

# Legal education in Austria<sup>1</sup>

## Introduction

Studies on legal topics – also concerning the university system and especially of legal education – are very often published in the respective national language. Furthermore, in Austria an English written overview over the system of legal education is missing. Especially for starting a comparative analysis this circumstance turns out to be harmful.

The following overview seeks to close this gap. This also makes sense, because within the last decade the system of university education in Austria, as in other member states of the European Union (EU) – has been heavily influenced by the changes produced by the Bologna Process. One of the fields in which the adoption of these harmonising rules proved to be very difficult and almost impossible are law studies. The reasons for this can be found in several sets of circumstances and will be explained below. One of these factors is the relevant legislation and it therefore makes sense to start with a description and evaluation of the legal background of the study of law.

## 1. Legal framework of higher education in Austria with particular emphasis on studies of law

In Austria, the general regulation of the study of law can be found in the Universities Act 2002<sup>2</sup>. Besides the organization of the universities

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<sup>1</sup> A written version of an oral presentation at the conference “Legal Education in Contemporary Europe” from 30 IX 2014 to 2 X 2014 in Zielona Góra.

<sup>2</sup> Federal Law Gazette (Bundesgesetzblatt, BGBl) I 120/2002, as amended, hereinafter “the Universities Act 2002”. An English translation (unfortunately not up to

and the labour law of the employees of the universities, this law also regulates the study of law. On the basis of this Universities Act, universities in Austria are entitled to offer diploma, bachelor, master and doctoral degree programmes<sup>3</sup>. It also states that newly introduced degree programmes may only be inaugurated as bachelor, master or doctoral degree programmes and not as diploma degree programmes. Diploma degree programmes are the traditional form of the studies in Austria, but they are not in accordance with the Bologna Process. Therefore they should expire. One of the studies offered at the universities is law studies. In Austria, as in the other countries – the study of law is one of the most traditional university courses and the country has five Faculties of Law – in Vienna, Linz, Salzburg, Innsbruck and Graz. All these faculties, with the exception of Graz, the Vienna University of Economics and Business and Klagenfurt University, also offer a special programme in Economy and Law.

Because of the historical background, the faculties did not see any need to switch to the Bologna Process, notwithstanding the fact that there have been some discussions about this topic. One of the reasons for this decision can be found in the scepticism of the Austrian Chamber of Advocates and the Chamber of Notaries regarding the new structures defined by the Bologna Process, with the introduction of new academic degrees being perceived as particularly unusual. For instance, in English the word “bachelor” does not only mean an academic degree, but also an unmarried person, and even worse a playboy (!) Seen from the historical perspective, in Austria any persons employed in a classical legal profession were required to hold the title of Doctor of Law. The academic degree “Magister of Law,” which was introduced in the 1980s, has only been accepted very reluctantly. Although the Universities Act 2002 allows a four-year bachelor degree programme with 240 ECTS-credit points in exceptional cases<sup>4</sup>, which has minimal requirements to comparable the former diploma degree programme, no faculty of law has introduced such a programme in Austria.

Another aspect concerning law studies in Austria is that applicants are not required to pass an entrance examination in order to be admitted to the degree course. The reason for this is that the Law is not listed

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date) can be found on [https://www.ris.bka.gv.at/Dokumente/Erv/ERV\\_2002\\_1\\_120/ERV\\_2002\\_1\\_120.pdf](https://www.ris.bka.gv.at/Dokumente/Erv/ERV_2002_1_120/ERV_2002_1_120.pdf) (accessed: 9 XII 2014).

<sup>3</sup> See § 54 Section 1 of the Universities Act 2002.

<sup>4</sup> For details, see § 54 Section 3 of the Universities Act 2002.

under those fields of study in the Universities Act 2002 for which, due to a very strong demand, entry regulations may be defined<sup>5</sup>. A political discussion on whether to include law studies in this catalogue of fields of study started in spring 2014.

Therefore, the possession of the general university entrance qualification is sufficient for enrolling on a Law degree programme. This general university entrance qualification can be the Austrian secondary-school leaving certificate, any other Austrian certificate attesting the right to study a certain subject at a University, or an equivalent foreign certificate<sup>6</sup>.

Instead of this entrance examination, the Universities Act 2002 provides an 'orientation period'<sup>7</sup>. This period must be designed in such a way as to give students an overview of the content of the study programme in question. It is also intended to support students in making their decision on which study programme to select. Within the orientation period, at least two examinations have to be provided, which can only be repeated twice. In the event of a student failing the final resit, admission to the degree programme expires.

In the Austrian higher education system it is not common to levy tuition fees. Such fees only have to be paid by students exceeding the duration of the study period, in addition to two 'tolerance semesters', and Third Country nationals<sup>8</sup>.

Summing up the principles of study regulations in Austria, it can be said that the Universities Act 2002 only sets out a very general framework. The specific implementation is carried out through the statutes of each university and the curricula of the individual study programmes. The curricula are prepared by the respective curricula committees, which are provided in the Universities Act 2002<sup>9</sup> and established by the senate of the university. They are then handed over to the rectorate to deliver an opinion. Finally, the curricula are approved by the senate of the university<sup>10</sup>.

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<sup>5</sup> These fields are described in § 14 h of the Universities Act 2002.

<sup>6</sup> See in detail § 64 Section 1 of the Universities Act 2002.

<sup>7</sup> Prescribed in § 66 of the Universities Act 2002.

<sup>8</sup> Cf. § 91 of the Universities Act 2002.

<sup>9</sup> See § 25 Section 1 Number 10 and § 25 Section 8 Number 3 of the Universities Act 2002.

<sup>10</sup> See in detail § 22 Section 1 Number 12 and § 25 Section 1 Number 10 of the Universities Act 2002.

Such a method of regulation grants the universities extensive autonomy. But, on the other hand, the condition that curricula from the same field of study may vary greatly across universities in Austria can be cited as a disadvantage that may lead to some problems. Such variations in curricula, for instance, make it difficult when it comes to accrediting exams in the case of students changing their study location. Furthermore, determining a consistent minimum standard is no longer possible.

In fact, these factors are substantial for the law studies, which should be similar all over the country. In view of this situation, the Austrian legislator was forced to create basic standards for law studies. Interestingly, this was not done in the Universities Act 2002, but in the various laws on legal professions, namely in the Law on Advocates and the Law on Notaries, as well as in the Law on Judges and State Attorneys with respectively identical provisions<sup>11</sup>.

According to these laws, Austrian law studies must be completed at a university in order for a graduate to be authorized to exercise one of the aforementioned professions. Furthermore, an academic degree in jurisprudence must be obtained. The formulation was intentionally chosen in an open way to offer different possibilities to faculties of law in organising law studies (see above). The duration of the studies must be at least four years and the workload must amount to 240 ECTS credit points. During the studies, adequate knowledge of the following subjects has to be gained:

- Austrian private law and Austrian private procedural law,
- Austrian criminal law and Austrian criminal procedural law,
- Austrian constitutional law including fundamental rights and freedoms and Austrian administrative law including administrative procedural law,
- Austrian corporate law, Austrian labour and social law and Austrian tax law,
- European law, international public law,
- If required, other fields of law,
- Basic principles of law, fields of economic sciences, other fields related to law.

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<sup>11</sup> Law changing the Laws on Legal Professions 2008, Federal Law Gazette (BGBl) I 111/2007, and BGBl I 96/2007 concerning Judges and State Attorneys.

These subjects are also substantiated by ECTS credit points, which means that the workload for these fields must amount to at least 200 ECTS credit points, whereby the jurisprudential subjects enumerated here must amount to at least 150 ECTS credit points. The remaining 40 ECTS credit points are awarded on completion of the respective curriculum. Students are required to provide evidence of their knowledge by successfully passing examinations and/or by receiving positive assessments for their written papers. Furthermore, a positive assessment of an obligatory diploma thesis focusing on one or several of the mentioned jurisprudential subjects is required as evidence of the student's ability to work independently. By way of summary, these requirements are not written down in the Universities Act 2002, but in the laws on legal professions.

Regarding the doctoral programme in law, it should be mentioned that this is determined only by the much more general and therefore more or less "weak" provisions of the Universities Act 2002. According to the relevant legal definition of the Universities Act 2002, "doctoral degree programmes" are degree programmes which extend the students' ability to undertake independent scientific work. Building on the knowledge gained and abilities developed during diploma and master's degree programmes, they also serve as preparation and a means of promotion for junior academic staff. Upon successful completion of the programme, students are awarded the academic title of "Doktor," abbreviated as "Dr.," followed by an abbreviation designated by the curriculum, or "Doctor of Philosophy," abbreviated as "Ph.D.". The duration of doctoral degree programmes must be at least 3 years<sup>12</sup>.

## **2. Law studies at the University of Graz – a specific example**

All the aforementioned provisions must be implemented in the curricula of Austria's law faculties. It is evident that a comparative view of these curricula would be rewarding and interesting, but this would go by far beyond the scope of the framework of this paper. Therefore, by way of example, we would like to describe the situation at the faculty where we both work: the Faculty of Law at the University of Graz.

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<sup>12</sup> Written down in § 51 Section 2 Number 12 and Number 14 and § 54 Section 4 of the Universities Act 2002.

## 2.1. Diploma programme in law

In June 2013 an extensive amendment to the Diploma programme in law at the University of Graz was enacted<sup>13</sup>. Such a form of amendment was chosen to avoid the consequences of the Universities Act 2002 that newly introduced degree programmes can no longer be diploma degree programmes (see above). From the beginning of the winter term 2014/15 the regulations of this new curriculum apply to all students enrolled on the programme for the first time.

The curriculum provides that the Diploma programme in law has a duration of 8 semesters. Upon successful completion of the programme students are awarded the academic title of “Magister der Rechtswissenschaften” (*Magister iuris*, abb. *Mag.iur.*)<sup>14</sup>. At the beginning of the curriculum, a voluminous qualification profile is written, partly in accordance with the Bologna Process, a profile which consists of the subcategory topics of the study, competences and relevance of the study for the science and labour market<sup>15</sup>.

The programme consists of 3 study sections. The first section comprises 2 semesters, the second 4 semesters and the third once again 2 semesters. Each of them concludes with a positive assessment of all parts of a diploma examination. This means that the student has to pass all the written and oral examinations of the respective study section prescribed in the curriculum. Each subject ends with an exam normally assessed by a single examiner. For each of the 3 study sections passed, the student receives a diploma examination certificate<sup>16</sup>. The study programme comprises 240 ECTS credit points.

The aforementioned orientation period, which must be completed at the beginning of the study programme, comprises the following lectures:

- Orientation Course,
- The Legal Case as an Introduction to Law,
- Selected Topics in Private Law, Public Law and Criminal Law.

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<sup>13</sup> Bulletin of Karl-Franzens-University (KFU) Graz, Academic Year 2012/13, iss. 39 h, in German available on: [http://static.uni-graz.at/fileadmin/rewi/Referat\\_fuer\\_Studium\\_und\\_Lehre/Gesetze\\_Verordnungen/Studienplan\\_2014.pdf](http://static.uni-graz.at/fileadmin/rewi/Referat_fuer_Studium_und_Lehre/Gesetze_Verordnungen/Studienplan_2014.pdf) (accessed: 9 XII 2014). A short version in English can be found on: <http://rewi.uni-graz.at/en/studying/diploma-programme-in-law/diploma-programme-in-law-as-of-01102014/> (accessed: 9 XII 2014).

<sup>14</sup> Cf. § 1 of the Diploma programme in law, hereinafter as “the Diploma programme.”

<sup>15</sup> See in detail part I of the Diploma programme.

<sup>16</sup> Cf. § 14 of the Diploma programme, examination rules.

This orientation period is part of the first section and lasts one semester. All the subjects listed here have to be passed by positive examination. If the student fails the second (last) resit, the legal consequence of this failure is that the student's studies are discontinued (see above)<sup>17</sup>.

The obligatory subjects of the first diploma examination are as follows<sup>18</sup>:

- The subjects of the orientation period,
- Introduction to the International Dimensions of Law: Basics of International Public Law, of European Law and of International Private Law,
- Ethics and Legal Policy,
- Legal Theory and Legal Reasoning,
- Introduction to Legal Computing,
- Roman Law as foundation of the European Legal Systems,
- Development of Austrian and European Law,
- Introductory Economics with legal perspectives.

The second diploma examination is composed of the following obligatory subjects<sup>19</sup>:

- Constitutional Law and General Theory of the State,
- Administrative Law and Theory of Administration,
- Private Law including International Private Law,
- Private Procedural Law,
- Criminal Law and Criminal Procedural Law,
- European Law,
- Corporate Law,
- International Public Law,
- Financial Law,
- Labour and Social Law,
- Introduction to Scientific Work.

The aim of the subject "Introduction to Scientific Work" is to enable students to write scientific papers in the correct way as regards content and formal issues<sup>20</sup>.

Within the third study section, students are offered the possibility to specialize in a certain field of studies. In their selected field of

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<sup>17</sup> See § 7 of the Diploma programme in connection with § 66 of the Universities Act 2002.

<sup>18</sup> See § 9 of the Diploma programme.

<sup>19</sup> See § 11 of the Diploma programme.

<sup>20</sup> Cf. § 12 Section 3 of the Diploma programme.

specialization students have to complete obligatory subjects amounting to 8 hours per semester as well as freely elected lectures chosen from a catalogue of other subjects, amounting to 6 hours per semester. The obligatory as well as the freely elected subjects are written down in an extensive list in the Diploma programme. These subjects can be offered in all forms – lectures, seminars, courses, etc., with the focus on seminars<sup>21</sup>. In seminars students must give an oral presentation, and write a final scientific paper and active participation is required<sup>22</sup>. One of the freely elected subjects is “University and Practice,” offered in order to prepare the students for the future requirements of legal professions.

The fields of specialization from which students may choose are<sup>23</sup>:

- International Relations,
- Judicial System,
- Public Administration,
- Politics and Society,
- Economy and Law.

Instead of one of the five fields of specialization students can also choose to do a “Free Combination” of the obligatory and elective subjects of all fields of specialization.

In addition to the diploma examinations, the positive assessment of a diploma thesis is required. It consists of a written scientific paper and its oral defence (*defensio*). The topic of the diploma thesis has to be chosen from one of the examination subjects defined in the study plan. Upon successful completion, students are awarded the academic degree of “Magister der Rechtswissenschaften” (*Magister iuris*, abb. Mag.iur.).

## 2.2. Doctoral programme in law

After completing the Diploma programme in law, a graduate may enrol on a Doctoral programme. Graduates of other relevant or equivalent diploma or master degree programmes are entitled to be admitted to the Doctoral programme in law<sup>24</sup>. The curriculum for this programme dates

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<sup>21</sup> For details see § 13 of the Diploma programme.

<sup>22</sup> This regulation can be found in § 3 Section 7 of the Diploma programme.

<sup>23</sup> Listed in § 13 Section 2 of the Diploma programme.

<sup>24</sup> Cf. § 64 Section 4 of the Universities Act 2002.



back to the year 2009<sup>25</sup>. Its aim is to enhance the postgraduate student's ability to conduct independent scientific research and to educate and to promote young academics on the basis of a diploma or master studies. Students on the Doctoral programme are required to demonstrate that they are able to contribute to the further development of jurisprudence by means of high-level scientific work<sup>26</sup>.

According to the legal requirements, the programme must be 3 years in duration. The programme is not divided into study sections. The workload of the programme must amount to 180 ECTS credit points and include the presentation and defence of a dissertation project (20 ECTS credit points), the writing of a dissertation (125 ECTS credit points), the completion of two 'doctoral colloquia' in the subject of the dissertation (10 ECTS credit points) and three seminars in a specialisation (15 ECTS credit points). Finally, doctoral candidates have to pass a *defensio* of the dissertation (10 ECTS credit points)<sup>27</sup>. Doctoral colloquia serve as an accompaniment to and means of assessing the progress of the dissertation and for scientific discussion among doctoral candidates<sup>28</sup>. The specialisation subject can but does not necessarily need to be connected with the topic of the dissertation. Doctoral candidates must provide a justification for their selection of specialisation subject<sup>29</sup>. Upon successful completion of the Doctoral programme in law, students are awarded the academic degree of "Doktor der Rechtswissenschaften," or in Latin "*Doctor iuris*," abbreviated as "Dr.iur."

### 2.3. Postgraduate study programmes

In addition to the Doctoral programme in law, the Faculty of Law of the University of Graz offers numerous other postgraduate study programmes completed with various academic degrees. They are centralised

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<sup>25</sup> Bulletin of KFU Graz, Academic Year 2008/09, iss. 41 f, hereinafter "the Doctoral programme," in German available on: [https://online.uni-graz.at/kfu\\_online/wb-Mitteilungsblaetter\\_neu.display?pNr=2337&pDocNr=131461&pOrgNr=1](https://online.uni-graz.at/kfu_online/wb-Mitteilungsblaetter_neu.display?pNr=2337&pDocNr=131461&pOrgNr=1) (accessed: 9 XII 2014). A short version in English can be found on: <http://rewi.uni-graz.at/en/studying/doctoral-studies-in-law/doctoral-programme-as-of-october-1-2009/> (accessed: 9 XII 2014).

<sup>26</sup> See § 1 of the Doctoral programme.

<sup>27</sup> Cf. § 3 of the Doctoral programme.

<sup>28</sup> See § 8 Section 2 of the Doctoral programme.

<sup>29</sup> See § 9 Section 3 of the Doctoral programme.

in the "School of International and Advanced Studies"<sup>30</sup> and cover a broad spectrum, such as :

- the Joint Master's Programme in South-Eastern European Studies,
- the Joint Degree University Programme in Business Law and Economic Cooperation between the EU and Russia,
- the University Programme in Art and Law,
- the University Programme in Mediation, Negotiation, Communication and Conflict Management, and
- the University Course in Parliamentarism and Regional Policy.

### Conclusions

All of this shows very plainly that law studies in Austria are regulated in a remarkable interaction between laws and autonomous decrees of the universities. In this context, one may of course ask whether all these regulations are reasonable. Another problem is the European background of law studies. These questions should be discussed in a concluding analysis.

The Universities Act 2002 was celebrated as a big step towards the deregulation and autonomy of Austrian universities. In fact, this derives from extensive autonomy being given to the curricula committees, with certain disadvantages in terms of required standardisations and harmonisations.

In this context it must be mentioned that the harmonisation of the jurisprudential curricula by the Laws on Advocates and Notaries as well as by the Law on Judges and State Attorneys can only be an auxiliary solution. This is due to the fact that theoretically the respective curricula committee is not obliged to follow these laws, because they only set admission qualifications for the legal professions, whereas the spectrum of judicial activities is actually much broader. In fact, it is impossible to ignore these requirements. Professions such as advocate, notary, judge and state attorney represent the core of judicial activities, and it is certainly not the intention of any faculty of law in Austria to produce graduates who are not fit for the labour market.

In conclusion, it might be suggested that the system before the Universities Act 2002 was probably better. The Law on University Studies

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<sup>30</sup> For an overview of all the programmes at the Faculty of Law of the University of Graz. Cf. School of International and Advanced Studies, <http://rewi.uni-graz.at/en/studying/sias/> (accessed: 9 XII 2014).

in force defined the general guidelines of studies. In addition to this law, there was also a separate Law on Legal Studies, a Ministerial Study Decree concretising the Law and at each law faculty a detailed study plan, enacted by the respective curricula committee. Within the old system, deregulation would have been possible, for instance, by dropping the level of the Ministerial Study Decree.

The strong connection of the legal education with the requirements of the classical legal professions also led to neglect of the Bologna Process. Until now, not even the possibility set out in the Universities Act 2002 of designing a bachelor degree programme comprising 240 ECTS credit points has been used. In this case, the traditional opinion that legal practitioners in Austria must earn at least a diploma if not a doctoral degree plays an important role. In many other EU member states, problems concerning the implementation of the Bologna Process still exist, especially in the field of Law.

At the local level within Austria, there is an ongoing discussion of whether the diploma degree programmes at the different universities should consist of two or three study sections. From our point of view the system of three study sections has proved successful. Repetition of the contents of the core subjects of private law, public law and criminal law is accepted in order to improve the required knowledge.

What is of much greater importance is to gain knowledge about the expectations and hopes of the faculty's alumni. At the Faculty of Law in Graz, a labour market survey found that graduates with a broad legal knowledge are still in demand. In addition, it made clear that greater practical relevance is of importance in studies. The Graz Faculty of Law tries to meet these challenges by creating part-time professorships and professorships for practitioners.

In conclusion, it must be stated that law studies, one of the most traditional courses at Austrian universities, follow and develop more or less approved models; there is no need for any significant upheaval.