Gender Equality and Non-Discrimination Laws in Austrian Higher Education

State Universities, Universities of Applied Sciences and Private Universities

Lisa Herburger, Peter Koller, Roberta Schaller-Steidl

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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

Private Universities Act

Universities of Applied Sciences

Universities 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)

appplies 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
<table>
<thead>
<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>
<th>Working Group on Equal Opportunities (§ 42)</th>
<th>Arbitration Board (§ 43)</th>
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<tr>
<td>Women's Quota</td>
<td>At least <strong>50 % female members</strong> in each university’s collegiate board (§ 20a)</td>
<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>
<td>The Federal Minister 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>
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<tr>
<td>Gender Equality/Advancement for Women</td>
<td><strong>Guiding Principles</strong> (§ 2) equality of the sexes (subpara. 9) compatibility of studies or work with caring duties (subpara. 13)</td>
<td><strong>Duty of Career Advancement for Women</strong> (§ 41) Underrepresentation: proportion of women &lt; 50%</td>
<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**
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

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 of applied sciences

Private Universities Act

University of Applied Sciences’ Studies Act
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.

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

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.

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 Constitutional Law – B-VG, BGBI. Nr. 1/1930 idF BGBI. Nr. 1013/1994
• Federal Equal Opportunities Act – B-GlBG, BGBI. Nr. 100/1993 idF BGBI. I Nr. 65/2015
• Equal Opportunities Act – GlBG, BGBI. I Nr. 66/2004 idF BGBI. I Nr. 107/2013
• Universities Act 2002 – UG, BGBI. I Nr. 120/2002 idF BGBI. I Nr. 131/2015
• University of Applied Sciences’ Studies Act – FHStG, BGBI. Nr. 340/1993 idF BGBI. I Nr. 45/2014
• Private Universities Act – PUG, BGBI. I Nr. 74/2011 idF BGBI. I Nr. 45/2015