

WORKS AGREEMENT

on Cooperative Behaviour and Anti-discrimination in the Workplace

signed between Vienna University of Technology, represented by its rector, Tenured University Professor Dr Sabine Seidler, as the one party, and

the Works Council for Academic University Staff, represented by its chairperson, Non-Tenured University Professor Dr Erasmus Langer, and

the Works Council for General University Staff, represented by its chairperson, Mr Bernhard Koller, as the other party.

PREAMBLE

Cooperative behaviour in the workplace forms the basis for a positive in-house work atmosphere and is thus an important prerequisite for individual work satisfaction, commitment and the success of the University.

Bullying, discrimination on grounds of sex, origin, skin colour, age, religion, worldview, handicap or sexual orientation, as well as harassment or sexual harassment in the workplace constitute a serious disturbance of industrial peace and are considered to be violations of human dignity. They create a cramped, stressed and degrading working and learning environment and frequently cause health problems.

Vienna University of Technology (hereinafter: TU Vienna) has put itself under an obligation to prevent bullying, discrimination, harassment and sexual harassment and to promote and maintain a cooperative atmosphere. This also applies to TU Vienna's public image.

I. GENERAL PROVISIONS

1. APPLICABILITY

a. Applicability to individuals

This Works Agreement applies to all employees of TU Vienna as well as to all civil servants attached to the jurisdiction of TU Vienna for work.

b. Material applicability

This Works Agreement is directed at cases of discrimination stemming from employment with TU Vienna.

2. LEGAL BASIS

The present Works Agreement implements, in particular, provisions of civil service law, of the Contract Agent Act, the Employee Act, the Federal Equal Treatment Act, the Recruitment of the Disabled Act as well as the Collective Bargaining Agreement for University Staff, for the prevention, avoidance and overcoming of discrimination and in-house conflicts.

The Works Agreement is being entered into on the basis of § 97, par 1, nos 8, 9 and 20 of the Work Constitution Act (ArbVG) and § 4, no 2 read together with § 9, par 5 of the Collective Bargaining Agreement for University Staff.

3. PRINCIPLES

Cooperative behaviour in the workplace is the basis for a healthy and constructive work atmosphere. Cooperative behaviour is characterised by dealing respectfully with each other, broaching problems openly and early on as well as elaborating and implementing joint paths to resolution.

For the Rectorate, a good institutional atmosphere is highly valued. The Rectorate is aware of the heavy demands on the employees and their commitment, and endeavours to ensure good framework conditions, among other things with mutual appreciation, open communication, transparency in decisions, good management quality, ethics in the organisational units, the participation of employees as well as regular performance reviews.

The Rectorate and the two Works Councils will not tolerate types of actions at TU Vienna that run counter to the principle of cooperative behaviour and will take appropriate measures against them. Those affected are meant to be protected by this Works Agreement and at the same time encouraged to identify and resist such disturbances of industrial peace.

TU Vienna likewise advocates the structuring of hiring tests and personal job interviews according to non-discriminatory principles and makes special reference to equality goals in all application

situations and vacancy announcements. The principles of the Works Agreement must also be complied with in internal applications and job evaluations. Applicants with handicaps are to be made aware that, on request, the confidential handicap counsellor may be called upon.

The Works Agreement is a further step in raising awareness for cooperative behaviour.

Each employee is called upon to contribute, with his or her own behaviour, to cooperative association in the workplace and thus to a good work atmosphere. This also includes protecting the personality and dignity of each member of the University.

Executives are invested with considerable responsibility in this matter. Executives have the task of not being mere spectators in conflict situations but intervening in time and seeking and implementing solutions jointly with the conflict parties and, where required, with the next highest management level and supporting bodies. Executive management tasks include recognising conflicts and cases of discrimination, addressing them and finding solutions to them.

The Rectorate and the employees will endeavour to directly address and cooperatively clarify disputes, conflicts of interest and other conflicts directly with the other conflict parties. Dialogue should be sought as soon as possible after the conflict arises or the discrimination occurs. Open and constructive discussion is recognised as the best antidote to conflict escalation and the occurrence of discrimination and bullying in order to restrict contacting civil courts with substantive jurisdiction to an absolute minimum.

4. CONCEPTS

(1) Cooperative behaviour in the workplace

Cooperative behaviour is characterised by respectfully dealing with each other, addressing problems openly and early on as well as elaborating and implementing paths to a solution in case of conflict.

A violation of cooperative behaviour is any active behaviour against an individual, in particular by

- harassment, violation of personal integrity,
- intimidation/menacing/hostility/verbal abuse/assault,
- insulting/demeaning/humiliating,
- patronising/denigrating.

(2) Discrimination

Discrimination comprises all statements, acts and omissions which disadvantage, ridicule or denigrate individuals, in particular because of their age, ethnic affiliation (e.g. ethnic group, language group, also referring to skin colour), their religion, their worldview, their sexual orientation, their sex or any handicap. Ridiculing another mentality or way of life is also considered to be discrimination.

In contrast to discrimination directed directly at specific individuals or groups, indirect discrimination obtains if a seemingly neutral general rule (regulations, criteria or procedures) are set up which however de facto can disadvantage specific individuals or groups.

(3) Harassment

It is referred to as harassment if an undesirable way of behaving is adopted that violates the dignity of the individual in question, is undesirable, inappropriate or offensive to that individual and in that way creates an intimidating, hostile, denigrating, insulting or humiliating ambience for that individual.

Examples:

- Harassment by language:
 - Insulting or belittling statements and verbal abuse in connection with age, ethnic origin, sexual orientation, etc., such as “At your age you can’t manage it anymore!”
 - Xenophobic jokes
 - Threats, humiliations, ridiculing
 - Denigration if the people affected defend themselves
- Harassment by mimicry, gestures and ways of behaving:
 - Spatial isolation and marginalisation of co-workers and employees
 - Mocking imitations of language, voice or body posture
 - Ignoring individuals

(4) Sexual harassment

Sexual harassment is a question of unsolicited verbal or physical advances of a sexual nature. Sexual harassment is present if behaviour belonging in the sexual sphere is adopted that violates the dignity of an individual or which is undesirable, inappropriate or offensive for that individual.

The following are examples:

- Undesirable body contact
- Suggestive remarks, comments or jokes
- Showing sexist or pornographic depictions (e.g. on a PC, a pin-up calendar)
- Urging another to engage in sexual activities
- Hints that sexual accommodation could entail occupational advantages

(5) Bullying

Bullying is a complex frenetic or conflict-laden process in the workplace in which an individual over a protracted period of time is systematically and regularly subject by one or more individuals to ways of behaving that are experienced as assault and discrimination and which are meant to put the individual in question in an inferior position. In case of unimpeded continuation of such a process, massive detriment to the work atmosphere and negative consequences for those affected may ensue.

Examples:

- Slander/humiliation
- Spreading rumours

- Deliberate marginalisation and isolation
- Deliberately withholding information
- Allocation of demeaning, insoluble, meaningless or even no tasks by supervisors

(6) Victimisation

is present when an individual is disadvantaged as the result of a complaint, support for a complaint or initiation of proceedings to enforce claims under this Works Agreement (or going beyond that).

(7) Where the term “discrimination” is used below, it simultaneously refers to the occurrence of harassment, sexual harassment or bullying.

II. DEALING WITH CASES OF DISCRIMINATION

5. RIGHT TO COMPLAIN

(1) Complaints by those discriminated against

Individuals affected by a case of discrimination may turn to one of the contact points for counselling and support.

Contact points are:

- The Working Committee for Equal Treatment Issues
- The Works Council for Academic University Staff
- The Works Council for General University Staff
- The Coordination Office for Advancement of Women and Gender Studies

For students, in a case of discrimination, the Students’ Representation Association of TU Vienna (HTU) is the contact point.

If any of the contact points cited deals with an affected individual in a case of conflict, it must inform the other contact points that it has been called upon to do so.

(2) Complaint by witnesses

Individuals not discriminated against themselves but who are witnesses to a case of discrimination may turn to one of the contact points cited or to HTU with a complaint.

(3) Anonymous complaints

Anonymous complaints (from unknown parties) about alleged cases of discrimination are only allowed if they are directed at a collective practice at TU Vienna.

An anonymous complaint against a specific individual will not be taken up.

(4) Out-of-house legal recourse

The general law of complaint, that is recourse to a civil or criminal court or to administrative authorities, is not prejudiced by the signing of this Works Agreement.

6. DEALING WITH CASES OF DISCRIMINATION

For resolution of discrimination situations, the following steps are provided for:

Step 1: The work supervisor's obligation to intervene

The work supervisor has a duty of care in relation to his or her employees. As soon as she or he becomes aware that in her or his sphere of immediate sphere of influence a case of discrimination has occurred or that there is a corresponding suspicion, the work supervisor must immediately react and conduct a clarification interview with the parties involved.

Affiliates and employees of the contact points may upon request accompany the individuals affected to all interviews and provide support to them there.

The work supervisor must immediately take measures to resolve the discrimination situation. This may take the form of:

- Notification
- Cautioning
- Spatial separation
- External mediation

The measures taken must be recorded by the work supervisor in writing. The contact points may at any time audit compliance with these measures.

In academic matters including admission procedures, the chairperson of the HTU or an individual charged by the latter with this responsibility, will assume the obligation of intervening jointly with the member of the Rectorate responsible for academic law matters or by an individual charged by the latter with this responsibility.

Should these measures fail within a period of two months to resolve the discrimination situation, Step 2 will be taken up.

Step 2: Round table

If the discrimination cannot be cleared up by dialogue with the work supervisor or by the measures the latter has taken, then the individual affected and/or the work supervisor may contact one of the contact points cited.

A so-called "round table" will be appointed, which will include the following members:

- The member of the Rector's Office in charge of HR matters
- One member of the Working Committee for Equal Treatment Issues
- One representative of the Coordination Office for the Advancement of Women and Gender Studies
- One representative each from the two Works Councils
- The confidential handicap counsellor

- The dean of the faculty in question or the member of the Rectorate in charge
- The human resources department chairperson for academic and general staff
- One representative from the field of employment law
- One representative of the Students' Representation Association of TU Vienna in matters where students are concerned

The contact point resorted to in each case will inform the member of the Rectorate in charge of HR matters about any discrimination situation that has not been cleared up. The member of the Rectorate in charge of HR matters will immediately convene the Round Table. The members of the Round Table will then elect from amongst its members a chairperson and a deputy chairperson.

The Round Table has the task of deliberating and deciding on suitable measures to resolve the case of discrimination. In this context, the parties involved in this situation must be heard.

Such measures may take the form of:

- Organisational measures
- Compensation measures under item 14 of this Works Agreement
- Mediation
- Moderation in talks

The Round Table must set a corresponding deadline in writing for review of the measures.

Should the discrimination be so serious that the Round Table considers recourse to employment law or civil service law measures to be required, then it may recommend such measures to the Rector.

Minutes are to be kept of the meeting of the Round Table.

If the discrimination cannot be ended after recourse to the Round Table and the measures it adopts within the deadline to be set, then Step 3 will be taken up.

Step 3: Reporting to the Rector

The chairperson of the Round Table will inform the Rector about the discrimination situation and the measures already taken. The Rector will likewise conduct talks with all involved parties and decide upon civil service law or employment law measures.

7. CONFIDENTIAL COUNSELLORS

The individual who considers herself or himself discriminated against as well as the individual accused of discrimination have the opportunity to turn to one or two confidential counsellors of their choice and to have the latter involved in talks at all levels. The confidential counsellors must be affiliates of the University, with the exception of delegates from the collective bargaining bodies (trades union and Chamber of Labour). Other exceptions may be agreed upon. Any in-house confidential counsellor called upon by the individual accused of discrimination must be a member of the Works Council in question. In the proceedings, the confidential counsellor has the task of being present at the talks, observing them and advising the individual by whom they have been involved.

8. CONFIDENTIALITY

In respect of all information and occurrences, personal data and talks, all individuals participating in the resolution of the discrimination situation must in principle maintain secrecy in relation to those not privy to the proceedings. In the event that the Round Table finds that there has been a case of discrimination, this is only supposed to be published on the homepage of the member of the Rectorats in charge of HR matters (only accessible via the intranet) if the individual discriminated against so wishes. Personal data will in that case be anonymised in such a way that specific individuals cannot be identified.

9. VICTIMISATION PROTECTION

Articulation of or support for a discrimination complaint may not entail any disadvantage. Employment law or civil service law steps, in-house restructuring or such serious measures concerning in particular the individual who has articulated a case of discrimination must, where applicable, be subjected by the Works Council to a special review and will require its consent in order to take effect. The Works Council may involve the Working Committee for Equal Treatment Issues.

10. COSTS OF PROCESS

The individuals participating in the resolution of a discrimination situation are entitled to declare their expenditure of time with the proceedings as time worked for TU Vienna. The time spent for external consultations must, if a time confirmation is presented, likewise be credited as work time.

III. SANCTIONS

11. WARNING

If there is a case of discrimination that does not suggest any criminal law consequences, the discriminatory individual must be informed and warned about the direct consequences of any continuation of the discriminatory behaviour (suspension, transfer, dismissal if expulsion is not justified).

12. REPEATED DISCRIMINATION

If discriminatory ways of behaving are repeated, then the discriminatory individual must be immediately transferred from the work environment of the individual discriminated against or suspended. Repetition of discrimination may also be considered grounds for expulsion.

13. DISCRIMINATION FALLING UNDER THE REMIT OF CRIMINAL LAW

If there is a case of discrimination which may possibly have criminal law consequences (e.g. serious threats, physical injury or unlawful compulsion) then the prosecution authorities must be immediately involved and the work supervisor of the discriminatory individual must be informed.

If, in such a case, expulsion is not immediately decreed, the discriminatory individual must be immediately removed from the work environment of the individual discriminated against or suspended.

14. COMPENSATION FOR DISCRIMINATION

If the discriminatory actions are not immediately repeated, the Round Table may, in consultation with the individual discriminated against and with the involvement of the work supervisor, propose compensation measures guaranteeing compensation and satisfaction for the discrimination suffered and ensuring that the discrimination is not repeated.

Such compensation measures might, for example, be:

- Joint analysis of the team structures to eliminate the discriminatory mechanisms
- Participation in further education events on the subject of discrimination
- Participation in ongoing interventions or supervisions
- Restoration of the conditions that would have come about without the discrimination (e.g. payment of the differential compensation, grant of a promotion)
- Implementation of measures of positive discrimination up until an appropriate compensation for discrimination suffered is brought about
- Cancellation of any discriminatory proceedings, work assignments or agreements

The discriminatory individual must state her or his position on the compensation proposed within 14 days. Counter-proposals are possible. Refusal of compensation is grounds for transfer, dismissal or expulsion.

These compensation measures are to be ordered in the specific instance by the member of the Rectorate in charge of HR matters.

15. RECALL FROM THE FUNCTION, TRANSFER, DISMISSAL, DISCIPLINARY PROCEEDINGS

In serious cases of discrimination, immediate recall from function, transfer, dismissal or expulsion is possible.

In case of civil servants, disciplinary proceedings are to be initiated.

IV. EVALUATION

16. WORKING GROUP for “Monitoring and Further Development”

(1) Composition

The Working Group for Monitoring and Further Development consists of one representative each of the contact points cited in item 5, par 1 and of the confidential handicap counsellor.

(2) Functions of the Working Group

a) Monitoring and evaluation of measures to prevent cases of discrimination on the basis of the activity report of the Working Committee for Equal Treatment Issues, the report of the confidential handicap counsellor on hiring of persons with a handicap, the reports in accordance with § 12b of the Plan for Advancement of Women as well as of the cases dealt with by the Round Table and the contact points.

b) Issuing recommendations

c) Advisory body for management and personnel development

d) Annual report to the Rectorate on experiences in dealing with discrimination cases as well as recommendations for action in accordance with this Works Agreement

The Working Group must draw up its annual report by 30 April of the particular calendar year at the latest and submit it to the Rector. The Rectorate may discuss the report as well as the recommendations for action with the Working Group.

(3) Convening and meetings

The Working Group will, upon being constituted, elect from amongst its members a chairperson and a deputy chairperson.

The meetings of the Working Group will be called by the chairperson in writing by email or by other means of communication and with advance notice of two weeks. The agenda items, on which decisions are to be made at the meeting, must be announced with the call to the meeting. With the consent of all Working Group members, invitations may be extended without any set form and at earlier dates.

The meetings will take place at least once per semester and will be chaired by the chairperson, or if the latter is unable to attend by the deputy chairperson.

The Working Group decides by simple majority.

The decisions of the Working Group will basically be made at meetings. Outside of the meetings they may be made in writing, by fax or by email (“circular decisions”) if all members consent to this procedure.

Minutes must be recorded of every meeting of the Working Group.

V. PROTECTION AGAINST DISCRIMINATION BY NON-UNIVERSITY AFFILIATES

17. IMPLEMENTATION IN RELATION TO OTHER ORGANISATIONS

The principles of this Works Agreement will also apply to all affiliates of outside firms working for TU Vienna as well as to behaviour in relation to other outside individuals under contract to TU Vienna or which are contacted in connection with work for TU Vienna.

These principles will also be incorporated into the standard tendering and contract terms for companies performing services for TU Vienna.

18. DISCRIMINATION PROTECTION OF INDIVIDUALS CLOSE TO THE UNIVERSITY

TU Vienna advocates discrimination protection for the following groups of individuals:

1. Students
2. Former employees
3. Individuals close to TU Vienna (applicants, graduates, business partners, cooperation partners, clients, invited visitors)

If the individuals cited are of the view that they have suffered discrimination at the hands of a representative of TU Vienna, they may turn to the Working Group for Equal Treatment Issues or to the Students' Representation Association of TU Vienna and issue the assignment to ensure that discriminatory ways of behaving are prohibited.

19. PROTECTION AGAINST DISCRIMINATION BY NON-AFFILIATES OF THE UNIVERSITY OF TECHNOLOGY

TU Vienna is under an obligation to its employees to create a discrimination-free work environment. If cases of discrimination by outsiders intrude into the work environment, then the obligation to protection also extends to defence against discrimination by such outsiders.

(1) Immediate intervention inside TU Vienna

All university affiliates are to intervene immediately against any public discrimination by individuals from outside of the University of Technology (applicants, business and cooperation partners, clients as well as visitors).

If the discriminatory behaviour persists despite a warning, all university affiliates are entitled and obligated to avail themselves of their rights as master of the house and to order the individual from outside the university to leave the university's premises or grounds.

In cases of discrimination falling under the remit of criminal law, the perpetrator may, if possible, be held until arrival of the police. Witnesses to the discriminatory act should immediately write down their observations and these records should be made available to the individual discriminated against for further legal action.

(2) Complaint proceedings against outsiders

In case of a complaint about discrimination by employees of another institution or another undertaking with which there are cooperation or business relations, the work supervisor of the possibly discriminatory individual must react and conduct clarification talks. Where applicable, the individual filing the complaint must be referred to other support institutions and, if required, initial contact must be made with equal treatment attorneys as well as, if required, the individual filing the complaint must be accompanied to the equal treatment attorneys.

VI. PUBLICATION AND IMPLEMENTATION

20. INFORMATION AND EDUCATION MEASURES

(1) Information

In the interests of comprehensive information, the principles of cooperative behaviour will be made accessible to all employees of TU Vienna. Information on the content and implementation of this Works Agreement will occur on an ongoing basis via the organisation's own media (website, information bulletin). The Rectorate must also make the Works Agreement available in writing to employees in English.

(2) Further education and continuing education

The critical analysis with the contents of this Works Agreement will be initiated at all hierarchy levels of TU Vienna, but in particular for supervisors, Works Council members, trainers, employees in the HR administration and members of the Working Committee for Equal Treatment Issues as well as being included in the measures for professional further and continuing education. For employees competent to assess hiring and performance, separate continuing education modules will be developed and introduced.

(3) The University of Technology's internal reporting system

The report of the Working Group for Monitoring and Further Development about experiences in dealing with cases of discrimination as well as the recommendations for action will be made accessible on the homepage of the member of the Rectorate in charge of HR matters.

(4) Evaluation

At the end of one year, the Working Group for Monitoring and Further Development will, with assistance from the Rectorate, draw up a report of its experiences, with which the effects of this Works Agreement will be reviewed. On the basis of the report of its experiences, further necessary measures will be agreed upon.

VII. FINAL PROVISIONS

21. ENTRY INTO FORCE AND DURATION OF APPLICABILITY

This Works Agreement will enter into force on 1 August 2013 and will initially be signed for a limited period of one year.

During that period of time, there will be a phase of mutual review of its applicability and during which, at the request of either Agreement party, supplemental talks may also be held with the objective of a mutually agreed modification.

Should by six weeks prior to the end of the duration period no Agreement party expressly insist to the other party in writing on expiry of the Works Agreement at the end of the period, then this Works Agreement will become an indefinite agreement.

This Works Agreement may then be cancelled in writing by each of the Agreement partners with the observance of advance notice of three months up through the end of a calendar month.

Vienna, this day of 17 July 2013

The Rector

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Tenured University Professor Dr tech Sabine Seidler

The Chairperson of the Works Council for Academic University Staff

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Non-Tenured University Professor Grad-Engineer Dr tech Erasmus Langer

The Chairperson of the Works Council for General University Staff

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Mr Bernhard Koller