Introduction

The Higher Education Act and the Higher Education Ordinance depart from the nature of teaching, examination and grading carried out by teachers employed at the University.

In the event that there is a lack of necessary competence for a particular teaching element and the university needs to hire someone who is not employed by the university, compensation in the form of fees shall be paid to the natural person engaged for the assignment.

If an institution needs to use a sole proprietorship or a legal person (company, foundation or association, etc.) in teaching because other skills are lacking or not available, the matter must first be examined and a decision must be made to use a legal person.

The following conditions shall apply for the use of a legal person:

* Teaching should be an important, precise and relatively short part of the education.
* Skilled teachers and/or appropriate equipment are lacking within the university for the teaching element in question and only a legal entity is available,

Criteria Workers - Contractors

When the need for competence in addition to the permanent staff arises, an assessment shall first be made of the legal form in which the person concerned is to carry out the tasks; as an employee or contractor. The following factors are taken into account in the assessment:

Workers

Employed under the rules of the Employment Protection Act (LAS) or the Employment Ordinance (AF).

* The person shall carry out the work in person
* The person undertakes to make his/her workforce available for tasks that arise afterwards.
* The relationship between the university and the person in question is of a more lasting nature.
* The person is prevented from simultaneously performing work for someone else (unless the secondary activity is registered and approved).
* the person is subject to specific directives or controls concerning the performance of work, working time or the place of work;
* The University provides facilities and equipment.
* The person receives reimbursement for their (approved) expenses, such as travel.
* The person is economically and socially on an equal footing with a worker.

Contractor/Supplier

The rules on public procurement (LOU) become applicable regardless of whether it concerns a person (A-tax note) or a company (F-tax note).

* The person is not obliged to personally perform the work but can, on his own responsibility, assign it to someone else (unless this is regulated in the relevant agreement).
* The person undertakes certain or limited tasks.
* The relationship between the university and the person is of a temporary nature.
* The person cannot be an examiner.
* The person is not prevented from working for someone else.
* The person himself determines (apart from restrictions due to the nature of the work) the manner in which the work is performed, the working time and the place of work.
* The person can provide any equipment himself (unless otherwise stated in the contract).
* The person bears any costs for the performance of the work (unless otherwise specified in the contract).
* The person is economically and socially on an equal footing with an entrepreneur in the branch of activity.
* The person does not receive any holiday pay or similar benefits.
* The person shall be responsible for the payment of social security contributions and taxes.