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Abstract

The German Constitution guarantees the liberty of science (Article 5 Para. 3 Grundgesetz), embracing scientific research and academic teaching. Albeit the Constitution does not put the individual right under an explicit reservation, it is obvious that the liberty of science has boundaries. As public authorities like agencies or courts, which have to apply the law and determine whether conduct is protected science or not, the liberty of science is confined by internal boundaries which define the specifically legal concept of science. Thus, from a legal point of view, there is science and non- or pseudo-science, which are excluded from the specific constitutional protection, disregarding a potential (weaker) protection by the freedom of speech. As state authorities are legally incompetent to influence the scientific progress and decide on the validity of scientific arguments, it is difficult to find sufficient criteria of scientific rationality, which are strong enough to sift out arguments that are evidently irrational and therefore non-scientific in the specific context of time (like astrology, today). Even if conduct is motivated by a scientific research interest, it is obvious that science cannot

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be a licence to violate third party rights. For example, forced experiments on humans are incompatible with human dignity, as enshrined in Art. 1 Para. 1 Grundgesetz. Risky experiments with nuclear power, viruses, or toxic agents have to be confined to protect the public from harm. Therefore the liberty of science is limited by external boundaries, which are based on rights and institutions protected by the constitution, too. Nonetheless, scientific cognition as such is, at least in principle, unlimited as there is no forbidden knowledge and no public claim on truth. Thus, legislation can only carve out proportionate prohibitions on research conduct or the modalities of academic teaching but not exclude specific scientific knowledge from public discourse. This essay systemizes and analyses the boundaries of science in the light of its political functions, which the liberty of science, as a right to dissent and form a rational counter-public to the volatile political process, fulfils in a free democracy. (HRK / Abstract übernommen)