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Title

Gerichtliche Kontrolldichte und Bedeutung des Verfahrens bei Konkurrentenklagen bezüglich der Besetzung von Professorenstellen : eine Analyse der oberverwaltungsgerichtlichen Rechtsprechung / Silvia Pernice-Warnke

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Abstract

The article reflects on the relation between the university's margin of discretion and the corresponding (limited) judicial control regarding the appointment process of university professors. A scrutiny of several higher courts decisions reveals consistencies and inconsistencies among them and examines the extent of this margin of discretion and of the corresponding judicial control assumed in the judgments. Additionally, it analyses the arguments used by the courts in this area and compares them with those applied to justify limited judicial control regarding a margin of discretion of the decisive body in other legal areas. Furthermore, the analysis seeks to deliberate, whether the acknowledgement of such a limited judicial control regarding the appointment of professors can be justified at all and especially justified based on the reasons given in the judgments. In relation to the questions outlined above, the article finally aims to emphasize the importance of procedural aspects and their justiciability. It therefore examines their treatment by the courts as well as the allocation of

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competences regarding the regulation of procedural rights between the university and the legislative body. (HRK / Abstract übernommen)