

**UNIVERSITIES ACT
2002**

TABLE OF CONTENTS

Part I

Organisational Law

Chapter 1

General Provisions

Sub-Chapter 1

Principles, Responsibilities and Scope of Application

- § 1. Objectives
- § 2. Guiding Principles
- § 3. Tasks
- § 4. Legal Nature
- § 5. Immunity from Ministerial Instructions and Freedom to Adopt Statutes
- § 6. Scope of Application
- § 7. Sphere of Action of the Universities
- § 8. Safeguarding Fields of Research and Teaching
- § 9. Legal Supervision
- § 10. Companies, Foundations and Associations
- § 11. University Report

Sub-Chapter 2

Financing, Performance Agreement and Quality Assurance

Federal Funding of Universities

- § 12. Federal Funding of Universities
- § 13. Performance Agreement
- § 13a. Arbitration Committee
- § 14. Evaluation and Quality Assurance

Sub-Chapter 3

Financial Management and Accounting

- § 15. Financial Management
- § 16. Accounting and Reporting
- § 17. Use of External Services
- § 18. Trade and Tax Law Position of the Universities

Chapter 2

University Governance and Internal Structures

Sub-Chapter 1

Provisions Applicable to all Universities

- § 19. Statute
- § 20. Management and Internal Organisation
- § 21. University Council
- § 22. Rectorate
- § 23. Rector

- § 24. Vice-rectors
- § 25. Senate

Sub-Chapter 2

Research Promotion, Commissioned Research and Authorisations

- § 26. Research Promotion and Commissioned Research
- § 27. Authorisations
- § 28.

Sub-Chapter 3

Special Provisions for the Clinical Departments of Universities of Medicine

- § 29. Organisation
- § 30. Ethics Committee
- § 31. Structure of the Clinical Department
- § 32. Governing Positions in the Clinical Department
- § 33. Reimbursement of Hospital Maintaining Bodies' Costs
- § 34. Doctors' and Dentists' Representatives
- § 35. Training Hospital

Sub-Chapter 4

Special Provisions for the University of Veterinary Medicine Vienna

- § 36. Veterinary Hospital
- § 37. Veterinary Teaching Institutes and the Organisational Unit for Wildlife Ecology

Sub-Chapter 5

Special Provisions for Catholic and Protestant Theology

- § 38.

Sub-Chapter 6

Special Provisions for the Academy of Fine Arts Vienna

- § 39. Art Gallery and Collection of Copperplate Engravings

Sub-Chapter 7

Special Provisions for University Sports

- § 40.

Chapter 3

Gender Equality

- § 41. Duty of Career Advancement for Women
- § 42. Working Group on Equal Opportunities
- § 43. Arbitration Board
- § 44. Application of the Federal Equal Opportunities Act
- § 45. Supervision
- § 46. Official Procedures
- § 47. Dilatoriness of Bodies
- § 48. Duty of Secrecy
- § 49. Liability

- § 50. Legal Representation

Part II Study Law

Chapter 1 General Provisions

- § 51. Definitions
§ 52. Structure of the Academic Year
§ 53. Distance Learning

Chapter 2 Degree Programmes

- § 54. Bachelor, Master, Diploma and Doctoral Degree Programmes
§ 55. Individually Designed Degree Programmes
§ 56. Certificate university programmes for further education
§ 57. Preparatory Courses
§ 58. Academic Degrees and Titles for Graduates of Certificate university programmes for further education

Chapter 3 Students

- § 59. Rights and Duties of Students
§ 60. University Admission Procedures
§ 61. Admission Periods
§ 62. Registration for the Continuation of Studies
§ 63. Admission to Degree Programmes
§ 64. General University Entrance Qualification
§ 65. Special University Entrance Qualification
§ 66. Orientation Period
§ 67. Academic Leave
§ 68. Expiry of Admission to Degree Programmes
§ 69. Leaving Certificate
§ 70. Admission to Non-Degree Programmes
§ 71. Expiry of Admission to Non-Degree Programmes

Chapter 4 Examinations

- § 72. Determination of Academic Success
§ 73. Academic Assessment
§ 74. Annulations of Assessments
§ 75. Certificates
§ 76. Admission Examinations and Supplementary Examinations
§ 77. Repetition of Examinations
§ 78. Recognition of Examinations
§ 79. Legal Protection in respect of Examinations

Chapter 5 Bachelor's Papers, Diploma, Master's and Doctoral Theses

- § 80. Bachelor's Papers
- § 81. Diploma and Master's Theses
- § 82. Doctoral Theses
- § 83. Artistic Diploma and Master's Submissions
- § 84. Inspection of Assessment Documents
- § 85. Recognition of Diploma and Master's Theses, Artistic Diploma and Master's Submissions, and Doctoral Theses
- § 86. Duty of Publication

Chapter 6 Academic Degrees

- § 87. Award of Academic Degrees
- § 88. Use of Academic Degrees
- § 89. Revocation of Domestic Academic Degrees

Chapter 7 Nostrification

- § 90.

Chapter 8 Tuition Fees

- § 91.
- § 92. Remission and Reimbursement of the Tuition Fees

Chapter 9 Special Provisions

- § 93. Special Provisions for Catholic Theology

Part III University Members

Chapter 1 Classification

- § 94.

Chapter 2 Research Fellows and Physicians in Specialists' Training

- § 95. Research Fellows
- § 96. Physicians in Specialists' Training

Chapter 3 Scientific and Artistic University Staff

- § 97. University Professors

- § 98. Appointment Procedure for University Professors
- § 99. Shortened Appointment Procedure for University Professors
- § 100. Scientific and Artistic Staff in Research, Art and Teaching

Chapter 4

Non-Academic University Staff

- § 101.

Chapter 5

Non-Tenured Associate Professors, Habilitation, Professors Emeriti and Retired Professors

- § 102. Non-Tenured Associate Professors
- § 103. Habilitation
- § 104. Professors Emeriti and Retired Professors

Chapter 6

General Provisions

- § 105. Freedom of Conscience and Research
- § 106. Commercial Exploitation of Intellectual Property

Part IV

Employment Law

- § 107. Advertisement of Positions and Appointments
- § 108. Legal Basis of Employments
- § 109. Term of Employment Contracts
- § 110. Special Arrangements for the Hours of Work and Rest Periods of Scientific and Artistic University Staff
- § 111. Special Arrangements for the Rest Periods of Non-Academic University Staff
- § 112. Labour Inspection
- § 113. Extended Protection against Dismissal
- § 114. Acceptance of Public Offices
- § 115. System of Pension Funds

Part V

Penal Provisions

- § 116.

Part VI

Properties, Buildings and Rooms

- § 117. Use of Space
- § 118. Tenancy Rights in respect of Properties Owned by BIG and other Owners

Part VII Science Council

§ 119.

Part VIII Transitional and Final Provisions

Chapter 1 Implementation of the New Organisational Structure

- § 120. Constituent Convention
- § 121. Implementing Measures

Chapter 2 Organisation

- § 122. Transitional Arrangements for University Members under the University Organisation Act 1993 and Universities of the Arts Organisation Act
- § 123. Transitional Arrangements for Appointment Committees, Habilitation Committees and Special Habilitation Committees

Chapter 3 Study Law

- § 124.
- § 124a. Application of the University Entrance Qualification Decree 1998
- § 124b. Supplementary Provisions relating to the Admission to Degree Programmes subject to German Numerus Clausus

Chapter 4 Transitional Arrangements for University Staff

- § 125. Permanent Federal Civil Servants
- § 126. Federal Contractual Employees
- § 127. Federal Apprentices
- § 128. New Entrants
- § 129. Liability of the Federal Government
- § 130. Claims of the Federal Government against Employees
- § 131. Transfer of Rented and Rent-Free Tied Accommodation
- § 132. Junior Scientific and Artistic Staff
- § 133. Persons with Special Contracts with the Federal Government
- § 134. Employees under Restricted Legal Capacity
- § 135. Representation of Interests of University Employees

Chapter 5 Transfer of Rights and Assets

- § 136. Successor Institutions
- § 137. Transfer of Tenancy Rights to Properties, Buildings and Rooms
- § 138. Legal Succession with respect to Shared Properties, Buildings and Rooms
- § 139. Transfer of Properties Owned by the Federal Government to the Universities

- § 140. Transfer to Universities of Properties, Movable Assets and Rights Owned by Organisational Units with Restricted Legal Capacity at Universities and Universities of the Arts

Chapter 6 Budget

- § 141.

Chapter 7 Entry into Force and Implementation

- § 142. References
§ 143. Entry into Force and Expiration of Legal Provisions
§ 144. Implementation

QUOTATIONS

Federal on the Organisation of Universities and their Studies (Universities Act 2002)

Promulgation: Federal Legal Gazette¹ No. 120/2002
Entry into Force: October 1, 2002 (basically)
January 1, 2004 (in full extent)

Publication of the Federal Chancellor on the Derogation of § 13 paras. 1, 2 and 9 of the Universities Act 2002 by the Constitutional Court²

Promulgation: Federal Legal Gazette I No. 21/2004
Entry into Force: March 30, 2004

Federal Act Amending the Universities Act 2002

Promulgation: Federal Legal Gazette I No. 96/2004
Entry into Force: July 1, 2004

Publication of the Federal Chancellor on the Derogation of Word “Sequences” in § 122 para. 2 subpara. 6 and § 122 para. 2 subpara. 9 of the Universities Act 2002 by the Constitutional Court

Promulgation: Federal Legal Gazette I No. 116/2004
Entry into Force: September 9, 2004

Federal Act Amending the Universities Act 2002

Promulgation: Federal Legal Gazette I No. 77/2005
Entry into Force: July 29, 2005

Federal Act Amending the Universities Act 2002

Promulgation: Federal Legal Gazette I, No. 74/2006
Entry into Force: June 10, 2006

Budget Accompanying Act 2007

Promulgation: Federal Legal Gazette I, No. 24/2007
Entry into Force: May 24, 2007

Federal Act Amending the Universities Act 2002

Promulgation: Federal Legal Gazette I, No. 87/2007
Entry into Force: December 5, 2007

¹ Bundesgesetzblatt für die Republik Österreich (BGBl.).

² Verfassungsgerichtshof.

UNIVERSITIES ACT 2002)³

Part I Organisational Law

Chapter 1 General Provisions

Sub-Chapter 1 Principles, Responsibilities and Scope of Application

Objectives

§ 1. The mission of the universities is to serve academic research and teaching, and the advancement, appreciation and teaching of the arts, and thereby to contribute to the personal development of the individual, and to the welfare of society and the environment. Universities are public educational institutions which, in their research and research-based teaching, are directed towards the advancement of knowledge and the development of new approaches to the arts. Through the common efforts of teachers and students, working in an enlightened knowledge society, they assist individuals in their striving for the education and autonomy through science. They promote the advancement of junior academics, which goes hand in hand with the acquisition of scientific and artistic abilities and qualifications, and methodological skills, with the goal of helping a society in transition to master the challenges it faces in a humane and gender-equal fashion. To enable them to respond to the constantly changing demands made on them in terms of organisation, study laws and employment laws, the universities and their governing bodies shall constitute themselves under conditions of the greatest possible autonomy and self-administration.

Guiding Principles

§ 2. The guiding principles to be observed by the universities in pursuance of their objects are:

1. freedom of sciences and their teaching (art. 17 of the Basic Law on the General Rights of Nationals⁴, Imperial Legal Gazette⁵ No. 142/1867) and freedom of scientific and artistic activity, the dissemination of the arts and their teaching (art. 17a of the Basic Law on the General Rights of Nationals);
2. interaction between research and teaching, the advancement, appreciation and teaching of the arts, and science and art;
3. diversity of scientific and artistic theories, methods and doctrines;
4. freedom of study;
5. attention to the requirements for entry to professional careers;
6. student codetermination, particularly in respect of matters relating to studies, quality assurance of teaching and the application of tuition fees;
7. national and international mobility of students, graduates, and university scientific and artistic staff;
8. collaborative relationships between members of the university;
9. equality of the sexes;
10. equality of social opportunity;
11. special attention to the needs of the handicapped;

³ Universitätsgesetz 2002.

⁴ Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger.

⁵ Reichsgesetzblatt (RGBl.).

12. efficient, economical and expedient management of finances.

Tasks

§ 3. Within their sphere of action, the universities fulfil the following tasks:

1. advancement of sciences (research and teaching), and the advancement, appreciation and teaching of the arts;
2. education through science and the advancement and appreciation of the arts;
3. scientific, artistic, artistic-pedagogical and artistic-scientific training, qualification for professional activities requiring the application of scientific knowledge and methods, as well as teaching artistic and scientific skills at the highest level;
4. training and promotion of junior academics and young artists;
5. continuing education, particularly of university graduates;
6. internal co-ordination of scientific research (and the advancement and appreciation of the arts) and teaching at universities;
7. promotion of domestic and international co-operation in research and teaching, and the arts;
8. promotion of the use and practical application of their research findings, and of community involvement in efforts to promote the advancement and appreciation of the arts;
9. gender equality, and the advancement of women;
10. maintenance of contacts with graduates;
11. provision of public information on the performance of the tasks of the universities.

Legal Nature

§ 4. The universities are legal entities under public law.

Immunity from Ministerial Instructions and Freedom to Adopt Statutes

§ 5. The universities shall perform their tasks according to § 3 within the limits of the law and the orders enacted according to § 2 para. 2 of the University Organisation Act 1993⁶, Federal Legal Gazette No. 805/1993, or § 2 para. 2 of the Universities of the Arts Organisation Act⁷, Federal Legal Gazette I No. 130/1998, without restriction by ministerial instructions, and shall adopt statutes within the limits of the law (§ 7 para. 1 University Organisation Act 1993 and § 8 para. 1 Universities of the Arts Organisation Act).

Scope of Application

§ 6. The following universities shall be subject to this Act:

1. University of Vienna;
2. University of Graz;
3. University of Innsbruck;
4. Vienna University of Medicine;
5. Graz University of Medicine;
6. Innsbruck University of Medicine;
7. University of Salzburg;
8. Vienna University of Technology;
9. Graz University of Technology;
10. University of Mining Leoben;

⁶ Universitäts-Organisationsgesetz – UOG 1993.

⁷ Bundesgesetz über die Organisation der Universitäten der Künste – KUOG.

11. University of Natural Resources and Applied Life Sciences, Vienna;
12. University of Veterinary Medicine Vienna;
13. Vienna University of Economics and Business Administration;
14. University of Linz;
15. University of Klagenfurt;
16. University of Applied Arts Vienna;
17. University of Music and Performing Arts Vienna;
18. University of Music and Dramatic Arts "Mozarteum" Salzburg;
19. University of Music and Dramatic Arts Graz;
20. University of Art and Industrial Design Linz;
21. Academy of Fine Arts Vienna.

Sphere of Action of the Universities

§ 7. (1) The sphere of action of the universities named in § 6 subparas. 1–3 and 7–21 of this Act, unless otherwise provided for by para. 2, shall correspond to the study programmes and research institutions at the above universities as constituted on the day before the entry into force of this Act.

(2) The sphere of action of the Vienna, Graz and Innsbruck Universities of Medicine shall correspond to the study programmes and research institutions at the Faculties of Medicine of the Universities of Vienna, Graz and Innsbruck as constituted on the day before the entry into force of this Act.

(3) Modifications to the spheres of action of the universities are only permissible by way of the performance agreements according to § 13 or by decrees of the Federal Government according to § 8.

Safeguarding Fields of Research and Teaching

§ 8. On the recommendation of the Federal Minister, the Federal Government may, by decree, direct one or more universities to establish a programme of study if this is necessary for overriding educational or scientific policy reasons and no performance agreement to this effect is reached.

Legal Supervision

§ 9. The universities shall be subject to supervision by the Federal Government. This shall comprise monitoring of compliance with the acts, ministerial decrees and the universities' statutes (legal supervision).

Companies, Foundations and Associations

§ 10. Every university shall be entitled to form companies, foundations and associations, and to invest therein, provided that such formation or investment is in furtherance of the performance of such university's tasks and, in particular, that it does not obstruct its research (and advancement and appreciation of the arts) and teaching.

University Report

§ 11. Starting in 2005, the Federal Minister shall submit to the National Council triennial reports, based on the universities' performance reports, on the universities' previous development and future strategy. Such ministerial reports shall contain discussion of the advancement of junior academics, developments with regard to universities' staffing, and the situation of students.

Sub-Chapter 2

Financing, Performance Agreement and Quality Assurance

Federal Funding of Universities

§ 12. (1) The universities shall be funded by the Federal Government, having regard to its financial resources, the requirements imposed by it on the universities and the fulfilment of their tasks.

(2) Pursuant to § 13, the Federal Minister shall, not later than the end of the second year of each performance agreement period, establish a global amount for university funding in the next performance agreement period in consultation with the Federal Minister of Finance, and shall reach agreement thereto in accordance with § 45 of the Federal Budget Act⁸, Federal Legal Gazette No. 213/1986.

(3) This amount shall, in accordance with the arrangements set out in para. 2, be increased by that of the universities' expenditure incurred as a result of general salary increases payable in individual years of the current performance agreement period to federal employees present at universities on the day before the entry of this Act into full effect, insofar as such staff are employed by universities or under public law, or assigned to universities under special contracts or training contracts with the Federal Government during the periods in question. Such increases may not exceed the percentage by which the Federal Government's budgeted personnel expenses exceed the budget for the previous calendar year.

(4) The increase under para. 3 shall be limited to the amount that would be required if the university personnel subject to this provision still had employment, training or special contracts with the Federal Government.

(5) The Federal Minister may retain up to one percent of the annual budget under paras. 2 and 3 for special funding requirements in respect of supplementary performance agreements according to § 13.

(6) The overall budget under paras. 2 and 3 shall be subdivided into a component devoted to the basic budget according to § 13 and a component for the formula-based budgets under para. 8.

(7) Each university shall receive a global budget, established in advance for the three-year period. This shall consist of its basic budget and formula-based budget. The universities shall be free, within the limits of their tasks and the performance agreements, to use their global budgets as they see fit. No reduction in a university's global budget may exceed two percent of the global budget established for the previous three-year period during the first year of a three-year period, four percent in the second and six percent in the third one.

(8) The formula-based component shall amount to 20 percent of the global budget under paras. 2 and 3. The amounts apportioned to individual universities shall be calculated in accordance with qualitative and quantitative indicators. The latter shall relate to teaching, research, the advancement and appreciation of the arts, and social goals.

(9) The Federal Minister shall, by decree, in consultation with the Federal Minister of Finance, and after consultation of the universities, establish the performance indicators under para. 8 and the method of calculation of the formula-based budgets by December 31, 2005.

(10) The universities shall report their receipts from third-party funds and investment income. These shall remain at the disposal of the universities and shall not reduce state allocations.

(11) Resources shall be allocated monthly, on a pro rata basis. Universities' monthly allocations may, within the limits of the global budgets available to them, be adapted to their requirements.

⁸ Bundeshaushaltsgesetz.

Performance Agreement

§ 13. (1) Performance agreements are contracts under public law. They shall be concluded by the individual universities and the Federal Government, within the limits of the law, for periods of three years.

(2) Performance agreements shall, in particular, contain:

1. the services to be provided by the university in question, which shall, in accordance with the objectives, guiding principles and tasks of such university, cover the following areas:
 - a) strategic objectives, academic profiles, and university and human resources development:

The long-term objectives and those to be attained within the performance agreement period shall be specified. The university shall set out its special priorities and strengths, and the resources allocated to the attainment of the objectives derived out of it. It shall also state which human resources development measures and incentives are required in order to attain the objectives, and what contributions the university's members are to make thereto.
 - b) research, and the advancement and appreciation of the arts:

The university shall, in particular, make known its planned research projects and programmes, and those to be continued during the period in question, as well as its projects for the advancement and appreciation of the arts.
 - c) study programmes and continuing education:

The information on degree programmes and continuing education activities shall be supported by appropriate statistics relating to quantitative trends in these areas and by the results of analysis of student course evaluations, broken down by degree programmes. The university shall set out its plans for its degree and continuing education programmes, and for the training of particularly qualified doctoral and postgraduate students on this basis, and shall specify any changes in the organisation of teaching and study aimed at aligning it to the desired qualification profiles of students and research staff.
 - d) social goals:

The universities shall formulate their contribution to social progress. This includes measures to increase the proportion of senior positions held by women, courses for working students, the expansion of the socially relevant areas of artistic, cultural and research programmes, and knowledge and technology transfers.
 - e) increase of internationality and mobility:

Activities and projects in this area relate, in particular, to multi-year international co-operation agreements with other universities, research, artistic and cultural institutions, to joint degree programmes and exchange programmes for students, scientific and artistic staff, and to increasing the proportion of foreign undergraduates and postgraduates in the student body.
 - f) inter-university co-operation:

The universities shall give an account of their efforts to promote the common use of organisational units and services with other universities. This shall include information on the areas, extent and effects of co-operation with other Austrian universities.
2. undertakings made by the Federal Government:
 - allocation of the basic budget, taking into account the criteria therefore;
 - content, extent and scope of the objectives and the timing of goal attainment;
 - division of the basic budget into allocations for given budget years;
 - measures in the case of non-fulfilment of the performance agreement;
 - reporting and accounting.

(3) The performance agreement may be amended in the case of significant changes in the circumstances on which they are based. In case that amendments cannot be made by mutual agreement, the arbitration commission (§ 13a) may be invoked. In the case of significant changes in the circumstances on which a performance agreement is based, the arbitration committee shall enact an amended agreement, applying para. 8 by analogy.

(4) The basic budget shall represent the basic funding determined in the light of the performance agreement. The following categories shall form the basis for the negotiations and shall be the key parameters for calculation of the basic budget:

- a) needs;
- b) demand;
- c) performance;
- d) social goals.

These four criteria shall be specified in detail in the performance agreement, having regard to §§ 2 and 3.

(5) The university shall submit a performance report based on the performance agreement to the Federal Minister by April 30 of each year. After the second budget year the performance report shall, further, contain a forecast of the performance outcomes and the financial situation of the respective university in the third year.

(6) Each university shall submit an intellectual capital report for the past calendar year to the Federal Minister, by way of the university council, by April 30 of each year. This shall, as a minimum, present in itemised form:

1. the sphere of action, social goals and self-imposed objectives and strategies;
2. its intellectual capital, broken down into human, structural and relationship capital;
3. the performance processes set out in the performance agreement, including their outputs and impacts.

The Federal Minister shall, by decree, issue regulations for the structure and design of intellectual capital reports.

(7) The university shall submit a draft for the next performance agreements to the Federal Minister by April 30 of the third year of the term of the current performance agreement. The Federal Minister shall respond to this draft by August 31. Negotiations on the performance agreement shall be concluded by December 31.

(8) In case that a performance agreement is not concluded by the appointed date, the arbitration committee (§ 13a) shall, upon application of the Federal Minister or of the university concerned, subject to the provisions of this Act and having regard to the interests of both parties, determine the contents of the performance agreement by official notification on the basis of the position reached by the negotiations up to that point. Until such official notification enters into effect the performance agreement for the previous period shall remain in force on a provisional basis. The official notification of the arbitration committee shall apply instead of the agreement to be concluded. It shall not preclude the subsequent conclusion by mutual consent of a performance agreement under para. 1, and shall cease to have effect upon the conclusion of such agreement.

(9) The Federal Minister shall, acting proprio motu or upon application of the university that is party to a performance agreement under para. 1, determine the validity or invalidity of such performance agreement by official notification. This shall not apply to performance agreements created by official notification of the arbitration committee. The university shall be entitled to be a party to this procedure, and to appeal to the Administrative Court⁹ against the official notification issued upon conclusion of the procedure.

(10) The Federal Minister shall, by official notification, acting proprio motu or upon application, determine the duties arising from a performance agreement under paras. 1 or 8. The

⁹ Verwaltungsgerichtshof.

university shall be entitled to be a party to this procedure and to appeal to the Administrative Court against the official notification issued upon conclusion of the procedure.

Arbitration Committee

§ 13a. (1) An arbitration committee shall be established at the Federal Ministry for Science and Research¹⁰ to hear applications according to § 13 para. 8.

(2) The arbitration committee shall consist of a serving judge as chairperson and four lay members. The Federal Minister shall appoint the chairperson and a deputy chairperson to serve in the case of the chairperson's indisposition, for a term of five years on the recommendation of the President of the Supreme Court of Justice¹¹. Re-election is permissible. Two lay members shall be delegated by the rectorate in consultation with the university council of the university in question, and two by the Federal Minister on request of the chairperson, for the duration of the current proceeding. The arbitration committee shall require the presence of all members for a quorum. It shall resolve by a simple majority of the votes cast; abstention is prohibited.

(3) The lay members must hold respective positions in academic teaching or research, or university management that qualify them to make informed judgements on university management and finance issues. The arbitrators may not be employees of the federal ministry in charge of higher education matters, and may not be members, in the meaning of § 94, of the university concerned. They may not be members of the federal or provincial governments, the National Council, the Federal Council or any other popular representative body, or officers of political parties or persons who have exercised such functions within the past four years. They must, further, be in a position to maintain independence and impartiality with regard to the parties to the proceeding.

(4) The arbitration committee shall apply the General Administrative Procedure Act 1991¹² to the procedure, unless otherwise specified by this Act. The parties shall furnish the arbitration committee with all information as is required for its deliberations. The committee may, as required, call suitable persons as expert witnesses. The rules of procedure of the arbitration committee shall be determined by the Federal Minister by decree following consultation of the chairperson. Prior to the enactment of an official notification the committee shall make best efforts to achieve the conclusion or amendment of a performance agreement by mutual consent within four weeks of the application.

(5) The Federal Minister shall, by official notification, dismiss the chairperson or deputy chairperson if circumstances arise which disqualify such persons from holding office, or in the case of a gross violation or persistent neglect of their duties. If the chairperson is dismissed, the deputy chairperson shall perform the chairperson's duties for the duration of the current proceeding or until such time as a new chairperson is appointed.

(6) The members of the arbitration committee shall perform their duties independently, and shall not be bound by any instructions. Decisions of the arbitration committee may not be annulled or amended by administrative decisions. Both parties may appeal to the Administrative Court against the committee's decision.

(7) The members of the arbitration committee are entitled to reasonable travel and out-of-pocket expenses, and to compensation commensurate with the time and work devoted to their duties. Such compensation shall be determined by decree of the Federal Minister, having regard to the importance and scope of the duties to be performed.

Evaluation and Quality Assurance

§ 14. (1) The universities shall develop their own quality management systems in order to assure quality and the attainment of their performance objectives.

¹⁰ Bundesministerium für Wissenschaft und Forschung.

¹¹ Oberster Gerichtshof.

¹² Allgemeines Verwaltungsverfahrensgesetz 1991 – AVG.

(2) The subject of an evaluation is the university's tasks and the entire spectrum of its services.

(3) Evaluations shall be conducted in accordance with subject-based international evaluation standards. The areas of university services to be evaluated shall, in the case of evaluations relating to single universities, be established by the respective performance agreement.

(4) The universities shall carry out internal evaluations on an ongoing basis, in accordance with their statutes.

(5) External evaluations shall take place:

1. on the initiative of the university council or rectorate of the university in question or the Federal Minister where they relate to individual universities;
2. on the initiative of the university councils or rectorates of the universities in question or the Federal Minister where more than one university is concerned.

(6) The universities concerned and their governing bodies shall be obliged to provide the necessary data and information for evaluations, and to contribute to it.

(7) The performance of university professors, associate professors, and other research, artistic and teaching staff shall be regularly evaluated, at least once every five years. The detailed arrangements shall be established by university statutes.

(8) The consequences of all evaluations shall be for the decision of the governing bodies of the universities. Performance agreements shall include arrangements for student evaluation of teaching.

(9) The cost of evaluations ordered by the Federal Minister shall be borne by the Federal Government.

Sub-Chapter 3 Financial Management and Accounting

Financial Management

§ 15. (1) The rectorate shall conduct the financial affairs of the university in accordance with the law, and with the principles of efficiency, expediency, frugality and transparency, and shall manage the universities' budget with due care.

(2) The universities shall be free to use their income as they see fit, except insofar as the law provides otherwise, and having regard to the purposes of any tied funds.

(3) The universities shall manage their financial affairs in their own name and for their own account.

(4) The assumption of non-current liabilities shall require the approval of the university council. This may empower the rectorate to assume liabilities up to a given amount without its prior consent.

(5) The Federal Government shall not be liable for the universities' debts except insofar as the law provides otherwise.

(6) The universities' financial management shall be examined by the Court of Audit¹³.

(7) The universities are subject to share and finance controlling according to § 15b of the Federal Budget Act¹⁴, Federal Legal Gazette. Nr. 213/1986.

Accounting and Reporting

§ 16. (1) Every university shall install an accounting system, including income and expenditure accounting, and a reporting system, appropriate to its duties, which shall fall under

¹³ Rechnungshof.

¹⁴ Bundeshaushaltsgesetz – BHG.

the responsibility and management of the rectorate. The first chapter of the third volume of the Commercial Code¹⁵ shall apply by analogy to such accounting system.

(2) Any university may, in addition, apply further chapters of the third volume of the Commercial Code in order to comply with its obligation to present financial statements comparable with those of other universities. The Federal Minister shall, by decree, in consultation with the Federal Minister of Finance, make such regulations for, and adjustments and additions to the format of the financial statements – which shall consist of a balance sheet and a profit and loss account – as are necessary for measurement of a university's assets and liabilities, the use of simplified valuation methods, auditing of the statements, the preparation of appropriate notes and uniform application of these principles.

(3) The universities' financial year shall correspond to the calendar year, unless otherwise provided for by the decree under para. 3.

(4) The rectorate shall submit a performance report and annual financial statements, together with an auditor's report, to the university council by April 30 of each year. The auditor shall be appointed by the university council to audit the books of account and the financial statements not later than six months before the end of the current financial year. The auditor must be a registered auditor or registered auditor and chartered accountant independent of the university, or an accounting and auditing firm.

(5) The university council shall approve the performance report and financial statements submitted by the rectorate within four weeks and forward them to the Federal Minister. In the absence of such approval within the appointed period the performance report and the financial statements shall nevertheless be forwarded to the Federal Minister, together with an opinion thereon.

(6) The Federal Minister may, by decree, determine the universities' duty to provide him/her with ongoing, automated access in an appropriate technical form to such standardised data as are necessary for the planning, control and statistics, and in particular for the calculation of indicators in accordance with § 12 para. 8.

Use of External Services

§ 17. (1) At their request, Federal Computer Centre¹⁶ shall, for consideration, assist the universities with the installation, development and operation of the IT applications necessary for accounting systems as required by § 16 and personnel management systems as required by §§ 125 ff.

(2) The universities shall, in all events, make use of the IT applications operated by Federal Computer Centre for their payroll computations in respect of permanent civil servants.

Trade and Tax Law Position of the Universities

§ 18. (1) In the fulfilment of their tasks, the universities shall not be subject to the provisions of the Trade Code 1994¹⁷, Federal Legal Gazette No. 194/1994.

(2) In the performance of their statutory tasks the universities shall be eligible for all exemptions from taxes and duties accorded to the Federal Government under federal legislation.

¹⁵ Handelsgesetzbuch.

¹⁶ Bundesrechenzentrum GmbH.

¹⁷ Gewerbeordnung 1994 – GewO 1994.

Chapter 2

University Governance and Internal Structures

Sub-Chapter 1

Provisions Applicable to all Universities

Statute

§ 19. (1) Every university shall, within the limits of the law and ministerial orders, itself enact by order (statute) the rules of procedure necessary for its governance. The statute shall be proposed by the rector for approval by the senate, and shall require a simple majority for its adoption.

(2) The statute shall, in particular, contain arrangements governing:

1. rules for the election of the university council, rectorate, senate and other governing bodies;
2. appointment of an officer to administrate matters concerning the enforcement of study law in the first instance¹⁸;
3. general guidelines for the conduct and publication of evaluations, and the implementation of their findings;
4. provisions of study law in accordance with Part II of this Act;
5. composition of the working group on equal opportunities (§ 42 para. 2);
6. enactment of a plan for the advancement of women;
7. establishment of an organisational unit responsible for the co-ordination of activities relating to equal opportunities, the advancement of women and gender research;
8. guidelines for academic honours;
9. form and extent of graduates' involvement in university life.

(3) Elections shall be by secret ballot, and the right to vote must be exercised in person.

Management and Internal Organisation

§ 20. (1) The senior governing bodies of the university shall be the university council, the rectorate, the rector and the senate.

(2) Membership of more than one of these senior bodies is impermissible.

(3) The members of collegial boards shall not be bound by any instructions in the exercise of this function (§ 13 para. 2 University Organisation Act 1993 and § 14 para. 2 Universities of the Arts Organisation Act). They shall elect a chairperson by a simple majority. In case that the group of persons responsible for electing, appointing or nominating representatives to a collegial board of a university fails to do so within the appointed time, the university council shall grant such group of persons a one-time extension for such election, appointment or nomination. In case that the senate fails to comply with its obligation to elect the members of the university council in accordance with § 21 para. 6 subpara. 1 or para. 7 within the appointed time, the Federal Minister shall grant a one-time extension for such election. If this extension period passes without result, the collegial board shall be deemed to be legally constituted without representatives of such group of persons.

(4) The rectorate shall, having received the opinion of the senate, prepare an organisation plan which shall require the approval of the university council. When establishing organisational units (departments, faculties, institutes or other organisational units) attention shall be paid to combining units in the interests of efficient research (and advancement and appreciation of the arts), teaching, study and administration. The rectorate shall ensure that sufficient resources are allocated to such organisational units to enable them to fulfil their tasks.

¹⁸ „Officer responsible for study matters“.

(5) The rectorate shall, on the basis of nominations from the professors of the organisational unit concerned, appoint a university professor as the head of each organisational unit responsible for research or teaching, or the advancement and appreciation of the arts. Such unit heads shall conclude target agreements with the university members assigned to the respective organisational units specifying the services to be rendered by such members in respect of research, the advancement and appreciation of the arts, and teaching. In so doing, they shall have regard for scientific and artistic freedom, and for the need to leave sufficient scope for scientists and artists to pursue their research, artistic and teaching activities. The detailed arrangements shall be established by the statute.

(6) Every university shall publish a university gazette and provide public access to the same on its website. The university gazette shall, in particular, be used to publish:

1. statute, development plan and an organisation plan including the assignments of personnel;
2. opening balance sheet;
3. performance agreement, financial statements, performance report and intellectual capital report;
4. decrees enacted by, and rules of procedure of governing bodies;
5. directives issued by management bodies;
6. curricula;
7. academic degrees to be awarded by the university as well as titles for graduates of certificate university programmes for further education;
8. announcements to students and other announcements of general interest;
9. advertisements and results of elections;
10. advertisements of posts and management positions;
11. members of the management bodies;
12. award of habilitation degrees (*venia docendi*);
13. authorisations;
14. application of tuition fees.

University Council

§ 21. (1) The university council shall have the following tasks:

1. approving the development plan, the organisation plan and the draft performance agreement of the university, as well as the rules of procedure of the rectorate;
2. giving an opinion with regard to the text of the advertisement for the post of the rector drawn up by the senate;
3. selecting the rector from a shortlist of three candidates nominated by the senate and selecting the vice-rectors on the basis of nominations made by the rector after receiving the opinion from the senate;
4. concluding the rector's service agreement and the target agreement with the same;
5. dismissing the rector and vice-rectors;
6. nominating one female and one male member of the arbitration board;
7. giving an opinion with regard to curricula and course offerings not included in the performance agreement;
8. approving the formation of companies and foundations;
9. approving the guidelines for financial management, and the financial statements, the performance report of the rectorate and the intellectual capital report, and forwarding the same to the Federal Minister;
10. appointing an auditor to audit the financial statements of the university;

11. approving the assumption of non-current liabilities, and empowering the rectorate to assume such liabilities up to a certain limit without seeking the prior approval of the university council;
12. mandatory reporting to the Federal Minister in the case of serious breaches of the law by university governing bodies or the danger of serious financial loss;
13. approving regulations issued by the rectorate for the granting of authorisations to employees according to § 28 para. 1.

(2) The university council shall be entitled to request information on all and any matters concerning the university. The university's governing bodies shall be obliged to provide the university council with all relevant information, to submit all documents relating to matters specified by it, to undertake investigations required by it, and to initiate investigations in situ.

(3) The university council shall consist of five, seven or nine members, who shall be past or present holders of responsible positions, especially in academic, cultural or business life, and whose exceptional knowledge and experience are such as to enable them to contribute to the attainment of the objectives and the fulfilment of the tasks of the university. The size of the first university council shall be established by the constituent convention (§ 121 para. 4). Any change in the size of the university council shall be for resolution of the senate and shall require a two-thirds majority.

(4) Members of the federal or provincial governments, the National Council, the Federal Council or any other popular representative body, and officers of political parties or persons who have exercised such functions within the past four years shall be excluded from membership of the university council.

(5) Members of the university council may not be members of the university in the meaning of §§ 125, 132 and 133, employees of the university or employees of the federal ministry in charge of higher education. Membership of more than one university council shall not be permissible.

(6) The membership of the university council shall, pursuant to para. 3, comprise five, seven or nine members, namely:

1. two, three or four members elected by the senate;
2. two, three or four members appointed by the Federal Government on the recommendation of the Federal Minister;
3. an additional member appointed by the members named in para. 6 subparas. 1–2 by mutual agreement.

The senate and the Federal Government shall each appoint equal numbers of members. The appointment of the members under para. 6 subpara. 2 shall take place after that of the members under para. 6 subpara. 1.

(7) In case that, within three months of the appointment of the members under para. 6 subparas. 1 and 2 no additional member under para. 6 subpara. 3 is appointed by mutual agreement, the Federal Minister shall grant a reasonable extension. In case that this passes without result, such member of the university council shall be selected by the senate from a shortlist of three candidates drawn up by the Academy of Sciences.

(8) The members' term of office shall be five years. Re-election or reappointment for the immediately succeeding term of office shall only be permissible once. In the case of the premature termination of the service of a member, a replacement member shall be elected or appointed in the same manner as the departing member for the remainder of his/her term of office.

(9) The chairperson of the university council shall be elected by the council from among its members by a simply majority of the votes cast.

(10) The members of the university council shall be obliged to fulfil their tasks with due care.

(11) The members of the university council shall receive compensation for their activities in an amount to be determined by the university council.

(12) The university council shall have a quorum when at least half of the members are present. Voting by proxy is impermissible. The university council shall resolve by simple majority, except insofar as this Act provides otherwise.

(13) Membership of the university council may be terminated by:

1. expiry of the term of office;
2. resignation;
3. dismissal;
4. death.

(14) The Federal Minister may, by order, dismiss a member of the university council because of severe misconduct, conviction of a criminal offence, or mental or physical incapacity. Such dismissal shall be subject to consonant resolutions of the senate and rectorate, in both cases requiring a two-thirds majority.

(15) The rectorate, the chairperson of the senate, the chairperson of the working group on equal opportunities and the chairperson of the Austrian National Union of Students¹⁹ at the university in question shall be entitled to a hearing on agenda items relating to their functions at meetings of the university council. The chairpersons of the employee's councils shall be invited to all meetings of the university council, and shall be entitled to a hearing on matters relating to their duties under the Labour Relations Act²⁰, Federal Legal Gazette No. 22/1974.

Rectorate

§ 22. (1) The rectorate shall manage the university and shall represent it. It shall be responsible for all matters not assigned to other governing bodies by this Act. Its tasks shall, in particular, include:

1. preparing a draft statute for submission to the senate;
2. preparing a university development plan for submission to the senate and the university council;
3. preparing a university organisation plan for submission to the senate and the university council;
4. preparing a draft performance agreement for submission to the university council;
5. appointing the heads of organisational units;
6. concluding target agreements with the heads of organisational units;
7. assigning university members (§ 94 para. 1 subparas. 2 to 6) to organisational units;
8. admitting students;
9. collecting tuition fees in the amount provided for by statute;
10. initiating evaluations and publication of the results thereof;
11. awarding habilitation degrees (*venia docendi*);
12. giving opinions on curricula;
13. establishing an accounting and reporting system;
14. allocating budgets;
15. preparing the annual performance report, the financial statements and the intellectual capital report;
16. enacting regulations for the granting of authorisations to employees of the university according to § 28 para. 1;

¹⁹ Österreichische Hochschülerinnen- und Hochschülerschaft.

²⁰ Arbeitsverfassungsgesetz – ArbVG.

17. establishing a planning and reporting system which guarantees the fulfilment of the reporting obligations of the universities according to the legal provisions and the directives of the Federal Minister of Finance on the establishment of a share and finance controlling.

(2) The rectorate shall superintend all organisational units of the university. The rectorate may remit decisions by other governing bodies with the exception of the university council if in its opinion such decisions are in conflict with the law or decrees including the university statute. In cases of major importance, the rectorate shall inform the university council.

(3) The rectorate shall consist of the rector and up to four vice-rectors. In determining the composition of the rectorate, care shall be taken to ensure that its members possess the necessary scientific, managerial and administrative capabilities.

(4) The rector shall be the chairperson and spokesperson of the rectorate.

(5) The rectorate shall resolve by simple majority, except insofar as its rules of procedure provide otherwise. In the case of a tie, the rector shall have the casting vote.

(6) The rectorate shall enact rules of procedure which shall require the approval of the university council and shall be published in the university gazette. Such rules of procedure shall establish the responsibilities under para. 1 to be assumed by individual members, by two members and collectively by all members of the rectorate. Decisions relating to financial matters must be taken by at least two members of the rectorate. The rules of procedure shall also determine the right to represent the university.

(7) The members of the rectorate shall not be bound by any instructions in the exercise of their tasks (§ 13 para. 2 University Organisation Act 1993 and § 14 para. 2 Universities of the Arts Organisation Act), neither shall the vice-rectors be bound by any instructions of the rector. The rectorate shall be obliged to perform its tasks with due care.

Rector

§ 23. (1) The rector shall have the following duties:

1. presiding over the meetings of the rectorate and acting as its spokesperson;
2. nominating candidates for election as vice-rector;
3. managing the university office;
4. negotiating and concluding performance agreements with the Federal Minister;
5. acting as the superior of all university staff;
6. negotiating the vice-rectors' employment contracts;
7. selecting professors from shortlists drawn up by the appointments committees;
8. conducting contract negotiations for appointments of professors;
9. concluding employment and service contracts;
10. awarding authorisations according to § 28 para. 1.

(2) The position of the rector shall publicly be advertised by the senate after receiving an opinion of the university council. Only persons with international experience and the necessary abilities to manage a university's organisation and finances may be selected as rector.

(3) The rector shall be selected from a shortlist of three candidates proposed by the senate, and shall be appointed for a term of four years. Re-election is permissible.

(4) The rector's employment contract and target agreement shall be concluded with the university council.

(5) The university council may dismiss the rector because of severe misconduct, conviction of a criminal offence, or mental or physical incapacity, or loss of confidence on reasonable grounds. Such dismissal may be effected on application of the senate or by the university council acting ex officio. In the former case, a simple majority of all members of both bodies shall be required, and in the latter a resolution of the university council passed by a two-thirds majority of all members, whereby the opinion of the senate must be heard. Upon the

entry into effect of the dismissal the employment contract of the rector with the university shall be terminated.

Vice-rectors

§ 24. (1) The rector shall determine the number and extent of employment of the vice-rectors. The senate shall be entitled to express an opinion thereon.

(2) The vice-rectors shall be selected by the university council from a shortlist of candidates nominated by the rector, after hearing the opinion of the senate, for a term of office corresponding to that of the rector. Re-election is permissible.

(3) In case that the rector leaves office before expiry of his/her term, the term of office of the vice-rectors shall end when the vice-rectors appointed by the new rector take up their functions.

(4) The university council may dismiss a vice-rector because of severe misconduct, conviction of a criminal offence, or mental or physical incapacity, or loss of confidence on reasonable grounds. The rector may initiate the dismissal of a vice-rector by the university council. Such dismissal shall require a two-thirds majority of all members of the university council, whereby the opinion of the senate must be heard. Upon the entry into effect of the dismissal the employment contract of a vice-rector with the university shall be terminated.

Senate

§ 25. (1) The senate shall have the following duties:

1. enacting and amending the statute;
2. approving the draft development plan prepared by the rectorate within two months; if the senate fails to give approval within the appointed period, the development plan shall nevertheless be forwarded to the university council;
3. approving the draft organisation plan prepared by the rectorate within two months; if the senate fails to give approval within the appointed period, the organisation plan shall nevertheless be forwarded to the university council;
4. changing the size of the university council and electing its members (§ 21 para. 6 subpara. 1 and para. 7);
5. advertising the position of the rector and drawing up a shortlist of three candidates for selection by the university council;
6. expressing an opinion on the rector's recommendations with regard to the vice-rectors (number, extent of employment and shortlist);
7. participating in procedures for the dismissal of members of the university council, the rector or vice-rectors;
8. participating in procedures for the awarding habilitation degrees;
9. participating in procedures for the appointment of professors;
10. enacting the curricula for degree programmes and certificate university programmes for further education (§§ 56 and 57);
11. prescription of the academic degrees and titles for graduates of certificate university programmes for further education;
12. hearing appeals in matters relating to studies;
13. establishing criteria for the allocation of income from tuition fees;
14. appointing collegial bodies with or without decision-making power (paras. 7 and 8);
15. enacting directives on the activities of collegial bodies;
16. approving the implementation of decisions by collegial bodies with decision-making power;
17. opinions to the rectorate prior to the assignment by it of persons to given organisational units;

18. establishing a working group on equal opportunities;
19. nominating one female and one male member of the arbitration board;
20. delegating one of its members to the arbitration committee.

(2) The senate shall consist of between 12 and 24 members. The size of the first senate shall be determined by the constituent convention (§ 120). Any change in the size of the senate shall be for resolution of the senate and shall require a two-thirds majority.

(3) The senate shall consist of representatives of the professors, the group of persons named in § 94 para. 2 subpara. 2, the non-academic university staff and students. The number of representatives accorded to these groups shall be determined by the university council, whereby the representatives named in para. 4 subpara. 1 shall in all events have an absolute majority, and those named in para. 4 subpara. 4 shall represent 25 percent of the membership.

(4) The members and substitute members of the senate shall be appointed as follows:

1. The representatives of the professors shall be elected by all the professors (§ 97).
2. The representatives of the group of persons named in § 94 para. 2 subpara. 2 shall be elected by all associate professors (§ 122 para. 3) as well as the other scientific, artistic and teaching staff. At the universities named in § 6 paras. 1 to 15 those elected must include at least one person with a habilitation degree (*venia docendi*).
3. The representatives of the non-academic university staff shall be elected by all the non-academic university staff.
4. The student representatives shall be elected.

(5) The term of office of the senate shall be three years.

(6) The senate shall have a quorum when at least half of the members are present. It shall resolve by simple majority, except insofar as this Act provides otherwise.

(7) The senate may establish collegial bodies to advise it on matters forming part of its tasks.

(8) Collegial bodies with decision-making power shall be appointed to deal with the following matters:

1. procedures for the awarding habilitation degrees (§ 103);
2. procedures for the appointment of professors (§ 98);
3. study related matters in the meaning of § 25 para. 1 subpara. 10.

(9) The size of the collegial bodies under para. 8 may not exceed half of that of the senate. At least one quarter of the members of the collegial bodies under para. 8 subpara. 3 shall be students. The composition of the collegial bodies under para. 7 shall, with regard to the proportions accounted for by representatives of the various groups, correspond to that of the senate.

(10) The collegial bodies under paras. 7 and 8 subpara. 3 shall be established for not longer than the term of the senate. These collegial bodies shall be bound by the instructions of the senate and shall take their decisions in its name. The senate may at any time revoke authorisations to take decisions granted under para. 7. The decisions of the collegial bodies under paras. 7 and 8 subpara. 3 shall require the approval of the senate.

(11) When establishing criteria for the allocation of income from tuition fees in accordance with para. 1 subpara. 13 the senate shall always take account of categories of expenditure prescribed by the student representatives in the senate.

Sub-Chapter 2

Research Promotion, Commissioned Research and Authorisations

Research Promotion and Commissioned Research

§ 26. (1) University scientific and artistic staff shall be entitled to undertake research or artistic projects, in their fields and at their universities, which are financed not from the university budget, but by third-party research contracts, research promotion or other allocations by third parties. Such projects shall be deemed to be university research.

(2) The acceptance of a project in the meaning of para. 1 at a university shall be conditional on:

1. fulfilment of the duties arising from the employment contracts of the staff members concerned;
2. fulfilment of the tasks of the university organisational unit concerned with regard to research or the advancement and appreciation of the arts, and teaching;
3. respect for the rights and duties of other university members.

(3) The cost of the use of university personnel and physical resources for research contracts or artistic projects commissioned by third parties shall be reimbursed to the university in full. The application of such reimbursed money shall be at the discretion of the rectorate.

(4) A project in the meaning of para. 1 shall be notified to the rectorate by the project leader prior to acceptance and implementation. The project shall not be prohibited unless the conditions set out in para. 2 are not met or no agreement on full reimbursement of costs has been concluded.

(5) The application of project funds shall be at the discretion of the project leader. The funds received for projects in the meaning of para. 1 shall be administered by the university and shall only be used as instructed by the project leader.

(6) Staff engaged in a project in the meaning of para. 1 shall be employed by the university under limited term contracts on the recommendation of the university member conducting the project in return for reimbursement of the resultant staff costs.

Authorisations

§ 27. (1) All heads of organisational units shall be entitled, on behalf of the university and in connection with its tasks:

1. to acquire assets and rights by way of non-remunerative legal transactions;
2. to accept funding from other legal entities;
3. to make contracts for the performance of scientific or artistic work, conduct investigations and prepare reports on behalf of third parties, insofar as this serves the purpose of scientific research (or the advancement and appreciation of the arts);
4. to perform state-certified technical testing and prepare assessment reports provided that the university facility in question is recognized as a state-certified test laboratory;
5. to employ assets and rights acquired by way of legal transactions in the meaning of paras. 1 to 4 to fulfil the objects of the organisational unit in question.

In the case of abuse, this entitlement may be withdrawn by the rectorate.

(2) All university members (project leaders) entrusted with the fulfilment of contracts in the meaning of para. 1 subpara. 3 shall be authorised to make the legal transactions required for such fulfilment and to use the funds accruing from such contracts. Such authorisations shall be announced in the university gazette.

(3) The cost of the use of university personnel and physical resources for third-party contracts and commissions (para. 1 subpara. 3 and 4) shall be reimbursed to the university in full. The application of such reimbursed money shall be at the discretion of the rectorate.

(4) Third-party funds accruing to a university as a result of activities in the meaning of para. 1 shall, to the extent that they are not tied, be employed for the objects of the organisational unit to which the university's authorised signatory is assigned. For the fulfilment of the university's obligations under legal transactions in the meaning of para. 1, in the first instance funds shall be applied which are earmarked for the organisational unit concerned.

(5) University members authorised under paras. 1 or 2 shall report to the rectorate on the legal transactions made by them.

§ 28. (1) The rector may, having regard to the regulations enacted by the rectorate, determine which employees of the university may make legal transactions on its behalf. Such authorisations shall be announced in the university gazette.

(2) § 27 paras. 4 and 5 shall apply by analogy.

Sub-Chapter 3

Special Provisions for the Clinical Departments of Universities of Medicine

Organisation

§ 29. (1) The universities of medicine named in § 6 subparas. 4 to 6 shall perform their clinical research and teaching tasks in co-operation with public hospitals.

(2) The organisational structures of the clinical departments of universities of medicine and attached hospitals shall be co-ordinated with each other. In so doing, the organisational units of universities of medicine required to support the teaching and research activities of clinical departments shall be determined. Prior to the preparation of the organisation plan for a clinical department the rectorate shall, therefore, reach agreement with the maintaining body of the attached hospital. The organisation plan for a clinical department shall require the Federal Minister's approval.

(3) Universities of medicine shall be entitled to acquire interests in companies charged with the operation of attached hospitals.

(4) The universities of medicine shall have the following obligations:

1. To charge the medical and dental staff employed by them with assisting in the fulfilment of the tasks of the organisational units of the clinical department in their functions as hospital units. The cost of such assistance shall be borne not by the university but by the maintaining body of the hospital. It shall not, however, result in employment of the staff concerned by such maintaining body.
2. To acquire from all organisational units the information on their research and teaching requirements needed to identify and manage the additional clinical overhead in accordance with business management criteria, and to document and value it. From January 1, 2007 onwards the universities of medicine shall calculate such expenses on a cost replacement basis pursuant to § 55 of the Hospitals and Health Resorts Act²¹, unless other arrangements are made under an order pursuant to § 56 of the Hospitals and Health Resorts Act or an agreement under para. 5.
3. To prepare a medium-term budget for all facilities partly or wholly devoted to research and teaching and giving rise to additional costs in the meaning of § 55 of the Hospitals and Health Resorts Act. Such budgeting, and the procurement of new equipment shall be undertaken in accordance with the research and teaching needs of the university, having regard to the principles of economy, efficiency and expediency, and shall be co-ordinated with the hospital's other units and purchases.

(5) Subject to approval by the Federal Minister and having regard to their performance agreements according to § 13, the universities of medicine shall conclude agreements with the maintaining bodies of attached hospitals on the joint operation of organisational units

²¹ Krankenanstalten- und Kuranstaltengesetz – KAKuG.

forming part of themselves and the public hospitals concerned; such agreements shall include the reciprocal services and the pricing thereof.

(6) Responsibilities of the public health service may be transferred to the organisational units of a university of medicine on a cost replacement basis.

(7) The director of the Vienna University Clinic of Dentistry shall be entitled to conclude contracts for the provision of dental services on behalf of the Vienna University of Medicine.

(8) The fulfilment of tasks on behalf of public hospitals and any duties forming part of the public health service is excepted from the autonomous health care provision of the universities (§ 61 para. 3 University Organisation Act 1993).

Ethics Committee

§ 30. (1) The senate of every university of medicine shall appoint an ethics committee to assess clinical tests of drugs and medical products, the application of new medical methods and applied medical research involving human subjects.

(2) The ethics committees shall, as a minimum, meet the requirements of § 8c paras. 1 to 5 and 7 of the Hospitals and Health Resorts Act, Federal Legal Gazette No. 1/1957.

(5) The ethics committee shall adopt rules of procedure. These shall be communicated to the university council and the maintaining body of the attached hospital by way of the rector.

(4) The members of the ethics committee shall not, in this capacity, be bound by instructions of the governing bodies of the hospital or the university.

Structure of the Clinical Department

§ 31. (1) The clinical department of a university of medicine shall comprise the units which are simultaneously organisational units of a public hospital in functional terms.

(2) The organisational units of a university of medicine which, within a hospital, apart from their research and teaching tasks, directly provide patients with medical and dental care shall be designated as “university clinics”.

(3) The organisational units of a university of medicine which, within a hospital, apart from their research and teaching tasks, indirectly provide patients with medical care shall be designated as “clinical institutes”.

(4) The university clinics and clinical institutes may be incorporated in clinical departments. Where this occurs, the head of the clinical department shall be responsible for the performance of medical tasks according to § 7a para. 1 of the Hospitals and Health Resorts Act.

Governing Positions in the Clinical Department

§ 32. (1) Appointments as the head of an organisational unit or clinical department of a university of medicine which simultaneously fulfils the function of a ward or like unit of a public hospital (§ 7 para. 4 and 7a of the Hospitals and Health Resorts Act) shall be restricted to university professors with relevant medical or dental qualifications.

(2) Appointments as the head or deputy head of an organisational unit or clinical department under para. 1 shall initially be of limited term.

Reimbursement of Hospital Maintaining Bodies' Costs

§ 33. Pursuant to § 55 of the Hospitals and Health Resorts Act the universities of medicine shall be obliged to reimburse the costs of the maintaining bodies of attached hospitals on behalf of the Federal Government. Excepted from these arrangements is the reimbursement by the Federal Government of the cost of new clinic buildings and alterations to clinic buildings, as well as that of providing the initial fixtures, fittings and furnishings of such buildings.

Doctors' and Dentists' Representatives

§ 34. The doctors and dentists working in the clinical department of a university of medicine, apart from the heads of organisational units (§ 32), shall elect five representatives from among their number to perform the duties set out in § 3 para. 3 of the Hospital Working Hours Act²², Federal Legal Gazette I No. 8/1997.

Training Hospital

§ 35. Subject to the agreement of the maintaining body of the attached hospital, the assistance of hospital departments not forming part of the clinical department of a university of medicine may be enlisted to improve and intensify practical medical training. If a number of departments of such a hospital are permanently employed for such purposes, the hospital may be awarded the title of "training hospital" by the university of medicine in question.

Sub-Chapter 4

Special Provisions for the University of Veterinary Medicine Vienna

Veterinary Hospital

§ 36. (1) The organisational units of the University of Veterinary Medicine Vienna which, apart from their teaching and research tasks, also directly provide veterinary care for live animals shall bear the title "university clinic" and shall, in organisational terms, collectively constitute the "veterinary hospital".

(2) The rectorate shall, by decree, enact hospital regulations for the animal hospital which shall require the approval of the university council.

(3) Appointments as heads of organisational units of the veterinary hospital shall be restricted to persons with relevant qualifications.

(4) Staff assigned to the organisational units of the veterinary hospital shall assist in the fulfilment of the hospital's tasks in respect of the examination and treatment of animals.

(5) The heads of organisational units of the veterinary hospital shall be entitled to make agreements for the provision of veterinary services on behalf of the University of Veterinary Medicine Vienna.

(6) The fulfilment of veterinary tasks of the veterinary hospital is excepted from the autonomous provision of veterinary services by the University according to § 5 (§ 70 para. 4 University Organisation Act 1993).

Veterinary Teaching Institutes and the Organisational Unit for Wildlife Ecology

§ 37. (1) The rectorate may enlist the assistance of veterinary clinics not forming part of the University of Veterinary Medicine Vienna, and veterinary practices to improve and intensify practical veterinary training, subject to the agreement of the operators of such clinics or practices. If a veterinary clinic or practice is permanently employed for such purposes it may be awarded the title of "veterinary teaching institute".

(2) An organisational unit entitled "Research Institute of Wildlife Ecology" shall be established at the University of Veterinary Medicine Vienna.

(3) The organisational unit named in para. 2 shall be separately presented in the performance agreement, financial statements and performance report.

Sub-Chapter 5

Special Provisions for Catholic and Protestant Theology

²² Krankenanstalten-Arbeitszeitgesetz – KA-AZG.

§ 38. (1) Universities whose activities include the teaching of Catholic theology shall, in the design of their internal organisation and study regulations, and in securing such teaching and research, observe the Concordat between the Holy See and the Republic of Austria²³, Federal Legal Gazette II No. 2/1934. The rector shall be responsible for seeking Church approval of appointments under art. V § 3 and for withdrawing authorisations to teach under art. V § 4.

(2) Universities whose activities include the teaching of Protestant theology shall, in the design of their internal organisation and study regulations, and in securing such teaching and research, observe § 15 of the Legal Relations with the Protestant Church Act²⁴, Federal Legal Gazette No. 182/1961. The rector shall be responsible for fulfilling the obligation according to § 15 para. 4 of the Legal Relations with the Protestant Church Act to consult the Protestant Church prior to the selection of shortlisted candidates for appointments.

Sub-Chapter 6

Special Provisions for the Academy of Fine Arts Vienna

Art Gallery and Collection of Copperplate Engravings

§ 39. (1) The following organisational units shall be established at the Academy of Fine Arts Vienna:

1. the Art Gallery of the Academy of Fine Arts Vienna, which incorporates a collection of glyptic art;
2. the Collection of Copperplate Engravings.

The organisation of these units shall take account of their functions and their special importance.

(2) The Art Gallery shall be established by a foundation. It shall assume the responsibilities under the § 46 of the Universities of the Arts Organisation Act hitherto performed by the institution of the same name. It shall secure that selected objects from its collections are exhibited to the public by means of permanent and additional exhibitions.

(3) The Collection of Copperplate Engravings shall assume the responsibilities of the institution of that name according to § 65 Universities of the Arts Organisation Act. It shall exhibit selected objects from its collection to the public.

(4) Appointments as the director of the Art Gallery or of the Collection of Copperplate Engravings shall be restricted to persons with relevant training and appropriate professional qualifications. The head of the Art Gallery shall bear the title of "Director".

(5) The Art Gallery and the Collection of Copperplate Engravings shall be separately presented in the performance agreement, financial statements and performance report of the Academy of Fine Arts Vienna.

Sub-Chapter 7

Special Provisions for University Sports

§ 40. (1) At the universities named according to § 6 subparas. 1, 2, 3, 7, 10, 14 and 15 university sports centres shall be established which shall be open to students, graduates and university staff, as well as persons attending University of Applied Sciences degree programmes at university sites, for sporting activities and competitions.

(2) The university sports centres shall be separately presented in the performance agreements, financial statements and performance reports of the universities concerned.

(3) Funds accruing to a university sports centre from university sporting activities and the operation of university sports facilities shall be employed for the purpose of university sport.

²³ Konkordat zwischen dem Heiligen Stuhle und der Republik Österreich.

²⁴ Bundesgesetz über äußere Rechtsverhältnisse der Evangelischen Kirche.

(4) Appointments as the head of a university sports centre shall be restricted to persons with relevant training and appropriate professional qualifications.

Chapter 3 Gender Equality

Duty of Career Advancement for Women

§ 41. All university bodies shall make efforts to achieve a balanced representation of men and women at work in all areas of university activities. Appropriate action shall be taken to attain this goal, particularly by means of the adoption and implementation of a career advancement plan for women.

Working Group on Equal Opportunities

§ 42. (1) The senate of each university shall establish a working group on equal opportunities responsible for combating gender discrimination by university governing bodies, and advising and supporting the university's members and governing bodies in connection with issues relating to equal opportunities and the advancement of women.

(2) The number and terms of office of the members of the working group on equal opportunities shall be established by the statute. The groups of university members represented in the senate shall be entitled to delegate members to the working group in proportions established by the statute. The working party shall elect a chairperson from among its number.

(3) The members of the working group on equal opportunities shall not be bound by any instructions in the fulfilment of their tasks (§ 13 para. 2 University Organisation Act 1993 in conjunction with § 40 para. 2 University Organisation Act 1993 and § 14 para. 2 Universities of the Arts Organisation Act in conjunction with § 40 para. 7 Universities of the Arts Organisation Act). They may not be obstructed in the fulfilment of their tasks, and shall not be disadvantaged in their career promotion as a result of these activities.

(4) The rectorate shall provide the working group on equal opportunities with information on all internal university matters, and shall grant it access to all documents and electronic data relating to the university's personnel, knowledge of which is necessary for the exercise of its tasks. Photocopying of such documents shall be permitted on request. Access to employees' files shall be subject to the consent of those concerned.

(5) In case that the working group on equal opportunities seeks reports, opinions or information from experts as a basis for its decisions, such experts shall be furnished with the necessary documentation. These experts shall be obliged to observe confidentiality.

(6) The following shall, in particular, be submitted to the working group on equal opportunities:

1. the texts of all advertisements for positions;
2. a list of applications received;
3. a list of candidates invited for interviews.

(7) The rectorate shall, when notifying the responsible employee's council of the candidate with whom an employment contract is to be concluded, simultaneously inform the working group on equal opportunities. Employment contracts concluded without prior notification of the working group or before expiry of the period prescribed by para. 8 shall be null and void.

(8) If the working group on equal opportunities has reason to believe that a decision by a university governing body reflects gender discrimination it shall be entitled to invoke the arbitration board within the two weeks of the decision.

(9) If the complaint of the working group on equal opportunities concerns a decision regarding the conclusion, substantial amendment or termination of an employment or training contract, the entry into effect of the university governing body's decision shall be impermissible until the arbitration board has ruled on the matter.

(10) The working group shall submit annual reports on its activities to the university council and the rectorate.

Arbitration Board

§ 43. (1) An arbitration board shall be established at every university. Its duties shall include:

1. mediating in disputes between university members;
2. ruling on complaints by the working group on equal opportunities with regard to gender discrimination through decisions of university governing bodies.

(2) Matters which are the subject of legal proceedings, and performance evaluations shall be excluded from investigation by the arbitration board.

(3) The arbitration board shall, in the performance of its duties, seek to achieve agreement between the parties to disputes.

(4) All university bodies and members shall be obliged to furnish the arbitration board with information on matters investigated by it, and to communicate with it.

(5) In case that agreement cannot be reached on matters falling under para. 1 subpara. 2, requiring a decision on the conclusion, substantial amendment or termination of an employment or training contract, the arbitration board shall, by official notification, decide as to whether the intended decision by the university governing body constitutes gender discrimination.

(6) If the arbitration board finds that gender discrimination in cases under para. 1 subpara. 2 has occurred, the university governing body shall be obliged to make a new personnel decision having regard to the legal opinion of the commission.

(7) Recourse to law against decisions of the arbitration board is impermissible. The working group on equal opportunities and the university governing body concerned shall however have the right to appeal to the Administrative Court against the order concluding an arbitration procedure.

(8) Employment contracts concluded by the rector during a pending arbitration procedure or in the face of a negative ruling of the arbitration board shall be null and void.

(9) The arbitration board shall consist of six members, none of whom may be members of the university concerned. The senate, university council and working group on equal opportunities shall each nominate one male and one female member of the commission for a term of office of two years. Two of the members must have legal education.

(10) The members of the arbitration board shall not be bound by any instructions in the fulfilment of their tasks (§ 13 para. 2 University Organisation Act 1993 and § 14 para. 2 Universities of the Arts Organisation Act).

(11) The arbitration board shall reach its decisions by simple majority. In the case of a tie, the chairperson shall have the casting vote.

(12) The arbitration board shall submit annual reports on its activities to the university council and the rectorate.

Application of the Federal Equal Opportunities Act²⁵

§ 44. The Federal Equal Opportunities Act, Federal Legal Gazette No. 100/1993, shall, with the exception of the fourth and fifth chapter of the third part and § 50 thereof, apply to all members of a university and applicants for employment thereat or admission as students, insofar as a university shall be deemed to be an administrative unit and central unit (§ 2 paras. 1 and 2 Federal Equal Opportunities Act), and shall be subject to the obligation to pay compensation according to § 10 para. 1 Federal Equal Opportunities Act. The working group

²⁵ Bundes-Gleichbehandlungsgesetz – B-GBG.

on equal opportunities shall be entitled to prepare a draft career advancement plan for women (§ 41 para. 1 Federal Equal Opportunities Act).

Chapter 4 Procedures

Supervision

§ 45. (1) The universities shall be subject to supervision by the Federal Government. This shall comprise monitoring of compliance with the acts and decrees, including the statute (legal supervision).

(2) The responsible university governing bodies shall, at the Federal Minister's request, furnish him/her with any information and documentation required for the performance of his/her tasks without delay, via the university council.

(3) The Federal Minister shall, by official notification, annul decisions by university governing bodies if they are in conflict with acts and decrees, including the statute. In the case of an infringement of procedural regulations, decisions may not be annulled unless compliance with such regulations would have resulted in a different decision.

(4) The Federal Minister shall, by official notification, annul elections which are in conflict with acts and decrees, including the statute.

(5) Upon the formal initiation of a supervisory procedure by the supervisory body implementation of the decisions which are the subject thereof is impermissible until the procedure has been concluded. An official notification made during this period or subsequent to the annulment of the decision in question by the supervisory authority shall risk nullity due to a procedural defect in the meaning of § 68 para. 4 subpara. 4 of the General Administrative Procedure Act.

(6) In the circumstances set out in paras. 3 or 4 the university governing bodies shall, without delay, bring about the legal situation which accords with the Federal Minister's legal opinion.

(7) In case that supervisory procedures are initiated, the university governing bodies shall have the right to be parties thereto and to appeal to the Administrative Court against the official notification marking the conclusion of the procedure.

Official Procedures

§ 46. (1) University governing bodies shall apply the General Administrative Procedure Act 1991, Federal Legal Gazette No. 51/1991.

(2) In study related matters the final administrative instance for appeals shall be the senate.

(3) In study related matters the official student representatives shall be entitled to take legal action unless the students concerned expressly deny their consent thereto.

Dilatoriness of Bodies

§ 47. (1) If a university body not forming part of the university management fails to fulfil a duty incumbent upon it by virtue of this Act within a reasonable period, the rectorate may, on application of a university member affected thereby or acting ex officio, grant an extension of four weeks, within which the body which is in delay must fulfil such task (substitute performance). If this period expires without action being taken, the rectorate shall itself perform the task in question. This shall not apply to the area of application of § 73 General Administrative Procedure Act 1991.

(2) If the senate, rectorate or rector is in delay in the meaning of para. 1, the university council shall, on application of a university member affected thereby or acting ex officio, take action in accordance with para. 1.

(3) If the university council is in delay under para. 2 or in respect of a task according to § 21 para. 1, the Federal Minister shall him-/herself make the substitute performance.

Duty of Secrecy

§ 48. Members of collegial bodies and other university bodies shall be subject to official secrecy (art. 20 para. of the 3 Federal Constitutional Law²⁶).

Liability

§ 49. (1) Universities may acquire rights and enter into obligations. The Federal Government shall not be liable for any liabilities arising therefrom.

(2) The Federal Government shall be liable for any damage culpably inflicted upon any person whosoever by the bodies or employees of a university or other persons acting on its behalf in the fulfilment of public tasks under this Act, under the Public Bodies' Liability Act²⁷, Federal Legal Gazette No. 20/1949. In such cases, the Federal Government shall give notice of claim against that/those person(s) it holds liable for the damage (§ 21 of the Code of Civil Procedure²⁸, Imperial Legal Gazette No. 113/1895). The aggrieved party may intervene in the proceedings (§ 17 of the Code of Civil Procedure). The university and that person/those persons who have caused the damage shall not be liable to the aggrieved party.

(3) In case that the Federal Government indemnifies the aggrieved party in accordance with para. 2, it shall be entitled according to §§ 3, 5 and 6 para. 2 of the Liability of Public Bodies' Act to claim damages from that person/those persons it holds liable for the claim. In such proceedings the defendant(s) shall be released from the duty of secrecy.

(4) University bodies or employees of a university shall be liable to the Federal Government for damage directly and culpably inflicted on the Federal Government by themselves or university employees or other persons acting on behalf of the university in the performance of public duties, under the Public Organs Liability Act²⁹, Federal Legal Gazette No. 181/1967; the defendants shall be released from their duty of secrecy.

Legal Representation

§ 50. Universities and companies in which they hold direct or indirect majority interests shall be entitled to fee-paying legal advice and representation by the Finanzprokurator under the Prokurator Act³⁰, State Legal Gazette³¹ No. 172/1945.

Part II

Study Law

Chapter 1

General Provisions

Definitions

§ 51. (1) In the implementation of the study regulations, the universities shall act with public power.

(2) In the meaning of this Act the following definitions shall apply:

1. "Recognized post-secondary educational institutions" mean educational institutions which offers study programmes lasting for at least six semesters for which admission requires the general university entrance qualification in terms of the present

²⁶ Bundes-Verfassungsgesetz – B-VG.

²⁷ Amtshaftungsgesetz.

²⁸ Zivilprozessordnung – ZPO.

²⁹ Organhaftpflichtgesetz.

³⁰ Prokuratorgesetz.

³¹ Staatsgesetzblatt (StGBI.).

Federal Act and which is accredited as a post-secondary educational institution according to the legal rules of the country in which it is domiciled.

2. "Degree programmes" mean diploma, bachelor, master and doctoral degree programmes.
3. "Diploma programmes" mean degree programmes which provide pre-vocational scientific or artistic vocational education and qualify students for occupations requiring the application of scientific and artistic knowledge and methods, as well as deepening and extending such knowledge. These programmes fulfil the requirements of Council Directive 89/48/EEC of December 21, 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration, Official Journal L 019, January 24, 1989.
4. "Bachelor degree programmes" mean degree programmes which provide pre-vocational scientific or artistic vocational education and qualify students for occupations requiring the application of scientific and artistic knowledge and methods. These programmes fulfil the requirements of Council Directive 89/48/EEC of December 21, 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration.
5. "Master degree programmes" mean degree programmes which serve to deepen and extend pre-vocational scientific or artistic vocational education, building on the basis provided by a bachelor degree programme.
6. "Orientation period" means the phase during which courses on subjects of particular significance for a given diploma or bachelor degree programme are offered to provide new students with information and guidance.
7. "Bachelor's papers" mean independently prepared papers forming part of bachelor degree programmes which must be written in connection with courses.
8. "Diploma and master's theses" mean academic theses forming part of diploma and master degree programmes which serve to demonstrate students' ability to achieve adequate standards of content and methodology when independently addressing scientific topics.
9. "Artistic diploma and master degree submissions" mean works of art which serve to demonstrate students' ability to work independently towards the goal of their study, and to perform artistic work on a sound academic basis.
10. "Bachelor's degrees" mean the degrees awarded on successful completion of a bachelor degree programme. Their denomination is "Bachelor...", abbreviated as "B...", and followed by a supplement designated by the curriculum.
11. "Master's degrees" mean the degrees awarded on successful completion of a master degree programme. Their denomination is "Master...", together with a supplement designated by the curriculum, whereas there shall be also be designated an abbreviation, or "Diplom-Ingenieurin/Diplom-Ingenieur", abbreviated as "Dipl.-Ing." or "DI".
12. "Doctoral degree programmes" mean degree programmes which develop students' ability to undertake independent scientific work, and promote the training and career promotion of junior academic staff, building on the basis provided by diploma and master degree programmes.
13. "Doctoral theses" mean academic theses which, unlike diploma and master's theses, serve to demonstrate students' ability to master scientific topics independently.
14. "Doctoral degrees" mean the degrees awarded on successful completion of a doctoral degree programme. Their denomination is "Doctor", abbreviated as "Dr.", followed by a supplement designated by the curriculum, or "Doctor of Philosophy", abbreviated as "PhD".
15. "Degree students" mean students admitted to degree programmes.

16. "General university entrance qualification" means a qualification providing evidence that a person has reached a level of educational attainment conferring the ability and the right to be admitted to a degree programme at a university, subject to the fulfilment of any additional subject-specific requirements.
17. "Special university entrance qualification" means a qualification fulfilling additional, subject-specific requirements for admission to a given degree programme.
18. "Supplementary examinations" mean examinations for obtaining the general university entrance qualification, or examinations required to demonstrate proficiency in the German language or physical-motor aptitude.
19. "Admission examinations" mean examinations which, taking the siter's previous educational opportunities into account, serve to demonstrate artistic aptitude for art studies.
20. "Non-degree programmes" mean certificate university programmes for further education and individual courses in scientific subjects.
21. "Certificate university programmes for further education" mean courses providing continuing education. The establishment of certificate university programmes for further education to prepare students for bachelor or diploma degree programmes in the fine and applied arts is permissible.
22. "Non-degree seeking students" mean students admitted to non-degree programmes.
23. "Master degrees in continuing education" mean internationally used degrees awarded to students who successfully complete certificate university programmes for further education, the admission requirements, scope and standards of which are comparable with those of similar master degree programmes abroad.
24. "Curriculum" means the decree which sets out the qualification profile, contents and structure of a programme, and the examination regulations.
25. "Examination regulations" mean that part of the curriculum which sets out the nature and method of the examinations, and detailed provisions governing examination procedures.
26. The extent of degree programmes, with the exception of doctoral degree programmes, shall be defined in accordance with the European Credit Transfer System (ECTS, Decision No. 253/2000/EC of the European Parliament and of the Council, Official Journal No. L 28, February 3, 2000) and shall be expressed in ECTS credits. With these credits the share of the workload of the students related to the individual studies shall be determined in relation to the entire degree programme, with an amount of 1,500 hours for one year of studies and 60 credits being assigned to this workload.
27. "Joint/Double diploma programmes"³² mean degree programmes which are offered jointly on the basis of agreements between one or several Austrian universities and one or several foreign recognized post-secondary educational institutions with these agreements specifying the performance the respective students shall be committed to in the participating institutions.
28. "Nostrification" means the recognition of a foreign degree as a domestic one.

(3) In this Act "students" mean persons admitted by the rectorate to study at a university.

(4) The right to serve as a student representative in a collegial board shall be governed by the Union of Students Act 1998³³, Federal Legal Gazette I No. 22/1999.

Structure of the Academic Year

§ 52. The academic year consists of the winter semester, the summer semester and the recess period. It shall commence on October 1 and end on September 30 of the following

³² Doppeldiplom-Programme.

³³ Hochschülerinnen- und Hochschülerschaftsgesetz 1998 – HSG 1998.

year. The senate shall enact detailed regulations on the commencement and end of semesters and the periods during which courses are not held.

Distance Learning

§ 53. (1) Distance learning units may be prescribed for all degree programmes, provided that attainment of the learning objectives is secured by the scheduled sequence of teaching provision and self-study by participants using appropriate teaching materials.

(2) The distribution of course units into teaching and self study, the teaching and the teaching materials shall be appropriately notified to the students prior to commencement of a distance learning unit.

Chapter 2 Degree Programmes

Bachelor, Master, Diploma and Doctoral Degree Programmes

§ 54. (1) Universities shall be entitled to offer diploma, bachelor, master and doctoral degree programmes. In that, the study programmes shall be assigned to one of the following groups:

1. Studies in Arts and Humanities
2. Studies in Engineering Sciences
3. Art studies
4. Studies in Veterinary Medicine
5. Studies in Natural Science
6. Law studies
7. Studies in Social and Economic Sciences
8. Theological studies
9. Medical studies
10. Teacher training studies

(2) New degree programmes may normally only be instituted as bachelor or master degree programmes. However, the degree programmes named in Appendix 1 to the University Studies Act³⁴, Federal Legal Gazette I No. 48/1997, may be established as diploma degree programmes. Teacher training programmes and studies in human medicine and dentistry may only be offered in the form of diploma degree programmes. The academic degrees conferred upon completion of diploma degree programmes shall be designated in accordance with Appendix 1 to the University Studies Act.

(3) The workload associated with bachelor degree programmes shall amount to 180 ECTS credits, and that associated with master degree programmes to at least 120 ECTS credits.

(4) The duration of doctoral degree programmes is at least three years. The degree programme may be designated as a “Doctor of Philosophy” programme, and the academic degree of “Doctor of Philosophy”, abbreviated as “PhD”, awarded for it.

(5) Prior to their adoption curricula shall be transmitted to the rectorate and the university council, and theological curricula to the responsible ecclesiastical authorities, to enable opinions to be made.

(6) The curricula for teacher training programmes shall contain pedagogical and subject teacher training representing 20 to 25 percent of the total workload for each subject.

(7) For courses requiring special types of prior knowledge, the curriculum may require evidence of such knowledge in the form of one or more examinations passed or another ex-

³⁴ Universitäts-Studiengesetz – UniStG.

pedient form as a condition for registration. These conditions shall also apply to students registering for the courses in question in connection with the use of the range of courses or within an individual study programme.

(8) In the case of courses which can only be attended by a limited number of students, the curriculum shall state the maximum number of persons who can be accepted and the procedure for awarding places, whereby care shall be taken to ensure that the studies of students whose applications do not receive priority are not prolonged as a result. If necessary, parallel courses shall be offered, and these may also be held during the recess period.

(9) Degree programmes may also be run in conjunction with other universities.

(10) Universities shall also be entitled to conduct joint/double diploma programmes.

Individually Designed Degree Programmes

§ 55. (1) Subjects forming part of different diploma, bachelor or master degree programmes may be combined in individual diploma, bachelor or master degree programmes. Applications for admission to an individual degree programme shall be made to the university at which will be the main focus of the planned studies.

(2) Such applications shall, at the least, contain:

1. the designation of the degree programme;
2. a curriculum including the qualification profile;
3. the number of ECTS credits conferred; and
4. if the programme of study is to be undertaken at more than one university, the universities at which given subjects are to be studied.

(3) Applications shall be approved by the governing bodies responsible for the degree programmes if the programme applied for is of equivalent standing to a degree programme relevant to such subjects. Such approval shall include the date of admission to individual degree programmes.

(4) Persons who have successfully completed individual bachelor degree programmes shall be granted the academic degree of "Bachelor", abbreviated as "BA", by the responsible governing body at the university at which the main focus of their studies lay. Persons who have successfully completed individual diploma degree programmes shall be awarded the academic degree of "Magistra" or "Magister", abbreviated as "Mag.". Persons who have successfully completed individual master degree programmes shall be awarded the title of "Master", abbreviated as "MA". If subjects related to engineering sciences predominate in an individual diploma or master degree programme, the graduates in question shall be awarded the title of "Diplom-Ingenieurin" or "Diplom-Ingenieur", abbreviated as "Dipl.-Ing." or "DI".

Certificate university programmes for further education

§ 56. Universities shall be entitled to establish certificate university programmes for further education. Certificate university programmes for further education may also be conducted during the recess periods and, in order to provide financial and organisational support for them, in co-operation with other legal entities.

Preparatory Courses

§ 57. The universities named in § 6 subparas. 16 to 21 shall be entitled to establish certificate university programmes for further education to prepare students for artistic bachelor or diploma degree programmes.

Academic Degrees and Titles for Graduates of Certificate university programmes for further education

§ 58. (1) In the curriculum of a certificate university programme for further education in the respective disciplines internationally common master's degrees may be laid down, which may be conferred upon the graduates of those certificate university programmes for further

education whose access requirements, scope and qualifications are comparable with the access requirements, scope and qualifications of corresponding foreign master's degree programmes. The quality of teaching shall be assured by a scientifically and didactically appropriately qualified teaching staff.

(2) If para. 1 is not applicable, the designation "Akademische ..." or "Akademischer ..." ³⁵ with an addition specifying the contents of the respective further education course may be laid down, which shall be conferred upon the graduates of those further education courses that cover at least 60 ECTS credits.

(3) To the documents on the award of designations translations into foreign languages may be added in which the names of the university and of the issuing institution as well as the designation itself shall not be translated.

Chapter 3

Students

Rights and Duties of Students

§ 59. (1) Within the limits of the law, students are entitled to freedom of study. This shall, in particular, include the right:

1. to be accepted for other degree programmes both at the university to which they have been admitted and at other universities;
2. within the limits of the range of courses and the curriculum, to choose between teaching staff;
3. beyond a degree programme at the university which has admitted them or at other universities, to take advantage of range of courses for which they fulfil the registration requirements set out in the curricula;
4. to make use of the teaching and research facilities relevant to their subject, and the library at the university which has admitted them in accordance with the regulations pertaining thereto;
5. if they are diploma or master degree programme students, to propose or select from a number of suggestions the topic of their diploma or master's thesis or that of their artistic diploma or master's submission, subject to the university regulations;
6. if they are doctoral students, to propose or select from a number of suggestions the topic of their doctoral thesis, subject to the university regulations.
7. to prepare academic theses in a foreign language, subject to the agreement of their supervisor;
8. if they are degree students, to take examinations in accordance with the university regulations;
9. having met the requirements prescribed by the curriculum, to be awarded a degree;
10. if they are non-degree seeking students, to attend the relevant certificate university programmes for further education and take the examinations prescribed therefore;
11. if they are non-degree seeking students, admitted only for the attendance of individual courses, to attend courses for which they meet the registration requirements specified by the curricula, and to take examinations, subject to the university regulations;
12. to be examined according to an alternative method if they suffer from a permanent disability which makes it impossible for them to take an examination in the prescribed manner and the other method does not limit the content and standards of the examination;
13. to make requests regarding the identity of the examiners (such applications shall be acceded to wherever possible); in the case of a second resit, to automatic accep-

³⁵ "Academically certified ...".

tance of a request for a specific examiner at the university to which they have been admitted and where the examination is to be sat; and

14. subject to § 78, to recognition of equivalent prior learning, leading to shortening of the period of study required.

(2) Students have a duty:

1. to inform the university which has admitted them of changes of name and address without delay;
2. to notify the university which has admitted them of the continuation of their studies each semester, for the duration of the general admission period or any extension;
3. to deregister from their degree programme in a timely manner in case that it is apparent that they are unlikely to continue their studies;
4. to register for and deregister from examinations within the appointed periods; and
5. to deliver a copy of their diploma or master's thesis, or a documentation of their artistic diploma or master's submission to the university library and the Austrian National Library³⁶ upon the award of their degree.

(3) Examination dates shall always be set at the start, middle or end of each semester.

(4) Working students and students who are unable to study full time due to child care or similar care commitments and can thus only devote part of their time to their studies shall be entitled to notify the university of the times at which they have special needs in respect of courses and examinations. Wherever possible, universities shall take into account such special needs in their course and examination timetabling, on the basis of the information supplied to them by such students. Applicants shall be entitled to notify such needs when applying for admission.

(5) An index of courses, providing details of the designation, type, time and place of the courses to be held in each semester, shall be published at least once per academic year.

(6) The teachers of courses shall, at the start of each semester, inform students appropriately of the objectives, contents and methods of their courses, and of the contents, methods and criteria of course assessment and examinations.

University Admission Procedures

§ 60. (1) The rectorate shall, on application by persons fulfilling the requirements for admission to a programme of study, admit such persons to such studies at the university in question.

(2) If supporting documents in foreign languages are required to determine whether the admission requirements are met, the applicant shall have certified translations made.

(3) The rectorate shall be entitled to waive the obligation to submit some documents if it is satisfied that it would be impossible or excessively difficult to furnish them within a reasonable period, and that the supporting documentation submitted is a sufficient basis for a decision.

(4) Upon admission the applicant shall become a member of the university in question, as a degree or non-degree seeking student. This shall be evidenced by the issue of a student's pass, which may take the form of a photographic identity document. The pass shall, as a minimum, bear the student's name, date of birth and matriculation number, as well as the expiry date.

(5) On initial admission, universities shall assign matriculation numbers to applicants who have not yet been admitted by other universities. These shall be retained by the students concerned for all further admissions. The Federal Minister shall by decree enact detailed regulations on the generation and assignment of matriculation numbers.

³⁶ Österreichische Nationalbibliothek.

(6) The universities named in § 6 subparas. 1 to 15 shall deliver admission confirmations directly to foreign applicants entitled to visa-free entry to Austria or in possession of valid residence permits. If applications from other foreign applicants for admission to programmes of study are received by Austrian official representations³⁷ for forwarding to the responsible universities. The official representations may ensure that the applications are complete and the details therein consistent, and take steps to ensure that the admission confirmations and initial residential permits are delivered at the same time. Applicants shall be given an opportunity to clarify or add to the information contained in applications at their own expense.

Admission Periods

§ 61. (1) After consulting the senate the rectorate shall establish the general admission period for each semester. This is the period during which the persons referred to in para. 3 must apply for admission and pay their tuition fees. The general admission period shall last at least four weeks and shall expire not later than four weeks after the start of the semester.

(2) Upon expiry of the general admission period the extension period shall commence; it shall expire on November 30 in the winter semester, and on April 30 in the summer semester. Admission and registration for the continuation of studies is permissible in the extension period provided that the increased tuition fees are paid.

(3) The general admission period shall be applicable to:

1. Austrian citizens;
2. nationals of other signatories to the EU Accession Treaty³⁸, Federal Legal Gazette No. 45/1995, or of other signatories to the Agreement on the European Economic Area³⁹, Federal Legal Gazette No. 909/1993;
3. other foreign nationals and stateless persons seeking admission for studies in Austria for a maximum of two semesters either under transnational EU, state or university mobility programmes including joint/double diploma programmes or on successful completion of studies abroad equivalent to a pass in the first diploma examination in the diploma degree programme selected or a bachelor degree;
4. groups of persons designated by decree of the Federal Minister on grounds of their close personal relationships with Austria or activities on behalf of Austria;
5. all applicants for admission to studies at one of the universities named in § 6 subparas. 16 to 21.

(4) The special admission period shall be applicable to all other foreign nationals and stateless persons. This shall expire on September 1 of each calendar year in the case of applications for the winter semester, and on February 1 in that of applications for the summer semester. Completed applications must reach the university of the applicant's choice before the end of this period.

(5) The rectorate shall be entitled to make other arrangements for the general admission period for certificate university programmes for further education and degree programmes under transnational EU, state or university mobility programmes including joint/double diploma programmes, having regard to the duration thereof.

Registration for the Continuation of Studies

§ 62. (1) Students are obliged to register for the continuation of their studies within the general admission period or extension period of each semester at the university where admission has been granted.

(2) Registrations for the continuation of studies shall be invalid:

1. if any tuition fees payable have not been received;

³⁷ Berufsvertretungsbehörden.

³⁸ EU-Beitrittsvertrag.

³⁹ Abkommen über den Europäischen Wirtschaftsraum.

2. if evidence that an additional examination, to be taken under the University Entrance Qualification Decree⁴⁰ (Federal Legal Gazette II No. 44) in the course of the degree programme, has not been furnished on time.

(3) A registration for the continuation of studies for a semester shall remain valid until the end of the extension period in the succeeding semester unless admission to the programme of study in question has lapsed.

(4) Universities shall issue students with confirmations of registration for the continuation of studies. These must, as a minimum, bear the student's name, date of birth, matriculation number and social security number, as well as his/her student status, the programme of study and the semester.

Admission to Degree Programmes

§ 63. (1) Admission to degree programmes is conditional on:

1. possession of a general university entrance qualification;
2. possession of a special university entrance qualification required for the degree programme selected;
3. proficiency in the German language;
4. artistic aptitude, in the case of studies at the universities named in § 6 subparas. 16 to 21; and
5. physical-motor aptitude, in the case of degree programmes leading to teacher training studies in Movement and sports and of degree programmes in sports science.

(2) Persons applying to study a subject for which they have already been admitted by another Austrian university must submit their leaving certificate together with the application.

(3) The following shall be admitted for an indefinite period on presentation of proof of possession of a general and a special university entrance qualification:

1. Austrian citizens;
2. nationals of other signatories to the EU Accession Treaty or to the Agreement on the European Economic Area;
3. other foreign nationals or stateless persons, provided that the conditions for study of the subject concerned are acceptable in the countries concerned (para. 4);
4. groups of persons designated by decree of the Federal Minister on grounds of their close personal relationships with Austria or activities on behalf of Austria.

(4) The senate shall be entitled, on the basis of the student-teacher ratio, to determine the point at which study conditions in a programme of study would become unacceptable if additional foreign nationals or stateless persons in the meaning of para. 3 subpara. 3 were admitted. In such cases, the senate shall determine how many such persons may be admitted per semester without giving rise to unacceptable study conditions, and establish criteria for any limits to admission numbers. It is permissible to accord preferential treatment to applicants from developing countries. Such enactments shall be published in the university gazette.

(5) The following shall be granted temporary admission upon furnishing proof of possession of a general and a special university entrance qualification, regardless of any enactments under para. 4:

1. persons participating in university mobility programmes including joint/double diploma programmes, for the duration of authorised participation therein;
2. persons wishing only to make use of distance learning course offerings based on co-operation agreements, for a maximum of two semesters;
3. foreign nationals and stateless persons in the meaning of para. 3 subpara. 3 seeking admission to study programmes in Austria on successful completion of studies

⁴⁰ Universitätsberechtigungsverordnung – UBVO 1998.

abroad equivalent to the first diploma examination of the diploma degree programme selected or a bachelor's degree, for a maximum of two semesters.

Extension of these limited terms is impermissible.

(6) Temporary admission under para. 5 subparas. 1 and 2 shall be conditional on the existence of a co-operation agreement between the universities concerned governing the detailed arrangements for co-operation, student exchange and programme implementation. Nomination by the partner university shall be deemed equivalent to proof of possession of a general and a special university entrance qualification.

(7) Upon the annulment of admission due to failure of the last permissible examination resit, renewed admission to the respective programme of study at the university where the last permissible resit was failed shall be excluded.

(8) Simultaneous admission to the same studies at more than one university in Austria is impermissible. Additional admissions to the same studies at other universities risk nullity due to a defect in the meaning of § 68 para. 4 subpara. 4 General Administrative Procedure Act and shall be declared null and void by the Federal Minister, acting ex officio.

(9) Taking examinations for a programme of study at a university other than that to which a student has been admitted is only permissible if:

1. the curriculum of a programme of study jointly offered with another university makes provision therefore;
2. the officer responsible for study matters approves sitting of the examination at the other university because it cannot be taken at the university which has admitted the student for the programme of study in question; or
3. the examinations are based on new media, particularly online course offerings.

(10) Persons whose mother tongue is not German shall provide proof of proficiency in the German language if this is necessary for successful continuation of their studies. A university entrance qualification obtained as a result of German language tuition shall, in particular, constitute such proof.

(11) In case that proof of proficiency in the German language cannot be furnished, the rectorate shall prescribe a supplementary examination which shall be taken prior to admission. The curricula of artistic study programmes may require proof that supplementary examinations have been taken prior to registration for the continuation of studies in the third semester, at the latest.

General University Entrance Qualification

§ 64. (1) Possession of the general university entrance qualification shall be certified by the following documents:

1. Austrian secondary-school leaving certificate, including a certificate of the TVE Diploma Examination⁴¹,
2. any other Austrian certificate testifying the right to study a certain subject at a university;
3. a foreign certificate which in the individual case is equivalent to one of these Austrian certificates on the basis of an agreement under international law, a nostrification, or a decision taken by the rectorate on a case-by-case basis;
4. a document certifying the completion of studies of at least three years at a recognized domestic or foreign post-secondary educational institution;
5. in the case of art studies, confirmation that the applicant has successfully passed the admission examination;
6. a document certifying the completion of a university-level course⁴².

⁴¹ Berufsreifeprüfung

⁴² Lehrgang universitären Charakters.

(2) In case the foreign certificates are not equivalent as to contents and requirements of an Austrian secondary-school leaving examination, the rectorate shall prescribe supplementary examinations that are necessary to establish an equivalence with the domestic secondary-school leaving examination and which shall be passed prior to admission.

(3) In respect of secondary-school leaving certificates issued in Austria such examinations shall be prescribed as must be taken in the course of applicants' studies pursuant to the University Entrance Qualification Decree 1998.

(4) The general university entrance qualification for admission to doctoral degree programmes shall be deemed to be established by proof of successful completion of a relevant diploma or master degree programme, University of Applied Sciences⁴³ diploma or master degree programme, or other equivalent programme at a recognized domestic or foreign post-secondary educational institution. In case that equivalence has been established basically and only certain supplementary qualifications are required for full equivalence, the rectorate shall be entitled to tie the determination of equivalence to examinations sat during the respective doctoral degree programme.

(5) Admission to a master degree programme is conditional on the successful completion of a relevant bachelor degree programme, University of Applied Sciences bachelor degree programme or other equivalent programme at a recognized domestic or foreign post-secondary educational institution. The general university entrance qualification shall be deemed to be established by proof that this condition is met.

Special University Entrance Qualification

§ 65. (1) In addition to possession of a general university entrance qualification, proof must be furnished of fulfilment of any subject-specific admission requirements, including those for the right to direct admission to the studies in question in the country of issue of the certificate evidencing the general university entrance qualification. Proof that the applicant has got a study place shall not be required.

(2) In respect of secondary-school leaving certificates issued in Austria this concerns the additional examinations to be taken under the University Entrance Qualification Decree 1998 prior to admission.

(3) If the studies applied for in Austria do not exist in the country of issue of the certificate, the subject-specific admission requirements must be fulfilled with regard to the studies in the country of issue which are most closely related to those applied for in Austria.

(4) The Federal Minister shall be entitled, by decree, to designate groups of persons whose secondary-school leaving certificates shall, on grounds of their close personal relationships with Austria or activities on behalf of Austria, be deemed to have been issued in Austria for purposes of ascertaining the special university entrance qualification.

(5) Special university entrance qualification for the studies selected shall be assessed on the basis of the general university entrance qualification.

Orientation Period

§ 66. (1) Provision for orientation periods for new students, including introductory courses and courses on subjects of particular significance for the studies in question, shall be made in the curricula of diploma or bachelor degree programmes.

(2) Provision shall be made for orientation events to provide guidance for new students.

(3) On admission to diploma or bachelor degree programmes students shall be provided with appropriate information on the main provisions of university law and student grants legislation, student representation on the governing bodies of the university, the legal basis of arrangements for the advancement of women and statutory protection against gender discrimination, the curriculum, the qualification profiles of graduates, the orientation phase, the recommended courses for the first two semesters and, in particular, the number of students

⁴³ Fachhochschule

attending the degree programme in question, the average duration of studies, and the pass rates and employment statistics.

(4) Provision shall be made for tutorials to offer new students ongoing support in meeting the academic, organisational and social challenges presented by their first year of study. It is permissible to organise these tutorials for students who begin their studies in conjunction with other legal entities, particularly the Austrian National Union of Students.

Academic Leave

§ 67. (1) Universities shall permit students to take leave of absence, particularly for compulsory military or community service, maternity or care of their own children, for a maximum of two semesters on each occasion. The detailed arrangements shall be established by the statute.

(2) Admissions to studies shall remain valid for the duration of academic leave, but attendance of courses, taking of examinations, and the submission and assessment of academic theses, or artistic master's or diploma submissions is impermissible.

Expiry of Admission to Degree Programmes

§ 68. (1) Admission to a programme of study shall expire if a student:

1. deregisters from the programme;
2. fails to register for the continuation of studies without having been granted academic leave;
3. fails the last permissible repetition of an examination prescribed for his/her degree programme, whereby the permissible number of repetitions shall be calculated on the basis of the examinations taken in the relevant subjects at the respective university;
4. has lost the right to direct admission to the respective programme of studies or continuation of studies in the country of issue of the certificate providing proof of general university entrance qualification because he/she has failed to take an examination required therefore within the appointed period;
5. in the case of temporary admission, has completed the respective programme component in the appointed period; or
6. has completed his/her studies by passing the last prescribed examination.

(2) The statutes of the universities named in § 6 subparas. 16 to 21 may provide for an admission to expire if a student has failed to attend the courses relating to the major artistic subject for a total of more than three semesters over the entire duration of his/her studies.

(3) A documentary record shall be made of the expiry of the admission. Particularly in the case of expiry under para. 1 subpara. 4, the rectorate shall, on application, issue a declaratory notification on that.

Leaving Certificate

§ 69. (1) A leaving certificate shall be issued on application of a student terminating his/her studies at a university. The leaving certificate shall list all examinations taken by the student during his/her studies at the university, and the assessments awarded. With regard to the examinations passed, only the positive assessments shall be stated. In the interest of international student mobility a translation may be appended, with the name of the university and of the issuing body not having to be translated.

(2) In the interest of international and graduate mobility, the Federal Minister shall, by decree, determine the manner in which the Diploma Supplement under art. IX.3 of the Convention on the Recognition of Qualifications Concerning Higher Education in the European Region⁴⁴, Federal Legal Gazette III No. 71/1999 is to be issued.

⁴⁴ „Lissabonner Anerkennungsübereinkommen“.

Admission to Non-Degree Programmes

§ 70. (1) Admission to non-degree programmes is conditional on proof that the applicant fulfils any requirements laid down in the curriculum of the certificate university programme for further education concerned.

(2) Eligibility for admission to preparatory continuing education courses shall cease on the applicant's 21st birthday. The universities named in § 6 subparas. 16 to 21 shall be entitled to provide for admission to preparatory continuing education courses up to the applicant's 26th birthday if this is necessitated by the course contents.

(3) Upon expiry of an admission due to failure of the last permissible repetition of an examination renewed admission to the certificate university programme for further education concerned shall be excluded.

Expiry of Admission to Non-Degree Programmes

§ 71. (1) Admission shall expire if a student:

1. deregisters from the programme;
2. fails to register for the continuation of studies;
3. fails the last permissible repetition of an examination prescribed for his/her programme of study;
4. has completed the certificate university programme for further education by passing the last prescribed examination.

(2) A documentary record shall be made of the expiry of the admission. The rectorate shall, on application, issue a declaratory notification on that.

Chapter 4 Examinations

Determination of Academic Success

§ 72. Academic success shall be determined by examinations and the assessment of academic theses (diploma, master's and doctoral theses) or artistic diploma or master's submissions.

Academic Assessment

§ 73. (1) Passes of examinations and positive assessments of academic theses or artistic diploma or master's submissions shall be graded as "excellent" (1), "good" (2), "satisfactory" (3) or "sufficient" (4); fails shall be graded as "insufficient" (5). Intermediate assessments are impermissible. If this form of assessment is impossible or inexpedient the form of words for a pass shall be "successfully completed" and that for a fail shall be "unsuccessfully completed".

(2) Passes for examinations consisting of a number of subjects or parts shall only be awarded if each subject or part has been passed.

(3) In the case of examinations which mark the completion of studies comprising more than one subject, an overall assessment shall be made as well as assessments for individual subjects. This shall be "pass" if every subject has been passed, and shall otherwise be "fail". The overall assessment shall be worded "pass with distinction" if the grade in no subject is worse than "good" and if the grades in at least half of the subjects are "excellent". In the case of examinations which mark the completion of art studies comprising only one major artistic subject, the assessment "pass with distinction" shall be used instead of "excellent".

Annulations of Assessments

§ 74. (1) The result of an examination shall be annulled by the officer responsible for study matters if such examination was registered for under false pretences.

(2) The result of an examination, academic thesis or artistic master's or diploma submission shall, further, be annulled if such result was obtained by fraudulent means, in particular by the use of unauthorised aids.

(3) An examination, the result of which is annulled, shall count towards the number of repetitions.

(4) The results of examinations taken outside the registered continuation period for studies, and the assessments of academic theses or artistic master's or diploma submissions awarded outside the registered continuation period shall be null and void. Such results or assessments shall not count towards the number of repetitions.

Certificates

§ 75. (1) The results of examinations and assessments of academic theses or artistic master's or diploma submissions shall be evidenced by certificates. Consolidated transcripts may be issued.

(2) The certificates awarded shall be determined by the senate, and shall, as a minimum, contain the following information:

1. the awarding university and the designation of the certificate;
2. the matriculation number;
3. the surname and first names;
4. the date of birth;
5. the designation of the programme of study;
6. the designation of the examination or the subject, the assessment and the ECTS credits;
7. the name of the examiner, the date of the examination and the result(s) awarded;
8. the name of the issuer.

In the case of certificates evidencing the assessments of academic theses or artistic master's or diploma submissions, the topic shall be stated.

(3) Certificates of examinations held before one examiner shall be issued by the latter, those of assessments of academic theses or artistic master's or diploma submissions by the assessor, and those of examinations held before boards by the chairperson of the examination board. Graduation certificates shall be issued by the officer responsible for study matters.

(4) Certificates shall be issued without delay, and within four weeks of performance of the work assessed at the latest. In the interest of international student mobility a translation may be appended, with the name of the university and of the issuing body not having to be translated.

(5) The issue of certificates by means of electronic data processing is permissible. In the absence of a handwritten signature, attestation is only necessary in the case of graduation certificates.

(6) Universities shall, on application of a foreign student, issue him/her a certificate of successful course completion from the second year of study onwards, if he/she has passed examinations equivalent to at least 16 ECTS credits (eight semester hours).

Admission Examinations and Supplementary Examinations

§ 76. (1) The officer responsible for study matters shall appoint academically qualified examiners for the admission examinations and supplementary examinations; these persons shall determine the method of examination, and determine whether the examination is to be heard by a single examiner or an examination board.

(2) The curricula for teacher training studies in Movement and Sports and for Sports Science degree programmes shall prescribe the form of the supplementary examination to demonstrate physical-motor aptitude.

(3) If a university further education course is held to prepare students for a supplementary examination, its successful completion shall be deemed equivalent to such examination.

(4) The curricula of artistic study programmes shall determine the form of the admission examination to be taken to demonstrate the student's previous educational opportunities into account, serve to demonstrate artistic aptitude for art studies.

Repetition of Examinations

§ 77. (1) Students shall be entitled to repeat passed examinations up to six months after taking them, but not later than the end of the respective stage of the study programme or the programme as a whole. The result of the passed examination shall become null and void when the resit is taken. At the universities named in § 6 subparas. 16 to 21 a maximum of two passed course examinations in the major artistic subject may be repeated once throughout the entire duration of studies.

(2) Students shall be entitled to repeat failed examinations three times. All examinations taken in the same subject, under all relevant study programmes at the same university, shall count towards the permissible number of resits. The statute shall state whether further resits are permitted, and if so how many may be taken.

(3) The third repetition of an examination must be held before an examination board, if the examination takes the form of a single procedure. On application of the student the same shall apply to the second repetition.

(4) Setting of deadlines for repetitions of examinations and making them conditional on taking course examinations is impermissible.

(5) There shall be no limit to the number of admission examinations taken to demonstrate artistic aptitude for art studies or supplementary examinations to demonstrate physical-motor aptitude.

Recognition of Examinations

§ 78. (1) Examinations passed by students attending recognized domestic or foreign post-secondary educational institutions, higher vocational schools, schools for the training of teachers and non-teaching supervisory staff, recognized domestic educational institutions for which an admission requirement is the general university entrance qualification, or university-level courses, shall be recognized by the officer responsible for study matters on application of the degree student concerned, provided that such qualifications are equivalent to those prescribed by the curriculum. Examinations taken at a domestic university or a university in the European Union or European Economic Area shall be recognized for further study of the same subject at another domestic university provided that the number of ECTS credits is the same or only slightly different. Such recognition may be generally prescribed by the curriculum. Recognition of examinations taken at another university which contravene the provisions of § 63 paras. 8 and 9 is excluded.

(2) Examinations taken at Austrian public conservatoires shall be recognized on application of the degree student concerned, provided that they are equivalent to examinations prescribed by the curriculum. Such recognition may be generally prescribed by the curriculum.

(3) Scientific research at business establishments or non-university research establishments capable of providing preparatory scientific training may be recognized as equivalent to examinations on application of a degree student if the nature of the research and the research projects at the establishment concerned, and the nature and extent of the student's participation therein or activities is comparable.

(4) Artistic activities at non-university institutions capable of providing pre-vocational artistic vocational education may be recognized as equivalent to examinations on application of

a degree student if the nature of the activities, and the nature and extent of the student's participation therein is comparable.

(5) In response to a request by a degree student to conduct part of his/her studies abroad, the university shall give notice of the examinations which such student plans to take which are deemed equivalent to those prescribed by the curriculum. The applicant shall submit the documents required to assess such equivalence.

(6) Recognition of an examination shall be deemed equivalent to a pass in the like examination prescribed by the curriculum for the studies for which such examination is recognized.

(7) Recognition may only be accorded to examinations passed by non-degree seeking students if taken in connection with university further education courses or prior to passing the secondary-school leaving examination or university entrance qualification examination, or the supplementary examination providing proof of physical fitness or artistic aptitude appropriate to the programme of study for which the examination is to be recognized.

(8) Notwithstanding § 73 General Administrative Procedure Act, official notifications in the first instance for the recognition of examinations must be issued within two months of receipt of the applications.

Legal Protection in respect of Examinations

§ 79. (1) Appeals against the academic judgment of examiners shall be impermissible. If the manner in which an examination resulting in a negative assessment is conducted exhibits severe defects, the officer responsible for study matters shall, by order, annul the examination on application of the student. The student must make the application within two weeks of announcement of the assessment and substantiate the alleged severe defects. Examinations which are annulled shall not be counted towards the permissible number of resits.

(2) Oral examinations shall be open to the public. If necessary, it shall be permissible to limit admission to the number of persons that the premises can accommodate. In the case of oral examinations held before examination boards, all members of the board must be present throughout the examination. The result of an oral examination shall be made known to the student immediately after the examination. In the case of a negative assessment, the reasons shall be explained to the student.

(3) If the assessment documents (in particular, examiners' reports, and corrected written examinations and assessment papers) are not surrendered to the student, steps shall be taken to ensure that they are held in safekeeping for at least six months after announcement of the result.

(4) The examiners or the chairpersons of examination boards shall ensure that examinations are conducted in an orderly manner, and shall make records of examinations. Such records shall include the subject of the examination, the place and time thereof, the name of the examiner or examination board members, the name of the student, the questions asked, the assessment grades awarded, the reasons for a negative assessment and any unusual occurrences. The reasons for a negative assessment shall be communicated to the student in writing on application of the same. The examination record shall be held in safekeeping for at least one year.

(5) Students shall be permitted to have inspection of the assessment documents and the examination records provided that they make such requests within six months of the announcement of examination results. Students shall be entitled to make photocopies of these documents.

Chapter 5

Bachelor's Papers, Diploma, Master's and Doctoral Theses

Bachelor's Papers

§ 80. (1) Bachelor's papers shall be prepared as part of bachelor degree programmes. Detailed regulations for bachelor's papers shall be established by the respective curricula.

(2) In the treatment of the topic and the supervision of students, regard shall be given to the provisions of the Copyright Act⁴⁵, Federal Legal Gazette No. 111/1936.

Diploma and Master's Theses

§ 81. (1) The preparation of diploma or master's theses shall form part of diploma or master degree programmes. In the case of studies with a particularly strong vocational orientation, it is permissible to provide for another equivalent means of demonstrating proficiency in place of the diploma or master's thesis. This may not take the form of a written examination. Detailed regulations for the supervision and assessment of diploma and master's theses shall be established by the statute, and those governing the topics by the respective curricula.

(2) The assignments for diploma or master's theses shall be so chosen that it is reasonable to expect a student to complete them within six months.

(3) A number of students may jointly address a topic provided that the performance of individual students can be assessed. In case that treatment of a topic requires the use of financial or material resources furnished by a university organisational unit, assignment of the topic is only permissible if notice of the intention to assign it is given to the head of that unit and he/she does not prohibit it within one month because of potential significant interference with the unit's teaching and research activities.

(4) § 80 para. 2 shall apply only to diploma and master's theses.

Doctoral Theses

§ 82. (1) The preparation of a doctoral thesis shall form part of doctoral degree programmes. Detailed regulations for the supervision and assessment of doctoral theses shall be established by the statute, and those governing the topics by the respective curricula.

(2) § 80 para. 2 and § 81 para. 3 shall also apply to doctoral theses.

Artistic Diploma and Master's Submissions

§ 83. (1) Artistic diploma or master's submissions shall be completed as part of art study programmes. Students shall be entitled to prepare a diploma or master's thesis on an academic subject specified by the curriculum instead of submitting works of art.

(2) Artistic diploma or master's submissions shall include a written component as well as the artistic component that represents the main focus of the work. This shall comment on the artistic component. Detailed regulations for the supervision and assessment of artistic diploma and master's submissions shall be established by the statute, and those governing the themes by the respective curricula.

(3) § 80 para. 2 and § 81 para. 3 shall apply also to artistic diploma and master's submissions.

Inspection of Assessment Documents

§ 84. (1) If the assessment documents (in particular, examiners' reports on, and corrected papers related to artistic submissions) are not surrendered to the student, the officer responsible for study matters shall take steps to ensure that they are held in safekeeping for at least six months after notification of the result.

(2) Students shall be permitted to inspect the assessment documents provided that they make such requests within six months of notification of the results. Students shall be entitled to make photocopies of these documents.

⁴⁵ Urheberrechtsgesetz.

Recognition of Diploma and Master's Theses and Artistic Diploma and Master's Submissions

§ 85. Diploma or master's theses or artistic diploma or master's submissions accepted by recognized domestic or foreign post-secondary educational institutions shall, on application, be recognized by the officer responsible for study matters, provided that they meet the requirements for diploma or master's theses or artistic diploma or master's submissions.

Duty of Publication

§ 86. (1) Graduates shall publish accepted diploma, master's, doctoral theses, artistic diploma or master's submissions, or documentation in support of artistic diploma or master's submissions by lodging them with the library of the university where the degree is awarded. Before the award of the degree they shall lodge one complete copy of their accepted diploma, master's or doctoral thesis, or master's thesis or written artistic diploma or master's submission component with the library. Academic theses or parts thereof which are not capable of reproduction are exempted from the duty of publication. Accepted doctoral theses shall also be published by lodging a copy with the Austrian National Library.

(2) On lodging a scientific or artistic dissertation, thesis or submission with a library, the author shall be entitled to apply for access to the copies deposited therewith to be withheld for a maximum of five years from the time of delivery. The officer responsible for study matters shall allow such applications, if the student establishes that his/her legal or business interests would be materially endangered by permitting access.

Chapter 6 Academic Degrees

Award of Academic Degrees

§ 87. (1) The officer responsible for study matters shall, acting ex officio, without delay and not later than one month after fulfilment of all requirements, issue to graduates an official notification of the award of the designated academic degree upon successful completion of all examinations prescribed by the curriculum and acceptance of the academic thesis, or artistic diploma or master's submission and related written component thereof required by the diploma, master or doctoral degree programme in question.

(2) The officer responsible for study matters shall, acting ex officio, without delay and not later than one month after fulfilment of all requirements, issue to persons who have successfully completed university further education courses, including all the examinations prescribed by the curriculum, an official notification of the award of the designated academic degree.

(3) In order to promote international mobility of students, an English translation shall be added to the awarding document, without translating the name of the university and of the issuing body as well as the academic degree. The notification of award shall, as a minimum, contain the following information:

1. surname, first names and maiden name if different;
2. date of birth and nationality;
3. programme of study completed;
4. academic degree awarded.

(4) If the requirements for the award of an academic degree with the same wording have been fulfilled more than once, the same academic degree shall be awarded more than once.

(5) If a student successfully completes a joint/double diploma programme comprising up to 120 ECTS credits of which at least 30 were obtained under the auspices of a foreign partner institution, or more than 120 ECTS credits of which at least 60 were obtained under the auspices of a foreign partner institution, the award of the degree may be evidenced by a document jointly issued in conjunction with the latter.

Use of Academic Degrees

§ 88. (1) Persons who have been awarded an academic degree by a recognized domestic or foreign post-secondary educational institution shall be entitled to use this degree in the form set down in the document of award. This shall include the right to require the inclusion in official documents of the abbreviated form of an academic degree awarded by a domestic post-secondary educational institution or a recognized post-secondary institution in another signatory to the EU Accession Treaty or to the Agreement on the European Economic Area.

(2) "Mag.", "Dr." and "Dipl.-Ing." ("DI") shall precede the name if used, and other academic degrees shall follow it.

Revocation of Domestic Academic Degrees

§ 89. The officer responsible for study matters shall revoke and recall the notification of award if it subsequently transpires that a title has been obtained by fraudulent means, in particular the use of counterfeit certificates.

Chapter 7 Nostrification

§ 90. (1) Acceptance of requests for the recognition of foreign degrees as domestic ones (nostrification) shall be conditional on the provision of that the nostrification is indispensable in Austria for the practice of the profession or the continuation of the education of the applicant. The detailed arrangements shall be established by the statute.

(2) The application shall be directed to an Austrian university offering degrees corresponding to the original qualification. The same application for nostrification may not be submitted to more than one university simultaneously, nor may it be resubmitted to a second university after its withdrawal.

(3) Nostrification shall be awarded by the officer responsible for study matters by issuing official notifications thereof. Such official notification shall specify the domestic degree to which the foreign degree corresponds, and the domestic academic degree that the applicant is entitled to use instead of his/her foreign one in consequence of nostrification. A note recording issuance of such official notification shall be put onto the awarding document of the foreign degree submitted.

(4) Nostrification shall be revoked if obtained by fraudulent means, in particular the use of counterfeit certificates.

(5) The fee for nostrification of a foreign degree shall be EUR 150, payable in advance. It shall become forfeited if the application for nostrification is refused or withdrawn.

Chapter 8 Tuition Fees

§ 91. (1) Students who are Austrian citizens or to whom Austria is obliged under international treaties to accord the same rights to access to employment as its nationals shall pay a tuition fee in an amount of EUR 363.36 per semester. The tuition fee shall be increased by 10 percent if paid within the extension period.

(2) Students who are not Austrian citizens and to whom no international treaty in the meaning of para. 1 applies shall pay a tuition fee in an amount of EUR 726.72 per semester. The tuition fee shall be increased by 10 percent if paid within the extension period.

(3) Students who have been admitted to more than one degree programme, at one or more universities, shall be required to pay the tuition fee only once.

(4) The tuition fee shall be payable every semester in advance. In order to ensure that the tuition fee is collected, the universities shall transmit the following student data to the Federal Minister:

1. matriculation number;
2. name including any academic degrees and gender;
3. nationality;
4. fee status;
5. address at the place of study and home address.

Detailed provisions governing the collection of tuition fees shall be enacted by the Federal Minister by decree.

(5) The tuition fees shall be retained by the respective universities.

(6) The tuition fee paid by students attending a degree programme jointly offered by more than one university, or admitted to more than one degree programme at different universities shall be divided among the universities concerned.

(7) Students attending certificate university programmes for further education shall pay a course fee. This shall be set at levels reflecting actual course costs. Degree programme students in receipt of student grants shall, on application, be accorded reductions in the course fee having regard to their financial circumstances. The course fee shall be determined by the senate. Non-degree seeking students who are admitted exclusively to study of a certificate university programme for further education shall be required to pay the course fee, but not any tuition fees. No course or tuition fees shall be collected for preparatory continuing education courses.

(8) When paying their tuition fee students shall be entitled to choose between the options established by the senate according to § 25 para. 1 subpara. 13 for the purposes for which the fee may be earmarked.

Remission and Reimbursement of the Tuition Fees

§ 92. (1) Remission of the tuition fees shall, in particular, be granted to:

1. students for semesters during which they will demonstrably be studying or acquiring work experience under transnational EU, national or university mobility programmes;
2. students for semesters during which they will be studying abroad due to mandatory curriculum requirements;
3. foreign degree students in the meaning of § 91 para. 2 whose most recently attended university in their home country has concluded a partnership agreement with an Austrian university or universities providing for the reciprocal remission of tuition fees, and foreign degree students in the meaning of § 91 para. 2 from least developed countries, which shall be determined by decree of the Federal Minister;
4. Convention refugees.

(2) An application for remission of the tuition fee shall be for the decision of the rectorate.

(3) An application for remission shall be accompanied by the necessary supporting documentary evidence.

(4) An appropriate documentary record of the university's decision shall be kept.

(5) Students granted remission under para. 1 subparas. 1 and 2 who have undertaken no study or work experience abroad in the meaning of these provisions during the term in question shall be obliged to pay the tuition fee retroactively. The rectorate shall order such payment.

(6) Students obtaining remission of the tuition fee by wilfully providing incomplete or incorrect information with respect to material facts shall pay double the normal tuition fee without prejudice to legal action. The rectorate shall order such payment.

(7) Students who have been granted leave of absence shall not be required to pay the tuition fee.

(8) Decisions of the rectorate may be appealed to the senate.

(9) The Federal Minister shall be entitled to designate by decree countries to whose nationals the tuition fee shall be reimbursed, in accordance with Austria's priorities with respect to measures for the support and promotion of economic and social development in developing countries and assistance for the transition countries of Central and Eastern Europe.

(10) Reimbursements shall be made within the private sector administration, on application of the students concerned. The fee shall be reimbursed within four weeks of application. There shall be no legal entitlement to reimbursement.

Chapter 9 Special Provisions

Special Provisions for Catholic Theology

§ 93. (1) The following special provisions shall apply to students transferring from an ecclesiastical School of Theology (art. V § 1 of the Concordat between the Holy See and the Republic of Austria) to an organisational unit of a university, the sphere of action of which relates to Catholic theology:

1. Examinations taken at such schools shall be recognized as supplementary examinations, provided that the examiners appointed by such a school:
 - a) are authorised to teach the subject in question (*venia docendi*); or
 - b) have been authorised by an organisational unit of a university, the sphere of action of which relates to Catholic theology, to hear supplementary examinations for a period of three years.
2. Examinations taken at such schools shall be recognized if heard by:
 - a) a university professor for a subject related to Catholic theology, appointed for this purpose; or
 - b) another person authorised to do so by an organisational unit of a university, the sphere of action of which relates to Catholic theology. Ecclesiastical Schools of Theology shall be enabled to give their opinion on such authorisations, which shall be granted for reasonable periods.
3. Graduates of ecclesiastical Schools of Theology shall be awarded the academic degrees prescribed for their programmes of study if the examinations taken by them have been recognized in accordance with the provisions above, and the theses prepared by them have been accepted by a university professor for a subject related to Catholic theology or supervised and accepted by another person responsible for such subject having a habilitation degree (*venia docendi*) at the respective school.

(2) For the purpose of the award of the academic degree, admission to study at the university shall not be necessary.

Part III University Members

Chapter 1 Classification

§ 94. (1) The members of a university comprise:

1. the students (§ 51 para. 3);
2. the research fellows;
3. *[deleted]*
4. the scientific and artistic university staff;
5. the non-academic university staff;

6. the non-tenured associate professors (§ 102);
 7. the university professors emeriti;
 8. the retired university professors.
- (2) The scientific and artistic university staff comprises:
1. the university professors;
 2. the associate professors and other research, artistic and teaching staff.
- (3) The non-academic university staff comprises:
1. the administrative staff;
 2. the technical staff;
 3. the library staff;
 4. the nursing staff;
 5. physicians exclusively engaged in public hospital duties;
 6. physicians in specialists' training.

Chapter 2

Research Fellows and Physicians in Specialists' Training

Research Fellows

§ 95. Research fellows are doctoral students or doctoral graduates (post docs) in receipt of grants to work on a research project at the university. The award of a grant shall not give rise to an employment contract with the university or alter the beneficiary's existing terms of employment.

Physicians in Specialists' Training

§ 96. Physicians undergoing training as specialists shall be temporarily employed by the university for the duration of their training. Their duties shall be determined by the medical training regulations.

Chapter 3

Scientific and Artistic University Staff

University Professors

§ 97. (1) The university professors shall be responsible for research, or the advancement and appreciation of the arts, and for teaching in their field, and shall be employed by the university on a temporary or permanent basis. They shall be full-time or part-time employees.

(2) Both Austrian and foreign researchers or artists whose scientific or artistic and professional credentials qualify them for the subjects related to the positions to be filled may be appointed as university professors.

(3) University professors shall be appointed by the rector following an appointment procedure in accordance with §§ 98 or 99.

Appointment Procedure for University Professors

§ 98. (1) The subject allocation of a chair to be filled on a permanent basis or for longer than three years shall be specified by the development plan.

(2) All positions shall be advertised by the rectorate in Austria and abroad. With their agreement, scientists and artists who have not applied may also be included as candidates in the appointment procedure.

(3) The professorial members of the senate shall appoint four assessors, nominated by the university professors in the department in question, of whom at least two shall be exter-

nal. However, they may also delegate this task to the university professors of the department or of a department in a related field.

(4) The senate shall appoint an appointment committee with decision-making power. More than half of the members shall be university professors, and at least one shall be a student. The assessors under para. 3 shall be excluded from membership of an appointment committee engaged in the same procedure.

(5) The four assessors shall assess the suitability of the applicants for the advertised chair.

(6) The rector shall offer all suitable candidates appropriate opportunities to introduce themselves at least to the department and the departments in related fields.

(7) The appointment committee shall draw up a shortlist of the three most suitable candidates for the advertised chair on the basis of the reports and opinions received, giving reasons for its decision. It shall state particular reasons in case that the shortlist contains less than three candidates.

(8) The rector shall select a candidate from the shortlist or remit the shortlist to the appointment committee if it does not include the most suitable candidates.

(9) The rector shall notify the working group on equal opportunities of his/her decision prior to the initiation of appointment negotiations. The working group shall be entitled to object to the decision within two weeks of notification. The arbitration board shall rule on such objection.

(10) If the arbitration board dismisses the objection, the rector shall be entitled to initiate appointment negotiations. If the arbitration board upholds the objection the selection decision shall be null and void, and a new decision shall be made, having regard to the legal opinion of the arbitration board.

(11) The rector shall conduct the appointment negotiations and conclude the employment contract with the candidate selected.

(12) On conclusion of the employment contract the university professor shall be granted a *venia docendi* for the subject for which he/she has been appointed. A previously acquired habilitation degree shall not be affected thereby.

(13) The *venia docendi* of a university professor with a limited term employment contract shall expire upon termination of employment.

Shortened Appointment Procedure for University Professors

§ 99. (1) If a university professor is to be appointed for a period of not more than two years, § 98 paras. 1 to 3 shall not apply. Extension of the appointment is only permissible after an appointment procedure in accordance with § 98.

(2) The rector shall appoint the candidate for the post to be filled on the recommendation of, or after hearing opinions of the university professors of the department to which the post is assigned.

Scientific and Artistic Staff in Research, Art and Teaching

§ 100. (1) The scientific and artistic staff in research, art and teaching must be appropriately qualified for the employment envisaged. They shall, in their subjects, be obliged to contribute to the fulfilment of the university's tasks in respect of research, or the advancement and appreciation of the arts, and teaching. They shall be employed by the university on a full- or part-time basis.

(2) The university shall promote the professional development of staff members under para. 1.

Chapter 4 Non-Academic University Staff

§ 101. (1) The non-academic university staff must possess appropriate professional qualifications for their duties. They shall be employed by the university on a full- or part-time basis.

(2) The university shall promote the professional development of staff members under para. 1.

(3) Provision shall be made for the library staff at all universities to receive a uniform training in librarianship, information science and documentation.

Chapter 5

Non-Tenured Associate Professors, Habilitation, Professors Emeriti and Retired Professors

Non-Tenured Associate Professors⁴⁶

§ 102. Non-tenured associate professors are persons to whom a university awards a habilitation degree for a subject (*venia docendi*) on the basis of their academic or artistic qualification, but who are with regard to this function not employed by the university.

Habilitation

§ 103. (1) The rectorate shall, on application, be entitled to award an habilitation degree (*venia docendi*) for an entire academic or artistic subject. The *venia docendi* applied for must be within the sphere of action of the university, or represent a worthwhile addition thereto. The habilitation degree shall confer the right to the free exercise thereof at the university in question, using its facilities, and to the supervision and assessment of academic theses or art submissions (§§ 81 to 83 and 124).

(2) The award of a habilitation degree shall be conditional on evidence of outstanding scientific or artistic qualification, as well as teaching ability.

(3) The habilitation thesis submitted must:

1. be of impeccable methodological quality;
2. contain new scientific insights;
3. demonstrate the candidate's command of his/her habilitation subject and ability for its advancement.

Art submissions must demonstrate the candidate's ability to exercise his/her artistic discipline within the full scope of the *venia docendi* applied for.

(4) An application for a habilitation degree shall be directed to the rectorate. The latter shall forward the application to the senate, unless it must be rejected due to the university's incompetence to process it.

(5) The representatives of university professors in the senate shall appoint four experts in the habilitation subject, including two external ones, nominated by the university professors in the department concerned, to act as assessors of the academic papers or works of art submitted. However they may also delegate this task to the university professors of the department and of a department in a related field.

(6) The university professors in the department concerned and departments in related fields shall be entitled to give opinions on the assessors' reports.

(7) The senate shall appoint a habilitation committee with decision-making power. More than half of the members shall be university professors, and at least one shall be a student. The assessors under para. 5 shall be excluded from membership of the habilitation committee engaged in the same procedure.

(8) The habilitation committee shall make its decision on the basis of the reports and opinions received.

⁴⁶ Privatdozentin/Privatdozent

(9) The rectorate shall issue an official notification on the application for a habilitation degree, which shall be based on the decision of the habilitation committee. Recourse to law against such orders is impermissible.

(10) The rectorate shall reject a decision by the habilitation committee in case of serious procedural defects.

(11) The award of a habilitation degree (*venia docendi*) shall neither confer the right to employment nor modify an existing employment contract (non-tenured associate professor).

Professors Emeriti and Retired Professors

§ 104. (1) Professors emeriti and retired professors are not in an active employment status to the Federal Government or the university.

(2) They shall be entitled to retain their habilitation degrees (*venia docendi*) at the university where they were employed prior to their retirement and to give lectures and hear examinations under such authorisation.

Chapter 6 General Provisions

Freedom of Conscience and Research

§ 105. No member of a university may be required to participate in scientific or artistic work which conflicts with his/her conscience. Refusal to participate in such work shall not result in any disadvantage. However, the university member concerned must inform his/her superior of such refusal in writing.

Commercial Exploitation of Intellectual Property

§ 106. (1) All university members shall have the right to independent publication of academic papers and artistic work. When research findings or work serving the advancement and appreciation of the arts are published, university members who have contributed to such work shall be named as co-authors.

(2) Inventions in the meaning of § 7 para. 3 of the Patents Act⁴⁷, Federal Legal Gazette No. 259/1970, made at a university in the course of employment or training under federal public law or employment or training by the university, shall be subject to the Patents Act, and the university shall be deemed to be the employer according to § 7 para. 3 of the Patents Act.

(3) All inventions shall be promptly reported to the rectorate. The rectorate shall inform the inventor within three months if it intends to claim title to the invention in its entirety or rights to the use thereof. Otherwise the inventor shall be entitled to such rights.

Part IV Employment Law

Advertisement of Positions and Appointments

§ 107. (1) All vacant posts shall be advertised by the rectorate. The application deadline shall be at least three weeks after the publication of an advertisement.

(2) Advertisement of posts shall not be mandatory in the following cases:

1. posts solely involving teaching duties, and with low teaching loads (part-time temporary lectureships); and

⁴⁷ Patentgesetz.

2. posts relating to limited term projects funded by third parties which have been preceded by a properly conducted selection procedure, provided that this does not conflict with the conditions imposed by the financier.

(3) The rector shall conclude employment contracts on the recommendation of, or after consultation of the head of the organisational unit to which the vacant post in question is assigned, or the appointee's immediate superior.

(4) Employment contracts with staff involved in a project in the meaning of § 27 para. 1 subpara. 3 and with staff whose employment is paid for by tied research funds shall be concluded by the rector on the recommendation of the appointee's immediate supervisor.

(5) Employment contracts with university professors shall be concluded by the rector following an appointment procedure in accordance with §§ 98 or 99.

Legal Basis of Employments

§ 108. (1) University employment shall, unless otherwise provided for by statute, be governed by the Salaried Employees Act⁴⁸, Federal Legal Gazette No. 292/1921.

(2) The universities shall form the National University Federation⁴⁹, to which the rectorate of every university shall appoint a representative. The federation shall adopt rules of procedure and shall elect a chairperson by a simple majority.

(3) The federation shall be empowered to negotiate collective contracts in the meaning of the Labour Relations Act, Federal Legal Gazette No. 22/1974, on behalf of member universities. Collective contracts concluded by the federation shall be applicable to the employees of member universities.

(4) The federation's legal capacity to make collective contracts shall take precedence over the capacity of other employers' associations or professional associations to make such contracts.

(5) In the interests of clear identification in employment matters, personal identity codes derived from central registry numbers (§ 16 para. 4 of the Registration Act 1991⁵⁰, Federal Legal Gazette No. 9/1992) and extended by departmental codes, may be used to identify university staff.

Term of Employment Contracts

§ 109. (1) Employment contracts may be of unlimited or limited term. The term of limited term employment contracts shall not exceed six years, on pain of invalidity, unless otherwise provided for by this Act.

(2) Limited term contracts immediately succeeding each other shall only be permissible for staff employed in connection with third-party funded projects or research projects for which teaching staff are exclusively used, and for staff acting as temporary replacements. The combined duration of such successive employment contracts may not exceed six years, or, in case of part-time employment, eight years.

Special Arrangements for the Hours of Work and Rest Periods of Scientific and Artistic University Staff

§ 110. (1) The following provisions shall apply to scientific and artistic university staff instead of those of the Working Hours Act⁵¹, Federal Legal Gazette No. 461/1969, and the Rest Periods Act⁵², Federal Legal Gazette No. 144/1983. Scientific staff who are subject to the Hospital Working Hours Act and senior university employees entrusted with important managerial responsibilities are excluded from these provisions.

⁴⁸ Angestelltengesetz.

⁴⁹ Dachverband der Universitäten.

⁵⁰ Meldegesetz 1991.

⁵¹ Arbeitszeitgesetz.

⁵² Arbeitsruhegesetz.

(2) For the purposes of these provisions:

1. "Hours of work" mean the time from the start to the finish of working time, apart from the rest breaks and rest periods, and comprise normal working time and overtime;
2. "Daily working time" means the hours of work within an uninterrupted period of 24 hours;
3. "Weekly working time" means the hours of work within the period from Monday up to and including Sunday;
4. "Night" means the period from 10 p.m. until 6 a.m.
5. "Night workers" means workers who work at least three hours during the night either regularly or, unless otherwise provided for by the collective contract, at least 48 nights per calendar year.

(2a) The normal working week is 40 hours unless otherwise provided for by the collective contract.

(3) Daily working time may not exceed 13 hours. Weekly working time may not exceed an average of 48 hours within a reference period of up to 17 weeks or 60 hours in single weeks within the reference period.

(4) The daily working time of night workers may not exceed an average of eight hours within a reference period of 17 weeks.

(5) If the total duration of hours of work amounts to more than six hours, working time shall be interrupted by a rest break of at least 30 minutes.

(6) After daily working time, employees shall be given an uninterrupted rest period of at least 11 hours.

(7) Employees shall be given an uninterrupted rest period of 36 hours within the period from Monday up to and including Sunday. The weekly rest period may be reduced to 24 hours if an employee is assured of an average weekly rest period of 36 hours over a 14 day period.

(7a) Unless precluded by operational requirements, Sundays and statutory holidays (§ 7 paras. 2 and of the Rest Periods Act) shall be kept free.

(8) At their request, night workers shall be transferred to day jobs, if night work is demonstrably detrimental to their health and such transfer is operationally feasible.

(9) Night workers shall be entitled to free health assessments prior to the commencement of their duties and at regular intervals thereafter. Such assessments shall be special assessments according to § 51 of the Employees Protection Act⁵³, Federal Legal Gazette No. 450/1994.

(10) The uninterrupted rest period according to para. 6 may be reduced to eight hours by a collective contract. Such reductions in rest periods shall be compensated by corresponding extensions of other daily or weekly rest periods within the succeeding two weeks. The reference period for weekly hours of work under para. 3 may, further, be extended to 12 months, and that for weekly rest periods under para. 7 to two months by a collective contract. Deviations from the statutory provisions by virtue of collective contracts are only permissible if the employees concerned are granted equivalent compensatory rest periods.

(11) Employers shall, unless the offence is subject to a heavier penalty under other enactments, be punishable by the district administrative authority⁵⁴ with a fine of between EUR 36 and 1,500 if:

1. employees are used beyond the limits for daily or weekly hours of work under paras. 3 or 4;
2. they are not granted rest breaks under para. 5 or daily or weekly rest periods under paras. 6 or 7; or

⁵³ ArbeitnehmerInnenschutzgesetz – ASchG.

⁵⁴ Bezirksverwaltungsbehörde.

3. night workers are not provided with health assessments in accordance with the provisions of para. 9.

Special Arrangements for the Rest Periods of Non-Academic University Staff

§ 111. Non-academic university staff whose work is essential to support and maintain teaching, research or artistic activities may be employed during week-end and holiday rest periods according to §§ 3 and 7 of the Rest Periods Act.

Labour Inspection

§ 112. (1) The Labour Inspection Act 1993⁵⁵, Federal Legal Gazette No. 27/1993, shall apply, subject to due regard by the Labour Inspectorate⁵⁶ for existing general remediation plans when setting deadlines for compliance according to § 9 para. 1 Labour Inspection Act 1993.

(2) By the end of 2004 the Federal Minister shall conduct an investigation in consultation with the universities to determine the cost of meeting the general remediation requirements.

Extended Protection against Dismissal

§ 113. The termination or dismissal of a member of the scientific and artistic university staff shall be null and void if an official notification has been issued as a result of an opinion or method advocated by such staff member in the course of his/her research, artistic or teaching activities.

Acceptance of Public Offices

§ 114. (1) Acceptance of public offices shall not require the permission of the university, but must be reported to the rectorate without delay.

(2) In case that the exercise of a public office in addition to the fulfilment of an employee's duties under his/her employment contract is impossible, such employee shall, on application, be partly or entirely released from such duties subject to a corresponding reduction in or suspension of remuneration.

System of Pension Funds

§ 115. A pension fund commitment in the meaning of the Company Pension Act⁵⁷, Federal Legal Gazette No. 282/1990, must be made to the scientific and artistic university staff under a collective contract.

Part V Penal Provisions

- § 116.** (1) Anyone who deliberately without authority awards, grants or uses
1. a designation specific to a domestic or foreign higher education system; or
 2. one or more domestic academic degrees; or
 3. a degree or title identical or similar to domestic or foreign academic degrees or titles,

if the act does not constitute a punishable offence coming under the jurisdiction of a court of law or is not according to other rules of administrative penalty subject to more severe punishment, is committing an administrative offence punishable by the locally competent district administration by a fine of up to Euro 15 000.--.

⁵⁵ Arbeitsinspektionsgesetz 1993 – ArbIG.

⁵⁶ Arbeitsinspektorat.

⁵⁷ Betriebspensionsgesetz.

(2) The award, grant or use of an academic degree or identical or similar designation is, in particular, improper if it:

1. originates from an institution which is not of equivalent status to a post-secondary educational institution;
2. originates from an institution not recognized by its country of domicile as a post-secondary educational institution;
3. was not obtained by virtue of appropriate studies and examinations or scientific or artistic achievement;
4. was not awarded on an honorary basis in recognition of the recipient's high standing in academic circles due to his/her scientific or artistic achievements, or for outstanding services to the scholarly or cultural activities of a post-secondary educational institution.

Part VI

Properties, Buildings and Rooms

Use of Space

§ 117. The universities shall, particularly with regard to the use of their tenancy rights, ensure that space is efficiently used for university purposes.

Tenancy Rights in respect of Properties Owned by BIG and other Owners

§ 118. Properties, buildings and rooms rented from BIG⁵⁸ or other third parties, which are temporarily not required for university use, may be sublet to third parties provided that this is permitted by the tenancy agreement and the Rent Act⁵⁹.

Part VII

Science Council

§ 119. (1) The Science Council shall be a federal institution. It shall be subject to ministerial supervision in accordance with § 45.

(2) The functions of the Science Council shall be:

1. advising the Federal Minister, the legislature and the universities on university matters and on questions of science policy and the arts;
2. monitoring and analysing the Austrian higher education and research system, having regard to European and international trends, and formulating proposals for its further development.

(3) The resolutions, pronouncements and recommendations of the Science Council shall be published.

(4) From 2004 onwards the Science Council shall submit reports on its activities at least once every three years to the National Council, by way of the Federal Minister. Such reports shall also include recommendations for the strategic alignment of the performance agreements with universities, having regard to the development of university locations.

(5) The Science Council shall consist of 12 members from different spheres of society, particularly science and the arts, who shall be nominated by the Federal Minister and appointed by the Federal Government having regard to adequate female representation.

(6) The following shall be excluded from membership of the Science Council:

⁵⁸ Bundesimmobiliengesellschaft.

⁵⁹ Mietrechtsgesetz.

1. officers of the universities named § 6 and of accredited private universities in the meaning of the University Accreditation Act⁶⁰, Federal Legal Gazette I No. 168/1999;
2. employees of the federal ministry in charge of the universities; and
3. members of the federal or provincial governments, the National Council, the Federal Council or any other popular representative body, and officers of political parties or persons who have exercised such functions during the past four years.

(7) The Federal Government shall initially appoint four members to the Science Council. These persons shall make recommendations to the Federal Minister for the nomination of a further eight members.

(8) The term of office of the members of the Science Council shall be determined by the Federal Government as either three or six years, and shall commence with the constituent meeting of the Council. Reappointment shall be permissible for one term. In case of the premature termination of the service of a member of the Science Council, a replacement shall be appointed for the remainder of the term of office of the departing member.

(9) Membership of the Science Council may be terminated by:

1. expiry of the term of office;
2. resignation;
3. dismissal;
4. death.

(10) The Federal Minister shall convene the constituent meeting of the Science Council. The members shall elect a chairperson from among their number. The Science Council shall adopt rules of procedure.

(11) The Federal Government may, on application of the Federal Minister or of a majority of the members of the Science Council, by official notification, dismiss a member of the Council due to severe misconduct, conviction of a criminal offence, or mental or physical incapacity.

(12) The Science Council shall have a quorum when at least half of the members are present. Voting by proxy shall be impermissible.

(13) The Science Council shall be entitled to invite domestic and foreign experts to its meetings, and to establish working parties.

(14) The members of the Science Council shall receive compensation for their activities in an amount to be determined by the Federal Minister.

(15) The Federal Minister shall provide the Science Council with the premises, equipment and staff necessary for the performance of its tasks.

Part VIII

Transitional and Final Provisions

Chapter 1

Implementation of the New Organisational Structure

Constituent Convention

§ 120. A constituent convention consisting of 12 members shall be established at each of the universities named in § 6 subparas. 1 to 21 upon publication of this Act.

(2) The constituent convention shall consist of representatives of the professors, the group of persons named in § 94 para. 2 subpara. 2, the non-academic university staff and

⁶⁰ Universitäts-Akkreditierungsgesetz – UniAkkG.

the students of the university in the meaning of the University Organisation Act 1993 and the Universities of the Arts Organisation Act.

(3) Notwithstanding para. 2, the members of medical faculties shall only be eligible to vote and be elected to the constituent conventions of those universities of medicine which are the legal successors of the faculties of medicine concerned according to § 136 para. 2.

(4) Members of inter-university institutions shall be eligible to vote and be elected to the constituent conventions of those universities which are the legal successors of the respective inter-university institutions according to § 136 paras. 4 to 11.

(5) In accordance with the University Organisation Act 1993 and Universities of the Arts Organisation Act, rectors and vice-rectors in office shall not be eligible for election.

(6) The Federal Minister shall, by decree, enact electoral regulations for the constituent conventions of all universities. These shall conform to the principles of equal, direct, secret and personal voting and proportional representation.

(7) The members and substitute members of the constituent convention shall be appointed as follows:

1. Seven representatives of the university professors shall be elected by all the university professors (§ 97).
2. Two representatives of the group of persons named in § 94 para. 2 subpara. 2 shall be elected by all the associate professors (§ 122 para. 3) as well as the other research, artistic and teaching staff. Those elected must include at least one person with a habilitation degree (*venia docendi*).
3. One representative of the non-academic university staff shall be elected by all the non-academic university staff.
4. Two student representatives shall be delegated by the legal student representative organisation.

(8) The chairpersons of the employment committee for university teachers and the employment committee for non-academic university staff, the chairperson of the working group on equal opportunities, the library director, the university director, the head of the central information service and the chairperson of the students' union at the university concerned shall be non-voting members of the constituent convention.

(9) The constituent convention shall have a quorum when at least half of the voting members or their substitutes are present. The constituent convention shall resolve by simple majority, except insofar as this Act provides otherwise.

(10) The rector in office at the time of the entry into force of this Act shall call elections to the constituent convention, call the constituent meeting not later than November 30, 2002, and preside over the meeting until the election of a chairperson. In the case of the constituent convention of a university of medicine, these tasks shall be performed by the dean of the faculty of medicine of which that university is the successor institution.

(11) The constituent convention shall make preparations for the implementing measures provided for by § 121, insofar as these are not expressly provided for by statute.

(12) The term of office of the constituent convention shall expire at the end of December 31, 2003.

Implementing Measures

§ 121. (1) The provisions of the University Organisation Act 1993 and the Universities of the Arts Organisation Act shall continue to apply to the universities and the universities of the arts until December 31, 2003.

(2) The rectors and vice-rectors in office at the time of the entry into force of this Act shall remain in office until the rectorate takes office under this Act.

(3) The constituent convention shall determine the size of the senate in accordance with § 25 para. 2, shall adopt a provisional statute including electoral regulations for the senate,

and initiate the other necessary transitional arrangements, insofar as other measures are not provided for by statute. The electoral regulations shall conform to the principles named in § 120 para. 6.

(4) The constituent convention shall determine the size of the university council, which may have five, seven or nine members, and shall elect two, three or four members to the council without delay. In case that the constituent convention of a university fails to comply with this task by January 31, 2003, the Federal Minister shall appoint the members who would otherwise have been elected by the convention.

(5) The Federal Government shall, on application by the Federal Minister, appoint two, three or four members to each university council, in accordance with para. 4, by February 28, 2003.

(6) The university council shall constitute itself without delay, and shall elect the additional member (§ 21 para. 6 subpara. 3) not later than March 31, 2003.

(7) The constituent convention shall, without delay, give notice of the election of the rector, and draw up a shortlist of candidates for such election. The election of the rector by the university council shall take place not later than June 30, 2003.

(8) The rectors elected shall determine the number and tasks of the vice-rectors, and nominate candidates after hearing the opinion of the constituent convention. The election of the vice-rectors shall take place not later than eight weeks after the election of the rector.

(9) The rectorate shall commence their office on October 1, 2003.

(10) The rectorate shall enact a provisional organisation plan and appoint provisional heads of the various organisational units without delay. This provisional organisation plan shall come into force on the day when this Act enters into full effect at the university.

(11) The rector shall give notice of the elections to the senate without delay, and shall preside over its constituent meeting until the election of a chairperson. The elections to the senate shall be held by October 31, 2003, and the constituent meeting of the senate and election of a chairperson by November 30, 2003.

(12) The rules of procedure of the rectorate shall be published by October 31, 2003.

(13) The rectorate shall submit its plans for the definitive organisational form of the university (organisation plan) to the university council, and submit the proposed university statute for resolution by the senate, not later than December 31, 2003.

(14) Upon approval of the organisation plan the heads of the organisational units shall be appointed without delay.

(15) The university clinics and clinical institutes within faculties of medicine, established under the University Organisation Act 1993, shall continue to exist and the heads thereof remain in office until the entry into effect of new organisation plans at the respective medical universities. From January 1, 2004 these institutions shall be deemed to be organisational units of the clinical departments of these medical universities.

(16) Universities shall, in addition to financial statements, submit to the Federal Minister reports on their activities, covering the entire spectrum of their services, by April 30, 2005, 2006 and 2007.

(17) The Federal Minister shall, not later than the end of 2005, establish a global budget for university funding in the first performance agreement period in consultation with the Federal Minister of Finance, and shall reach agreement thereto in accordance with § 45 of the Federal Budget Act. Universities shall submit drafts of their first performance agreements, for the period from 2007 to 2009, to the Federal Minister by April 30, 2006.

(18) Every university shall prepare an inventory by the time of the entry of this Act into full effect. Such inventory shall set forth the movable and immovable assets with which the university has hitherto been endowed, and its liabilities to third parties, particularly loans; all bank accounts including security accounts; as well as the third-party funds of institutes (or

clinics). A schedule listing the staff employed at the university on the day before the entry of this Act into full effect shall be appended to this inventory.

(19) The Federal Minister shall submit to the universities a report on the career advancement for junior academics and future developments with regard to university staffing not later than September 30, 2006.

(20) The constituent convention of each university shall appoint a representative to the national university federation not later than December 31, 2002. The term of office of such representative shall end upon the appointment of a new representative by the rectorate of the university concerned (§ 108 para. 2).

(21) The rector of the University of Vienna shall call the constituent meeting of the national university federation (§ 108), and shall preside over this meeting until the election of a chairperson.

(22) In case that the necessary implementing measures are not taken in a timely manner, the Federal Minister may take the necessary action him-/herself by order without granting an extension.

(23) If a university fails to submit a draft initial performance agreement to the Federal Minister within the appointed period, the budget of that university for the year in question shall be 98 per cent of its budget for the previous year.

(24) The faculty representatives (§ 15 of the Students Union Act 1998) of the medical faculties of the Universities of Vienna, Graz and Innsbruck for medicine, human medicine, dental medicine and doctoral studies in medical science shall, in respect of implementation of the provisions of the Universities Act 2002, continue to act as student representatives according to § 13 of the Students Union Act 1998 at the Medical Universities of Vienna, Graz and Innsbruck until December 31, 2003, and shall be deemed to be the representatives of these universities from January 1, 2004.

(25) The provisions of this Act shall enter into full effect at the universities on January 1, 2004.

Chapter 2 Organisation

Transitional Arrangements for University Members under the University Organisation Act 1993 and Universities of the Arts Organisation Act

§ 122. (1) All university members with federal, university or other employment contracts at the time of the entry into force of this Act or accepted for service under federal, university or other employment contracts between the entry into force of this Act and its full entry into effect shall have rights and duties in accordance with the provisions of this Act.

(2) In addition, the following shall apply:

1. university professors according to § 21 University Organisation Act 1993 or § 22 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be university professors according to § 97 of this Act;
2. university professors emeriti and retired university professors according to § 24 University Organisation Act 1993 or § 25 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be university professors emeriti or retired university professors according to § 104 of this Act;
3. visiting professors according to § 25 University Organisation Act 1993 or § 26 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be university professors according to § 97 of this Act;
4. associate professors according to § 27 para. 3 University Organisation Act 1993 or § 28 para. 3 Universities of the Arts Organisation Act with the title of "Außerordentliche/r Universitätsprofessor/in" shall, for organisational purposes, be deemed to be associate professors according to § 94 para. 2 subpara. 2 of this Act;

5. assistant professors according to § 29 University Organisation Act 1993 or § 30 Universities of the Arts Organisation Act and physicians in specialists' training according to § 33 para. 1 subpara. 1 University Organisation Act 1993 in conjunction with § 19 para. 2 subpara. 1 lit. f University Organisation Act 1993 (assistant professors) shall, for organisational purposes, be deemed to be academic or artistic staff engaged in research, the arts or teaching according to § 100 of this Act;
6. scientific staff engaged in research and teaching according to § 32 University Organisation Act 1993 and staff engaged in the arts, research and teaching according to § 33 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be academic or artistic staff engaged in research, the arts or teaching according to § 100 of this Act.
7. teaching assistants according to § 34 University Organisation Act 1993 or § 34 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be scientific or artistic staff engaged in research, the arts or teaching according to § 100 of this Act;
8. external lecturers according to § 30 University Organisation Act 1993 or § 31 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be scientific or artistic staff engaged in research, the arts or teaching according to § 100 of this Act;
9. academic staff engaged in teaching and research according to § 19 para. 2 subpara. 2 University Organisation Act 1993 shall, if classed as junior academic or artistic staff according to § 6 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act⁶¹, Federal Legal Gazette No. 463/1974, for organisational purposes be accorded equal status to scientific or artistic staff engaged in research, the arts or teaching according to § 100 of this Act;
10. staff engaged in the arts, teaching and research according to § 20 para. 2 subpara. 2 Universities of the Arts Organisation Act 1993 shall, if classed as trainee scientific or artistic staff according to § 6 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act, Federal Legal Gazette No. 463/1974, for organisational purposes be accorded equal status to scientific or artistic staff engaged in research, the arts or teaching according to § 100 of this Act;
11. physicians in specialists' training to the extent that paragraphs 5 or 9 are not applicable to them shall, for organisational purposes, be deemed to be physicians in specialists' training according to § 94 para. 3 subpara. 6 of this Act;
12. physicians according to § 33 para. 2 University Organisation Act 1993 shall, for organisational purposes, be deemed to be non-academic university staff according to § 101 of this Act;
13. non-academic university staff according to § 35 University Organisation Act 1993 or § 35 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be non-academic university staff according to § 101 of this Act;
14. associate professors according to § 27 University Organisation Act 1993 or § 28 Universities of the Arts Organisation Act who are not employed (§ 170 of the Civil Service Code 1979⁶² or § 55 of the Contractual Employees Act 1948⁶³) shall, for organisational purposes, be deemed to be non-tenured associate professors according to § 102 of this Act.
15. honorary professors according to § 26 University Organisation Act 1993 or § 27 Universities of the Arts Organisation Act shall, for organisational purposes, be deemed to be non-tenured associate professors according to § 102 of this Act.

(3) Associate professors with the title of "Außerordentliche/r Universitätsprofessor/in" under para. 2 subpara. 4 shall be entitled to freely exercise their *venia docendi* for their scien-

⁶¹ Bundesgesetz über die Abgeltung von wissenschaftlichen und künstlerischen Tätigkeiten an Universitäten und Universitäten der Künste.

⁶² Beamten-Dienstrechtsgesetz 1979.

⁶³ Vertragsbedienstetengesetz 1948.

tific or artistic subject at the university which has granted it, using that university's facilities, to use the facilities of such university for scientific or artistic work, and to supervise and assess academic theses or art submissions (§§ 81 to 83, § 124). They shall, further, have the right to offer courses in the field covered by their *venia docendi* at other universities, the activities of which include this subject, and to hold such courses, subject to the availability of premises.

(4) The associate professors referred to in para. 3 shall perform the following duties in a responsible manner:

1. conducting research, or advancing the arts and appreciation thereof;
2. course teaching in their subject, particularly of required courses, in accordance with teaching needs and having regard to the study regulations;
3. examining;
4. supervising students;
5. training and career promotion of junior academics and young artists;
6. assuming organisational, administrative and managerial responsibilities;
7. participating in evaluation procedures.

(5) On the recommendation of a majority of the university professors in an organisational unit with research and teaching responsibilities, or responsibilities with regard to the advancement and appreciation of the arts and art teaching, the associate professors referred to in para. 3 may, notwithstanding § 20 para. 5, be entrusted with the management of such organisational unit.

(6) In respect of election to collegial bodies, the associate professors referred to in para. 3 shall form part of the group of persons referred to in § 94 para. 2 subpara. 2.

(7) Associate professors under para. 2 subpara. 14 and honorary professors under para. 2 subpara. 15 shall be entitled to freely exercise their *venia docendi* for their scientific or artistic subject at the university which has granted it, using that university's facilities, to use the facilities of such university for scientific or artistic work, and to supervise and assess academic theses or art submissions (§§ 81 to 83, § 124). They shall, further, have the right to offer courses in the field covered by their *venia docendi* at other universities, the activities of which include this subject, and to hold such courses, subject to the availability of premises.

Transitional Arrangements for Appointment Committees, Habilitation Committees and Special Habilitation Committees

§ 123. Appointment committees, habilitation committees and special habilitation committees appointed prior to the entry of this Act into full effect and having already taken up their duties shall conduct the procedures in question as previously constituted and in accordance with the previous regulations.

Chapter 3 Study Law

§ 124. (1) Diploma, bachelor, master and doctoral degree programmes offered at universities as of October 1, 2003 shall continue to be offered at those universities unless decisions to the contrary according to § 54 of this Act are made. The respective curricula for these programmes in the versions valid as of October 1, 2003 shall continue to apply, but such curricula may be amended according to § 25 para. 1 subpara. 10. Graduates of such diploma, bachelor or master degree programmes shall be awarded the degrees designated for the respective studies as of October 1, 2003. § 80 to § 80b University Studies Act shall apply by analogy. If new bachelor, master or doctoral degree programmes are introduced in place of existing programmes according to § 54 para. 1, provision shall be made in the curricula for transitional arrangements corresponding to § 80 para. 2 and § 80a para. 2 University Studies Act.

(2) Pursuant to § 13 para. 4 subpara. 9 and § 19 para. 4 University Studies Act, curriculum committees shall allocate ECTS credits to all curricula adopted under the University Studies Act.

(3) Certificate university programmes for further education and preparatory continuing education courses introduced under the University Studies Act offered at universities as of December 31, 2003 shall continue to exist. The respective curricula for these programmes in the versions valid as of December 31, 2003 shall continue to apply.

(4) From October 1, 2003, § 77 shall apply. Repetition of examinations failed before October 1, 2003 shall be subject to § 58 paras. 1 to 6 University Studies Act, as last amended, instead of § 77 of this Act.

(5) If a diploma degree programme introduced under para. 1 is also established as a bachelor and master degree programme, admissions to the diploma degree programme shall cease. The transitional arrangements may provide for the continuation of studies on the basis of the former regulations for a transitional period which may not exceed the average duration of studies for the diploma in question.

(6) §§ 27 and 28 University Studies Act, as last amended, shall apply to applications according to §§ 27 and 28 University Studies Act pending before January 1, 2004.

(7) § 49 of the Universities of the Arts Studies Act⁶⁴ shall apply instead of § 90 of this Act to nostrification procedures pending before August 1, 1998 at the universities named in § 6 subparas. 16 to 21. § 40 of the General Higher Education Studies Act⁶⁵ shall apply instead of § 90 of this Act to nostrification procedures pending before August 1, 1997 at the universities named in § 6 subparas. 1 to 15. §§ 70 to 73 University Studies Act shall apply instead of § 90 of this Act to nostrification procedures at universities pending up to December 31, 2003.

(8) § 17 University Studies Act shall continue to apply to degree students admitted to individual diploma degree programmes before January 1, 2004.

(9) § 64 para. 1 subpara. 6 and § 78 para. 1 shall only apply to university-level courses recognized as such after September 1, 2001.

(10) Prior bachelor's and master's programmes shall be regarded as bachelor's and master's programmes according to § 51 para. 2 subpara. 4 and 5, prior bachelor's papers and master's theses shall be regarded as bachelor's papers and master's theses according to § 51 para. 2 subpara. 7 to 8.

(11) Until the change of the academic degrees according to § 51 para. 2 as amended by Federal Act, Federal Legal Gazette I No. 74/2006, will take place in the relevant curricula, the prior academic degrees shall continue to be awarded.

(12) Graduates who have started their studies before entering into force of the Federal Act, Federal Legal Gazette I No. 74/2006, shall be awarded those academic degrees which are provided for at the time of entering into force of the Federal Act, Federal Legal Gazette I No. 74/2006, for the relevant study programme. On demand of the holder, there shall be awarded, instead of these academic degrees, the academic degrees "Bachelor ..." or "Master ...", each followed by the suffix designated by the curriculum, provided that these academic degrees are provided for in the curricula.

(13) Graduates who have gained, on the basis of a completed bachelor's or master's programme, before entering into force of the Federal Act, Federal Legal Gazette I No. 74/2006, the right to use an academic degree "Bakkalaurea/Bakkalaureus ...", or "Magistra/Magister ...", each followed by a suffix, as well as "Diplom-Ingenieurin/Diplom-Ingenieur", shall be entitled to use, instead of these academic degrees, the academic degrees "Bachelor ..." or "Master ...", each followed by the suffix designated by the curriculum, provided that these academic degrees are provided for in the curricula. On demand of the holder, the university which has awarded the academic degree shall deliver a confirmation on that.

⁶⁴ Kunsthochschul-Studiengesetz – KHStG.

⁶⁵ Allgemeines Hochschul-Studiengesetz – AHStG.

(14) To applications for the recognition of doctoral theses according to § 85 which have been filed before entering into force of § 85 as amended by the Federal Act, Federal Legal Gazette I No. 74/2006, § 85 in the version which has been in force up to that time shall apply.

(15) Degree students who are enrolled in doctoral degree programmes which have been installed with a minimum workload of 120 ECTS credits before entering into force of § 54 para. 4 as amended by the Federal Act, Federal Legal Gazette I No. 74/2006, shall be entitled to complete these studies by September 30, 2017 at the latest according to these provisions. From the academic year 2009/10, the admission to a doctoral degree programme the minimum duration of which is less than three years must not take place any more.

Application of the University Entrance Qualification Decree 1998

§ 124a. The University Entrance Qualification Decree (UBVO 1998), Federal Legal Gazette II No. 44, shall also apply by analogy to university entrance certificates not issued in Austria.

Supplementary Provisions relating to the Admission to Degree Programmes subject to German Numerus Clausus

§ 124b. (1) The rectorate may limit admissions to bachelor's and master's degree, diploma and doctoral degree programmes in Medicine, Psychology, Veterinary Medicine and Dental Medicine, which are subject to German nation-wide numerus clausus restrictions, to the study programme in Business Administration, which was previously subject to such restrictions, as well as to Communication Studies and Journalism, by means either of an admission procedure prior to admission or of selection up to two semesters after admission at the latest. Prior to such a decision the senate shall be given two weeks' period to give its opinion. The rectorate shall submit its decision, together with any opinion expressed by the senate, for approval by the university council. In case that the university council fails to reach a decision within two weeks of submission, the decision shall be deemed to have been approved.

(2) When determining student numbers, universities shall ensure that it is possible for at least as many students as before to participate in the various degree programmes.

(3) If the selection procedure is to include examinations, resits shall be subject to the provisions of this Act. Examinations which have been passed may be resat. Examination dates shall normally be offered once per semester. § 54 para. 8 shall not apply.

(4) § 124b shall apply to all students, regardless of their citizenship, who will be admitted from July 7, 2005 to studies. Students who were admitted before July 7, 2005 to the relevant studies shall remain unaffected by § 124b, provided that an admission procedure prior to the admission is provided for.

(5) In order to prevent a jeopardisation of grave nature of the homogeneity of the education system, the Federal Minister is entitled to define by decree those study programmes as to para. 1, in which an augmented afflux of holders of a university entrance certificates not issued in Austria takes place. The homogeneity of the education system is jeopardised gravely if the augmented afflux strongly restricts the right to education and the access to higher education for holders of Austrian secondary-school leaving certificates. In the study programmes of Human Medicine and Dentistry this is in particular the case if the public health, including the maintenance of a medical supply of the population which is equilibrated, open to everybody and operating at high level. Notwithstanding the admission procedure according to para. 1, for the protection of the homogeneity of the education system there shall, in the study programmes defined in the decree, be reserved 95% of the respective overall study places for students who begin their studies to EU citizens and persons who have to be treated equally with regard to access to studies. 75% of the respective overall study places for students who begin their studies shall be reserved for holders of Austrian secondary-school leaving certificates.

(6) The Federal Minister shall evaluate the effects of § 124b in consultation with the universities, and shall report to the National Council on the findings of such evaluation not later

than March 2009. In addition, the effects of § 124b in the case of an admission procedure prior to admission as well as in the case of para. 5 shall be documented separately.

(7) The Federal Minister may, by decree, define additional study programmes in the meaning of para. 1, if the study conditions in these programmes are unacceptable because of an augmented afflux of foreign nationals.

Chapter 4

Transitional Arrangements for University Staff

Permanent Federal Civil Servants

§ 125. (1) For each university, a “university office”⁶⁶, bearing the name of the respective university, shall be established. The university office shall report directly to the Federal Minister, and shall be headed by the rector of the respective university. The rector shall be bound by ministerial instructions in this capacity. The university office shall be the employing authority of first instance. In matters concerning employment law procedures, the rector in his/her capacity as head of the university office shall apply the Federal Employment Law Procedure Act 1984⁶⁷, Federal Legal Gazette No. 29/1984. The Federal Minister shall find on appeals against official notifications of the university office.

(2) Civil servants with budgeted posts at a university or a university of the arts as of the day before the entry of this Act into full effect shall, from the following day (effective date) and for the duration of their service, be assigned to the office of that university where their duties have predominantly been performed, and shall be permanently assigned to such university unless transferred to another federal post.

(3) Civil servants with other budgeted posts and assigned to service at a university shall be deemed to continue to be assigned to service at such university from the effective date onwards.

(4) Civil servants with budgeted university posts who are assigned to an organisational unit of a faculty of medicine as of the day before the entry of this Act into full effect shall, from the following day (effective date) and for the duration of their service, be assigned to the office of that university of medicine which is the successor institution of the faculty concerned, and shall be permanently assigned to such university of medicine unless transferred to another federal post.

(5) Civil servants assigned to inter-university institutions at the time of the entry into force of this Act or thereafter shall, as of the day of the entry of this Act into full effect, be deemed to be assigned to that university which is the successor institution of the inter-university institution concerned unless transferred to another federal post.

(6) Civil servants in the categories referred to in paras. 2 to 5 and having permanent federal employment contracts shall have the same organisational rights and duties as university employees with permanent employment contracts.

(7) The assignment of civil servants under paras. 2 to 5 to a company in which the university holds a majority interest is permissible, subject to arts. 17 and 17a Basic Law on the General Rights of Nationals.

(8) Civil servants under paras. 2, 4 and 5 with permanent employment contracts who are assigned to a university office and who give note of resignation from the federal civil service within three years of the effective date shall be entitled to employment by the university concerned on the terms and conditions applicable to new employees at that time, with effect from the first day of the month after separation.

(9) Civil servants under paras. 2 to 5 who, being assigned to a university office and having provisional employment contracts (§§ 10 and 177 Civil Service Code 1979) as of the effective date, give notice of resignation from the federal civil service within three years of their

⁶⁶ Amt der Universität.

⁶⁷ Dienstrechtsverfahrensgesetz 1984.

permanent appointment, shall be entitled to employment by the university concerned on the terms and conditions applicable to new employees at that time, with effect from the first day of the month after separation.

(10) In the circumstances set out in paras. 8 and 9 the period of service with the Federal Government shall count towards all service-dependent entitlements. Claims of the Federal Government against such employees arising from their public employment prior to separation shall be assigned to the university concerned upon the commencement of employment by it, and shall be refunded by such university to the Federal Government.

(11) A civil servant who transfers his/her employment to a university shall not be entitled to a severance payment according to §§ 26 and 54 of the Salaries Act 1956⁶⁸, Federal Legal Gazette No. 54. If a civil servant who has resigned according to § 21 Civil Service Code 1979 in conjunction with § 26 para. 3 of the Salaries Act 1956 enters the employment of a university within six months of termination of his/her civil service employment, he/she shall be obliged to remit to the university the severance payment received upon termination of the previous employment according to § 26 para. 3 of the Salaries Act.

(12) Universities shall reimburse to the Federal Government the entire salaries and non-salary costs incurred by it in respect of civil servants assigned to university offices, and shall contribute to the pension expense arising from their employment. Such contributions shall represent 31.8 percent of gross salary. A salary shall be deemed to constitute all payments in respect of which a pension contribution is to be paid. Employee pension contributions deducted at source shall be counted towards salary. In the case of a future change in the amount of the pension contributions of civil servants according to § 22 of the Salaries Act 1956, the percentage contribution shall be changed to the same extent. Special pension contributions and other transfer payments made after January 1, 2004 shall be transferred to the Federal Government in full without delay. Other payments to the Federal Government shall be due on the tenth day of the respective month.

(13) Civil servants at universities shall be subject to the Employees Protection Act, Federal Legal Gazette No. 450/1994.

Federal Contractual Employees

§ 126. (1) Federal contractual employees employed at universities or universities of the arts as of the day before the entry of this Act into full effect at the expense of budgeted university posts shall, on the following day (effective date), become employees of that university where their duties have predominantly been performed.

(2) Contractual employees employed at universities and assigned to an organisational unit of a faculty of medicine as of the day before the entry of this Act into full effect at the expense of budgeted university posts shall, on the following day (effective date), become employees of the university of medicine which is the successor institution of such faculty.

(3) Contractual employees assigned to inter-university institutions at the time of the entry into force of this Act or thereafter shall, as of the day of the entry of this Act into full effect, become employees of that university which is the successor institution of the inter-university institution concerned.

(4) There is no change with regard to any limitation of the term of employment. The rights and duties of the Federal Government in respect of these employees shall pass to the universities. The Contractual Employees Act 1948, Federal Legal Gazette No. 86, as amended shall determine the terms and conditions of the employment contracts with universities of employees subject to it. The conclusion of special contracts according to § 36 of the Contractual Employees Act 1948 is no longer permissible. Termination of employment on any of the reasons set out in § 32 para. 4 of the Contractual Employees Act 1948 within two years of the entry of this Act into full effect is impermissible.

(5) New entrants to the service of universities under paras. 1 to 3 may, within three years of the entry into effect of the collective contract applicable to them, declare their willingness

⁶⁸ Gehaltsgesetz 1956.

to transfer to this collective contract. Their employment contracts shall be amended accordingly with effect from the first day of the month after such declaration.

(6) § 52b of the Contractual Employees Act 1948 shall apply to contract assistant professors with employment contracts according to § 52a of that Act, except insofar as the Federal Minister (§ 52b para. 1 subpara. 2) is substituted by the rectorate.

(7) Employees under para. 6 may, within three years of the entry into effect of the collective contract for new entrants to the service of universities, but not earlier than the extension of employment for an indefinite period according to § 52b of the Contractual Employees Act 1948, declare their willingness to transfer to that collective contract. Their employment contracts shall be amended accordingly with effect from the first day of the month after such declaration.

(8) Separation from federal employment under paras. 1 to 3 and transfer of employment under paras. 5 or 7 shall not give rise to any entitlement to a severance payment according to § 35 of the Contractual Employees Act 1948. The period of service under the former employment contract shall count towards all service-dependent entitlements.

Federal Apprentices

§ 127. There shall be no change in the legal position of federal apprentices at universities having apprenticeship contracts under the Vocational Training Act⁶⁹, Federal Legal Gazette No. 142/1969 on the day before the entry of this Act into full effect. The Federal Government's obligation to provide training shall pass to the respective university.

New Entrants

§ 128. The Contractual Employees Act 1948 except for §§ 4, 32 and 34 shall determine the terms and conditions of the employment contracts of new entrants to the service of universities between the entry of this Act into full effect and the entry into force of a collective contract according to § 108 para. 3.

Liability of the Federal Government

§ 129. (1) The Federal Government shall, as a deficiency guarantor (§ 1356 of the General Civil Code⁷⁰), guarantee the entitlements to remuneration of civil servants who transfer to employment by a university after the effective date, and of contractual employees and apprentices who are transferred to a university. Such liability shall be limited to the amount arising from the grades of such civil servants on the day before their separation from the federal civil service, taking into account their duties at this time, as well as their length of service after this time, their regular salary increments and general salary increases.

(2) Pursuant to para. 1, liability for employees' accrued entitlements to severance payments and jubilee bonuses shall be assumed by universities.

Claims of the Federal Government against Employees

§ 130. Any outstanding claims of the Federal Government against persons transferring from civil service or government contract to university employment, in respect of advances on salaries or of damages under the Liability of Public Bodies' Act, Federal Legal Gazette No. 20/1949, the Public Officers Liability Act, Federal Legal Gazette No. 18/1967 or the Employees Liability Act⁷¹, Federal Legal Gazette No. 80/1965, as of the day before the entry of this Act into full effect, shall be assigned to the university concerned upon the commencement of employment, and the amounts in question refunded by it to the Federal Government.

⁶⁹ Berufsausbildungsgesetz.

⁷⁰ Allgemeines bürgerliches Gesetzbuch.

⁷¹ Dienstnehmerhaftpflichtgesetz.

Transfer of Rented and Rent-Free Tied Accommodation

§ 131. With regard to rented and rent-free tied accommodation, civil servants and government contractual employees transferring to university employment shall be treated as though they remained federal employees. This shall not result in any sitting tenant's rights to continued occupation of the accommodation; the provisions of § 80 of the Civil Service Code 1979, Federal Legal Gazette No. 333, and §§ 24a to 24c of the Salaries Act 1956, Federal Legal Gazette No. 54, shall continue to apply by extension. The Federal Minister shall be responsible for exercising the employer's rights according to § 80 of the Civil Service Code 1979.

Junior Scientific and Artistic Staff

§ 132. There shall be no change after the effective date in the legal position of junior academic scientific and artistic staff (§ 6 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act, Federal Legal Gazette No. 463/1974) having training contracts with the Federal Government on the day before the entry of this Act into full effect at the universities. As of the effective date they shall be deemed to be assigned to the respective university or the university of medicine which is the successor of the university or faculty of medicine where their duties have predominantly been performed. The Federal Government's obligation to provide training shall pass to the respective university. The contractual relationship shall be terminated on the reasons named in § 6e of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act or by the commencement of employment by a university or university of medicine.

(2) §§ 6 to 6g and 7 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act, Federal Legal Gazette No. 463/1974, shall continue to apply to the employees named in para. 1 until the expiry of their training contracts.

Persons with Special Contracts with the Federal Government

§ 133. (1) There shall be no change after the effective date in the legal position of persons with special contracts with the Federal Government (tutors according to § 1a, teaching assistants and demonstrators according to § 1b, external lecturers according to § 1 para. 2 and § 2, and visiting professors according to § 3 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act). As of the effective date they shall be deemed to be assigned to the respective university or the university of medicine which is the successor of the university or faculty of medicine where their duties have predominantly been performed. The contracts shall terminate upon expiry.

(2) The conclusion or extension of such special contracts with the Federal Government shall be impermissible as of the effective date.

(3) §§ 1, 1a, 1b, 2, 2a, 3 and 7 of the Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act shall continue to apply to the persons named in para. 1 until the expiry of their special contracts.

Employees under Restricted Legal Capacity

§ 134. (1) Staff employed by a university organisational unit with restricted legal capacity on the day before the entry of this Act into full effect shall become employees of the respective university on the following day (effective date). From this time on the rights and duties as an employer of the university organisational unit with restricted legal capacity as an employer shall pass to the university. Temporary employment contracts concluded under circumstances of restricted legal capacity shall terminate upon expiry.

(2) Staff employed by a university organisational unit with restricted legal capacity within a faculty of medicine on the day before the entry of this Act into full effect shall, on the following day (effective date), become employees of the university of medicine which is the successor of that faculty of medicine. From this time on the rights and duties as an employer of the university organisational unit with restricted legal capacity within the faculty of medicine

shall pass to the university of medicine. Temporary employment contracts concluded under circumstances of restricted legal capacity shall terminate upon expiry.

(3) Staff employed by an inter-university organisational institution with restricted legal capacity shall become employees of the university which is the successor of that inter-university institution on the day when this Act enters into full effect at that university. From this time on the rights and duties as an employer of inter-university organisational institution with restricted legal capacity shall pass to this university. Temporary employment contracts concluded under circumstances of restricted legal capacity shall terminate upon expiry.

Representation of Interests of University Employees

§ 135. (1) All employees shall be subject to the Labour Relations Act, Federal Legal Gazette No. 22/1974.

(2) Universities shall be deemed to be business establishments in the meaning of § 34 of the Labour Relations Act.

(3) Pursuant to the provisions of §§ 50 ff. of the Labour Relations Act, employee's councils shall be elected by the scientific and artistic staff and the non-academic university staff, respectively, at each of the universities named in § 6 subparas. 1 to 21. The physicians according to § 94 para. 3 subparas. 5 and 6 shall be eligible to vote for and be elected to the employee's council for the scientific and artistic staff. Pursuant to § 22a of the Disabled Persons Employment Act⁷², Federal Legal Gazette No. 92/1970, representatives of disabled people shall be elected.

(4) The employment committees for university teachers at the universities named in § 6 subparas. 1 to 3 and 7 to 21 in office on the day before the entry of this Act into full effect shall continue to serve until the expiry of their terms of office unless these expire on the effective date. As of the effective date existing employment committees for university teachers shall assume the functions of employee's councils under Labour Relations Act for the scientific and artistic staff.

(5) The employment committees for employees other than university teachers at the universities named in § 6 subparas. 1 to 3 and 7 to 21 in office on the day before the entry of this Act into full effect shall continue to serve until the expiry of their terms of office unless these expire on the effective date. As of the effective date existing employment committees for employees other than university teachers shall assume the functions of employee's councils under the Labour Relations Act for the non-academic university staff.

(6) Upon the entry of this Act into full effect the employment committees for university teachers and for employees other than university teachers at the universities named in § 6 subparas. 1 to 3 shall also assume the functions of the corresponding employment committees at the universities of medicine at the same sites.

(7) The existing personnel representation bodies shall secure that employee's council elections are called up in a timely manner, before expiry of their term of office.

(8) Otherwise, the provisions of the Labour Relations Act shall apply to the universities, subject to the following:

1. No distinction shall be made between employee's councils for workers and employees.
2. For civil servants assigned to a university, the employee's council shall also fulfil the function of the employment committee according to § 9 of the Federal Employees Representation Act⁷³, Federal Legal Gazette No. 133/1967. Civil servants assigned to universities shall also continue to be represented by the central employment committee responsible for them at the Federal Ministry of Science and Research.

(9) The central employment committees for university teachers and for employees other than university teachers at the Federal Ministry shall remain in existence until the end of its

⁷² Behinderteneinstellungsgesetz – BEinstG.

⁷³ Bundes-Personalvertretungsgesetz – B-PVG.

term of office, which shall expire on the day before the entry of this Act into full effect; § 23 para. 2 lit. a and c of the Federal Employee Representation Act shall not apply.

Chapter 5

Transfer of Rights and Assets

Successor Institutions

§ 136. (1) Upon the entry of this Act into full effect at the universities, those universities named in § 6 subparas. 1 to 3 shall become the universal successors of the respective universities of the same names (including their organisational units with restricted legal capacity) referred to in § 5 University Organisation Act 1993. These universities shall be divided into their successors of the same name and the universities of medicine.

(2) The universities of medicine of Vienna, Graz and Innsbruck (§ 6 subparas. 4 to 6) shall be the universal successors of the faculties of medicine (including their organisational units with restricted legal capacity) at the universities at the respective sites.

(3) The universities named in § 6 subparas. 7 to 21 shall be the universal successors of the respective universities of the same names (including their organisational units with restricted legal capacity) referred to in § 5 University Organisation Act 1993 or the universities of the arts (including their organisational units with restricted legal capacity) referred to in § 6 subparas. 1 to 6 Universities of the Arts Organisation Act.

(4) The University of Klagenfurt shall be the universal successor of the Institute for Interdisciplinary Research and Continuing Education⁷⁴ at the Universities of Klagenfurt, Vienna, Innsbruck and Graz.

(5) The University of Natural Resources and Applied Life Sciences Vienna shall be the universal successor of the Institute for Agrobiotechnology Tulln. The universities participating in this inter-university institution have to conclude, by December 31, 2003, an agreement on their continued collaboration in this field with effect from January 1, 2004, based on their existing collaboration and the rights and duties arising there from. In case that such agreement is not concluded by the appointed day, the assets of the said inter-university institution shall as of January 1, 2004 be divided among the participating universities in accordance with the resources contributed by them up to December 31, 2003.

(6) The University of Linz shall be the universal successor of the Inter-University Institute for Information Systems supporting visually impaired students.

(7) The Vienna University of Technology shall be the universal successor of the Institute for Technology Management (ITM).

(8) The University of Graz shall be the universal successor of the Inter-University Coordination Centre for Women's Studies and Gender Research, Graz.

(9) The University of Vienna shall be the universal successor of the Austrian Central Library for Physics.

(10) The Vienna University of Medicine shall be the universal successor of the Austrian Central Library for Medicine.

(11) The University of Graz shall be the universal successor of the Inter-University University Sports Centre in Graz.

Transfer of Tenancy Rights to Properties, Buildings and Rooms

§ 137. (1) As of the day when this Act enters into full effect (effective date) tenancy rights attaching to properties, buildings and rooms rented by the Federal Government, a university or a university organisational unit with restricted legal capacity shall pass by universal succession to the university or faculty of medicine using them on the day before the effective date. The legal implications of §§ 12a and 46a of the Rent Act shall be excluded.

⁷⁴ Interdisziplinäre Forschung und Fortbildung (IFF)

(2) As of the effective date referred to in para. 1 the respective universities shall replace the Federal Government as the lessors or loaners in existing leasehold or loan agreements.

Legal Succession with respect to Shared Properties, Buildings and Rooms

§ 138. The tenancy rights shall pass to the university to which the property, building or individual rooms was/were assigned for exclusive, permanent use on the day before the effective date. If a property, a building or single rooms has/have been assigned to a number of universities for joint permanent use, the tenancy rights shall pass to that university which has predominantly used the property during the reference period between January 1, 2001 and September 30, 2003. In the case of the universities of medicine, the applicable uses during this reference period shall be those by the respective faculty of medicine. If a property, a building or single rooms has/have been assigned to a number of universities for joint permanent use, the master tenancy rights shall be accorded to that university which has predominantly used the property during the reference period between January 1, 2001 and September 30, 2003. The other universities shall receive subtenancy rights and shall pay subrent in the amount of the master rent.

Transfer of Properties Owned by the Federal Government to the Universities

§ 139. (1) Title to the movable assets owned by the Federal Government assigned to the universities and universities of the arts for their use as of the day before the entry of this Act into full effect, including all associated rights and obligations, claims and debts shall, on the following day (effective date), pass by universal succession to the university using such assets. Such universal succession shall be published in the university gazette (§ 20 para. 6).

(2) Title to the movable assets owned by the Federal Government assigned to a faculty of medicine or one of its organisational units for its use as of the day before the entry of this Act into full effect, including all associated rights and obligations, claims and debts shall, on the following day (effective date), pass by universal succession to the university of medicine which is the universal successor of that faculty of medicine. Such universal succession shall be published in the university gazette.

(3) Title to the movable assets owned by the Federal Government assigned to the inter-university institutions named in § 136 paras. 4 to 11 for their use as of the day before the entry of this Act into full effect, including all associated rights and obligations, claims and debts shall, on the following day (effective date), pass by universal succession to the universities named in these provisions. Such universal succession shall be published in the university gazette. These assets shall be used by the universities designated as successor institutions for the continuation of the activities of the former inter-university institutions.

(4) Notwithstanding paras. 1 to 3, stocks of university libraries forming a historical, artistic or other cultural or scientific unity shall remain the property of the Federal Government. Movable assets temporarily loaned by the Federal Government to universities for ceremonial or decorative purposes shall remain the property of the Federal Government. Universities shall have to compile an inventory of such assets by September 30, 2003.

(5) Notwithstanding paras. 1 to 3, there shall be no change in the ownership of the contents of the Art Gallery and the Collection of Copperplate Engravings of the Academy of Fine Arts Vienna.

Transfer to Universities of Properties, Movable Assets and Rights Owned by Organisational Units with Restricted Legal Capacity at Universities and Universities of the Arts

§ 140. (1) Title to the movable assets and immovable assets of organisational units with restricted legal capacity universities and universities of the arts, as well as all associated rights and obligations, claims and debts, shall pass to the respective universities by universal succession on the day when this Act enters into full effect at the universities concerned.

(2) Title to the movable assets and immovable assets of a faculty of medicine with restricted legal capacity or one of its organisational units with restricted legal capacity, as well as all associated rights and obligations, claims and debts, shall pass to the university of medicine, which is the successor institution of that faculty of medicine by universal succession on the day when this Act enters into full effect at the university of medicine concerned.

(3) Title to the movable and immovable assets of the inter-university institutions with restricted legal capacity named in § 136 paras. 4 to 11 as well as the associated rights and obligations, claims and debts shall pass to the universities named in these provisions by universal succession on the day when this Act enters into full effect.

(4) The universities shall ensure that existing conditions of use and dedications of assets to specific purposes are complied with to the maximum possible extent. Internal ad personam allocation of assets shall not be excluded thereby.

Chapter 6

Budget

§ 141. (1) Starting on January 1, 2004, the Federal Government shall allocate to the universities an annual global amount of EUR 1,660,866,000 for the period from 2004 to 2006 to cover the expenses arising from the fulfilment of their tasks according to § 3. University budgets for succeeding years shall be based on the respective performance agreements.

(2) The amount under para. 1 shall be increased by that of the universities' expenditure incurred as a result of:

1. increases in the salaries of civil servants, contractual staff and persons exercising their options according to § 125 paras. 8 or 9, § 126 paras. 5 or 7;
2. rental expenses arising from agreements made with BIG up to February 28, 2002 and taking financial effect from 2003 onwards (EUR 5,204,000 in 2004, and EUR 6,213,000 in 2005 and 2006, respectively);
3. the financial obligations arising from existing agreements relating to space in the following properties:
 - a) University of Vienna: rental payments for the former General Hospital, up to and including 2013;
 - b) University of Vienna: Faculty of Business, Economics and Computer Sciences, Brünner Straße 72, up to and including 2005;
 - c) University of Graz: Merangasse institutes building, up to and including 2004;
 - d) University of Natural Resources and Applied Life Sciences Vienna: Muthgasse II institutes building, up to and including 2006;
 - e) University of Natural Resources and Applied Life Sciences Vienna: Peter-Jordan-Straße 65, up to and including 2011;
 - f) Althanstraße university centre: obligations arising from the existing tenancy agreement with Universitätszentrum Althanstraße Erweiterungsgesellschaft mbH up to and including 2011, and in the case of acquisition of the property by BIG, rental expenses from 2004 onwards.
4. amounts reimbursed by the Federal Government according to § 55 paras. 2 and 3 of the Hospitals and Health Resorts Act, which shall be payable to the universities named in § 6 subparas. 4 to 6 in addition to the annual global budget for the 2004–2006 period.

(3) § 12 para. 7 shall apply to the first performance agreement period (§ 121 para. 17), except that the share of the global amount attributable to a university according to § 141 paras. 1 and 2 shall replace one third of the global budget.

(4) In addition to the federal allocations under paras. 1 to 2, the universities shall receive a one-time payment of EUR 11,000,000 for 2004, and thereafter annual amounts of EUR 4,000,000, to finance the expenses incurred as a result of implementation of this Act.

(5) To finance incentives for the successful restructuring of the organisation and studies of the universities in the interest of the enhancement of their academic profiles, the Federal Minister shall withhold 0.4 percent of the global budget of every university for 2005 and 0.8 percent of the budget for 2006.

(6) Upon the entry of this Act into full effect the existing reserves according to § 53 para. 2 of the Federal Budget Act shall be made available to the universities. This shall also apply to invested funds.

(7) § 13 para. 8 shall apply to the first performance agreement period (§ 121 para. 17), except that the share of the global amount attributable to a university according to § 141 paras. 1 and 2 less the formula-based component shall be deemed to be the university's provisional basic budget until the official notification enters into legal effect.

Chapter 7

Entry into Force and Implementation

References

§ 142. (1) Unless otherwise stated, in this Act "Federal Minister" means the federal minister in charge of higher education.

(2) References in this Act to other federal Acts are references to such Acts as amended.

(3) If reference is made in other federal Acts to provisions in place of which new provisions will take effect upon the entry into force of this Act, such citations refer to the corresponding new provisions.

Entry into Force and Expiration of Legal Provisions

§ 143. (1) The provisions of this Act shall enter into force on October 1, 2002, unless otherwise stated below.

(2) Part II of this Act shall enter into force on January 1, 2004.

(3) §§ 120 to 122 shall enter into force on the day after publication of this Act.

(4) The provisions of the University Organisation Act 1993, except for the constitutional provisions, shall expire at the end of December 31, 2003.

(5) The provisions of the Universities of the Arts Organisation Act 1993, except for the constitutional provisions, shall expire at the end of December 31, 2003.

(6) The Compensation for Scientific and Artistic Activities at Universities and Universities of the Arts Act, Federal Legal Gazette No. 463/1974, shall expire at the end of December 31, 2003 except to the extent otherwise provided for by §§ 132 para. 2 and 133 para. 3.

(7) The Tuition and Fees Act 1972⁷⁵, Federal Legal Gazette No. 76/1972, shall expire at the end of December 31, 2003.

(8) § 112 shall expire on October 1, 2013.

(9) The provisions of the University Studies Act, except for the constitutional provisions, shall expire at the end of December 31, 2003.

(10) The table of contents, § 13 paras. 1 to 3 and 8 to 10, § 13a, § 31 para. 4, § 32 para. 1 first sentence and para. 2, § 94 paras. 1 and 3, § 122 para. 2 subparas. 5, 9, 10 and 11, § 135 para. 3 and § 141 paras. 3 and 7, as amended by the Act, Federal Legal Gazette I No. 96/2004, shall enter into force on October 1, 2004.

(11) § 124b shall expire on January 31, 2010.

⁷⁵ Hochschul-Taxengesetz 1972.

Implementation

§ 144. The following authorities shall be entrusted with the implementation of this Act:

1. in respect of § 17, the Federal Minister for Finance⁷⁶;
2. in respect of §§ 137 and 139, the Federal Minister for Finance in consultation with the Federal Minister for Science and Research⁷⁷;
3. in respect of §§ 12 paras. 2 and 9, 16 para. 2, 121 para. 17 and 141, the Federal Minister for Science and Research in consultation with the Federal Minister for Finance;
4. in respect of § 18 para. 2, the Federal Minister for Justice⁷⁸, to the extent that court and legal administrative fees are affected, and otherwise the Federal Minister for Finance;
5. in respect of § 29 para. 6, the Federal Minister for Health, Family and Youth⁷⁹ in consultation with the Federal Minister for Science and Research;
6. in respect of § 44, the Federal Minister for Social Security and Consumer Protection⁸⁰;
7. in respect of §§ 106 paras. 2 and 3, 108 paras. 1, 3 and 4, 109 to 113, 115 and 135, the Minister for Economics and Labour⁸¹ in consultation with the Federal Minister for Science and Research;
8. in respect of §§ 8 and 21 para. 6 subpara. 2, the Federal Government;
9. and otherwise the Federal Minister for Science and Research.

⁷⁶ Bundesminister/in für Finanzen.

⁷⁷ Bundesminister/in für Wissenschaft und Forschung.

⁷⁸ Bundesminister/in für Justiz.

⁷⁹ Bundesminister/in für Gesundheit, Familie und Jugend.

⁸⁰ Bundesminister/in für Soziales und Konsumentenschutz.

⁸¹ Bundesminister/in für Wirtschaft und Arbeit.