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The Austrian Universities Act 2002

The most sweeping reform in 150 years

The Universities Act 2002 represents a continuation of policies in place since 1990, whereby the Austrian universities are being progressively weaned away from a system traditionally based on central command and control, and towards autonomy. The previous reforms did not go far enough, and embodied too many compromises. The new Act has opened the way for decisive changes, which the universities are now in the process of planning and implementing.

The aim is to make the university of tomorrow a competitive player in research and teaching in the European higher education area. It is to enable it

- to enhance its research and teaching performance,
- to use resources more efficiently,
- to adapt more flexibly to new developments,
- to make a better job of promoting creativity and individual initiative, and
- to become a more active, independent and critical intellectual authority.

The tasks of the universities remain research and teaching. They will continue to be devoted to fundamental research into areas of interest to academics, and to preparing students for working life.

Developments since the entry into force of the Act

The new Act entered into force on 1 October 2002. On 1 January 2004 the universities became legal entities, and they are now largely free to run their own affairs. The universities are now showing great energy and commitment in creating their new organisational structures. During the short

transitional period provided for by the Act, the constituent conventions have been held and have since been replaced by academic senates, and rectors, vice-rectors and university councils have been appointed at all 18 existing universities and at the three new universities of medicine that have emerged from the former faculties of medicine. In some cases entirely new structures, in terms of the subdivision of universities into faculties, institutes and departments, have come into being, while in others provisional solutions have been adopted. Modern accounting systems have been introduced, and opening financial statements drawn up. University and union representatives are negotiating a collective agreement to serve as the basis for individual contracts of employment. An area of legal uncertainty has recently been removed. The constitutional court has dismissed an action brought against the Act in its entirety and against individual provisions, e.g. the constitutional basis of the Act and the composition of the university council. At the same time the court has called for stronger legal safeguards for the universities when concluding performance agreements. In July 2004 an amendment to the University Act introduced such legal safeguards and corresponds to the court's demand.

The new relationship between the State and the universities

The new relationship between the independent universities and the State is one of collaborative partnership. The State no longer has the last word, but continues to have a legal obligation to fund higher education. From 2007 on each university will conclude a performance agreement with the Government. Every year, the universities are required to submit to the Minister performance reports and financial statements audited by the new university councils — bodies similar in function to the supervisory boards companies in continental Europe. The Minister, in turn, is obliged to report to Parliament, which votes the funds he/she distributes.

An independent Science Council monitors and analyses the performance of the universities in the context of the Austrian higher education system as a whole, and from a European and international perspective.

The universities as employers

All new staff members, from the rector and the professors through to the secretaries and technicians are now university employees and no longer members of the permanent civil service establishment. Civil servants already at work at the universities retain their existing status and all the rights associated with it. Civil servants' positions cease to exist on becoming vacant. The conditions of service for new staff members will be based on the collective agreement mentioned above. The universities are statutorily obliged to have works councils and are subject to labour inspection in the same way as companies. They conclude target agreements with the academic staff specifying individuals' duties arising from the performance agreements as well as staff members' own objectives.

Like the works council, the university's equal opportunities working party must be consulted on all personnel matters, and has the right to suspend acts of management and submit them to arbitration.

Performance agreements between universities and the State

The draft agreements are prepared by the rectorate, and must be approved by the university council prior to negotiations between the rector and the Ministry. The agreements, which have three-year terms, specify the services to be rendered and the payments to be made. The State makes annual global payments. The new performance agreement regime will enter into effect after a three-year pilot period (2004 – 2006) during which there are legally guaranteed budgets. Thereafter, 20% of the overall amounts available to the Minister for allocation to universities will be formula based and 80% will be negotiated with them. The Science Council will make recommendations on the broad outlines of performance agreements.

New organisational structure

The governing bodies of the universities are the senate, rectorate and university council. The senate takes decisions on typical academic matters such as curricula and shortlists of candidates for professorships. The professors hold a majority of 50% plus one seat on the senate, and the students have 25% of the votes. The university's business affairs are run by the rectorate. This consists of the rector and the vice-rectors, who have specific areas of responsibility. The division of responsibilities is for the rectorate to decide. The rector is the chairperson of the rectorate, the employer of the university's staff and its representative. The university council may have five, seven or nine members of whom two, three or four are appointed by the university's constituent convention (which oversaw the initial stages of the changes and then made way for the senate) and the Government, respectively. These persons elect a further member. The rectorate must submit decisions on certain important matters — namely, the development plan, draft organisation plan and draft performance agreement — for approval by the university council.

Impact of the Bologna Declaration

The universities enjoy complete autonomy in preparing and implementing curricula. Funding is determined by the performance agreement. All new studies offered will be on a two-cycle basis (bachelor's and master's degrees), but there is no legal compulsion to change diploma (one-cycle) programmes over to the new system. ECTS is being systemically applied. PhD programmes can be introduced in place of the traditional, less rigorous doctoral studies. Every university has an office responsible for ensuring that students' rights are observed.

University fees, which were introduced in 2001 and amount to €363.36 per term for citizens of Austria or other member countries of the EU, are being retained. Citizens of all other countries will be charged €726.72 per term. All students must pay them, but they are refunded to recipients of

Austrian state scholarships (outstanding scholars and students with limited means). The fees can be waived for students from the least developed countries by the universities. The students in transnational EU, national or university programs do not pay the fees.

The students are balloted on the use of university fees; they select priorities from a list drawn up by the senate.

Academic freedom

Freedom of scholarship and teaching, anchored in the Constitution since 1867, is unaffected. It applies to all members of the universities, including permanent civil servants, new employees and students. Moreover, all scholars, regardless of age and status, have the right to conduct research funded by third parties and contract research without obtaining the approval of their superiors, provided that this does not interfere with the performance of the duties agreed with the university management. Conversely, no one can be compelled to perform research or teaching work that conflicts with his/her conscience.

Quality assurance

The universities are required to establish quality management systems. The commissioning of research and teaching evaluations, and their outcomes, forms part of the performance agreement. The rectorate, the university council and the Minister are empowered to order evaluations. The performance of all university teachers, irrespective of their status, must be evaluated at least once every five years.

The Austrian quality assurance agency (AQA) was set up by the Austrian Rectors' Conference, the Austrian Fachhochschul-Conference, the representation of the private universities' sector, the Austrian National Union of Students and the Federal Ministry for Education, Science and Culture. It started operations in April 2004.

The text of the Act (in German and English) is posted at:
<http://www.bmbwk.gv.at> and <http://www.weltklasse-uni.at>

Commentaries on the Universities Act by non-Austrian experts, academic officers and politicians:
Stefan Titscher and Sigurd Höllinger (eds.)
Hochschulreform in Europa – konkret. Österreichs Universitäten auf dem Weg vom Gesetz zur Realität
Leske and Budrich, Opladen, 2003
(*Austria's universities as an example of European university reform on the road from legislation to reality*)

The reform concept and the Universities Act:
Sigurd Höllinger and Stefan Titscher (eds.)
Die österreichische Universitätsreform. Zur Implementierung des Universitätsgesetzes 2002
Facultas Universitätsverlag, Vienna, 2004
(*Austrian university reform: implementation of the Universities Act 2002*)

Universities Act 2002

