>The general regulations on VAT apply.</p> <p>In case also transactions are carried out which lead to an exclusion of input VAT deduction, the input VAT must be divided into a deductible and a non-deductible part (to be reviewed in detail)</p> | <p>Deduction of input tax in the course of entrepreneurial activity.</p> <p>The general regulations on VAT apply</p> <p>In case also transactions are carried out which lead to an exclusion of input VAT deduction, the input VAT must be divided into a deductible and a non-deductible part (to be reviewed in detail)</p> |
| (Corporate) Income Tax | <p>GmbH is subject to Austrian corporate income tax (25%), including minimum CIT</p> <p>Tax benefits for non-profit organizations or organizations with charitable and church purposes available</p> | <p>Association is subject to Austrian corporate income tax (25%)</p> <p>Tax benefits for non-profit associations or associations with charitable and church purposes available</p> | <p>Profits or losses are allocated directly to the shareholders and taxed in their sphere.</p> | <p>EGTC is subject to Austrian corporate income tax (25%)</p> <p>Provisions with respect to tax benefits for non-profit cooperation or cooperation with charitable and church purposes may be applicable</p> |

Comparison of legal forms (8/7)

| | Corporation (“GmbH”) | Association (“Verein”) | European Economic Interest Grouping (EEIG) | European grouping of territorial cooperation (EGTC) |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Audit and accounting | Scope of the financial statements and potential mandatory statutory financial audit requirements depend on the size of the company | Preparation of an audit report by the auditors Scope depends on the size of the association | The managing directors are responsible for the proper accounting of the association and for the preparation of the annual accounts. | Annual budget to be adopted by the cooperation Austrian general provisions on the preparation of the financial statements and potential mandatory statutory financial audit applicable. |
| Termination | Dissolution leads to liquidation The reasons for dissolution are regulated by law | The legal personality of an association ends with the entry of its dissolution in the register of associations. In those cases in which liquidation is required, the legal personality ends only at the time of registration of its termination. | Member resolution (in principle unanimously) Dissolution leads to liquidation Settlement is subject to national law | Provisions on dissolution to be agreed in the Convention In certain cases the court may order dissolution |

Pros and Cons of the legal forms (9/2)

| | PROS | CONS |
|----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Corporation (Austrian "GmbH") | <ul style="list-style-type: none"> — Limitation of liability with regards to company debt — Well known legal entity — Any legally permissible purpose, also idealistic purposes allowed | <ul style="list-style-type: none"> — Legal form with strongest compliance regulations (minimum capital requirements, accounting principles; creditor protection rules) — Minimum CIT also in case of losses — Foundation costs – i.e. minimum capital requirements — Higher admin costs (accounting, etc) — Legally defined rights and obligations for shareholders — Change of shareholders is more complicated (notarial need) |
| Association (Austrian "Verein") | <ul style="list-style-type: none"> — Low foundation costs, simple foundation — Low ongoing costs — No minimum capital requirements — No personal liability for the members of the association — Statute autonomy (with respect to rights and obligations of members, capital, etc) — Simplified accounting rules based on size — Simple change of members possible | <ul style="list-style-type: none"> — Liability risk of association's functionaries in case of fraud/gross negligence — The association's assets may only be used for the purposes of the association — For VAT purposes – consideration of non-entrepreneurial and entrepreneurial area (additional effort) and thus, limitation of input VAT deduction possible. |

Pros and Cons of the legal forms (2/2)

| | PROS | CONS |
|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| European Interest Grouping (EEIG) | <ul style="list-style-type: none"> — Special legal instrument for cross border cooperation within the EU — Low costs of the legal form - simple foundation principles — No minimum capital requirements — Full influence of the members | <ul style="list-style-type: none"> — Full liability on the level of the members (in the course of the settlement) — Its purpose must not be profit-making — Corporation Tax: transparent entity; taxed on the level of its members — Cannot qualify as a NPO under Austrian tax code (due to legal form) — General accounting principles to be considered |
| European grouping of territorial cooperation (EGTC) | <ul style="list-style-type: none"> — Formalized cooperation, also targeting local authorities and associations of local authorities — Specifics of the performance of public tasks are addressed more accurately — Membership exclusively for Member states, regional and local authorities and certain bodies governed by public law — No minimum capital required — Limited liability might be possible (according to the laws of a member state/federal state) — Profit or revenue generation is not prohibited | <ul style="list-style-type: none"> — Foundation is linked to various organizational requirements – potentially time-consuming process — Approval of the member state necessary – this can last up to 6 months — Complex cooperation instrument due to the different legal bases — The activity of an EGTC is limited to facilitating and promoting territorial cooperation to strengthen economic and social cohesion. — Full liability on the level of the members (a limitation might be possible) — General accounting principles to be considered |



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