

04.7.2025

Author

JACOB, Peter

Title

Beamtenrechtliche Probleme bei Universitätsumwandlungen : oder: Der aufgedrängte
Dienstherrenwechsel

Publication year

2012

Source/Footnote

In: Wissenschaftsrecht. - 45 (2012) 2, S. 127 - 148

Inventory number

33238

Keywords

Beamten- und Personalrecht : allgemein ; Hochschule : Wettbewerb ; Hochschule und Staat :
allgemein ; Hochschule : Verwaltung allgemein

Abstract

The many reforms which German universities have undergone and are still undergoing are problematic in a number of legal respects. The law increasingly allows universities to employ their 'own' officials. Without discussion, existing personnel will in future automatically become university rather than federal state employees, as was formerly the case. This forced 'change of employer' will make the regulations, which have so far been legal at state level, just acceptable under the federal constitution. This raises the question of which new specific risks are created by such a change of employer - in particular with regard to the credit worthiness, financial stability and strength of the new employer - and how these risks should be handled. The states have various options: current employees could be given the right to object or of returning to state employment, or they could receive a federal or state guarantee of payment of their salary and health insurance, although this would be problematic under European law. In part these employment terms and conditions would

04.7.2025

apply only to new employees so that two different groups of officials could be employed by the same body. Article 33. Abs.5 GG, on the duty of care of the state as the previous employer, requires that as a minimum, officials who change their employer should be assured of appropriate care through a legally based regulation. The KIT needs to make progress in this area. (HRK / Abstract übernommen)