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Abstract

A tour d'horizon through the wide field of scientific freedom leads to the conclusion that the protection of scientific freedom was a genuine German contribution which was made to the history of fundamental rights in the past. The explicit guarantee laid down in the Constitution of the St Paul's Church is a reaction to scientific harassment by the German Confederation. It influenced the constitutional process during the second half of the twentieth century. Most recently it was incorporated in the Charter of Fundamental Rights of the European Union. – For the present, the pleasing fact is that the state authority respects the scientific freedom of the individual scientist. This however, does not exclude the fact that social pressure and, occasionally, legal measures such as the limitation of research by civil clauses tread on a constitutional minefield. As long as research affects third-party legal interests (research on humans, animal testing etc.), legal authorities are required to provide for a careful compensation. – Scientific freedom in higher education is protected from the state by the institution itself acting under the protection of scientific freedom. At the same time, as an

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organisation, the university is also bound by scientific freedom. This has consequences for the organisational rights of the universities: the Federal Constitutional Court develops an organisational concept from Article 5 para 3 GG (= Grundgesetz, i.e. Basic Law), which approves the shift of competence to the managerial level (rectorate, executive committee, university council) which, at the expense of the principle of collegiality, has led to its significant strengthening, but only at the price of strengthening the supervisory powers of the collegial bodies such as the senate and the faculty council in return. Thereby, the Federal Constitutional Court 'forces' the universities to make their management decisions in a discursive process. -The fact that teaching is underfunded remains the main concern of the universities. When used irresponsibly, accreditation and other possible evaluations lead to non-scientific influences. Research is sufficiently financed, even if not every scientist's dream can come true. The shortage situation regarding projects which is always existent despite ample funding, is handled by a distribution process based on Article 5 para 3 GG which is adequate for science. – Science also makes a specific contribution to the democratic decision-making system, because the state, bound by the postulate of rational decision-making, may only act as an informed state. As such, science provides the building blocks for decision-making but cannot replace political decisions. (HRK / Abstract übernommen)