

# **Federal Law on the Institute of Science and Technology Austria (IST Austria Act – “ISTAG”)**

Federal Law Gazette BGBl. I Nr. 69/2006, last amended by BGBl. I Nr. 75/2020

## **Preamble/Promulgation clause**

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## **Establishment and legal status**

**Section 1.** (1) The Institute of Science and Technology – Austria shall be set up as a postgraduate scientific institution.

(2) The Institute of Science and Technology – Austria is a public law entity with its own legal personality and manages its affairs in accordance with the provisions of this federal law on its own.

(3) Unless otherwise stipulated in this federal law, Sections 1 and 2 of the Research Organisation Act (*Forschungsorganisationsgesetz*), Federal Law Gazette (*BGBl.*) Nr. 341/1981, shall also apply within the scope of this federal law.

## **Goals and principles**

**Section 2.** (1) The objective of the Institute of Science and Technology – Austria shall be cutting-edge research in the area of basic research. It is designated to explore and develop new fields of research. The teaching serves to provide high-quality postgraduate education in the form of PhD-programmes and post-doctoral programmes.

(2) The Institute of Science and Technology – Austria is guided by the following principles:

1. Freedom of science and its teaching (Article 17 of the Basic Law on the General Rights of Nationals (*Staatsgrundgesetz über die allgemeinen Rechte der Staatsbürger*), Imperial Law Gazette (*RGBl.*) No. 142/1867),

2. Independence in all scientific matters as well as in the areas of organisation, management and selection of personnel,

3. Research based on the highest internationally recognised standards,

4. Worldwide recruitment of best-qualified research personnel,
5. Training of best-qualified young researchers,
6. International orientation in research and teaching,
7. Participation in setting up "spin-offs",
8. In-depth cooperation with domestic and foreign university and non-university scientific and research institutions.

## **Financing**

**Section 3.** (1) According to the agreement between the Federation and the Federal State of Lower Austria on the establishment and operation of the Institute of Science and Technology – Austria, including its addendum, the Institute of Science and Technology – Austria shall be jointly maintained and financed by the Federation and the Federal State of Lower Austria.

(2) The expenses associated with the establishment and operation of the Institute of Science and Technology – Austria according to the respective annual budget shall be covered, in particular, by the following sources of finance:

1. Partial financing by the Federation, at least in the amount of the partial funding provided by the Federal State of Lower Austria in accordance with the agreement pursuant to Article 15a of the Austrian Federal Constitutional Law (*Bundes-Verfassungsgesetz, B-VG*), using the funds provided by the Federation in accordance with the Austrian Research Funding Act (*Forschungsfinanzierungsgesetz, FoFinaG*), Federal Law Gazette (*BGBl.*) I No. 75/2020, the respective Federal Financial Framework Act (*Bundesfinanzrahmengesetz*), the annual Federal Financial Act (*Bundesfinanzgesetz*) and a performance agreement drawn up in accordance with the provisions of the Research Funding Act,

2. Partial financing by the Federal State of Lower Austria in accordance with the agreement pursuant to Article 15a of the Austrian Federal Constitutional Law,

3. Partial financing by third parties,

4. Partial financing through own income.

The actual contributions to be made by the Federation and the Federal State of Lower Austria shall be governed by the provisions of the agreement pursuant to Article 15a of the Austrian Federal Constitutional Law.

(2a) Section 13 para. 1, 3 and 8 – 10 and Section 13a para. 1, the penultimate and last sentences of para. 2, the third and fourth sentences of para. 3 and paras 4 - 7 of the Austrian University Act (*Universitätsgesetz, UG*) 2002, Federal Law Gazette (*BGBl.*) I No. 120/2002, shall apply to the conclusion of the performance agreement referred to in Section 2 no. 1 hereof, provided that

1. Any references to a university or universities shall be a reference to the Institute of Science and Technology – Austria. The respective other party shall be notified of the appeal without delay.

2. The settlement commission pursuant to Section 13a of the Austrian University Act shall be replaced by a settlement commission to which the following shall apply:

- a) the chairperson shall be appointed by mutual agreement of

- aa) the Federal Minister of Education, Science and Research, and

- bb) the President of the Institute of Science and Technology – Austria;
- b) two members each shall be appointed by
  - aa) the Federal Minister of Education, Science and Research, and
  - bb) the President of the Institute of Science and Technology – Austria;
- c) if no agreement on a chairperson can be reached within two weeks after notification pursuant to sub-section 1, the members appointed in accordance with lit. b shall appoint a chairperson by mutual agreement;
- d) if no agreement can be reached according to lit. c, either,
  - aa) the Federal Minister of Education, Science and Research, and
  - bb) the President of the Institute of Science and Technology – Austria shall each name one person; the chairperson shall then be determined by lot;
- e) all members must engage in a relevant activity in research or research management, which must qualify them to assess questions of management and financing of non-university, internationally oriented basic research institutions;
- f) members must neither be employees of the Federal Ministry of Education, Science and Research nor employees of the Institute of Science and Technology – Austria.

3. In cases where the performance of the respective parties does not meet the performance agreement, and unless otherwise provided in the performance agreement, the settlement commission shall

- a) within the budgetary framework of the performance agreement and,
- b) in case of doubt, by opting for a solution that will best ensure that the Institute of Science and Technology – Austria is able to complete its tasks

decide by means of an administrative decision (*Bescheid*) regarding appropriate consequences and corrective measures. This decision must be issued within four weeks of the settlement commission first having a quorum, based on the analysis and justification of the questions put to it. The parties shall be obliged to implement such decisions.

(3) The Institute of Science and Technology – Austria shall be entitled to charge suitable fees to finance the teaching of the PhD programmes. No fee will be charged in cases where there is an entitlement to a study grant under the 1992 Student Support Act (*Studienförderungsgesetz*).

### **Performance agreements**

**Section 3a.** (1) Performance agreements entered into with the Institute of Science and Technology – Austria constitute contracts under public law.

(2) Section 6 and Section 8 para. 2 of the Austrian Research Funding Act (*FoFinaG*) shall apply provided that performance agreements entered into with the Institute of Science and Technology – Austria shall be limited to the tasks and objectives specified in Section 2 hereof.

(3) The Institute of Science and Technology – Austria shall

1. support the Federal Minister of Education, Science and Research in preparing drafts for an FTI-pact pursuant to Section 2 of the Austrian Research Funding Act (*FoFinaG*);

2. provide the Federal Minister of Education, Science and Research with a draft performance agreement for negotiation by 31 March of the last year of the current performance and financing period (Section 5 (4) of the Austrian Research Funding Act (*FoFinaG*)).

### **Annual budget plan, financial conduct and accounting**

**Section 4.** (1) The annual budget plan, financial conduct and accounting of the Institute of Science and Technology – Austria shall comply with the principles of legality, economic efficiency, adequacy, economy and transparency.

(2) The Institute of Science and Technology – Austria shall dispose freely of its income.

(3) The financial conduct shall be in its own name and for its own account.

(4) The Federal Government assumes no liability for any commitments incurred by the Institute of Science and Technology – Austria.

(5) By 30 April of each year, the President shall submit to the Board of Trustees the annual budget plan for the following year and the forecast for the two following years, the annual performance report and the annual financial statement, together with the auditor's report.

(6) The financial conduct of the Institute of Science and Technology – Austria shall be subject to audit by the Court of Auditors.

### **Quality assurance**

**Section 5.** (1) The Institute of Science and Technology – Austria shall set up quality assurance procedures in accordance with internationally applicable standards for top research institutions.

(2) The activities of the Institute of Science and Technology – Austria shall be evaluated at seven-year intervals. The evaluation reports shall be submitted to the National Council (*Nationalrat*) by the Federal Government.

### **Board of Trustees**

**Section 6.** (1) The Board of Trustees is assigned the following tasks:

1. Approval of the statutes of the organisation and the strategic orientation, based on a proposal by the President,

2. Appointment of the President and dismissal of the President for cause; the Board of Trustees may appoint a subcommittee from among its members which is charged with the search for a President; the proposals of this subcommittee shall be submitted to the Board of Trustees for approval,

3. Appointment of the Scientific Board, in accordance with the proposal of the President,

4. Appointment and dismissal of the Managing Director, in accordance with the proposal of the President,

5. Approval of the procedures for the appointment and promotion of scientific staff, in accordance with the proposal of the President,

6. Approval of the annual budget based on the annual budget plan, the forecast for the two following years, the annual performance report and the annual statement of accounts,

7. Approval of model employment contracts for individual staff groups (scientific staff, non-scientific staff, administrative staff, etc.),

8. Approval of general powers of attorney issued by the President to persons who are authorised to conclude legal transactions on behalf of the Institute of Science and Technology – Austria.

(2) In addition, the Board of Trustees may perform the following tasks:

1. Specification of an additional name for the Institute of Science and Technology – Austria, indicating its priorities and profile development, that can be used in the presentation to the public,

2. Drawing up of by-laws for the Board of Trustees, in which the latter may reserve a right of approval in respect of further matters,

3. Establishment of an Executive Committee from among the members of the Board of Trustees and specification of its responsibilities,

4. Establishment of additional committees.

(3) The Board of Trustees shall always consist of no fewer than 14 members who, based on their knowledge and experience, may be expected to make a significant contribution to achieving the objectives of the Institute of Science and Technology – Austria. All members of the Board of Trustees shall be entitled to vote. The Board of Trustees may expand by passing a resolution to include the third parties named in Section 3 sub-section 2 no. 3.

(4) At all times, at least half of the members of the Board of Trustees shall be internationally renowned scientists, preferably with extensive experience in science management. The majority of the scientific members of the Board of Trustees must be working or have worked in internationally renowned scientific institutions. The Federal Government shall appoint four members, and the Federal State of Lower Austria shall appoint three members of the Board of Trustees who hold or have held responsible positions in society, especially in science or business.

(5) During the period of their membership in the Board of Trustees or in the respective committee, members of the Board of Trustees and members of the committees appointed by the Board of Trustees may not hold any position that could lead to a conflict of interest with regard to their membership in the Board of Trustees or in a sub-committee.

(6) The term of office of the members shall be five years. Re-appointments shall be permissible. In case of premature resignation of a member, a new member shall be appointed for the remainder of the term of office in the same manner as the resigning member. The appointing body may dismiss a member for cause before the end of the term of office.

(7) The chairperson and a deputy chairperson shall be elected by the Board of Trustees from among its members. Either the chairperson or the deputy chairperson shall be elected from among the scientific members.

(8) The Board of Trustees shall be deemed to have a quorum if at least half of its members are present in person. The Board of Trustees shall adopt its decisions with a simple majority of votes. In case of a tie, the chairperson shall have the casting vote.

(9) For the first Board of Trustees, seven renowned scientists shall be nominated by the chairperson of the Science Board, the chairperson of the Council for Research and Technology Development and the president of the Fund for the Promotion of Scientific Research (*Fonds zur Förderung der wissenschaftlichen Forschung, FWF*), acting jointly, and appointed by the Federal Government. Once the first Board of Trustees has been appointed, future scientific members shall be appointed by the Board of Trustees itself.

(10) The first Board of Trustees shall determine the period within which the first President is to be appointed. Until the President is appointed, the chairperson of the Board of Trustees or another member designated by the Board of Trustees shall conduct any essential day-to-day business.

### **President**

**Section 7.** (1) The President shall manage the Institute of Science and Technology – Austria and represent it externally. She or he is entitled to select and authorise persons to enter into legal transactions on behalf of the Institute of Science and Technology – Austria.

(2) The President shall manage the day-to-day business of the institute and decide on all matters not expressly assigned to other bodies. The President shall also be responsible for determining the work organization.

(3) Only a scientifically internationally renowned personality with experience and with the skills necessary for managing an important research institution may be appointed as president.

(4) The President shall be appointed by the Board of Trustees for a period of four years. The president may serve more than one term.

### **Managing Director**

**Section 8.** (1) The Managing Director shall support the President.

(2) Decisions concerning major financial matters shall be taken by the President jointly with the Managing Director. If no agreement can be reached on these matters, the President shall decide alone. The Board of Trustees must be informed of such decisions.

(3) The Managing Director shall be appointed by the Board of Trustees upon a proposal submitted by the President.

### **Scientific Board**

**Section 9.** (1) The Scientific Board shall draw up proposals for scientific orientation and for ensuring top-quality scientific performance.

(2) The Scientific Board is composed of a minimum of ten internationally renowned scientists.

(3) The members of the Scientific Board shall be appointed by the Board of Trustees on proposal by the President for a period of six years. Re-appointments are permissible.

(4) The Scientific Board shall include one non-voting member who, due to his or her outstanding management experience, may be expected to make a significant contribution towards the achievement of the objectives of the Institute of Science and Technology – Austria. This member shall be proposed by the Board of Trustees and appointed by the President.

### **Staff**

**Section 10.** (1) The employment relationships with the Institute of Science and Technology – Austria shall be governed by the Austrian Salaried Employees Act (*Angestelltengesetz*), Federal Law Gazette (*BGBI.*) No. 292/1921. The special provisions of Section 110 of the Austrian University Act 2002 (*Universitätsgesetz*) shall apply, *mutatis mutandis*, with regard to working hours and rest periods.

(2) Employee inventions pursuant to Section 7 para. 3 of the Austrian Patent Act (*Patentgesetz*), Federal Law Gazette (*BGBI.*) No. 259/1970, made at Institute of Science and

Technology – Austria shall be governed by the provisions of the Patent Act, provided that the Institute of Science and Technology – Austria shall be considered as the employer as defined in Section 7 para. 2 of the Patent Act.

(3) Within the scope of this federal act, immunity from prosecution according to Section 30 para. 5 of the Austrian Data Protection Act (*Datenschutzgesetz*), Federal Law Gazette (*BGBI.*) I No. 165/1999, shall extend – within the scope of each specific assignment – to the data processors of the Institute of Science and Technology – Austria.

### **PhD Programmes**

(Note: Section 11.) (1) The Institute of Science and Technology – Austria is entitled to set up PhD programmes. The establishment of joint PhD programmes with other domestic and foreign scientific institutions is permissible. The duration of training shall be at least three years. The PhD programmes may also be offered as combined Master's/PhD programmes. The duration of the latter shall be at least five years.

(2) Before a PhD/combined Master's/PhD programme is set up, the Scientific Board and the universities must be consulted in accordance with the University Act 2002.

(3) Admission to PhD/combined Master's/PhD programmes shall require the successful completion of an admissions procedure which shall be proposed by the Scientific Board and approved by the President.

(4) Participants have a contractual relationship with the Institute of Science and Technology – Austria.

(5) The President shall award graduates the academic degree "Doctor of Philosophy", abbreviated "PhD", after they have successfully completed a PhD programme; after successful completion of the relevant part of a combined Master's and PhD programme, graduates shall be awarded a "Master of Science" degree, abbreviated "MS".

### **Effects of legal status**

**Section 12.** (1) The Institute of Science and Technology – Austria and the persons working there shall be entitled to use designations and titles of higher education, each with the addition "of the Institute of Science and Technology – Austria".

(2) With regard to the provisions of the Federal Act on the Exercise of Foreigner's Police, the Issuing of Documents for Aliens and the Granting of Entry Permits (*Bundesgesetz über die Ausübung der Fremdenpolizei, die Ausstellung von Dokumenten für Fremde und die Erteilung von Einreiseteiln*) (Foreign Police Act (*Fremdenpolizeigesetz, FPG*) 2005), Federal Law Gazette (*BGBI.*) I No. 100 /2005, the Federal Act on Settlement and Residence in Austria (*Bundesgesetz über die Niederlassung und den Aufenthalt in Österreich*) (Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz, NAG*)), Federal Law Gazette I No. 100/2005, the Foreigners Employment Act (*Ausländerbeschäftigungsgesetz*), Federal Law Gazette No. 218/1975, and the ordinances enacted on the basis of these federal laws, persons working at the Institute of Science and Technology – Austria shall be treated on equal terms with teachers and students at universities according to the University Act 2002.

(3) The Student Support Act 1992, Federal Law Gazette No. 305/1992, and the ordinances issued thereunder, the Student Residence Act (*Studentenheimgesetz*), Federal Law Gazette No. 291/1986, the Family Compensation Act (*Familienlastenausgleichsgesetz*), Federal Law Gazette No. 376/1967 (with regard to the entitlement to family allowance), the social security regulations (regarding the co-insurance of children) and the tax regulations shall apply to the participants in the programmes of the Institute of Science and Technology – Austria.

(4) As regards the tax treatment of donations, the Institute of Science and Technology – Austria shall be considered a university within the meaning of Article 4 para. 4 no. 5 lit. a of the Income Tax Act 1988, Federal Law Gazette No. 400/1988.

(5) All tax and fee privileges granted to the Federal Government under federal laws shall also apply to the Institute of Science and Technology – Austria, insofar as it is acting in fulfilment of its statutory objectives and in accordance with its principles.

(6) In meeting its objectives and realising its principles, the Institute of Science and Technology – Austria shall not be subject to the provisions of the 1994 Industrial Code (*Gewerbeordnung, GewO*), Federal Law Gazette No. 194/1994. Furthermore, the executive bodies of the Institute of Science and Technology – Austria shall be excluded from the scope of application of the Federal Budget Law (*Bundeshaushaltsgesetz*), Federal Law Gazette, BGBl. No. 213/1996.

### **Oversight**

**Section 13.** The Institute of Science and Technology – Austria is subject to the oversight of the Federal Government. This comprises monitoring of compliance with laws and regulations (legal oversight).

### **Entry into force and expiry**

**Section 13a.** (1) Section 1 para. 3 and Section 10 para. 3 in the version of the Data Protection Amendment Act 2018 – Science and Research, Federal Law Gazette I No. 31/2018, shall come into force on 25 May 2018.

(2) The table of contents, Section 3 para. 2 lit. 1 and para. 2a, Section 3a including the heading, Section 5 para. 2, Section 6 para. 1 lit. 8, Section 9 para. 2 and Section 11 as amended by the Research Funding Amendment (*Forschungsfinanzierungsnovelle*) 2020, Federal Law Gazette I No. 75/2020, shall enter into force on 1 January 2021.

### **Implementation**

**Section 14.** (1) References in this federal law to other federal laws shall be understood as references to such laws as amended from time to time.

(2) This federal law shall be implemented by:

1. as regards the application of the Foreigners Employment Act pursuant to Section 12 para. 3 hereof and of the social security regulations regarding co-insurance of children pursuant to Section 12 para. 3 hereof the Federal Minister for Labour, Social Affairs, Health and Consumer Protection,

2. as regards the application of tax law provisions regarding the co-insurance of children pursuant to Section 12 para. 3, and of Section 12 para. 4 and 5 and the second sentence of sub-section 6 the Federal Minister of Finance,

3. as regards the first sentence of Section 12 para. 6 the Federal Minister for Digitisation and Business Location,

4. in all other matters the Federal Minister for Education, Science and Research.