

Recognized Foreign Institutions of Post-Secondary Education, Temporal Scope of Application, Interpretation

The Federal Ministry of Education, Science and Research herewith gives the following information on the question if an academic degree which has been awarded by a foreign institution of post-secondary education that has been recognized at the time of issuing the diploma, but does not exist any more, can be recognized even at present:

1. The definition of art. 51 para. 2 subpara. 1 of the Universities Act 2002 – UG, BGBl. I No. 120/2002, and of art. 4 para. 2 of the Universities of Applied Sciences Act – FHG, BGBl. No. 340/1993, both as amended, is indeed worded with regard to application at present, this has, however, to be read in the context of its character as a definition; it does not necessarily imply a contradiction against backwards recognition.
2. The verb „*wurde*“ in art. 88 para. 1 UG focuses primarily at the fact of issuing the diploma. In case that the theory would be followed that, in order to recognize an academic degree which has been awarded in the past, the existence of the awarding institution at present were necessary, there would be made a separation of the temporal scope of application for both elements.
3. According to art. 124 para. 1 UG in connection with art. 80 para. 9 of the Universities Studies Act – UniStG, BGBl. I No. 48/1997, in the last version in force, the right to use academic degrees awarded in the past shall not be affected. That means that if there has ever in the past been acquired a right to use an academic degree (even on the basis of other legal requirements than at present), this right remains valid in any case.
4. As a consequence it has to be stated that an academic degree which has at any time been awarded legally can in any case be used as long as not the fact of the award itself would be annulled (e.g. by a proceeding which would correspond to art. 68a of the Austrian General Rules for Administrative Proceedings – AVG). The lost of the status of a recognized institution of post-secondary education for the institution that had issued the diploma of award in the past will not withstand to what was said above.
5. Analogously, the right to use an academic degree shall be denied if the institution that had awarded the degree had not been recognized as an institution of post-secondary education at the time of issuing the diploma of award, even if it has received recognition in the meantime. An analogous treatment is granted e.g. to the Austrian Private Universities.