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Abstract

The University Act of North Rhine-Westphalia has been supplemented by a so-called 'civil clause'. Against this background, the article tries to clarify whether this clause is compatible with the constitutional provisions of the Basic Law and of the Constitution of North Rhine-Westphalia. For this purpose, the unclear and vague 'civil clause'-term is analyzed first. Insofar, the article arrives at the conclusion that the proposed provision has to be characterized as a 'development clause': It obliges universities to develop a contribution to a peaceful and sustainable world. Despite its abstractness, this 'development clause' affects universities and academic teachers in their freedom of science. However, according to the jurisprudence of the Federal Constitutional Court such an infringement of the freedom of science is admissible in order to protect 'legitimate interests'. In the present context, these legitimate concerns follow from the principles of peace and sustainability, both set out in the Basic Law and in the Constitution of North Rhine-Westphalia. However, these

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„legitimate interests“ are themselves subject to certain limitations: Especially, the Basic Law does not know a constitutional principle of pacifism, but only asks for a „well-fortified peacefulness“.

Therefore, research on military issues cannot be prohibited in general, even if it affects a so-called „dual use“ research. Furthermore, it follows from the structure of the proposed „development clause“ that universities are entitled to concretize the content of this clause in self-administration. By doing this, they enjoy a large margin of discretion – from purely organizational measures and backups up to a profiling of their teaching and research in the field of peace and sustainability. In principle, the state is not allowed to limit or direct this margin of discretion by financial contributions. If these restrictions are observed, no constitutional objections against the proposed „development clause“ can be invoked. However, due to its low normative effect the political question remains whether such a clause should be introduced into the university law. (HRK / Abstract übernommen)