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Author

PETERS, Klaus

Title

Erstes Hochschulurteil (BVerfGE 35, 79) und Einschränkungen der Mitwirkungsrechte „sonstiger Mitarbeiter“ im Berufungsverfahren auf Fachbereichsebene : eine Entgegnung auf Folgerungen von Burgi/Gräf aus der erweiterten Hochschulautonomie

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Abstract

This article argues against the view expressed by Martin Burgi and Ilse-Dore Gräf in "Wissenschaftsrecht" 4/2011 that those employed as technicians and in administration at the faculty level of German universities (non-academic faculty staff) have been given additional and extended management competence as a result of the autonomy of universities that began around the year 2000. Burgi/Gräf claim that this additional competence qualifies them to give a partial evaluation of applications for positions as professors based on the management skills of applicants. This article expresses the view that the increased autonomy of universities has strengthened the decision-making powers of German universities (state institutions) at the central level only but not that at the level of non-academic faculty staff. Thus, appointment committees are still required to give an overall evaluation of an applicant's qualities in research and teaching, with no emphasis given to management skills. Nonacademic faculty staff are as a rule not in a position to give such an overall evaluation. The

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background to this difference of opinion between Burgi/Gräf and the author of this article is the judgement in university matters given by the Federal Constitutional Court (Bundesverfassungsgericht) in 1973. This landmark decision referred to an infringement of article 5 paragraph 3 of the Basic Law (Freedom of Research and Teaching) and declared it unconstitutional for non-academic staff to have full voting rights in the appointment of professors. (HRK / Abstract übernommen)