

**bm:bwk**

Federal Ministry of  
Education, Science  
and Culture

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**National Council of the Republic of Austria**

**University Organisation and Studies Act (Universities Act 2002),  
University Organisation Amendment Act and Universities of the Arts  
Organisation Amendment Act**

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The National Council has enacted:

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

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**Part I**  
**Organisational law**

**Chapter 1**  
**General provisions**

**Sub-chapter 1**  
**Principles, duties 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 new approaches to the arts. Through the common efforts of teachers and students, working in enlightened scholarly communities, they assist individuals in their striving for the education and autonomy conferred by scholarship. They promote the advancement of junior academics, which goes hand in hand with the acquisition of academic 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 organisational, academic and personnel management terms, the universities and their governing bodies shall constitute themselves under conditions of the greatest possible autonomy and self-administration.

**Principles**

2. The guiding principles to be observed by the universities in pursuance of their objects are:
1. freedom of scholarship and teaching (art. 17 Basic Law on the General Rights of Citizens, Imperial Law Gazette [RGBl.] No. 142/1867) and freedom of scholarship and art, the dissemination of the arts and their teaching (art. 17a, Basic Law on the General Rights of Citizens);
  2. interaction between research and tuition, the advancement, appreciation and teaching of the arts, and scholarship and art;
  3. diversity of academic and art theory, methods and doctrines;
  4. freedom of study;
  5. attention to the requirements for entry to professional careers;
  6. student codetermination, particularly in respect of studies, teaching quality assurance and the application of university fees;
  7. national and international mobility for students, graduates, and university academic and art staff;
  8. collaborative relationships between members of the university;
  9. equality of the sexes;
  10. equality of opportunity;
  11. special attention to the needs of the handicapped;
  12. efficient, economical and expedient management of the universities' finances.

**Duties**

3. In connection with their objects, the universities have the following duties:
1. the advancement of learning (research and teaching), and the advancement, appreciation and teaching of the arts;
  2. education through scholarship, and the advancement and appreciation of the arts;
  3. academic, artistic, pedagogical and critical training for occupations requiring the application of academic knowledge and methods, as well as training in artistic and academic abilities to the highest levels;
  4. the training and career advancement of junior academics and young artists;
  5. continuing education, particularly postgraduate training;
  6. internal co-ordination of academic research (and the advancement and appreciation of the arts) and teaching at universities;
  7. promotion of domestic and international co-operation in research and tuition, 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. equality of the sexes, and the advancement of women;
10. maintenance of contacts with graduates;
11. provision of public information on the performance of their duties.

#### **Legal form**

4. The universities are legal entities in public law.

#### **Immunity from ministerial directions and freedom to adopt statutes**

5. The universities shall perform their duties under section 3 within the limits of the law and the orders enacted under section 2(2) University Organisation Act (UOG 1993), Federal Law Gazette [BGBl.] No. 805/1993 or section 2(2) Universities of the Arts Organisation Act (KUOG), BGBl. I No. 130/1998, without restriction by ministerial directions, and shall adopt statutes within the limits of the law (sections 7[1] UOG 1993 and 8[1] KUOG).

#### **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. University of Medicine Vienna;
  5. University of Medicine Graz;
  6. University of Medicine Innsbruck;
  7. University of Salzburg;
  8. Vienna University of Technology;
  9. Technical University Graz;
  10. Leoben University of Mining and Metallurgy;
  11. University of Agriculture, Forestry and Renewable Natural Resources 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 in Vienna;
  17. University of Music and Performing Arts Vienna;
  18. University of Music and Dramatic Arts "Mozarteum" in Salzburg;
  19. University of Music and Dramatic Arts Graz;
  20. University of Art and Industrial Design in Linz;
  21. Academy of Fine Arts Vienna.

#### **Activities of the universities**

7. (1) The activities of the universities named in section 6(1–3 and 7–21) of this Act, unless otherwise provided for by subsection 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 activities of the universities of medicine of Vienna, Graz and Innsbruck 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 activities of the universities are only permissible by way of the performance agreements under section 13 or orders of the Federal Government under section 8.

### **Safeguarding fields of research and teaching provision**

8. On the recommendation of the Minister, the Federal Government may, by order, 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 law, ministerial orders 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 duties 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 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 students' situation.

## **Sub-chapter 2**

### **Finance, performance agreement and quality assurance**

#### **Federal funding**

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 performance of their duties.

(2) Pursuant to section 13, the 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 Minister of Finance, and shall reach agreement thereto in accordance with section 45 Federal Budget Act, BGBl. No. 213/1986.

(3) This amount shall, in accordance with the arrangements set out in subsection 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 the Federal Government, 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 subsection 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 Minister may retain up to one percent of the annual budget under subsections 2 and 3 for special funding requirements in respect of supplementary performance agreements under section 13.

(6) The overall budget under subsections 2 and 3 shall be subdivided into a component devoted to the basic budget under section 13 and a component for the formula-based budgets under subsection 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 duties and the performance agreements, to dispose of 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.

(8) The formula-based component shall amount to 20 percent of the global budget under subsections 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 Minister shall, by order, in consultation with the Minister of Finance, and after consultation of the universities, establish the performance indicators under subsection 8 and the method of calculation of the formula-based budgets by 31 December 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.

### **Performance agreement**

**13.** (1) Performance agreements are contracts in public law. They shall be concluded by the several 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, principles and duties of such university, cover the following areas:

(a) strategic objectives, academic priorities, and university and human resources development:

The long-term objectives and those to be attained within the term of the performance agreement shall be specified. The university shall set out its special priorities and strengths, and the resources allocated to the attainment of the objectives derived therefrom. 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, disclose 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 able 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 target competency 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 cultural and research programmes, and knowledge and technology transfers.

(e) increased internationalism and mobility:

Activities and projects in this area relate, in particular, to multi-year international co-operation agreements with other universities, research and cultural institutions, to joint degree programmes and exchange programmes for students, academic and art 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. Commitments made by the Federal Government:  
allocation of the basic budget, taking into account the criteria therefor,
3. the content, extent and scope of the objectives and the timing of goal attainment;
4. the division of the basic budget into allocations for given budget years;
5. action in the event of non-fulfilment of performance agreements;
6. reporting and accounting.

(3) Performance agreements may be amended in the event of significant changes in the circumstances on which they are based.

(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 agreements, having regard to sections 2 and 3.

(5) Universities shall submit performance reports based on the performance agreements to the Minister by 30 April of each year. After the second budget year performance reports shall, further, contain forecasts 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 Minister, by way of the university council, by 30 April of each year. This shall, as a minimum, present in itemised form:

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

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

(7) Universities shall submit drafts for their next performance agreements to the Minister by 30 April of the third year of the term of current performance agreements. The Minister shall respond to such drafts by 31 August. Negotiations on performance agreements shall be concluded by 31 December.

(8) In the event that a performance agreement is not concluded on time, the Minister and the senate of the university in question shall each appoint an appropriately qualified person to an arbitration commission. These two members shall appoint a third without delay. If agreement on the third member is not reached within four weeks then the President of the Austrian Academy of Sciences shall nominate such member. The arbitration commission shall seek to arrive at a performance agreement within six weeks of the appointment of the third member.

(9) If agreement on a performance agreement is not reached within this six-week period the university concerned shall receive basic budgets representing 98 percent of its funding in the first, second and third year of the previous performance agreement until such time as a new agreement is concluded.

### **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.

(2) The subject of an evaluation is the university's duties 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. at the instigation of the university council or rectorate of the university in question or the Minister where they relate to individual universities;
2. at the instigation of the university councils or rectorates of the universities in question or the 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 co-operate.

(7) The performance of university professors, lecturers, and other research, art 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 Minister shall be borne by the Federal Government.

### **Sub-chapter 3 Financial management and accounting**

#### **Financial management**

**15.** (1) Rectorates shall conduct the financial affairs of their universities in accordance with the law, and with the principles of efficiency, expediency, frugality and transparency, and shall manage their universities' budgets 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 Federal Audit Office.

#### **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 the responsibility and management of the rectorate. The first chapter of the third volume of the Commercial Code 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 Minister shall, by order, in consultation with the 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 order under subsection 3.

(4) The rectorate shall submit a performance report and annual financial statements, together with an auditor's report, to the university council by 30 April 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 Minister. In the absence of such approval within the appointed period the performance report and the financial statements shall nevertheless be forwarded to the Minister, together with an opinion thereon.

(6) The Minister may order the universities to provide him/her with ongoing, automated access in an appropriate technical form to such standardised data as are necessary for the Ministry's planning, control and statistics, and in particular for the calculation of indicators in accordance with section 12(8).

#### **Use of external services**

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

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

#### **Trade and tax law position of the universities**

18. (1) In the performance of their duties, the universities' shall not be subject to the provisions of the Trade Code 1994 (GewO 1994), BGBl. No. 194/1994.

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

### **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. the rules for the election of the university council, rectorate, senate and other governing officers/governing bodies;
2. the appointment of an officer to hear appeals in the first instance in matters concerning the enforcement of study law;
3. general guidelines for the conduct and publication of evaluations, and the implementation of their findings;
4. the application of study law in accordance with Part II of this Act;
5. the composition of the equal opportunities working party (section 42[2]);
6. the enactment of a female advancement plan;
7. the 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. the form and extent of graduate 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/officers 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 bodies shall not be bound by any directions in the exercise of their duties (sections 13[2] UOG 1993 and 14[2] KUOG). They shall elect a chairperson by a simple majority. In the event that the group of persons responsible for electing, appointing or nominating representatives to a collegial body 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 the event that the senate fails to comply with its obligation to elect the members of the university council in accordance with sections 21(6)(1) or 21(7) within the appointed time, the Minister shall grant a one-time extension for such election. If this extension period passes without result, the collegial body 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 responsibilities.

(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 academic and artistic freedom, and for the need to leave sufficient scope for academics 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 gazette and provide public access to the same on its website. The university gazette shall, in particular, be used to publish:

1. the statute, the development plan and an organisation plan including the assignments of personnel;
2. an opening balance sheet;
3. the performance agreement, financial statements, performance report and intellectual capital report;
4. orders enacted by, and rules of procedure of governing bodies;
5. regulations issued by management bodies;
6. curricula;
7. academic titles to be awarded by the university;
8. announcements to students and other announcements of general interest;
9. notice and results of elections;
10. advertisements of senior and other positions;
11. the membership of the management bodies;
12. the award of authorisations to teach;
13. authorisations;
14. the application of university fees.

## University council

21. The university council shall have the following duties:

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. making representations 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 representations 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 commission;
7. making representations 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 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 Minister in the event 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 under section 28(1).

(2) The university council shall be entitled to request information on all and any matters concerning the university. The university's officers/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 instigate 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 duties of the university. The size of the first university council shall be established by the constituent convention (section 121[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 sections 125, 132 and 133, employees of the university or employees of the 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 subsection 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 Minister;
3. an additional member appointed by the members named in subsection 6(1–2) by mutual agreement.

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

(7) In the event that, within three months of the appointment of the members under subsection 6(1–2) no additional member under subsection 6(3) is appointed by mutual agreement, the Minister shall grant a reasonable extension. In the event 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 event of the premature termination of the service

of a member a replacement 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 perform their duties 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 inasfar 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 Minister may, by order, dismiss a member of the university council on grounds 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 equal opportunities working party and the chairperson of the Austrian National Union of Students 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 works 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 Act, BGBl. 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 duties 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 (section 94[1][2–6]) to organisational units;
8. regulating student admissions;
9. organising the collection of university fees in the amount provided for by statute;
10. instigating evaluations and publication of the results thereof;
11. awarding authorisations to teach (*veniae docendi*);
12. expressing opinions on curricula;
13. establishing an accounting and reporting system;
14. making budget allocations;
15. preparing the annual performance report, the financial statements and the intellectual capital report;
16. approving regulations for the granting of authorisations to employees of the university under section 28(1).

(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 orders 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 it possesses the necessary academic, 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 event 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 subsection 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 directions in the exercise of their duties (sections 13[2] UOG 1993 and 14[2] KUOG), neither shall the vice-rectors be bound by any directions of the rector. The rectorate shall be obliged to perform its duties 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 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 professorial appointment contract negotiations;
9. concluding employment and service contracts;
10. awarding authorisations under section 28(1).

(2) The position of the rector shall be publicly advertised by the senate after receiving an opinion from 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 on grounds 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 representations from 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 duties 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 representations from the senate, for a term of office corresponding to that of the rector. Re-election is permissible.

(3) In the event 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 duties.

(4) The university council may dismiss a vice-rector on grounds of severe misconduct, conviction of a criminal offence, or mental or physical incapacity, or loss of confidence on reasonable grounds. The rector may instigate 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 representations from 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 approve the plan within the appointed period the 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 approve the plan within the appointed period the plan shall nevertheless be forwarded to the university council;
4. changing the size of the university council and electing its members (sections 21[6][1] and 21[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, duties 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 permanent appointment of academic staff;
9. participating in other procedures for the appointment of professors;
10. prescribing the curricula for degree programmes (sections 56 and 57);
11. prescription of the academic titles awarded by the university;
12. hearing appeals in matters relating to studies;
13. establishing criteria for the allocation of income from university fees;
14. appointing collegial bodies with or without decision-making powers to undertake duties (subsections 7 and 8);
15. enacting regulations governing the activities of collegial bodies;
16. approving the implementation of decisions by collegial bodies with decision-making powers;
17. expressing opinions to the rectorate prior to the assignment by it of persons to given organisational units;
18. establishing an equal opportunities working party;
19. nominating one female and one male member of the arbitration commission;
20. delegating one of its members to the arbitration commission.

(2) The senate shall consist of between 12 and 24 members. The size of the first senate shall be determined by the constituent convention (section 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 section 94 (2)(2), the general university staff and students. The number of representatives accorded to these groups shall be determined by the university council, whereby the representatives named in subsection 4(1) shall in all events have an absolute majority, and those named in subsection 4(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 (section 97).
2. The representatives of the group of persons named in section 94 (2)(2) shall be elected by all the lecturers (section 122 [3]) as well as the other research, art and teaching staff. At the universities named in section 6(1–15) those elected must include at least one person with authorisation to teach (*venia docendi*).
3. The representatives of the general university staff shall be elected by all the general 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 duties.

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

1. procedures for permanent academic appointments (section 103);
2. procedures for the appointment of professors (section 98);
3. study related matters in the meaning of section 25 (1)(10).

(9) The size of the collegial bodies under subsection 8 may not exceed half of that of the senate. At least one-quarter of the members of the collegial bodies under subsection 8(3) shall be students. The composition of the collegial bodies under subsection 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 subsections 7 and 8(3) shall be established for not longer than the term of the senate. These collegial bodies shall be bound by the regulations of the senate and shall take their decisions in its name. The senate may at any time revoke authorisations to take decisions granted under subsection 7. The decisions of the collegial bodies under subsection 7 and 8(3) shall require the approval of the senate.

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

## **Sub-chapter 2**

### **Research funding, research contracts and authorisations**

#### **Research funding and research contracts**

**26.** (1) University academic and art staff shall be entitled to undertake research contracts or artistic commissions, in their fields and at their universities, which are financed not from the university budget but by third-party research contracts, research funding 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 subsection 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 duties 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 work commissioned by third parties shall be reimbursed to the university in full. The application of such reimbursed moneys shall be at the discretion of the rectorate.

(4) Projects in the meaning of subsection 1 shall be notified to the rectorate by the project leader prior to acceptance and implementation. Projects shall not be prohibited unless the conditions set out in subsection 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 subsection 1 shall 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 subsection 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 their duties:

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 academic research (or the advancement and appreciation of the arts);
  4. to perform state certified technical testing and prepare expert reports provided that the university facility in question is recognised as a state certified test laboratory;
  5. to employ assets and rights acquired by way of legal transactions in the meaning of subsections 1–4 to fulfil the objects of the organisational unit in question;
- In the event 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 subsection 1(3) shall be authorised to make the legal transactions required for such fulfilment and to dispose of 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 (subsection 1[3–4]) shall be reimbursed to the university in full. The application of such reimbursed moneys 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 subsection 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 subsection 1, in the first instance funds shall be applied which are earmarked for the organisational unit concerned.

(5) University members authorised under subsections 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) Section 27(4–5) 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 section 6(4)(4–6) shall perform their clinical research and teaching duties 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 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 duties 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 work in accordance with business management criteria, and to document and value it. From 1 January 2007 onwards the medical universities shall

calculate such expenses on a cost replacement basis pursuant to section 55 Hospitals Act, unless other arrangements are made under an order pursuant to section 56 Hospitals Act or an agreement under subsection 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 section 55 Hospitals 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 Minister and having regard to their performance agreements under section 13, the universities of medicine shall conclude agreements with the maintaining bodies of attached hospitals on the joint operation of organisational units 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 functions 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 (section 61[3] UOG 1993).

#### **Ethics commission**

**30.** (1) The senate of every university of medicine shall appoint an ethics commission 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 commissions shall, as a minimum, meet the requirements of section 8c(1–5 and 7) Hospitals Act, BGBl. No. 1/1957.

(5) The ethics commission 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 commission shall not, in this capacity, be bound by directions of the governing bodies of the hospital or the university.

#### **Structure of the clinical department**

**31.** (1) The clinical department of a medical university 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 duties, 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 duties, indirectly provide patients with medical care shall be designated as “clinical institutes”.

#### **Senior positions in clinical departments**

**32.** (1) Appointments as the head of an organisational unit of a university of medicine which simultaneously fulfils the function of a clinical department or other equivalent unit of a public hospital (sections 7[4] and 7a Hospitals Act) shall be restricted to university professors with relevant medical or dental qualifications. Appointments as the deputy head of such a unit shall be restricted to university members with appropriate medical or dental qualifications. Prior to such appointments the maintaining body of the attached hospital shall be given an opportunity to express an opinion.

(2) Appointments as the head or deputy head of an organisational unit in the meaning of subsection 1 shall initially be of limited term.

### **Reimbursement of hospital maintaining bodies' costs**

33. Pursuant to section 55 Hospitals 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 (section 32) shall elect five representatives from among their number to perform the duties set out in section 3(3) Hospital Working Hours Act, BGBl. I No. 8/1997.

### **Teaching hospitals**

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 then the hospital may be awarded the title of "teaching hospital" by the university of medicine in question.

## **Sub-chapter 4**

### **Special provisions for the University of Veterinary Medicine Vienna**

#### **Animal hospital**

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

(2) The rectorate shall, by order, 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 animal hospital shall be restricted to persons with relevant qualifications.

(4) Staff assigned to the organisational units of the animal hospital shall assist in the performance of the hospital's duties in respect of the examination and treatment of animals.

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

(6) The performance of veterinary duties of the animal hospital is excepted from the autonomous provision of veterinary services by the University under section 5 (section 70[4 ] UOG 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 subsection 2 shall be separately presented in the performance agreement, financial statements and performance report.

### **Sub-chapter 5** **Special provisions for Catholic and Evangelical theology**

**38.** (1) Universities, the activities of which 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 Austria, BGBl. II No. 2/1934. The rector shall be responsible for seeking Church approval of appointments under art. V section 3 and for withdrawing authorisations to teach under art. V section 4.

(2) Universities, the activities of which include the teaching of Evangelical theology shall, in the design of their internal organisation and study regulations, and in securing such teaching and research, observe section 15 Legal Relations with the Evangelical Church Act, BGBl. No. 182/1961. The rector shall be responsible for fulfilling the obligation under section 15(4) Legal Relations with the Evangelical Church Act to consult the Evangelical Church prior to the selection of shortlisted candidates for appointments.

### **Sub-chapter 6** **Special provisions for the Academy of Fine Arts Vienna**

#### **Picture gallery and collection of copper engravings**

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

1. the Picture Gallery of the Academy of Fine Arts Vienna which incorporates a collection of glyptic art;
2. the Collection of Copper Engravings.

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

(2) The Picture Gallery shall be established by a foundation. It shall assume the responsibilities under the section 46 Universities of the Arts Organisation Act (KUOG) 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 Copper Engravings shall assume the responsibilities of the institution of that name under section 65 KUOG. It shall exhibit selected objects from its collection to the public.

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

(5) The Picture Gallery and the Collection of Copper 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 sport**

**40.** (1) Pursuant to section 6(1–3, 7, 10, 14 and 15) university sport institutes shall be established which shall be open to students, graduates and university staff, as well as persons attending *Fachhochschule* degree programmes at university sites, for sporting activities and competitions.

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

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

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

### **Chapter 3 Equality of the sexes**

#### **Duty of female advancement**

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 female advancement plan.

#### **Equal opportunities working party**

42. (1) The senate of each university shall establish an equal opportunities working party 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 term of office of the members of the equal opportunities working party shall be established by the statute. The groups of university members represented in the senate shall be entitled to delegate members to the working party in proportions established by the statute. The working party shall elect a chairperson from among its number.

(3) The members of the equal opportunities working party shall not be bound by any directions in the exercise of their duties (section 13[2] UOG 1993 in conjunction with section 40[7] UOG 1993 and section 14[2] KUOG in conjunction with section 40[7] KUOG). They may not be obstructed in the exercise of their duties, and shall not be disadvantaged in their career advancement as a result of these activities.

(4) The rectorate shall provide the equal opportunities working party 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 duties. Photocopying of such documents shall be permitted on request. Access to employees' files shall be subject to the consent of those concerned.

(5) In the event that the equal opportunities working party 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 equal opportunities working party:

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

(7) The rectorate shall, when notifying the responsible works councillor of the candidate with whom an employment contract is to be concluded, simultaneously inform the equal opportunities working party. Employment contracts concluded without prior notification of the working party or before expiry of the notice period prescribed by subsection 8 shall be null and void.

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

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

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

### **Arbitration commission**

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

1. mediating in disputes between university members;
2. ruling on complaints by the equal opportunities working party 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 commission.

(3) The arbitration commission 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 commission with information on matters investigated by it, and to communicate with it.

(5) In the event that agreement cannot be reached on matters falling under subsection 1(2), requiring a decision on the conclusion, material amendment or termination of an employment or training contract, the arbitration commission shall, by order, rule as to whether the intended decision by the university governing body constitutes gender discrimination.

(6) If the arbitration commission finds that gender discrimination in cases under subsection 1(2) has occurred, then 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 commission is impermissible. The equal opportunities working party and the university governing body concerned shall however have the right to appeal to the Administrative Court of Appeal 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 commission shall be null and void.

(9) The arbitration commission shall consist of six members, none of whom may be members of the university concerned. The senate, university council and equal opportunities working party 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 training.

(10) The members of the arbitration commission shall not be bound by any directions in the exercise of their duties (section 13[2] UOG 1993 and 14[2] KUOG).

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

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

### **Application of the Federal Government Equal Opportunities Act**

44. The Federal Government Equal Opportunities Act (B-GBG), BGBl. No. 100/1993 shall, with the exception of the fourth and fifth chapter of the third part and section 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 a government department and central department (section 2[1–2] B-GBG), and shall be subject to the duty to pay compensation under section 10(1) B-GBG. The equal opportunities working party shall be entitled to prepare a draft female advancement plan (section 41[1] B-GBG).

## **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 law, ministerial orders and the statute (legal supervision).

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

(3) The Minister shall, by order, annul decisions by university governing bodies if they are in conflict with applicable laws or instruments including the university statute. In the event of an infringement of procedural regulations decisions may not be annulled unless compliance with such regulations would have resulted in a different decision.

The Minister shall, by order, annul elections which are in breach of applicable laws or instruments including the university 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 order 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 section 68(4)(4) General Administrative Procedures Act (AVG).

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

(7) In the event that supervisory procedures are instigated, the university governing bodies shall have the right to be parties thereto and to appeal to the Administrative Court of Appeal against the order marking the conclusion of the procedure.

### **Official procedures**

46. University governing bodies shall apply the AVG 1991, BGBl. 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.

### **Dereliction of duty by governing bodies**

47. (1) If a university governing 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, then 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 default must fulfil such duty. If this period expires without action being taken, then the rectorate shall itself perform the duty in question. This shall not apply to the area of application of section 73 AVG 1991.

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

(3) If the university council is in default under subsection 2 or in respect of a duty under section 21(1), then the Minister shall him-/herself make directions to remedy such default.

### **Duty of secrecy**

**48.** Members of collegial bodies and other university governing bodies shall be subject to official secrecy (art. 20 section 3 Federal Constitution Act [B-VG]).

### **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 damages culpably inflicted upon any person whatsoever by the governing bodies or employees of a university or other persons acting on its behalf in the performance of public duties under this Act, under the Public Liability Act, BGBl. No. 20/1949. In such cases the Federal Government shall give notice of claim against that/those person(s) it holds liable for the damages (section 21 Code of Civil Procedure, RGBI. No. 113/1895). The aggrieved party may intervene in the proceedings (section 17 Code of Civil Procedure). The university and that person/those persons who have caused the damages shall not be liable to the aggrieved party.

(3) In the event that the Federal Government indemnifies the aggrieved party in accordance with subsection 2 it shall be entitled under sections 3, 5 and 6(2) Public Liability 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 governing bodies shall be liable to the Federal Government for damages 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 Officers Liability Act, BGBl. 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 Federal Legal Service under the Federal Legal Service Act, State Federal Legal Gazette No. 172/1945.

## **Part II Study law**

### **Chapter 1 General provisions**

#### **Definitions**

**51.** In the implementation of the study regulations, the universities shall be subject to the authority of the public administration.

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

1. "Recognised post-secondary educational institutions" mean educational institutions offering programmes of study lasting at least six semesters, admission to which is conditional on possession of a general university entrance qualification in the meaning of this Act or, in the case of art studies, evidence of artistic ability, and which are recognised as educational institutions in the meaning of this definition by the laws of the country in which they are domiciled.
2. "Degree programmes" mean diploma, bachelor's and master's degree and doctoral programmes.
3. "Diploma programmes" mean degree programmes which provide preliminary academic or artistic vocational training for, and qualify students for occupations requiring the application of academic 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 21 December 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, 24 January 1989.
4. "Bachelor's degree programmes" mean degree programmes which provide preliminary academic or artistic vocational training and qualify students for occupations requiring the application of academic

- and artistic knowledge and methods. These programmes fulfil the requirements of Council Directive 89/48/EEC of 21 December 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's degrees" mean degree programmes which serve to deepen and extend academic and artistic preliminary vocational training, building on the foundations provided by a bachelor's degree programme.
  6. The "orientation period" means the phase during which courses on subjects of particular significance for a given diploma or bachelor's degree programme are offered to provide new students with information and guidance.
  7. "Bachelor's dissertations" mean independently prepared papers forming part of bachelor's degree programmes which must be written in connection with courses.
  8. "Diploma and master's dissertations" mean academic papers forming part of diploma and master's degree programmes which serve to demonstrate students' ability to achieve adequate standards of content and methodology when independently addressing scholarly topics.
  9. "Art diploma and master's 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's degree programme.
  11. "Master's degrees" mean the degrees awarded on successful completion of a master's degree programme.
  12. "Doctoral programmes" mean degree programmes which develop students' ability to undertake independent academic work, and promote the training and career advancement of junior academic staff, building on the foundations provided by diploma and master's degree programmes.
  13. "Doctoral theses" mean academic papers which, unlike diploma and master's dissertations, serve to demonstrate students' ability to master academic topics independently.
  14. "Doctorates" mean the degrees awarded on successful completion of a doctoral programme. The degree titles are "Doctor", abbreviated as "Dr.", followed by a suffix designated by the curriculum.
  15. "Degree students" mean students admitted to degree programmes.
  16. A "general university entrance qualification" means a qualification providing evidence that a person has reached a level of educational attainment conferring the right and ability to be admitted to a degree programme at a university, subject to the fulfilment of any additional subject specific requirements.
  17. A "special university entrance qualification" means a qualification fulfilling additional, subject specific requirements for admission to a given degree programme.
  18. "Supplementary examinations" mean university entrance examinations or examinations required to demonstrate proficiency in the German language or physical fitness.
  19. "Admission examinations" mean examinations which, taking the student's previous educational opportunities into account, serve to demonstrate suitability for art studies.
  20. "Non-degree programmes" mean continuing education courses and individual courses in academic subjects.
  21. "Continuing education courses" mean courses providing continuing education. The establishment of continuing education courses to prepare students for bachelor's degree and diploma courses in the fine and applied arts is permissible.
  22. "Non-degree students" mean students admitted to non-degree programmes.
  23. "Master of advanced studies degrees" mean degrees awarded to students who successfully complete non-degree courses, the admission requirements, scope and academic standards of which are comparable with those of similar master's programmes abroad.
  24. The "curriculum" means the document which sets out the competency profile, content and structure of a programme, and the examination regulations.
  25. The "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 scope of degree programmes must 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, 3 February 2000) and must be expressed in ECTS credits. These credits are to be used to establish the workload required to complete individual course units, whereby the workload must amount to 1500 hours in the first year, for which 60 credit points are awarded.
  27. "Dual diploma programmes" mean degree programmes which are jointly conducted under agreements between one or more Austrian universities and one or more recognised post-secondary educational institutions abroad. Such agreements must specify the work to be performed by the students concerned at the institutions which are parties to them.
  28. "Nostrification" means the recognition of a foreign degree as a domestic one.

(3) In this Act “students” means persons admitted by the rectorate to study at a university.

(4) The right to serve as a student representative on a collegial body shall be governed by the Student Union Act 1998, BGBl. I No. 22/1999.

### **Structure of the academic year**

**52.** The academic year consists of the winter semester, the summer semester and the periods during which courses are not held. It shall commence on 1 October and end on 30 September of the following 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 division 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’s and master’s degree, diploma and doctoral programmes**

**54.** (1) Universities shall be entitled to offer diploma, bachelor’s and master’s degree, and doctoral programmes; the following bachelor’s and master’s degree programmes may be offered:

1. Humanities and Cultural Studies:  
Bachelor’s degree title: “Bakkalaurea der Philosophie” or “Bakkalaureus der Philosophie”, abbreviated as “Bakk. phil.”;  
Master’s degree title: “Magistra der Philosophie” or “Magister der Philosophie”, abbreviated as “Mag. phil.”.
2. Engineering Science:  
Bachelor’s degree title: “Bakkalaurea der technischen Wissenschaften” or “Bakkalaureus der technischen Wissenschaften”, abbreviated as “Bakk. techn.”;  
Master’s degree title: “Diplom-Ingenieurin” or “Diplom-Ingenieur”, abbreviated as “Dipl.-Ing.” or “DI”.
3. Fine or Applied Art  
Bachelor’s degree title: “Bakkalaurea der Künste” or “Bakkalaureus der Künste”, abbreviated as “Bakk. art.”; master’s degree title: “Magistra der Künste” or “Magister der Künste”, abbreviated as “Mag. art.”.
4. Veterinary Medicine:  
Bachelor’s degree title: “Bakkalaurea der Veterinärmedizin” or “Bakkalaureus der Veterinärmedizin”, abbreviated as “Bakk. med. vet.”;  
Master’s degree title: “Magistra der Veterinärmedizin” or “Magister der Veterinärmedizin”, abbreviated as “Mag. med. vet.”.
5. Natural Science:  
Bachelor’s degree title: “Bakkalaurea der Naturwissenschaften” or “Bakkalaureus der Naturwissenschaften”, abbreviated as “Bakk. rer. nat.”;  
Master’s degree title: “Magistra der Naturwissenschaften” or “Magister der Naturwissenschaften”, abbreviated as “Mag. rer. nat.”.
6. Law:  
Bachelor’s degree title: “Bakkalaurea der Rechtswissenschaften” or “Bakkalaureus der Rechtswissenschaften”, abbreviated as “Bakk. iur.”;  
Master’s degree title: “Magistra der Rechtswissenschaften” or “Magister der Rechtswissenschaften”, abbreviated as “Mag. iur.”.

7. Social Science and Economics  
Bachelor's degree title: "Bakkalaurea der Sozial- und Wirtschaftswissenschaften" or "Bakkalaureus der Sozial- und Wirtschaftswissenschaften", abbreviated as "Bakk. rer. soc. oec.";  
Master's degree title: "Magistra der Sozial- und Wirtschaftswissenschaften" or "Magister der Sozial- und Wirtschaftswissenschaften", abbreviated as "Mag. rer. soc. oec.";
8. Theology:  
Bachelor's degree title: "Bakkalaurea der Theologie" or "Bakkalaureus der Theologie", abbreviated as "Bakk. theol.".  
Master's degree title: "Magistra der Theologie" or "Magister der Theologie", abbreviated as "Mag. theol."

(2) New degree programmes may normally only be instituted as bachelor's or master's degree programmes. However the degree programmes named in Schedule 1 University Study Act (UniStG), BGBl. I No. 48/1997 may be established as diploma programmes. Programmes conferring secondary teacher accreditation, and medical and dental medicine studies may only be offered in the form of diploma programmes. The academic titles conferred by diploma programmes shall be designated in accordance with Schedule 1 UniStG.

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

(4) The workload associated with doctoral programmes shall amount to at least 120 ECTS credit points. If the workload amounts to at least 240 ECTS credit points then the degree programme may be designated as a "Doctor of Philosophy" programme, and the title 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 representations to be made.

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

(7) For courses requiring special types of prior knowledge, a curriculum may require evidence of such knowledge in the form of one or more examinations passed or another expedient form as a condition of registration. These conditions shall also apply to students registering for the courses in question in connection with the use of teaching provision or individual study.

(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 periods between semesters.

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

(10) Universities shall also be entitled to conduct dual diploma programmes.

### **Individual studies**

**55.** (1) Subjects forming part of different diploma, bachelor's or master's degree programmes may be combined in individual diploma, bachelor's or master's degree programmes. Applications for admission to an individual degree programme shall be made to the university 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 competency profile;
3. the number of ECTS credit points 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 studies.

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

### **Continuing education courses**

56. Universities shall be entitled to establish continuing education courses. Continuing education courses may also be conducted during those periods when courses are otherwise not held and, in order to provide financial and organisational support for them, in co-operation with other legal entities.

### **Preparatory continuing education courses**

57. The universities named in section 6(16–21) shall be entitled to establish continuing education courses to prepare art students for bachelor's degree or diploma programmes.

### **Academic titles of graduates of continuing education courses**

58. (1) The curriculum of a university continuing education course may specify master's titles in normal international use for the respective subject for award to the graduates of such courses if the admission requirements, scope and standards are comparable to those of like master's programmes in other countries.

(2) In the event that subsection 1 does not apply, the curriculum may stipulate that the title "Akademische ..." or "Akademischer ...", followed by a suffix indicating the contents of the course in question, is to be awarded to persons successfully completing the course in question, provided that it qualifies for at least 60 ECTS credit points.

(3) Translations of degree certificates may be appended to them, but the name of the university and the governing body making the award, and the degree title itself may 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 course offerings and the curriculum, to choose between teaching staff;
3. beyond a degree programme at the university which has admitted them or other universities, to take advantage of course offerings 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's degree programme students, to propose or select from a number of suggestions the topic of their diploma or master's dissertation or that of their art 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 papers 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 students, to attend the relevant university courses and take the examinations prescribed therefor;
11. if they are non-degree students, admitted only for the attendance of 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 acceptance 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 section 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 the event that it is apparent that they are unlikely to continue their studies;
4. to register for and deregister from examinations within the appointed periods of notice; and
5. to deliver a copy of their diploma or master's dissertation, or art diploma or master's submission or dissertation to the university library and the Austrian National Library, respectively, 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 account of 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 principal course lecturers 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 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 Minister shall enact detailed regulations on the generation and assignment of matriculation numbers.

(6) The universities named in section 6(1–15) 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 professional bodies for forwarding to the responsible universities, these bodies 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 subsection 3 must apply for admission and pay their university fees. The general admission period shall be at least four weeks long 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; this shall expire on 30 November in the winter semester, and on 30 April in the summer semester. Admission and registration for the continuation of studies is permissible in the extension period provided that the increased university fees are paid.

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

1. Austrian citizens;
2. nationals of other signatories of the EU Accession Treaty, BGBl. No. 45/1995, or of other signatories of the Agreement on the European Economic Area, BGBl. 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 dual diploma degree 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's degree;
4. groups of persons designated by the 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 section 6(16–21).

(4) The special admission period shall be applicable to all other foreign nationals and stateless persons. This shall expire on 1 September of each calendar year in the case of applications for the winter semester, and on 1 February 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) Rectorates shall be entitled to make other arrangements for the general admission period for continuing education courses and degree programmes under transnational EU, state or university mobility programmes including dual 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 university fees payable have not been received;
2. if evidence that an additional examination, to be taken under the Eligibility for University Admission Order (UBVO 1998, BGBl. II No. 44) in the course of the degree programme, has been sat 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 ability, in the case of study at the universities named in section 6(16–21); and
5. physical fitness in the case of degree programmes leading to secondary teacher accreditation in physical education or sport science degree programmes.

(2) Persons applying to study a subject for 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 or any special university entrance qualification:

1. Austrian citizens;
2. nationals of other signatories of the EU Accession Treaty or of 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 (subsection 4);
4. groups of persons designated by the 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 subsection 3(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 or special university entrance qualification, regardless of any enactments under subsection 4:

1. persons participating in university mobility programmes including dual 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 subsection 3(3) seeking admission to study programmes in Austria on successful completion of studies 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 subsections 5(1–2) shall be conditional on the existence of a co-operation agreement between the universities concerned governing the detailed arrangements for co-operation, student exchanges and programme implementation. Nomination by the partner university shall be deemed equivalent to proof of possession of a general or any 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 section 68(4)(4) AVG and shall be declared null and void by the 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 therefor;
2. the governing body 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 the event 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 art 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 qualifications**

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

1. an Austrian university entrance certificate or working student's university entrance examination certificate;
2. another type of Austrian certificate conferring entitlement to study a certain subject at a university;
3. a foreign certificate which is equivalent to one of the above Austrian certificates owing to an international agreement, nostrification or a decision taken by the rectorate on a case-by-case basis;
4. a certificate providing proof of the successful completion of at least three years' studies at a recognised domestic or foreign post-secondary educational institution;
5. in the case of art studies, confirmation that the applicant has passed an entrance examination;
6. a certificate providing proof of the successful completion of a university-level course of at least three years offered by a non-university institution.

(2) If foreign certificates are not equivalent to Austrian university entrance qualifications in terms of the course contents and requirements concerned, rectorates shall prescribe the supplementary examinations to be taken prior to admission in order to achieve such equivalence.

(3) In respect of university entrance certificates issued in Austria rectorates shall prescribe such examinations as must be taken in the course of applicants' studies pursuant to the UBVO 1998.

(4) General eligibility for admission to doctoral studies shall be deemed to be established by proof of successful completion of a relevant diploma or master's degree programme, *Fachhochschule* diploma or master's degree programme, or other equivalent programme at a recognised domestic or foreign post-secondary educational institution. In the event that equivalence has been established in principle 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's degree programme is conditional on the successful completion of a relevant bachelor's degree programme, *Fachhochschule* bachelor's degree programme or other equivalent programme at a recognised domestic or foreign post-secondary educational institution. Eligibility for admission shall be deemed to be established by proof that this condition is met.

### **Special university entrance qualifications**

**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 university entrance certificate evidencing general eligibility for university admission. Proof that the applicant has a university place shall not be required.

(2) In the case of university entrance certificates issued in Austria this is a matter of the additional examinations to be taken under the UBVO 1998 prior to admission.

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

(4) The Minister shall be entitled, by order, to designate groups of persons whose university entrance 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 establishing special eligibility for university admission.

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

### **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's degree programmes.

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

(3) On admission to diploma or bachelor's 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 competency profiles of graduates, the orientation phase, the recommended courses for the first two semesters and, in particular, the number of students attending the degree programme in question, the average duration of studies, and the pass 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 freshman/freshwoman students 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 national 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) University admissions shall remain valid for the duration of academic leave, but attendance of courses, taking of examinations, and the submission and assessment of academic papers or art master's or diploma submissions is impermissible.

### **Annulment of admission to degree programmes**

**68.** (1) Admission to a programme of study shall lapse 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 eligibility for university entrance because he/she has failed to take an examination required therefor 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 section 6(16–21) may provide for an admission to lapse if a student has failed to attend the courses relating to the central art subject for a total of more than three semesters over the entire duration of his/her studies.

(3) Documentary records shall be made of annulments of student admissions. Particularly in the case of annulments under subsection 1(4), the rectorate shall, on application, issue a notice of annulment.

### **Leaving certificates**

**69.** (1) A leaving certificate shall be issued on application of a student terminating his/her studies at a university. This shall list all examinations taken by the student in during his/her studies at the university, and the assessments awarded. The grades of examination passes need not be stated. In the interests of international student mobility a translation may be appended, whereby the name of the university and the issuing body shall not be translated.

(2) In the interests of international and graduate mobility, the Minister shall, by order, determine the manner in which the diploma supplement under art. IX.3 Convention on the Recognition of Qualifications Concerning Higher Education in the European Region, BGBl. III No. 71/1999 is to be made out.

### **Admission to non-degree programmes**

**70.** (1) Admission to a non-degree programme of study is conditional on proof that the application fulfils any requirements contained in the curriculum of the continuing education course concerned.

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

(3) Upon annulment of an admission due to failure of the last permissible repetition of an examination renewed admission to the continuing education course concerned shall be excluded.

### **Annulment of admission to non-degree programmes**

**71.** (1) Admission shall lapse 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 continuing education course by passing the last prescribed examination.

(2) Documentary records shall be made of annulments of student admissions. The rectorate shall, on application, issue a notice of annulment.

## **Chapter 4 Examinations**

### **Determination of academic success**

**72.** Academic success shall be determined by examinations and the assessment of academic papers (diploma and master's dissertations and doctoral theses) or art diploma or master's submissions.

### **Academic assessment**

**73.** (1) Passes of examinations and positive assessments of academic papers or art diploma or master's submissions shall be graded as "very good" (1), "good" (2), "satisfactory" (3) or "adequate" (4); fails shall be graded as "inadequate" (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 culmination 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 “passed with distinction” if the grade in no subject is worse than “good”, and “very good” if the grades in at least half of the subjects are “very good”. In the case of examinations which mark the culmination of art studies comprising only one central art subject, the assessment “passed with distinction” shall be used instead of “very good”.

### **Annulment of assessments**

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

(2) The result of an examination, academic paper or art 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 papers or art 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 papers or art master’s or diploma submissions shall be evidenced by certificates. Consolidated certificates 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 credit points;
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 papers or art master’s or diploma submissions the topic/theme shall be stated.

(3) Certificates of *viva voce* examinations held before single examiners shall be issued by the latter, those of assessments of academic papers or art 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 governing body 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 interests of international student mobility a translation may be appended, whereby the name of the university and the issuing body shall not 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 with 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 credit points (eight semester hours).

### **Admission and supplementary examinations**

76. (1) The governing body responsible for study matters shall appoint academically qualified examiners for the admission and supplementary examinations; these persons shall determine the method of examination, and determine whether *viva voce* examinations are to be heard by single examiners or examination boards.

(2) The curricula of degree programmes leading to secondary teacher accreditation in physical education and of sport science degree programmes shall prescribe the form of the supplementary examination to demonstrate physical fitness.

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

(4) The curricula of art study programmes shall determine the form of the entrance examination to be taken to demonstrate suitability 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 section 6(16–21) a maximum of two passed course examinations in the central art 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 a *viva voce* 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 entrance examinations taken to demonstrate suitability for art studies or supplementary examinations to demonstrate physical fitness.

### **Recognition of examinations**

78. (1) Examinations passed by students attending recognised Austrian or foreign post-secondary educational institutions, higher vocational colleges, colleges of education, recognised Austrian educational institutions an admission requirement of which is the general university entrance qualification, or university-level courses offered by non-university institutions, shall be recognised by the governing body responsible for study matters on application of the students concerned, provided that such qualifications are equivalent to those prescribed by the curriculum. Examinations taken at an Austrian university or a university in the European Union or European Economic Area shall be recognised for further study of the same subject at another Austrian university provided that the number of ECTS credit points 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 section 63(8–9) is excluded.

(2) Examinations taken at Austrian public conservatoires shall be recognised on application of the degree programme 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 preliminary vocational scientific training may be recognised 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 vocational artistic training may be recognised 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 recognised.

(7) Recognition may only be accorded to examinations passed by non-degree students if taken in connection with university non-degree courses or prior to passing the full university entrance examination or entrance examination for working students, or the supplementary examination providing proof of physical fitness or artistic ability appropriate to the programme of study for which the examination is to be recognised.

(8) Notwithstanding section 73 AVG, notice of decisions in the first instance on applications for the recognition of examinations must be given within two months of receipt.

### **Legal protections 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 then the governing body responsible for study law 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 give *prima facie* grounds for the alleged severe defects. Examinations which are annulled shall not be counted towards the permissible number of resits.

(2) *Viva voce* examinations shall be open to the public. If necessary, it shall be permissible to limit admission to the number for 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 event 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, then 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 inspect 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.

### **Bachelor's, diploma and master's dissertations, and doctoral theses**

#### **Bachelor's dissertations**

**80.** (1) Dissertations shall be prepared as part of bachelor's degree programme courses. Detailed regulations for bachelor's dissertations 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 Act, BGBl. No. 111/1936.

### **Diploma and master's dissertations**

**81.** (1) The preparation of diploma or master's dissertations shall form part of studies for diploma or master's degrees. 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 dissertation. This may not take the form of a written examination. Detailed regulations for the supervision and assessment of diploma and master's dissertations shall be established by university statutes, and those governing the topics by the respective curricula.

(2) The assignments for diploma or master's dissertations 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 the event 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 on grounds of potential significant interference with the unit's teaching and research activities.

(4) Section 80(2) applies only to diploma and master's dissertations.

### **Doctoral theses**

**82.** (1) The preparation of a doctoral thesis shall form part of studies for a doctoral degree. Detailed regulations for the supervision and assessment of diploma and master's dissertations shall be established by university statutes, and those governing the topics by the respective curricula.

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

### **Art diploma and master's submissions**

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

(2) Art 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 art diploma and master's submissions shall be established by university statutes, and those governing the themes by the respective curricula.

(3) Sections 80(2) and 81(3) apply only to art 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 art submissions) are not surrendered to the student, then the governing body 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.

### **Recognition of diploma and master's dissertations, art diploma and master's submissions, and doctoral theses**

**85.** Diploma or master's dissertations, art diploma or master's submissions or doctoral theses accepted by recognised domestic or foreign post-secondary educational institutions shall, on application, be recognised by the governing body responsible for study matters, provided that they meet the requirements for diploma or master's dissertations, art diploma or master's dissertations or doctoral theses.

### **Duty of publication**

86. (1) Graduates shall publish accepted diploma or master's dissertations, doctoral theses, art diploma or master's theses or documentation in support of art 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 or master's dissertation, doctoral thesis, art diploma or master's dissertation or written art diploma or master's submission component with the library. Academic papers 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 an academic 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 governing body 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 governing body responsible for study matters shall, acting *ex officio*, without delay and not later than one month after fulfilment of all requirements, give graduates written notice of the award of the designated academic title upon successful completion of all examinations prescribed by the curriculum and acceptance of the academic paper, or art diploma or master's submission and related written component thereof required by the diploma, master's or doctoral degree programme in question.

(2) The governing body responsible for study matters shall, acting *ex officio*, without delay and not later than one month after fulfilment of all requirements, give persons who have successfully completed non-degree courses including all the examinations prescribed by the curriculum written notice of the award of the designated academic title.

(3) In the interests of international student mobility a translation may be appended to the notice of degree award, whereby the name of the university and the issuing body, and the academic title shall not be translated. The notice 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 title awarded.

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

(5) If a student successfully completes a dual diploma degree programme comprising up to 120 ECTS credit points of which at least 30 were obtained under the auspices of a foreign counterpart institution, or more than 120 ECTS credit points of which at least 60 were obtained at such an institution, then the award of the degree may be evidenced by a certificate jointly issued in conjunction with the latter.

### **Use of academic titles**

88. (1) Persons awarded academic titles by recognised domestic or foreign post-secondary educational institutions shall be entitled to use such titles in the form set down in the certificate of award. This shall include the right to require the inclusion in official documents of the abbreviated form of an academic title awarded by a domestic post-secondary educational institution or a recognised post-secondary institution in another signatory of the EU Accession Treaty or the Agreement on the European Economic Area.

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

## **Revocation of Austrian academic titles**

89. The governing body responsible for study matters shall revoke and recall the notice 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 proof that nostrification is essential for the exercise of the applicant's profession or the continuation of his/her education in Austria. The detailed arrangements shall be established by university statutes.

(2) Applications shall be directed to Austrian universities 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 governing body responsible for study matters by giving written notice thereof. Such notice shall specify the domestic degree to which the foreign degree corresponds, and the domestic academic title that the applicant is entitled to bear in place of his/her foreign title in consequence of nostrification. A note recording issuance of such notice shall be added to the foreign degree certificate 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 not be payable if the application for nostrification is refused or withdrawn.

### **Chapter 8 University 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 university fees in an amount of EUR 363.36 per semester. The university fees 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 subsection 1 applies shall pay university fees in an amount of EUR 726.72 per semester. The university fees 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 university fees only once.

(4) The university fees shall be payable every semester in advance. In order to ensure that university fees are collected the universities shall transmit the following student data to the Minister:

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

Detailed provisions governing the collection of university fees shall be enacted by the Minister by order.

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

(6) University fees 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 continuing education courses shall pay course fees. These shall be set at levels reflecting actual course costs. Degree programme students in receipt of student grants shall, on application, be accorded reductions in course fees having regard to their financial circumstances. Course fees shall be determined by the senate. Non-degree students who are admitted exclusively to study at a continuing education course shall not be required to pay any course or university fees. No course or university fees shall be collected for preparatory continuing education courses.

(8) When paying their university fees students shall be entitled to choose between the options established by the senate under section 25(1)(13) for the purposes for which the fees may be earmarked.

### **Remission and reimbursement of university fees**

**92.** (1) Remission of university 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 students whose home country or university grants Austrian students remission of fees;
4. Convention refugees.

(2) Applications for remission of university fees shall be for the decision of the rectorate.

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

(4) Appropriate documentary records of the university's decisions shall be kept.

(5) Students granted remission under subsection 1(1–2) 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 university fees retroactively. The rectorate shall order such payment.

(6) Students obtaining remission of university fees by wilfully providing incomplete or incorrect information with respect to material facts shall pay double the normal university fees 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 university fees.

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

(9) The Minister shall be entitled to designate by order countries to whose nationals university fees 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 by non-government procedures, on application of the students concerned. Fees 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 a Church theological college (art. V section 1 Concordat between the Holy See and the Republic of Austria) to an organisational unit of a university, the activities of which relate to Catholic theology:

1. Examinations taken at such colleges shall be recognised as supplementary examinations provided that the examiners notified to the university:
  - a) are authorised to teach the subject in question (*venia docendi*); or
  - b) have been authorised by an organisational unit of a university, the activities of which relate to Catholic theology, to hear supplementary examinations for a period of three years.

2. Examinations taken at such colleges shall be recognised 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 activities of which relate to Catholic theology. Church theological colleges shall be enabled to make representations on such authorisations, which shall be granted for reasonable periods.
  3. Graduates of Church theological colleges shall be awarded the academic titles prescribed for their programmes of study if the examinations taken by them have been recognised in accordance with the above provisions and the academic papers 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 authority to teach (*venia docendi*) at the college.
- (2) In the event of the above admission to study at the university shall not be necessary for the award of the degree.

### **Part III University members**

#### **Chapter 1 Classification**

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

1. the students (section 51[3]);
2. the research fellows;
3. specialist trainees;
4. the academic and art staff;
5. the general university staff;
6. the assistant lecturers (section 102);
7. the professors emeritus;
8. the retired professors.

(2) The academic and art staff comprise:

1. the professors;
2. the lecturers and other research, art and teaching staff.

(3) The general university staff comprise:

1. the administrative staff;
2. the technical staff;
3. the library staff;
4. the nursing staff;
5. physicians exclusively engaged in public hospital duties.

#### **Chapter 2 Research fellows and specialist trainees**

##### **Research fellows**

**95.** Research fellows are undergraduates or doctoral graduates in receipt of grants to work on research projects. 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.

##### **Specialist trainees**

**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** **University academic and art staff**

#### **University Professors**

97. The professors shall be responsible for research and teaching, 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- or part-time employees.

(2) Both Austrian and foreign academics or artists whose academic 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 sections 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, academics 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 professors in the department in question, of whom at least two shall be external. However they may also delegate this task to the professors of the department or of a department in a related field.

(4) The senate shall appoint an appointment committee with decision-making powers. More than half of the members shall be professors, and at least one shall be a student. The assessors under subsection 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 members of the department and departments for related fields, if not to other staff members.

(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. In particular, it shall state the reasons in the event that the shortlist contains less than three candidates.

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

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

(10) If the arbitration commission dismisses the objection, then the rector shall be entitled to initiate contract negotiations with the successful candidate. If the arbitration commission 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 commission.

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

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

(13) The authorisation to teach (*venia docendi*) of a professor with a limited term employment contract shall lapse upon termination of employment.

### **Fast track appointment procedure for university professors**

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

(2) The rector shall appoint the candidate for the post to be filled on the recommendation of, or after hearing representations from the professors of the department to which the post belongs.

### **Research, art and teaching staff**

**100.** (1) Research, art and teaching staff must be appropriately qualified for the employment envisaged. They shall, in their subjects, be obliged to contribute to the fulfilment of the university's duties 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 development of staff members under subsection 1.

### **Chapter 4 General university staff**

**101.** (1) The general 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 development of its staff members pursuant to subsection 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 Assistant lecturers, habilitation, professors emeritus and retired professors**

#### **Assistant lecturers**

**102.** Assistant lecturers are persons to whom a university awards authorisation to teach a subject (*venia docendi*) on the basis of their academic or artistic credentials, but who are not employed by the university.

#### **Habilitation**

**103.** (1) The rectorate shall, on application, be entitled to award an authorisation to teach (*venia docendi*) for an entire academic or artistic subject. The authorisation applied for must fall under a subject taught at the university, or represent a worthwhile addition thereto. The authorisation to teach 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 dissertations or art submissions (sections 81–83 and 124).

(2) The award of an authorisation to teach shall be conditional on evidence of outstanding academic or artistic credentials, as well as teaching ability.

(3) The habilitation paper submitted must:

1. be of impeccable methodological quality;
2. contain new academic insights;
3. demonstrate the candidate's command of his/her habilitation subject and suitability for promotion.

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

(4) Applications for authorisation to teach shall be made to the rectorate. The latter shall forward such applications to the senate, unless they must be rejected due to the university's incompetence to process them.

(5) The professorial senate representatives shall appoint four specialists in the habilitation subject, including two external specialists, nominated by the 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 professors of the department or of a department in a related field.

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

(7) The senate shall appoint a habilitation committee with decision-making powers. More than half of the members shall be professors, and at least one shall be a student. The assessors under subsection 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.

(9) The rectorate shall give notice of the decision on the application for authorisation to teach, 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 the event of serious procedural defects.

(11) The award of an authorisation to teach (*venia docendi*) shall neither confer the right to employment nor modify an existing employment contract (assistant lecturers).

#### **Professors emeritus and retired professors**

**104.** (1) Professors emeritus and retired professors are not employed by the Federal Government or the university.

(2) They shall be entitled to retain their authorisation to teach (*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 academic or artistic work which conflicts with his/her conscience. Refusal to participate in academic work on conscientious grounds 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 works of art. 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 section 7(3) Patents Act, BGBl. No. 259/1970, made at a university in the course of federal employment or training or employment or training by such university, shall be subject to the Patents Act, and the university shall be deemed to be the employer under section 7(2) 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 positions shall be advertised by the rectorate. The application deadline shall be at least three weeks after the appearance of an advertisement.

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

1. positions solely involving teaching duties, and with low teaching loads (part-time temporary lectureships); and
2. positions 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 engaged in a project in the meaning of section 27(1)(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 sections 98 or 99.

### **Legal basis of employment**

**108.** (1) University employment shall, unless otherwise provided for by statute, be governed by the Salaried Employees Act, BGBl. No. 292/1921.

(2) The universities shall establish a national university federation, 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 agreements in the meaning of the Labour Relations Act, BGBl. No. 22/1974 on behalf of member universities. Collective agreements concluded by the federation shall be applicable to the employees of member universities.

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

(5) In the interests of clear identification in employment matters, personal identity codes derived from central registry numbers (section 16 [4] Registration Act 1991, BGBl. 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 indefinite 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 the case of part-time employment eight years.

**Special arrangements for the hours of work and rest periods  
of university academic and art staff**

**110.** (1) The following provisions shall apply to university academic and art staff instead of those of the Working Hours Act, BGBl. No. 461/1969 and the Rest Periods Act, BGBl. No. 144/1983. Academic staff who are subject to the Hospital Working Hours Act and senior university employees entrusted with important managerial responsibilities are excluded from these provisions.

(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 agreement, at least 48 nights per calendar year.

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

(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 then 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 (section 7[2–3] 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 under section 51 Employee Protection Act (AschG), BGBl. No. 450/1994.

(10) The uninterrupted rest period under subsection 6 may be reduced to eight hours by a collective agreement. 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 subsection 3 may, further, be extended to 12 months, and that for weekly rest periods under subsection 7 to two months by a collective agreement. Deviations from the statutory provisions by virtue of collective agreements 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 authority with a fine of between EUR 36–1,500 if:

1. employees are used beyond the limits for daily or weekly hours of work under subsections 3 or 4;
2. they are not granted rest breaks under subsection 5 or daily or weekly rest periods under subsections 6 or 7;
3. or night workers are not provided with health assessments in accordance with the provisions of subsection 9.

### **Special arrangements for the rest periods of general university staff**

**111.** General university staff whose work is essential to support and maintain teaching, research or art operations may be employed during week-end and holiday rest periods under sections 3 and 7 Rest Periods Act.

#### **Labour inspection**

**112.** (1) The Labour Inspection Act 1993 (ArbIG), BGBl. No. 27/1993 shall apply, subject to due regard by the Labour Inspectorate for existing general remediation plans when setting deadlines for compliance under section 9 (1) ArbIG.

(2) By the end of 2004 the 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 academic or art staff of a university shall be null and void if notice is given 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 office**

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

(2) In the event 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.

#### **Pension funds**

**115.** A pension fund commitment in the meaning of the Company Pension Act, BGBl. No. 282/1990 must be made to the academic and art staff under a collective agreement.

### **Part V Penalties**

**116.** (1) Whosoever shall wilfully

1. improperly award, bestow or bear a designation particular to a domestic or foreign higher education system; or
2. one or more domestic academic titles, or
3. a degree or title identical or similar to a domestic or foreign degree or title

shall commit an administrative offence punishable by the responsible district administrative authority with a fine of up to EUR 15,000 unless the act is a criminal offence within the competence of the courts or is subject to a heavier penalty under other administrative regulations.

(2) The award, bestowal or use of an academic title 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 recognised by its country of domicile as a post-secondary educational institution;
3. was not obtained by virtue of appropriate studies and examinations or academic 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 academic 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 the 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 BIG (the Federal Property Company) 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 Act.

## **Part VII Science Council**

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

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

1. advising the Minister, the legislature and the universities on university matters and on questions of science and arts policy;
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 Minister. Such reports shall also include recommendations for the strategic alignment of the performance agreements with universities, having regard to the development of university towns as business locations.

(5) The Science Council shall consist of 12 members from different walks of life, particularly academic life and the arts, who shall be nominated by the 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:

1. officers of the universities named section 6 and of accredited private universities in the meaning of the University Accreditation Act, BGBl. I No. 168/1999;
2. employees of the 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 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 on one occasion. In the event 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 Minister shall call 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 Minister or of a majority of the members of the Science Council, by order 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 Austrian 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 Minister.

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

## **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 section 6(1–21) upon publication of this Act.

(2) The constituent convention shall consist of representatives of the professors, the group of persons named in section 94(2)(2), the general university staff and the students of the university in the meaning of the UOG 1993 and the KUOG.

(3) Notwithstanding subsection 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 under section 136(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 under section 136(4–11).

(5) In accordance with the UOG 1993 and KUOG, rectors and vice-rectors in office shall not be eligible for election.

(6) The Minister shall, by order, 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 professors shall be elected by all the professors (section 97).
2. Two representatives of the group of persons named in section 94(2)(2) shall be elected by all the lecturers (section 122[3]) as well as the other research, art and teaching staff. Those elected must include at least one person with authorisation to teach (*venia docendi*).

3. One representative of the general university staff shall be elected by all the general university personnel.
4. Two student representatives shall be delegated by the statutory student representative organisation.

(8) The chairpersons of the university teachers' staff committee and the staff committee for employees other than university teachers, the chairperson of the equal opportunities working party, the head librarian, the director of administration, 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 30 November 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 implementational measures provided for by section 121, insofar as these are not expressly provided for by statute.

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

### **Implementational measures**

**121.** (1) The provisions of the UOG 1993 and the KUOG shall continue to be applied at the universities and the universities of the arts until 31 December 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 the rectorate takes office under this Act.

(3) The constituent convention shall determine the size of the senate in accordance with section 25(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 section 120(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 the event that the constituent convention of a university fails to comply with this duty by 31 January 2003, the Minister shall appoint the members who would otherwise have been elected by the convention.

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

(6) The university council shall constitute itself without delay, and shall elect the additional member (section 21[6][3]) not later than 31 March 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 30 June 2003.

(8) The rectors elect shall determine the number and duties of the vice-rectors, and nominate candidates after hearing representations from 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 its duties on 1 October 2003.

(10) The rectorate shall enact a provisional organisation plan and appoint provisional heads of the various organisational units without delay. Such 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 31 October 2003, and the constituent meeting of the senate and election of a chairperson by 30 November 2003.

(12) The rules of procedure of the rectorate shall be published by 31 October 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 31 December 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 UOG 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 1 January 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 Minister reports on their activities, covering the entire spectrum of their services, by 30 April 2005, 2006 and 2007.

(17) The 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 Minister of Finance, and shall reach agreement thereto in accordance with section 45 Federal Budget Act. Universities shall submit drafts of their first performance agreements, for the period from 2007 to 2009, to the Minister by 30 April 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 Minister shall submit to the universities a report on the career advancement of junior academics and future developments with regard to university staffing not later than 30 September 2006.

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

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

(22) In the event that the necessary implementational measures are not taken in a timely manner, the 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 Minister within the appointed period, then the budget of that university for the year in question shall be 98 percent of its budget for the previous year.

(24) The faculty representatives (section 15 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 under section 13 Student Union Act at the medical universities of Vienna, Graz and Innsbruck until 31 December 2003, and shall be deemed to be the representatives of these universities from 1 January 2004.

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

## **Chapter 2 Organisation**

### **Transitional arrangements for university members under the UOG 1993 and KUOG**

**122.** (1) All university members with federal government, university or other employment contracts at the time of the entry into force of this Act or accepted for service under federal government, 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 under sections 21 UOG 1993 or 22 KUOG shall, for organisational purposes, be deemed to be professors under section 97 of this Act;
2. professors emeritus and retired professors under sections 24 UOG 1993 or 25 KUOG shall, for organisational purposes, be deemed to be professors emeritus or retired professors under section 104 of this Act;
3. visiting professors under sections 25 UOG 1993 or 26 KUOG shall, for organisational purposes, be deemed to be university professors under section 97 of this Act;
4. university lecturers under section 27 (3) UOG 1993 or 28 (3) KUOG with the title of “Associate Professor” shall, for organisational purposes, be deemed to be university lecturers under section 94 (2)(2) of this Act;
5. university assistants under sections 29 UOG 1993 or 30 KUOG shall, for organisational purposes, be deemed to be academic or art staff engaged in research, the arts or teaching under section 100 of this Act;
6. academic staff engaged in research and teaching under section 32 UOG 1993 and staff engaged in the arts, research and teaching under section 33 KUOG shall, unless classed as trainee academic or artistic staff under section 6 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974, be deemed for organisational purposes to be academic or artistic staff engaged in research, the arts or teaching under section 100 of this Act.
7. student assistants under sections 34 UOG 1993 or 34 KUOG shall, for organisational purposes, be deemed to be academic or art staff engaged in research, the arts or teaching under section 100 of this Act;
8. temporary lecturers under sections 30 UOG 1993 or 31 KUOG shall, for organisational purposes, be deemed to be academic or art staff engaged in research, the arts or teaching under section 100 of this Act;
9. academic staff engaged in teaching and research under section 19(2)(2) UOG 1993 shall, if classed as trainee academic or artistic staff under section 6 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974, for organisational purposes be accorded equal status to research fellows under section 96 of this Act;
10. staff engaged in the arts, teaching and research under section 20(2)(2) KUOG 1993 shall, if classed as trainee academic or art staff under section 6 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974, for organisational purposes be accorded equal status to research fellows under section 96 of this Act;
11. physicians undergoing training as specialists under section 33(1)(3) UOG 1993 in conjunction with section 19(3) UOG 1993 or 33(1)(1) UOG 1993 in conjunction with section 19(2)(1)(f) UOG 1993 (university assistants) shall, for organisational purposes, be deemed to be specialist trainees under section 94(1)(3) of this Act;
12. physicians under section 33(2) UOG 1993 shall, for organisational purposes, be deemed to be general university staff under section 101 of this Act;
13. general university staff under sections 35 UOG 1993 or 35 KUOG shall, for organisational purposes, be deemed to be general university staff under section 101 of this Act;
14. lecturers under sections 27 UOG 1993 or 28 KUOG who are not federal government employees (section 170 Civil Service Code [BDG] 1979 or section 55 Contract Staff Act 1948) shall, for organisational purposes, be deemed to be assistant lecturers under section 102 of this Act.
15. honorary professors under sections 26 UOG 1993 or 27 KUOG shall, for organisational purposes, be deemed to be assistant lecturers under section 102 of this Act.

(3) University lecturers with the title of “Associate Professor” under subsection 2(4) shall be entitled to freely exercise their authorisation to teach their academic or art subject at the university which has granted it, using that university’s facilities, to use the facilities of such university for academic or artistic work, and to supervise and assess academic dissertations or art submissions (sections 81–83 and 124). They shall, further,

have the right to offer courses in the field covered by their authorisation to teach at other universities, the activities of which include this subject, and to hold such courses, subject to the availability of premises.

(4) The university lecturers referred to in subsection 3 shall perform the following duties in a responsible manner:

1. academic research, or the advancement of 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. supervision of students;
5. training and career advancement of junior academics and young artists;
6. assumption of organisational, administrative and managerial responsibilities;
7. participation in evaluation procedures.

(5) On the recommendation of a majority of the 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 lecturers referred to in subsection 3 may, notwithstanding section 20(5), be entrusted with the management of such organisational unit.

(6) In respect of election to collegial bodies, the lecturers referred to in subsection 3 shall form part of the group of persons referred to in section 94(2)(2).

(7) University lecturers under subsection 2(14) and honorary professors under subsection 2(15) shall be entitled to freely exercise their authorisation to teach their academic or art subject at the university which has granted it, using that university's facilities, and to supervise and assess academic dissertations or art submissions (sections 81–83 and 124). They shall, further, have the right to offer courses in the field covered by their authorisation to teach at other universities, the activities of which include this subject, and to hold such courses, subject to the availability of premises.

#### **Transitional arrangements for appointments 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's and master's degree and doctoral programmes in being at universities as of 1 October 2003 shall remain at those universities unless decisions to the contrary under section 54 of this Act are made. The respective curricula for these programmes in the versions valid as of 1 October 2003 shall continue to apply, but such curricula may be amended under section 25(1)(10). Graduates of such diploma, bachelor's or master's degree programmes shall be awarded the degrees designated for the respective studies as of 1 October 2003. Sections 80–80b UniStG shall be applied by analogy. If new bachelor's or master's degree or doctoral programmes are introduced in place of existing programmes under section 54(1), then provision shall be made in the curricula for transitional arrangements corresponding to sections 80(2) and 80a(2) UniStG.

(2) Pursuant to sections 13(4)(9) and 19(4) UniStG, curriculum committees shall allocate ECTS credit points to all curricula adopted under the UniStG.

(3) Continuing education courses and preparatory continuing education courses introduced under the UniStG and in being at universities as of 31 December 2003 shall continue to exist. The respective curricula for these programmes in the versions valid as of 31 December 2003 shall continue to apply.

(4) From 1 October 2003 section 77 shall be applied. Repetition of examinations failed before 1 October 2003 shall be subject to section 58(1–6) UniStG as last amended instead of section 77 of this Act.

(5) If a diploma programme introduced under subsection 1 is also established as a bachelor's and master's degree programme, then admissions to the diploma 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) Sections 27–28 UniStG as last amended shall be applied to applications under Sections 27–28 UniStG pending before 1 January 2004.

(7) Section 49 Universities of the Arts Study Act (KHStG) shall be applied instead of section 90 of this Act to nostrification procedures pending before 1 August 1998 at the universities named in section 6(16–21). Section 40 General Higher Act (AHStG) shall be applied instead of section 90 of this Act to nostrification procedures pending before 1 August 1997 at the universities named in section 6(1–15). Sections 70–73 UniStG shall be applied instead of section 90 of this Act to nostrification procedures at universities pending up to 31 December 2003.

(8) Section 17 UniStG shall continue to apply to degree students admitted to individual diploma programmes before 1 January 2004.

(9) Sections 64(1)(6) and 78(1) shall only be applied to university-level courses offered by non-university organisations recognised as such after 1 September 2001.

## **Chapter 4**

### **Transitional arrangements for university staff**

#### **Permanent federal civil servants**

**125.** (1) For each university, a “university office” bearing its name shall be established. The university office shall report directly to the Minister, and shall be headed by the rector of the respective university. The rector shall be bound by ministerial directions 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 Procedures Act 1984, BGBl. No. 29/1984. The Minister shall find on appeals against rulings of the university office.

(2) Civil servants with budgeted university or university of the arts positions 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 positions 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 positions 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 subsections 2–5 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 subsections 2–5 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 Citizens (StGG).

(8) Civil servants under subsections 2, 4 and 5 with permanent employment contracts who are assigned to a university office and who give notice 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 subsections 2–5 who, being assigned to a university office and having provisional employment contracts (sections 10 and 177 BDG 1979) as of the effective date, give notice of resignation from the federal civil service within three years of their 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 subsections 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 under sections 26 and 54 Salaries Act 1956, BGBl. No. 54. If a civil servant who has resigned under section 21 BDG 1979 in conjunction with section 26(3) Salaries Act 1956 enters the employment of a university within six months of termination of his/her civil service employment, then he/she shall be obliged to remit to the university the severance payment received upon termination of the previous employment under section 26(3) 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 event of a future change in the amount of the pension contributions of civil servants under section 22 Salaries Act 1956 the percentage contribution shall be changed to the same extent. Special pension contributions and other transfer payments made after 1 January 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 AschG, BGBl. No. 450/1994.

#### **Federal contract staff**

**126.** (1) Federal contract staff 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 positions shall, on the following day (effective date), become employees of that university where their duties have predominantly been performed.

(2) Contract staff 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 positions shall, on the following day (effective date), become employees of the university of medicine which is the successor institution of such faculty.

(3) Contract staff 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 Contract Staff Act 1948, BGBl. 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 under section 36 Contract Staff Act 1948 is no longer permissible. Termination of employment on any of the grounds set out in section 32(4) Contract Staff 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 subsections 1–3 may, within three years of the entry into effect of the collective agreement applicable to them, declare their willingness to transfer to this collective agreement. Their employment contracts shall be amended accordingly with effect from the first day of the month after such declaration.

(6) Section 52b Contract Staff Act 1948 shall apply to contract assistants with employment contracts under section 52a of that Act, except insofar as the Minister (section 52b[1][2]) is substituted by the rectorate.

(7) Employees under subsection 6 may, within three years of the entry into effect of the collective agreement for new entrants to the service of universities, but not earlier than the extension of employment for an indefinite period under section 52b Contract Staff Act 1948, declare their willingness to transfer to that collective agreement. 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 subsections 1–3 and transfer of employment under subsections 5 or 7 shall not give rise to any entitlement to a severance payment under section 35 Contract Staff 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 Act, BGBl. 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 Contract Staff Act 1948 except for sections 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 agreement under section 108(3).

### **Guarantees by the Federal Government**

**129.** (1) The Federal Government shall, as a deficiency guarantor (section 1356 General Civil Code), guarantee the entitlements to remuneration of civil servants who transfer to employment by a university after the effective date, and of contract staff 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 subsection 1, liability for employees' accrued entitlements to severance payments and jubilee bonuses shall be assumed by universities.

### **Claims of the Federal Government against civil servants**

**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 Public Liability Act, BGBl. No. 20/1949, the Public Officers Liability Act, BGBl. No. 18/1967 or the Employee Liability Act, BGBl. 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.

### **Transfer of rented and rent-free tied accommodation**

**131.** With regard to rented and rent-free tied accommodation, civil servants and government contract staff 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 section 80 Civil Service Code 1979, BGBl. No. 333, and section 24(a–c) Salaries Act 1956, BGBl. No. 54, shall continue to apply by extension. The Minister shall be responsible for exercising the employer's rights under section 80 Civil Service Code 1979.

### **Trainee academic and art staff**

**132.** There shall be no change after the effective date in the legal position of trainee academic and art staff (section 6 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. 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 grounds named in section 6(e) Compensation for Academic 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) Sections 6–6(g) and 7 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974 shall continue to apply to the employees named in subsection 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 under section 1[a], student assistants and demonstrators under section 1[b], apprentices under section 1[2] and 2, and visiting professors under section 3 Compensation for Academic 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) Sections 1, 1a, 1b, 2, 2a, 3 and 7 Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974 shall continue to apply to the persons named in subsection 1 until the expiry of their special contracts.

### **Salaried employees under partial legal capacity**

**134.** (1) Salaried staff employed by a semi-autonomous university organisational unit 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 of the semi-autonomous organisational unit as an employer shall pass to the university. Temporary employment contracts concluded under circumstances of partial legal capacity shall terminate upon expiry.

(2) Salaried staff employed by a semi-autonomous organisational unit 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 semi-autonomous organisational unit within the faculty of medicine shall pass to the university of medicine. Temporary employment contracts concluded under circumstances of partial legal capacity shall terminate upon expiry.

(3) Salaried staff employed by a semi-autonomous inter-university institution 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 the semi-autonomous inter-university institution shall pass to the university. Temporary employment contracts concluded under circumstances of partial legal capacity shall terminate upon expiry.

### **Representation of the interests of university employees**

**135.** (1) All employees shall be subject to the Labour Relations Act, BGBl. No. 22/1974.

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

(3) Pursuant to the provisions of sections 50 ff. Labour Relations Act, works councils shall be elected by the academic and art staff and the general university staff, respectively, at each of the universities named in section 6(1–21). The specialist trainees and the physicians under section 94(3)(5) shall be eligible to vote for and be elected to the works council for academic and art staff. Pursuant to section 22a Disabled Persons Employment Act (BeinstG), BGBl. No. 92/1970, representatives of disabled people shall be elected.

(4) The staff committees for university teachers at the universities named in section 6(1–3 and 7–21) 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 staff committees for university teachers shall assume the functions of works councils under Labour Relations Act for the academic and art staff.

(5) The staff committees for employees other than university teachers at the universities named in section 6(1–3 and 7–21) 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 staff committees for employees other than university teachers shall assume the functions of works councils under the Labour Relations Act for the general university staff.

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

(7) The existing staff representative bodies shall secure that works council elections are called 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 salaried and non-salaried staff.
2. For civil servants assigned to a university, the works council shall also fulfil the function of the staff committee under section 9 Federal Employee Representation Act, BGBl. No. 133/1967. Civil servants assigned to universities shall also continue to be represented by the central staff committee responsible for them at the Ministry of Education, Science and Culture.

(9) The central staff committee for university teachers and central staff committee for employees other than university teachers at the Ministry shall remain in existence until the end of its term of office, which shall expire on the day before the entry of this Act into full effect; section 23(2)(a and c) 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, the universities named in section 6(1–3) shall become the universal successors of the respective universities of the same names (including their semi-autonomous organisational units) referred to in section 5 UOG 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 (section 6[4–6]) shall be the universal successors of the faculties of medicine (including their semi-autonomous organisational units) at the universities at the respective sites.

(3) The universities named in section 6(7–21) shall be the universal successors of the respective universities of the same names (including their semi-autonomous organisational units) referred to in section 5 UOG 1993 or the universities of the arts (including their semi-autonomous organisational units) referred to in section 6(1–6) KUOG.

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

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

(6) The University of Linz shall be the universal successor of the Austrian-wide Institute for Information Systems supporting Print-disabled 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 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 University of Medicine Vienna shall be the universal successor of the Austrian Central Library of Medicine.

(11) The University of Graz shall be the universal successor of the inter-university University Sport Institute 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 land, buildings and rooms rented by the Federal Government, a university or a semi-autonomous organisational unit of a university 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 sections 12a and 46a Rent Act shall be excluded.

(2) As of the effective date referred to in subsection 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, building or individual rooms has/have been assigned to a number of universities for joint permanent use, then the tenancy rights shall pass to that university which has predominantly used the property during the reference period between 1 January 2001 and 30 September 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, building or individual rooms has/have been assigned to a number of universities for joint permanent use, then the master tenancy rights shall be accorded to that university which has predominantly used the property during the reference period between 1 January 2001 and 30 September 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 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 (section 20[6]).

(2) Title to the movable assets owned by the Federal Government assigned to a faculty of medicine or one of its semi-autonomous 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 section 136(4–11) 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 subsections 1–3 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 until 30 September 2003 to compile an inventory of such assets.

(5) Notwithstanding subsections 1–3 there shall be no change in the ownership of the contents of the Picture Gallery and Collection of Copper Engravings of the Academy of Fine Arts Vienna.

#### **Transfer to universities of properties, movable assets and rights owned by semi-autonomous organisational units at universities and universities of the arts**

**140.** (1) Title to the movable assets and immovable assets of semi-autonomous organisational units at 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 semi-autonomous faculty of medicine or semi-autonomous organisational unit within a faculty of medicine, 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 semi-autonomous inter-university institutions named in section 136(4–11), 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 1 January 2004 the Federal Government shall allocate to the universities an annual global amount of EUR 1,660,866,000 for the period from 2004–2006 to cover the expenses arising from the fulfilment of their duties under section 3. University budgets for succeeding years shall be based on the respective performance agreements.

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

1. increases in the salaries of civil servants, contract staff and persons exercising their options under sections 125(8 or 9) or 126(5 or 7);

2. rental expenses arising from agreements made with BIG up to 28 February 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 Old General Hospital, up to and including 2013;
  - b) University of Vienna: Faculty of Economics and Computer Science, Brünnerstrasse 72, up to and including 2005;
  - c) University of Graz: Merangasse institute building, up to and including 2004;
  - d) University of Agriculture, Forestry and Renewable Natural Resources: Muthgasse II institute building, up to and including 2006;
  - e) University of Agriculture, Forestry and Renewable Natural Resources: Peter-Jordanstrasse 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 event of acquisition of the property by BIG, rental expenses from 2004 onwards.
4. amounts reimbursed by the Federal Government under section 55(2–3) Hospitals Act, which shall be payable to the universities named in section 6(4–6) in addition to the annual global budget for the 2004–2006 period.

(3) Section 12(7) shall apply to the first performance agreement period (section 121[17]), except that the share of the global amount attributable to a university under section 141(1–2) shall replace one-third of the global budget. Section 13(9) shall apply, except that 80 percent of this share shall replace the said one-third of the global budget.

(4) In addition to the federal allocations under subsections 1–2, 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 interests of the enhancement of their academic profiles, the 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 under section 53(2) Federal Budget Act shall be made available to the universities. This shall also apply to invested funds.

## **Chapter 7**

### **Entry into force and implementation**

#### **References**

**142.** (1) In this Act unless otherwise stated “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, then such citations refer to the corresponding new provisions.

#### **Entry into force and repeals of enactments**

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

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

(3) Sections 120–122 shall come into force on the day after publication of this Act.

(4) The provisions of the UOG 1993 except for the constitutional provisions shall cease to have effect at the end of 31 December 2003.

(5) The provisions of the KUOG 1993 except for the constitutional provisions shall cease to have effect at the end of 31 December 2003.

(6) The Compensation for Academic and Artistic Activities at Universities and Universities of the Arts Act, BGBl. No. 463/1974 shall cease to have effect at the end of 31 December 2003 except to the extent otherwise provided for by sections 132(2) and 133(3).

(7) The Tuition and Fees Act 1972, BGBl. No. 76/1972 shall cease to have effect at the end of 31 December 2003.

(8) Section 112 shall cease to have effect on 1 October 2013.

(9) The provisions of the University Study Act (UniStG) except for the constitutional provisions shall cease to have effect at the end of 31 December 2003.

### **Implementation**

**144.** The following persons are charged with the implementation of this Act:

1. in respect of section 17, the Minister of Finance;
2. in respect of sections 137 and 139, the Minister of Finance in consultation with the Minister of Education, Science and Culture;
3. in respect of sections 12(2 and 9), 16(2), 121(17) and 141, the Minister of Education, Science and Culture in consultation with the Minister of Finance;
4. in respect of section 18(2), the Minister of Justice, to the extent that court and legal administrative fees are affected, and otherwise the Minister of Finance;
5. in respect of section 29(6), the Minister of Social Security and Generations in consultation with the Minister of Education, Science and Culture;
6. in respect of section 44, the Minister of Social Security and Generations;
7. in respect of sections 106(2 and 3), 108(1, 3 and 4), 109–113, 115 and 135, the Minister of Economics and Labour in consultation with the Minister of Education, Science and Culture;
8. in respect of sections 8 and 21(6)(2), the Federal Government;
9. and otherwise the Minister of Education, Science and Culture.

### **Article II**

#### **Amendment of the UOG 1993**

The University Organisation Act (UOG 1993), BGBl. No. 805/1993 as amended by BGBl. I No. 13/2001, is amended as follows:

*After section 88 there is inserted section 88a:*

**Section 88a:** “If the term of office of a university governing body under this Act would expire after 31 July 2002, it may be extended for a further term by resolution of the most senior collegial body.”

### **Article III**

#### **Amendment of the KUOG**

The Universities of the Arts Organisation Act (KUOG), BGBl. I No. 130/1998, as amended by BGBl. I No. 13/2001, is amended as follows:

*After section 77 there is inserted section 77a:*

**Section 77a:** “If the term of office of a university governing body under this Act would expire after 31 July 2002, it may be extended for a further term by resolution of the most senior collegial body.”