Gender Equality and Non-Discrimination Laws in Austrian Higher Education

State Universities, Universities of Applied Sciences and Private Universities

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Overview of Gender Equality and Non-Discrimination Laws

Federal Constitutional Law

Federal Equal Opportunities Act

State Universities

Universities Act 2002

Equal Opportunities Act

Private Universities

Universities of Applied Sciences

Private Universities Act

University of Applied Sciences’ Studies Act
Para. 1: All citizen are equal before the law. Privileges based upon birth, sex, estate, class or religion are to be excluded. No one shall be discriminated against because of his/her disability. (…)

Para. 2: The state, provinces and municipalities subscribe to the de-facto equality of women and men. Measures to promote de-facto equality between women and men, especially by eliminating existing inequalities, are admissible.
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Private Universities Act

University of Applied Sciences’ Studies Act
Federal Equal Opportunities Act

Gender Equality (part 1 chapter 1)

- Direct or indirect gender discrimination in relation to public employment (§ 4)
- Sexual harassment and gender based harassment (§§ 8 and 8a)
- Duty of career advancement for women (§ 11)
- Affirmative action plan for women (§ 11a)

Non-Discrimination (part 1 chapter 2)

- Direct or indirect discrimination based on ethnicity, religion or ideology, age or sexual orientation in relation to public employment (§ 13)
- Harassment in relation to § 13 or other reasons (§ 16)

applies to university staff, students and also to civil servants
Duty of career advancement for women: (§ 11)

If women are underrepresented as permanent employees and functionaries, the federal government shall treat them as a priority in order to achieve gender balance. Underrepresentation: proportion of women < 50%

Career advancement plan for women: (§ 11a)

Binding requirements to raise the proportion of women shall be determined in the career advancement plan for women every 2 years (para. 3, subpara. 1)
The Federal Equal Opportunities Act shall apply to:

- all members of a university
- applicants for employment
- applicants for admission as students

Establishing equality without regard to gender, ethnicity, religion or ideology, age and sexual orientation

Applies only to state universities
<table>
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<tr>
<th>Institutions</th>
<th>Organisational Unit responsible for the coordination of activities relating to equal opportunities, the advancement of women and gender research (§ 19 para. 2, subpara. 7)</th>
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<td>Working Group on Equal Opportunities (§ 42)</td>
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<td>Arbitration Board (§ 43)</td>
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<td>Women’s Quota</td>
<td>At least <strong>50 % female members</strong> in each university’s collegiate board (§ 20a)</td>
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<td>The university council’s report has to contain a <strong>statement on the implementation of women’s quota</strong> (§ 21 para. 1, subpara. 13)</td>
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<td>The <strong>Federal Minister</strong> shall also publish on the website of the Ministry a <strong>statement</strong> on the implementation of the gender-balanced composition of collegiate bodies at all universities (§ 42 para. 8f)</td>
</tr>
<tr>
<td>Gender/Equality</td>
<td><strong>Guiding Principles</strong> (§ 2) equality of the sexes (subpara. 9) compatibility of studies or work with caring duties (subpara. 13)</td>
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<tr>
<td>Advancement for Women</td>
<td><strong>Duty of Career Advancement for Women</strong> (§ 41) <strong>Underrepresentation:</strong> proportion of women &lt; 50%</td>
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<td><strong>Career Advancement Plan for Women</strong> on the basis of the Federal Equal Opportunities Act (§ 20b)</td>
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<td><strong>Equality Plan</strong> on the basis of the Federal Equal Opportunities Act (§ 20b)</td>
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Working Group on Equal Opportunities and Arbitration Board (§§ 42, 43 Universities Act)

**Working Group on Equal Opportunities § 42**
- Advisory and support for university members and governing bodies with regard to discrimination
- Monitoring the application process for University Posts and Functions
- Forwarding complaints to the arbitration board with regard to discrimination on the basis of gender, ethnicity, religion or ideology, age or sexual orientation as a result of decisions by university governing bodies
- Making the arbitration board aware if the quota of at least 50% women in the collegiate body is not met
  -> after any justified objection, the collegiate body’s decisions are null and void

**Arbitration Board § 43**
- Mediation in disputes between university members
- Ruling on complaints: if discrimination occurs -> university governing body shall be obliged to make a new personnel decision, taking into consideration the legal opinion of the arbitration board
- Ruling objections

www.bmwfw.gv.at
Selected Examples of Implementation of the 50% Women’s Quota

Average Women’s Proportion in Rectorate, University Council and Senate, 2010 - 2015
Career Advancement Plan for Women

**Genesis** (§ 20b para. 1 Universities Act 2002)
- **Working Group on Equal Opportunities**
  - right to propose the plan for the advancement of women to the rectorate
- **Rectorate**
  - sends proposal to senate changes: only with justification
- **Senate**
  - decision

**Area of Regulation** (§ 11a Federal Equal Opportunities Act)
- Career advancement plan for women shall be **drawn up for 6 years**. It should be based on the proportion of women in relation to the total number of employee’s (para. 2)
- The **measures** to eliminate existing underrepresentation as well as existing discrimination of women shall be determined, and their duration specified (para. 3)
- **Binding requirements** shall be determined every 2 years to raise the proportion of women in each pay grade, remuneration or wage group (para. 3, subpara. 1)
Equality plan

www.bmwf.w.gv.at

Genesis (§ 20b para. 1 Universities Act 2002)

Working Group on Equal Opportunities
right to propose the plan for the advancement of women to the rectorate

Rectorate
sends proposal to senate
changes: only with justification

Senate
decision

Area of Regulation (§ 20b para. 2 Universities Act 2002)

Reconciliation of study/work
with child care and care of dependents § 2, subpara. 13 Universities Act)

Antidiscrimination according to the third part of the Federal Equal Opportunities Act

gender  ethnicity  religion/ideology
sexual orientation  age  disabilities

regulated separately
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  - Universities Act 2002

Equal Opportunities Act
- Private Universities
  - University of Applied Sciences' Studies Act
- Universities of applied sciences
Equal Opportunities Act

**Gender Equality (part 1)**

- Direct or indirect gender discrimination in relation to public employment (§ 3)
- Sexual harassment and gender based harassment (§§ 6 and 7)

**Non-Discrimination (part 2)**

- Direct or indirect discrimination based on ethnicity, religion or ideology, age or sexual orientation in relation to public employment (§ 17)
- Harassment in relation to § 17 or other reasons (§ 16)

**Differences to Federal Equal Opportunities Act:**

- No duty of career advancement for women
- No career advancement plan for women
University of Applied Sciences’ Studies Act

University of Applied Sciences degree programmes providers:

- shall give regard to **gender equality** and the **advancement of women** (§ 2 para. 5)
- shall strive for a **balanced representation of women and men** when appointing members for bodies and committees (§ 2 para. 5)
- shall observe the Federal Equal Opportunities Act (§ 2 para. 5). This also applies to providers in the form of legal entities governed by private law.

**Development plan:**

shall contain – as an accreditation requirement - a plan for the establishment of **gender equality** and the **advancement of women** (§ 8 para. 2)

**Statute:**

shall include measures aimed at **gender equality** and provisions for the **advancement of women** (§ 10 para. 10)
shall give regard to **gender equality** and the **advancement of women** (§ 4 para. 5)

shall strive for a **balanced representation of women and men** when appointing members for bodies and committees (§ 4 para. 5)

shall observe the **Federal Equal Opportunities Act** (§ 4 para. 5). This also applies to providers in the form of legal entities governed by private law.

**Development plan:**
shall contain – as an accreditation requirement – a plan for the establishment of **gender equality** and the **advancement of women** (§ 2 para. 1, subpara. 2)

**Statute:**
shall contain arrangements governing **gender equality** and the **advancement of women** (§ 4 para. 2, subpara. 3)

Not as effective as the Universities Act 2002 regulations on gender equality and non-discrimination
Sources

• Federal Equal Opportunities Act – B-GIBG, BGBl. Nr. 100/1993 idF BGBl. I Nr. 65/2015
• Equal Opportunities Act – GIBG, BGBl. I Nr. 66/2004 idF BGBl. I Nr. 107/2013
• Universities Act 2002 – UG, BGBl. I Nr. 120/2002 idF BGBl. I Nr. 131/2015
• Private Universities Act – PUG, BGBl. I Nr. 74/2011 idF BGBl. I Nr. 45/2015