

Formation of a limited liability company in Germany

(A) Who can establish a GmbH?

A German GmbH can be formed by German or foreign citizens or companies as shareholders. It can have one or more shareholders.

The GmbH has at least one managing director; only a German or foreign natural person may act as managing director.

(B) How is a GmbH formed in Germany?

The formation of a GmbH in Germany is done by notarization of the formation deed by a German notary. For this purpose, all founding shareholders must be present or represented. In the case of representation, a written, signature-certified power of attorney for the formation of the company is required, which must be available when the company is entered in the commercial register at the latest. The application for registration in the Commercial Register must be submitted by all managing directors of the company. Their signatures must be certified but may be certified by a foreign notary; the application for registration must be submitted to the Commercial Register through a German notary.

(C) Which documents are required?

1) For the formation of the GmbH:

- If the founding shareholders are natural persons: Valid passport or identity card.
- If the founding shareholders are legal entities: Valid passport or identity card and proof of representation of the legal entity's representative (for resident and domestic companies: Current extract from the Commercial Register, otherwise usually notarial certificate of representation).
- For authorized representatives: Valid identity card or passport for the representative, signature-certified power of attorney and, in the case of representation of a legal entity, proof of representation for the grantor of the power of attorney (see above).

2) For the directors: valid passport or identity card.

(D) Information required for preparation of incorporation documents.

- Name of the company;
- Scope of the company;
- Business address of the company in Germany;
- Amount of the share capital (minimum: € 25,000.00);
- if the capital contribution is not to be made in cash but by contribution in kind: Designation of the object of the contribution and its value;
- Name, date of birth and address or company name, business address and commercial register number of the founding shareholders;
- Amount of the share capital assumed by each founding shareholder (minimum: € 1.00);
- Name, date of birth and full address of the managing director(s);
- If applicable, self-disclosure in accordance with German money laundering regulations if this cannot be obtained from the transparency register.

(E) Duration of registration and costs

The duration of the formation process and the formation of the company depends on how quickly the aforementioned documents and information are provided. After the incorporation deed has been notarized, the company needs to set up a bank account into which the share capital must be paid. Only then the managing director may register the company in the Commercial Register. The registration of the company in the Commercial Register usually takes place about one week after the Commercial Register receives the application for registration.

The notary and commercial register fees for the formation and registration of the company depend mainly on the amount of the company's share capital. For a company with a share capital of € 25,000.00, they amount to at least approx. € 700.00 for the notary and € 150.00 for the commercial register. In particular, when establishing a GmbH with more than one shareholder or a company that is to be adapted to the special needs of its founders, it is advisable to seek legal assistance prior to entrusting a notary with notarization. The costs start at approx. € 1.000.00 and can be higher depending on the complexity.

(F) Concluding remarks

Notarization of the formation of a company in a foreign language is generally possible.

Certain business activities may only be carried out in Germany after the corresponding permits have been obtained. These permits must generally be obtained before the company is entered in the Commercial Register.

It is possible for the company to commence business activities before the company is entered in the Commercial Register, but this may result in personal liability for the persons acting on behalf of the company.

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