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Abstract

Almost all juristic faculties accept only the graduates who pass the state examination with distinction (i.e., at least with “vollbefriedigend”) as PhD students. However, 15 % of the graduates only achieve this grade, and thus, most graduates do not have the possibility to obtain a PhD. Against this background, this paper investigates whether juristic faculties have the right to regulate the access in such a way in their academic statutes. Reasonable doubts exist on whether universities possess the regulatory competence and on whether the regulation is in accordance with the principles of proportionality (“Verhältnismäßigkeitsgrundsatz”) given the fundamental rights of graduates. Additionally, one might argue that regulating the access via a state-dominated examination weakens universities' autonomy. This contribution ends with suggesting that the requirement of passing the state examination with distinction should be replaced with a clear, objective indicator for scientific qualification (e.g., the grade that is achieved in completing a seminar at the university). (HRK / Abstract übernommen)