

28.5.2026

Author

HORNEBER, Jakob (PENZ, Marco)

Title

Anwesenheitspflicht von Studierenden in Lehrveranstaltungen an Hochschulen : zur Reichweite der Studierfreiheit / Jakob Horneber und Marco Penz

Publication year

2014

Source/Footnote

In: Wissenschaftsrecht. - 47 (2014) 2, S. 150 - 172

Inventory number

37292

Keywords

Freiheit von Forschung und Lehre ; Studentenschaft ; Studienverhalten ; Lehre

Abstract

The article discusses the question of compulsory attendance in study courses on the occasion of a legislative change in the Higher Education Act ? HG NRW (Hochschulgesetz) of the state of North Rhine-Westphalia. The revised version states that attendance as a requirement to successfully complete a course is permissible only under certain circumstances (§ 64 (2a) HG NRW). This amendment seems to increase students' self-determination, but is actually coherent with Humboldt and Schleiermacher, whose understanding of science has deeply influenced German universities. In their view, the freedom of studying and learning is an essential element of academia. The German Federal Constitutional Court (Bundesverfassungsgericht) adopted this opinion when it stated with respect to Art. 5 (3) GG that there is a difference between university and school regarding participation and autonomy of students. This decision is necessarily based on the assumption that freedom of teaching also implies freedom of studying and learning in an academic context. Considering the historical tradition of scientific freedom, freedom of learning is more than just a

28.5.2026

counterpart to freedom of teaching. It actually constitutes an independent freedom of self-determination and participation in science. According to this position, university students are entitled to conduct scientific research independently and at their own pace. Compulsory attendance is contradictory to this right and therefore justifiable only within narrow boundaries. (HRK / Abstract übernommen)