

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

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Federal Constitutional Law

Federal Equal Opportunities Act

State
Universities

Universities
Act 2002

Equal Opportunities Act

Private
Universities

Private
Universities
Act

Universities
of Applied
Sciences

University of
Applied
Sciences'
Studies Act

Article 7 – Federal Constitutional Law

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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Federal Ministry of
Science, Research and Economy

Federal Equal Opportunities Act

*applies to university
staff, students and
also to civil servants*

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)

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)

Applies only to state universities

Universities Act 2002

§ 44 Universities Act 2002

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**

Universities Act 2002

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Institutions

Organisational Unit
responsible for the coordination of activities relating to equal opportunities, the advancement of women and gender research (§ 19 para. 2, subpara. 7)

Working Group on Equal Opportunities
(§ 42)

Arbitration Board
(§ 43)

Women's Quota

At least **50 % female members** in each university's collegiate board (§ 20a)

The university council's report has to contain a **statement on the implementation of women's quota** (§ 21 para. 1, subpara. 13)

The Federal Minister shall also publish on the website of the Ministry a **statement** on the implementation of the gender-balanced composition of collegiate bodies at all universities (§ 42 para. 8f)

Gender Equality/ Advancement for Women

Guiding Principles (§ 2)
equality of the sexes (subpara. 9)
compatibility of studies or work with caring duties (subpara. 13)

Duty of Career Advancement for Women (§ 41)
Underrepresentation: proportion of women < 50%

Career Advancement Plan for Women
on the basis of the Federal Equal Opportunities Act (§ 20b)

Equality Plan
on the basis of the Federal Equal Opportunities Act (§ 20b)

Working Group on Equal Opportunities and Arbitration Board (§§ 42, 43 Universities Act)

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Working Group on Equal Opportunities § 42

shall be established
at each University

Arbitration Board § 43

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

Mediation in disputes between university members

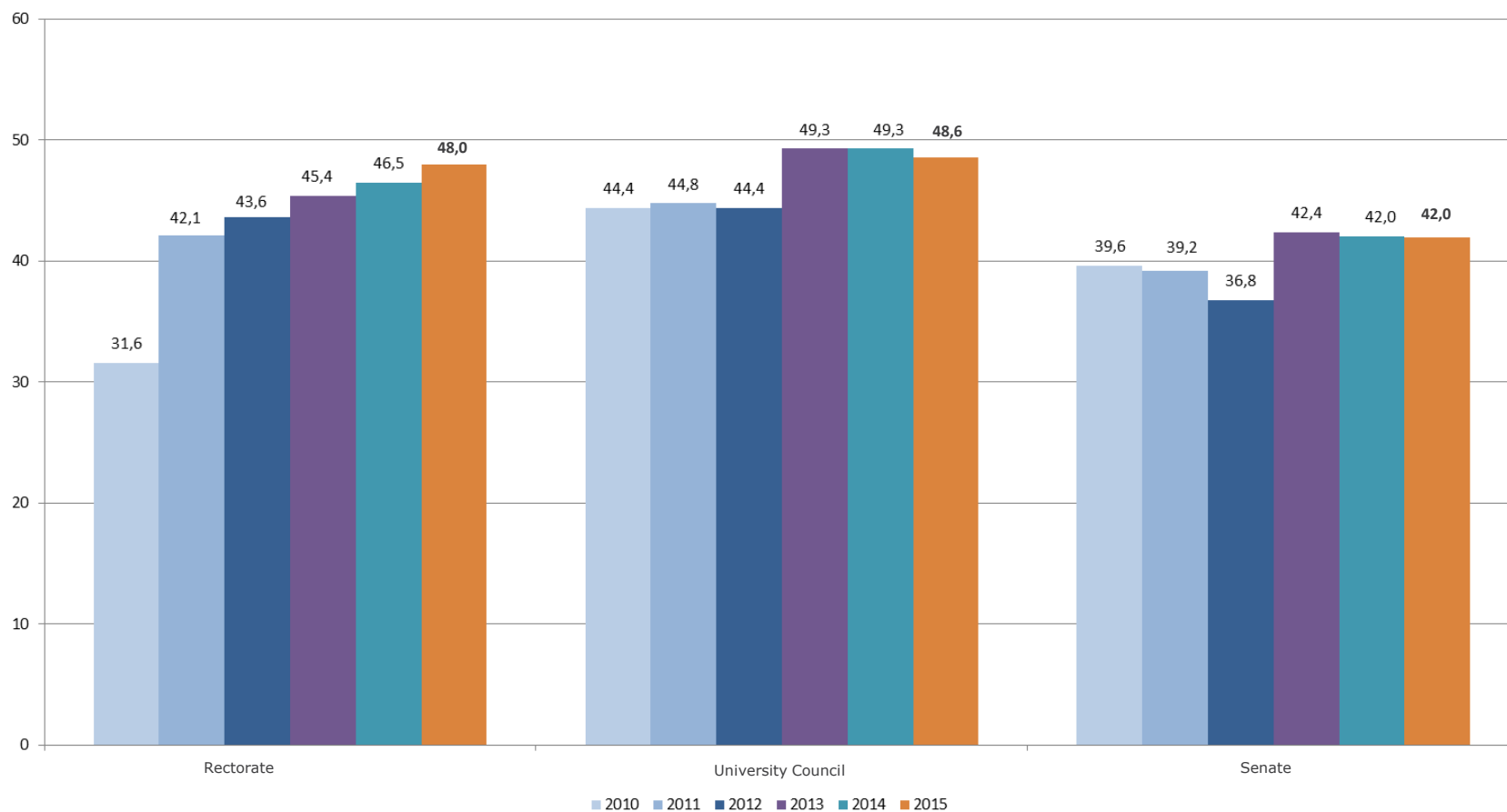
Ruling on complaints: if discrimination occurs -> university governing body shall be obliged to make a **new personnel decision**, taking into consideration the legal opinion of the arbitration board

Ruling objections

Selected Examples of Implementation of the 50 % Women's Quota

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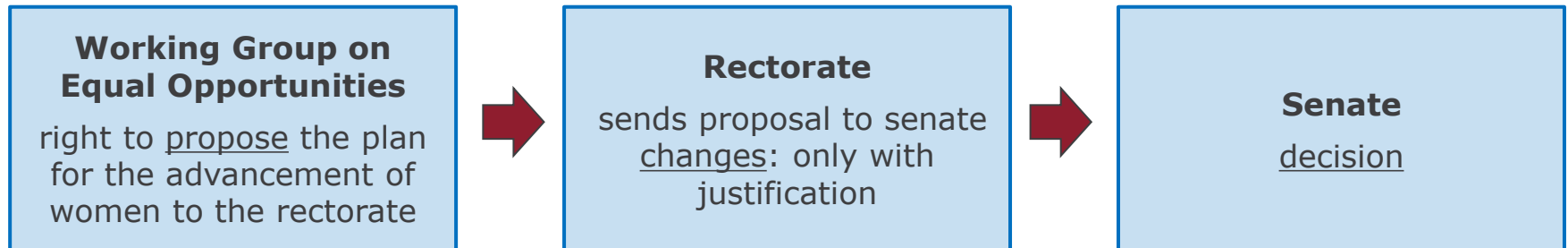
Average Women's Proportion in Rectorate, University Council and Senate, 2010 - 2015



Career Advancement Plan for Women

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



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)

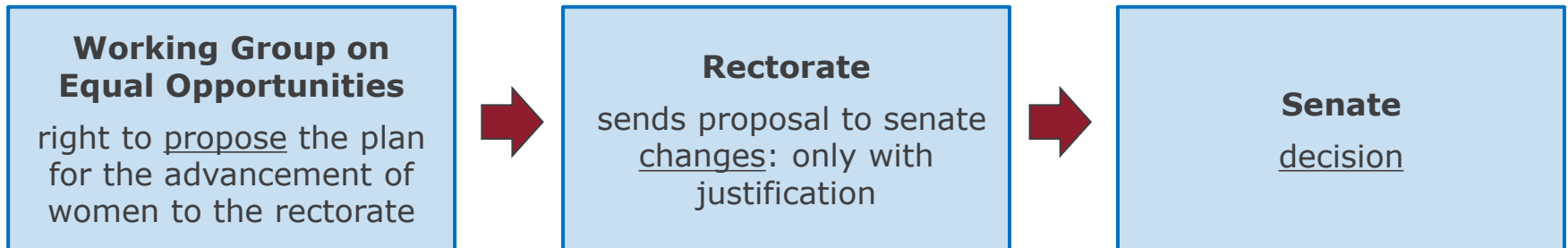
The **measures** to eliminate existing underrepresentation as well as existing discrimination of women shall be determined, and their duration specified (para. 3)

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)

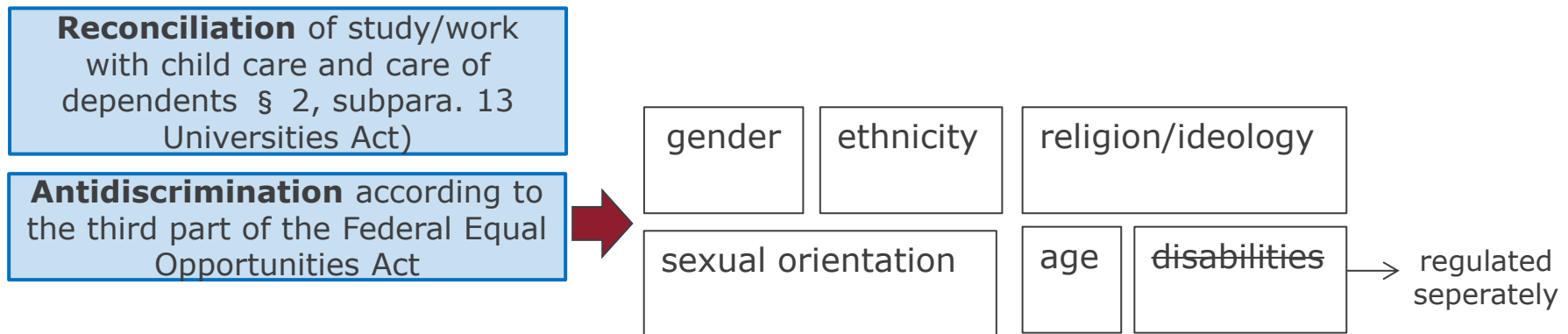
Equality plan

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



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



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Equal Opportunities Act

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Equal Opportunities Act

applies to
employment on the
basis of **private**
contract

Gender Equality (part 1)

Non-Discrimination (part 2)

Direct or indirect gender
discrimination in relation to public
employment (§ 3)

Direct or indirect **discrimination** based
on ethnicity, religion or ideology, age or
sexual orientation in relation to public
employment (§ 17)

Sexual harassment and gender based
harassment (§ § 6 and 7)

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.

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

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)

Private Universities Act

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Private Universities Act

Private Universities:

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.

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

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)

Sources

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- Federal Constitutional Law – B-VG, BGBl. Nr. 1/1930 idF BGBl. Nr. 1013/1994
- Federal Equal Opportunities Act – B-GIBG, BGBl. Nr. 100/1993 idF BGBl. I Nr. 65/2015
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- Private Universities Act – PUG, BGBl. I Nr. 74/2011 idF BGBl. I Nr. 45/2015